

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

Edgar W. Dickson, Circuit Court Judge

RECEIVED

OCT 18 2013

S.C. Supreme Court

TERRY DUNOVANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001536

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT
07-GS-46-3117, 3118
3119

STATE OF SOUTH CAROLINA)
VS.) TRANSCRIPT OF RECORD
TERRY ARNAIL DUNOVANT) VOLUME I
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MARCH 30, MARCH 31, 2009
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

A P P E A R A N C E S:

MINDY HERVEY LIPINSKI, ASSISTANT SOLICITOR
YORK, SOUTH CAROLINA

JUSTIN D. MAINES, ASSISTANT SOLICITOR
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SIXTEENTH JUDICIAL CIRCUIT

I N D E X

WITNESS	DIRECT	CROSS	RE-DIRECT	RE-CROSS
DR. GREGORY RIMMER				
BY MS. LIPINSKI	58			
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5

1 MS. LIPINSKI - MAY IT PLEASE THE COURT, YOUR
2 HONOR. I BELIEVE YOU HAVE THE INDICTMENTS WHICH IS 2007-
3 3117, 3118 AND 3119. THE DEFENDANT TERRY DUNOVANT IS
4 INDICTED FOR TWO COUNTS OF CRIMINAL SEXUAL CONDUCT IN THE
5 FIRST DEGREE AND ONE COUNT OF KIDNAPPING AGAINST THE
6 VICTIM MISTI HILL FOR EVENTS THAT OCCURRED ON MAY 3RD OF
7 2007. THE STATE'S ONLY PRE-TRIAL MATTER, YOUR HONOR, IS
8 TO PRESENT A JACKSON V. DENO HEARING AT THE REQUEST OF THE
9 DEFENDANT. THE STATE SPOKE TO MR. LEMEL AND INDICATED TO
10 THEM THAT THERE WERE TWO PRIMARY INVESTIGATORS IN THIS
11 CASE, DETECTIVE BOMAR AND DETECTIVE BETH TOLSON OF THE
12 YORK COUNTY SHERIFF'S OFFICE. INVESTIGATOR TOLSON WAS
13 CALLED OUT OF TOWN UNEXPECTEDLY AND SHE CALLED ME THIS
14 WEEKEND TO LET ME KNOW THAT. I THEN CALLED --- THIS CASE
15 ACROSS THE STATE LINE TO A CERTAIN EXTENT. THE DEFENDANT
16 PICKED UP THE VICTIM IN GASTONIA, BROUGHT HER HERE SOUTH
17 OF THE STATE LINE INTO SOUTH CAROLINA WHERE THE RAPE AND
18 KIDNAPPING OCCURRED AND THEN WENT BACK INTO NORTH CAROLINA
19 WHERE HE WAS ULTIMATELY ARRESTED AND DETAINED. AS A
20 RESULT OF THAT YORK COUNTY SHERIFF'S OFFICE SECURED THE
21 ASSISTANCE OF THE GASTON POLICE DEPARTMENT, SPECIFICALLY
22 SERGEANT JIMMY WEST AND KEVIN MCSWAIN. THOSE OFFICERS ARE
23 NOT AVAILABLE TODAY BECAUSE THEY'RE IN A TRIAL IN GASTON
24 COUNTY BUT WILL BE AVAILABLE TOMORROW. AND WHAT I'VE
25 SUGGESTED TO MR. LEMEL IS, PERHAPS, WE CAN TAKE UP A

1 LITTLE EXTENDED LUNCH TOMORROW AND DO THE JACKSON V. DENO
2 HEARING PRIOR TO THEIR TESTIMONY. I DON'T THINK IT'S
3 NECESSARY THAT WE MENTION THE STATEMENT IN OPENING
4 ARGUMENTS, BUT I'M CERTAINLY WILLING TO ENTERTAIN THAT
5 NOTION IF MR. LEMEL REQUESTED IT, BUT WE DID HAVE THAT
6 DISCUSSION EARLIER TODAY REGARDING THAT MATTER. WE DO
7 HAVE A JURY PANEL OF FORTY WE PULLED FOR JURY SELECTION
8 HERE TODAY. I REQUESTED A LITTLE BIT LARGER NUMBER GIVEN
9 THE FACT THAT IT DOES INVOLVE A CRIMINAL SEXUAL CONDUCT,
10 A RAPE BY AGGRAVATED FORCE AND FELT THAT THAT MAY BRING UP
11 A FEW ISSUES TO CERTAIN JURY MEMBERS AND OUT OF AN
12 ABUNDANCE OF CAUTION JUST ASKED FOR A FEW MORE. ON FRIDAY
13 I MET MR. LEMEL AT PROPERTY AND EVIDENCE WHERE WE BOTH
14 EXAMINED THE PHYSICAL EVIDENCE THAT WAS THERE. I ALSO MET
15 WITH HIM TODAY AT LUNCH AND WENT OVER THE INTENDED PHOTOS
16 AND EXHIBITS WE INTEND TO USE. THERE IS ONE VIDEO THAT
17 WHEN BOTH OF US WATCHED IT BASED ON THE VIEWER AVAILABLE
18 TO US IS VERY HIGH-SPEED. SHE HAS RECENTLY ACQUIRED SOME
19 TECHNOLOGY THAT MAY SLOW THAT DOWN. THEY WERE SUPPOSED TO
20 BE FINISHING THAT UP TODAY AND I TOLD MR. LEMEL I'LL MAKE
21 THAT IMMEDIATELY AVAILABLE TO HIM IF HE CAN DO IT,
22 OTHERWISE WE --- WE JUST --- YOU CAN LOOK AT THE VIDEO BUT
23 NEITHER ONE OF US CAN TELL ANYTHING BY IT. SO THAT IS
24 KIND OF THE ONLY LINGERING MOTION THE STATE HAS AND NOT
25 REALLY A MOTION BUT ISSUE I WANTED TO MAKE THE COURT AWARE

1 OF. WE ARE TRYING TO GET TO THE TESTIMONY OF DR. GREGORY
2 RIMMER TODAY WHO WAS THE ER DOCTOR THAT EXAMINED MISTI
3 HILL WHEN SHE WAS BROUGHT TO THEM BY AMBULANCE SOLELY
4 BECAUSE HE IS NO LONGER THE ER DOCTOR HERE IN YORK COUNTY.
5 HE HAS NOW TRANSFERRED TO GREENVILLE AND HIS WORK SCHEDULE
6 IS KIND OF MAKING IT A PRIORITY TO GET TO HIM TODAY. MR.
7 LEMEL JUST HANDED ME A MOTION IN LIMINE AND DEFENDANT'S
8 REQUESTED VOIR DIRE. I HAVE PROVIDED THE COURT A WITNESS
9 LIST. I GAVE THAT WITNESS LIST TO MR. LEMEL AT LUNCH
10 TODAY. I'VE ALSO PROVIDED A COPY TO THE COURT REPORTER
11 AND THE CLERK FOR THEIR CONVENIENCE ALONG WITH AN EXHIBIT
12 LIST. IF YOU'D LIKE I'LL DEFER TO MR. LEMEL ON HIS
13 MOTIONS IN LIMINE AND ANY OTHER ISSUES HE MIGHT HAVE.

14 THE COURT - ALL RIGHT. MR. LEMEL?

15 MR. LEMEL - AND, YOUR HONOR, AS THIS POINT I'M
16 PERFECTLY --- IN TERMS OF WHAT ORDER THE COURT WHAT'S TO
17 GO IN, IF WANT TO DEAL WITH THE PRE-TRIAL MATTERS AT THIS
18 POINT IN TIME OR DO WE NEED TO DO SOMETHING WITH THE JURY
19 I DON'T KNOW, BUT THEY'RE SITTING DOWN IN THE PANEL ROOM -
20 --

21 THE COURT - WELL, THE JACKSON V. DENO LOOKS LIKE
22 WE'RE GOING TO NOT BE ABLE TO DO TODAY.

23 MR. LEMEL - YES, SIR.

24 THE COURT - THE OTHER MOTIONS --- WHY DON'T WE -
25 -- WE CAN USUALLY GO THROUGH THOSE FAIRLY RAPIDLY.

1 MR. LEMEL - YES, SIR.

2 THE COURT - THE FIRST ONE HAS TO DO WITH
3 DISCOVERY. HAS THE STATE COMPLIED WITH THE RULE AND WITH
4 BRADY?

5 MS. LIPINSKI - YES, YOUR HONOR. I BELIEVE THAT
6 WE HAVE. I'VE MADE EVERY PIECE OF EVIDENCE AVAILABLE TO
7 MR. LEMEL FOR HIS REVIEW.

8 MR. LEMEL - AND, YOUR HONOR, JUST AS IN MY
9 PRACTICE, IN ADDITION TO THE PHOTOGRAPHS WHICH WERE
10 PROVIDED TO ME AT THAT TIME AND ALSO WE REVIEWED EARLIER
11 TODAY, THE VIDEO AS STATED, THERE ARE A NUMBER OF VIDEOS
12 IN THE CASE. THERE IS ONE FROM THE SCENE WHERE THE
13 PARTIES FIRST ENCOUNTERED. THE VIDEO THAT I BELIEVE THAT
14 MS. LIPINSKI IS REFERRING TO THAT WE BASICALLY CAN'T WATCH
15 IT IS ACTUALLY NOT OF THE SCENE OF WHERE THEY FIRST
16 CONTACTED OR ANYWHERE ELSE BUT MAYBE OF THE SCENE WHERE
17 MS. HILL CALLED THE POLICE. IS THAT THE ONE YOU'RE
18 TALKING ABOUT?

19 MS. LIPINSKI - THE DEFENDANT AND HIS --- MS.
20 HILL CALLS 9-1-1 FROM THE DIXIE DINER. THE DEFENDANT IN
21 HIS STATEMENT TO LAW ENFORCEMENT STATES THAT HE DID NOT
22 DROP HER OFF AT THE DIXIE DINER BUT A HOT SPOT GAS STATION
23 SOME APPROXIMATE FIFTY YARDS AWAY. OUT OF ABUNDANCE OF
24 CAUTION, LAW ENFORCEMENT PULLED THAT VIDEO TO SEE IF THAT
25 WAS TRUE OR NOT AND WE JUST --- AS IS OFTEN THE CASE WITH

9

1 THESE CONVENIENT STORE VIDEOS IT'S SOMEWHAT UNUSABLE TO
2 US. FOR THAT REASON, BECAUSE WE RUN INTO THIS PROBLEM,
3 THE FORENSICS SERVICES UNIT HAS TRIED TO ACQUIRE SOME
4 SOFTWARE THAT MAY ALLOW US TO SLOW THAT DOWN, BECAUSE
5 OFTEN TIMES WE CAN'T EVEN LOOK AT IT AT WINDOWS MEDIA PLAY
6 OR A NORMAL DVD VIEWING SOFTWARE. THEY HAVE PROPRIETARY
7 SOFTWARE THAT IMPAIRS THAT AND SO WE HAVE BEEN RAPIDLY
8 TRYING TO DO THAT. THEY DID TRY TO DO THAT OVER THE
9 WEEKEND, YOUR HONOR, TO MAKE THAT HAPPEN. THAT IS THE
10 VIDEO THAT IS THE ONLY THING THAT --- WHILE WE LOOK AT IT
11 WE REALLY HAVEN'T HAD A FAIR OPPORTUNITY TO VIEW IT. THE
12 VIDEO WHERE THE DEFENDANT PICKS HER UP AT THE GAS STATION,
13 WHERE THAT HAPPENS, THE GRAB AND GO, MR. LEMEL AND I
14 REVIEWED IN THE COURTROOM LAST WEEK AND THERE IS ANOTHER
15 VIDEO THEY ACQUIRED FROM A BP AT A STATE LINE THAT THEY
16 THOUGHT IN CASE HE WAS CONFUSED ABOUT WHICH GAS STATION
17 THEY PULLED, I REVIEWED IT. I DON'T SEE EITHER ONE OF
18 THEM ON IT. THE STATE DOES NOT INTEND TO INTRODUCE IT AT
19 TRIAL.

20 MR. LEMEL - SO, YOUR HONOR, THE ONLY ISSUE IN
21 TERMS OF THE VIDEO IS THE ONE THAT I'M GOING TO CALL, FOR
22 LACK OF A BETTER WORD, THE HOT SPOT VIDEO WHICH WILL BE
23 THE FINAL VIDEO AND SORT OF THE --- I HAVE STILL NOT HAD
24 A CHANCE TO REVIEW THAT AND WE'RE BASICALLY AT TRIAL AT
25 THIS POINT IN TIME. I UNDERSTAND MS. LIPINSKI'S

1 LIMITATIONS BECAUSE THIS IS UNDER SOME SORT OF FORMAT THAT
2 IT IS JUST UNLOGIBLE (SIC) UNDER ANYTHING, BUT AT THIS
3 POINT IN TIME WITHOUT HAVING THAT VIDEO, WITHOUT HAVING IT
4 IN ADVANCE AND ANY WAY TO PREPARE FOR WHAT BE ON IT, I
5 HAVE NO IDEA WHAT'S ON IT AT THIS POINT IN TIME, WE WOULD
6 OBJECT UNDER BRADY VERSUS RULE 5 TO THE USE OF THAT
7 PARTICULAR VIDEO. I UNDERSTAND IT'S SORT OF --- IT'S
8 SOMEWHAT ANCILLARY AT THIS POINT IN TIME, BUT I JUST
9 SIMPLY DON'T HAVE THE ABILITY TO PREPARE FOR IT AS IT
10 STANDS NOW.

11 THE COURT - ALL RIGHT, WELL, WE'LL DEAL WITH
12 THAT IF IT'S EVER PRESENTED IN A FORM WHICH ANY OF US CAN
13 VIEW.

14 MS. LIPINSKI - THANK YOU, YOUR HONOR.

15 MR. LEMEL - YOUR HONOR, WITH REGARD TO THE
16 JACKSON VS. DENO MATTER ---

17 THE COURT - ALL RIGHT, WELL, LET'S DON'T ---
18 LET'S GO THROUGH 2 AND 3 BEFORE THAT. YOU GOT PRIOR
19 RECORDS OF THE DEFENDANT FOR IMPEACHMENT.

20 MR. LEMEL - YES, SIR.

21 MS. LIPINSKI - I PROVIDED HIM WITH --- I ALLOWED
22 HIM TO LOOK AT AND I'LL CERTAINLY PROVIDE HIM WITH COPIES
23 OF THE CERTIFIED CONVICTIONS. MR. LEMEL AND I HAD SOME
24 DISCUSSION ABOUT WHETHER OR NOT SOME OF THEM WERE POORLY
25 LIMITED, WHETHER THEY WERE OUTSIDE THE TEN-YEAR TIME-

11

1 FRAME. I THINK THAT'S SOMETHING WE CAN JUST GET TO IF AND
2 WHEN THE DEFENDANT TESTIFIES. I RECOGNIZE THAT TIME-
3 FRAME. IT'S JUST A MATTER OF WHAT HE SAYS ON THE STAND.
4 WE'VE PULLED THEM OUT OF ABUNDANCE OF CAUTION IF HE MADE
5 SOME EXTRANEIOUS COMMENT ABOUT HIS CHARACTER THAT MADE SURE
6 THAT --- I DON'T THINK THERE'S A GREAT AMOUNT OF
7 DISAGREEMENT ABOUT WHAT'S FAIR GAME AND WHAT'S NOT.

8 MR. LEMEL - AND I JUST WANT TO MAKE SURE THAT
9 ABSENT HIM OPENING THE DOOR SOMEHOW TO DEAL WITH THINGS
10 THAT --- IT'S MY UNDERSTANDING THERE'S BASICALLY ONE
11 CONVICTION THAT YOU'VE GOT THAT FALLS WITHIN THE TEN-YEAR
12 TIME-FRAME, THE 2005 CONVICTION. I JUST WANT TO MAKE SURE
13 IT'S CLEAR, BECAUSE THAT OBVIOUSLY HAS AN IMPACT ON THE
14 DECISION ABOUT WHETHER HE TESTIFIES OR NOT KNOWING HE HAD
15 A TIME --- WHAT EXACTLY CAN BE USED AGAINST HIM.

16 MS. LIPINSKI - YOUR HONOR, I'LL HAVE MY
17 PARALEGAL MAKE AN ADDITIONAL COPY. I THINK MR. LEMEL AND
18 I CAN REVIEW THESE, BUT I THINK WE CAN GET ON THE SAME
19 PAGE ABOUT WHAT'S IN THE TIME-FRAME, BUT, YES, UNLESS HE
20 OPENS THE DOOR, THE STATE DOESN'T INTEND TO GO BEYOND THE
21 TEN-YEAR TIME-FRAME.

22 MR. LEMEL - AND SO WHAT WE'RE TALKING ABOUT IS
23 THE ONE 2005 CONVICTION WHICH I BELIEVE IS THE LAST PAGE
24 OF THE DOCUMENTS THAT WE REVIEWED EARLIER TODAY. (PAUSE)
25 AND, YOUR HONOR, NOT TO GET AHEAD OF MYSELF, BUT IF THE

1 COURT --- WHILE SHE'S EXAMINING THAT, MY NUMBER 3 WAS FOR
2 HER TO PROVIDE A LIST OF WITNESSES THAT SHE INTENDS TO
3 TESTIFY ---

4 THE COURT - AND YOU'VE GOT THAT.

5 MR. LEMEL - I HAVE GOT THAT, YOUR HONOR. WE'VE
6 TAKEN CARE OF NUMBER 3.

7 (DISCUSSION IS HELD BETWEEN COUNSEL WHICH WAS
8 NOT REPORTED)

9 MR. LEMEL - ALL RIGHT, SO, YOUR HONOR, JUST ---
10 JUST SO --- AND THIS IS THE REASON WHY I DID THIS BECAUSE
11 I WAS NOT QUITE ON THE SAME PAGE THAT SHE WAS. SHE HAD
12 SOME ADDITIONAL STUFF. BUT THERE WERE SOME CHARGES THAT
13 WERE FILED IN 1996 BUT APPARENTLY THE TRIAL DATE WAS IN
14 1999 AND THAT WOULD BE A 1999 CONVICTION FOR FORGERY OF AN
15 INSTRUMENT, A 1999 CONVICTION FOR UTTERING A FORGED
16 INSTRUMENT AND A 2005 POSSESSION OF STOLEN GOODS CHARGES.

17 (DISCUSSION IS HELD BETWEEN COUNSEL WHICH WAS
18 NOT REPORTED.)

19 MR. LEMEL - AND, YOUR HONOR, HAVING DEALT WITH
20 THE TIME-FRAME OUR OTHER BRIEF CONSULTATION WAS WHETHER
21 THOSE THREE CHARGES ACTUALLY ALSO QUALIFY IN TERMS OF THE
22 OTHER PARAMETERS OF THE --- OF RULE 609 I BELIEVE AS THE
23 IMPEACHMENT STATUTE WITH REGARD TO THE AMOUNT OF TIME THEY
24 CARRY, AND I UNDERSTAND THAT MS. LIPINSKI'S GOING TO BE
25 LOOKING INTO THAT, AND HOPEFULLY WE'LL HAVE AN ANSWER TO

13

1 THAT TOMORROW, BUT AT LEAST AT THIS POINT IN TIME WE'VE
2 GOT WHAT THREE CHARGES ARE AT LEAST AT ISSUE FOR THE
3 COURT'S REVIEW IN TERMS OF THAT --- IN TERMS OF THE RULE
4 609 REVIEW.

5 THE COURT - ALL RIGHT.

6 MR. LEMEL - YOUR HONOR, THE FOURTH ISSUE,
7 OBVIOUSLY, THE JACKSON V. DENO WHICH WE'LL GET TO LATER.
8 THE FIFTH MOTION WAS TO DETERMINE THE EXISTENCE OF
9 ADMISSIBILITY OF ANY EVIDENCE OF PRIOR SUBSEQUENT BAD ACTS
10 OF THE DEFENDANT THE STATE WOULD INTEND TO INTRODUCE
11 PURSUANT TO EITHER STATE V. LYLE OR RULE 404(B) OF SOUTH
12 CAROLINA RULES OF --- RULES OF EVIDENCE.

13 MS. LIPINSKI - WE HAVE NONE.

14 MR. LEMEL - YOUR HONOR, THE NEXT MATTER IS THE
15 MOTION --- A MOTION TO DETERMINE THE PRIOR RECORD OF ANY
16 LAY WITNESSES FOR THE STATE FOR IMPEACHMENT PURPOSES.

17 MS. LIPINSKI - WE'LL PROVIDE THOSE AS THEY
18 TESTIFY, YOUR HONOR. AT THIS TIME I'M NOT AWARE OF ANY --
19 - ANY OF OUR LAY WITNESSES HAVING A RECORD, OTHER THAN THE
20 VICTIM. I BELIEVE I E-MAILED YOU HER RECORD, ---

21 MR. LEMEL - YES.

22 MS. LIPINSKI - --- AND HE IS IN POSSESSION OF
23 THAT.

24 MR. LEMEL - THAT'S CORRECT. YOUR HONOR, I DO
25 HAVE AN NCIC WITH REGARD TO MS. HILL, AND AGAIN, I BELIEVE

1 THERE MAY BE AN IMPEACHABLE ---

2 MS. LIPINSKI - ONE.

3 MR. LEMEL - --- OFFENSE ON THERE, ONE
4 IMPEACHABLE OFFENSE. YOUR HONOR, THE NEXT ISSUE IS A
5 LITTLE BIT MORE FACTUALLY SPECIFIC. WITHIN --- IT'S A
6 MOTION TO LIMIT THE TESTIMONY OF LAW ENFORCEMENT AS TO
7 INJURIES SUSTAINED BY THE DEFENDANT TO HIS HAND. WITHIN
8 THE GENERAL SESSIONS CASE SUMMARY THERE WAS A REFERENCE BY
9 A DOCTOR THAT I AM ASSUMING WAS TAKEN UP BY DETECTIVE
10 BOMAR. THE DEFENDANT SUFFERED AN INJURY TO HIS HAND.
11 THERE IS A PICTURE OF THIS THAT'S VERY CLEAR THAT THE SKIN
12 OVER HIS KNUCKLE IS BROKEN. IN THE GENERAL SESSIONS CASE
13 SUMMARY IT'S LISTED THAT HE --- THAT THEY --- THAT HE
14 BROKE HIS HAND AND THAT IT WAS IN A CAST, AND QUITE
15 FRANKLY, YOUR HONOR, FROM MY --- THAT'S NOT CORRECT, AND
16 I DON'T WANT AN OFFICER GETTING UP THERE AND TESTIFYING
17 THAT HE --- WITHOUT KNOWING WHERE THAT INFORMATION CAME
18 FROM THAT HIS HAND WAS BROKEN, THAT IT REQUIRED A CAST,
19 THAT IT REQUIRED ADDITIONAL MEDICAL TREATMENT. WE'RE
20 ASKING THAT THE OFFICER BE RESTRICTED FROM TESTIFYING AS
21 TO ANYTHING REGARDING MEDICAL TREATMENT UNLESS EVIDENCE OF
22 THE MEDICAL TREATMENT IS BROUGHT IN FROM ANOTHER SOURCE
23 OTHER THAN LAW ENFORCEMENT ESSENTIALLY, YOUR HONOR.

24 MS. LIPINSKI - AND YOUR HONOR, THE MEDICAL
25 TREATMENT HE GOT WAS IN GASTON COUNTY AND PURSUANT TO

15

1 HIPPA, MY ABILITY TO GO GET THAT WAS SUBSTANTIALLY
2 LIMITED. DETECTIVE BOMAR DID GO, ONCE HE WAS EXTRADITED
3 FROM GASTON COUNTY, TO SERVE THE ADDITIONAL, THE SECOND
4 CSC WARRANT ON HIM --- THEY ORIGINALLY ONLY CHARGED HIM
5 WITH ONE. ONCE THEY SAT DOWN AND TALKED TO THE VICTIM AND
6 SHE INDICATED THAT HE NOT ONLY FORCED HER TO HAVE VAGINAL
7 INTERCOURSE BUT PERFORM ORAL SEX ON HIM, THEY CHARGED HIM
8 WITH A SECOND COUNT OF CSC. AT THAT TIME HE WENT AND ---
9 WENT DOWN THERE TO SERVE HIM AND NOTICED THAT HIS HAND WAS
10 WRAPPED IN SOME TYPE OF CAST, AN ACE BANDAGE. I HAVE
11 SPOKEN WITH THE JAIL --- JAIL HERE TO SEE WHAT THEY CAN
12 SAY. THEY DID SAY HE WAS BOOKED IN WITH THAT, BUT BEYOND
13 THAT THEY HAVE NO FURTHER RECORDS. THEY PRETTY MUCH HAD
14 A DOCTOR LOOK AT IT AND REMOVE IT. THE NURSE SAID TO THE
15 BEST OF HER RECOLLECTION IT WAS KIND OF A SPLINT WITH AN
16 ACE BANDAGE, THAT TYPE THING, BUT AGAIN, THE STATE HAS NO
17 PHOTOS OF THAT. HOWEVER, WE DO FEEL THAT THE PHOTOS OF
18 HIS INJURY AT THE TIME OF HIS ARREST ARE OBVIOUSLY
19 PERTINENT. THE STATE HAS TRIED TO TIE THAT CAST INJURY
20 BACK TO THAT, BUT AT THIS POINT BECAUSE OF --- MR. LEMEL
21 CAN PROBABLY GET THOSE RECORDS BETTER THAN I COULD FROM
22 THE JAIL GIVEN HE REPRESENTS THE DEFENDANT, BUT BASED ON
23 WHAT THE JAIL HAS HERE, THEY WEREN'T ABLE TO DO THAT.
24 THEY ASKED HIM ABOUT HIS INJURIES WHEN HE ARRIVED TO SEE
25 WHAT KIND OF FURTHER TREATMENT HE NEEDED. HE SAID HE HAD

1 A FOLLOW-UP AND THEY TOLD HIM THEY WEREN'T GOING TO BE
2 ABLE TO TAKE HIM BACK TO GASTON COUNTY BUT THEY WOULD HAVE
3 A DOCTOR HERE LOOK AT HIM TO SEE IF THE CAST, IN FACT,
4 SHOULD COME OFF. THEY DON'T HAVE ANY INDICATION HE WAS
5 EVER TRANSPORTED TO A HOSPITAL TO HAVE THAT DONE.

6 MR. LEMEL -. AND, YOUR HONOR, OF COURSE, MY ISSUE
7 IS NOT THEM TESTIFYING THAT THEY SAW HIM WITH A SPLINT IN
8 HIS HAND. THEY ACTUALLY HAVE A PICTURE OF THIS THAT I
9 EXPECT THAT THEY WILL BE USING THAT SHOWS VERY CLEARLY THE
10 NATURE OF THE INJURY. MY ISSUE IS THE THEN --- IT ALMOST
11 READS WORD FOR WORD IN DETECTIVE BOMAR'S CASE SUMMARY THAT
12 HE LATER FOUND OUT THAT THE HAND WAS BROKEN AND REQUIRED
13 A CAST.

14 THE COURT - ALL HE CAN TESTIFY TO --- THAT'S, OF
15 COURSE, OBVIOUSLY PURE HEARSAY, ---

16 MR. LEMEL - YES, SIR.

17 THE COURT - --- AND ALL THEY CAN TESTIFY IS WHAT
18 THEY OBSERVED.

19 MR. LEMEL - YES, SIR. AND I JUST THOUGHT THAT
20 IT WOULD BE MORE APPROPRIATE TO HANDLE THAT IN LIMINE AS
21 OPPOSED TO WAITING FOR HIM TO TRY TO TESTIFY TO IT TO
22 AVOID GETTING THAT SORT OF ISSUE IN FRONT OF THE JURY ---
23 ANY PREJUDICE. YOUR HONOR, OUR LAST MOTION WITH THE
24 EXCEPTION OF THE JACKSON V. DENO IS A MOTION TO SEQUESTER
25 THE WITNESSES.

17

1 THE COURT - ALL RIGHT.

2 MS. LIPINSKI - THE STATE HAS NO OBJECTION TO
3 THAT. WE WOULD LIKE, OBVIOUSLY, OUR DETECTIVE CHRIS BOMAR
4 TO REMAIN AND, OBVIOUSLY, MISTI HILL, THE VICTIM IN THE
5 CASE. I THINK PURSUANT TO VICTIM RIGHT'S ACT SAYS THEY
6 HAVE THE RIGHT TO REMAIN.

7 THE COURT - RIGHT.

8 MS. LIPINSKI - AND WE WOULD ASK THAT IT BE
9 RECIPROCAL OF ANY DEFENSE WITNESSES, AND WE WOULD ASK FOR
10 A LIST OF THEIR WITNESSES AT THIS TIME, AS WELL, FOR THE
11 PURPOSES OF VOIR DIRE.

12 MR. LEMEL - AND, YOUR HONOR, THERE WILL BE NONE
13 EXCEPT FOR MR. DUNOVANT HIMSELF.

14 THE COURT - OKAY. ALL RIGHT, ANYTHING ELSE
15 BEFORE WE GET THE JURY UP?

16 MR. LEMEL - YOUR HONOR, JUST OUR PROPOSED VOIR
17 DIRE.

18 THE COURT - ALL RIGHT, LET'S TAKE A LOOK AT
19 THAT.

20 MS. LIPINSKI - YOUR HONOR, I THINK SOME OF
21 THESE ARE ACTUALLY COVERED IN YOUR NORMAL VOIR DIRE.

22 THE COURT - MOST OF THEM ARE.

23 MS. LIPINSKI - AS TO NUMBER 5, I KNOW WHERE MR.
24 LEMEL IS GOING, WITH INAPPROPRIATE --- IMPROPER TOUCHING
25 OF --- I'M NOT SURE THAT THAT JUST DOESN'T OPEN THE DOOR

1 FURTHER OPEN THAN IT NEEDS TO BE OPEN. IN TERMS OF NUMBER
2 6, IN TERMS OF KNOWING RELIGIOUS --- FOR THE PROSECUTION
3 I THINK THAT'S SOMETHING YOU COVER BOTH DEFENSE AND
4 PROSECUTION, AND WE'D ASK THAT YOU DO THAT. I THINK
5 NUMBER 7 AND 8 PROBABLY ALONG WITH NUMBER 5 COULD PROBABLY
6 BE COLLAPSED DOWN UNDER ONE QUESTION, HOWEVER THE COURT
7 DEEMS, YOUR HONOR, BUT THE STATE RECOGNIZES THAT'S AN
8 APPROPRIATE QUESTION FOR VOIR DIRE WHETHER OR NOT THEY
9 HAVE ANY SENSITIVITY TO THE SUBJECT MATTER, OBVIOUSLY OF
10 A FORCIBLE RAPE AND KIDNAPPING THAT WOULD IMPAIR THEM FROM
11 BEING A FAIR AND IMPARTIAL OR EITHER BASED ON THEIR
12 PREVIOUS EXPERIENCE OR JUST ANY PERSONAL BELIEF THAT THEY
13 MAY HAVE. AND OBVIOUSLY, INEVITABLY WAS GOING TO ALSO ---
14 JUST SO THE COURT IS AWARE --- INVOLVE DISCUSSION
15 REGARDING CRACK COCAINE BEING SMOKED EITHER BOTH BY THE
16 DEFENDANT AND BY THE VICTIM AND TO THAT INSTANCE IT MAY BE
17 NECESSARY TO DO THAT, DOES ANYBODY HAVE ANY PERSONAL OR
18 RELIGIOUS BELIEFS REGARDING DRUG USE THAT MAY IMPACT THEIR
19 ABILITY TO BE FAIR AND IMPARTIAL.

20 MR. LEMEL - YOUR HONOR, WE WOULD HAVE NO
21 OBJECTION TO INCLUDING A QUESTION REQUESTED BY THE STATE
22 REGARDING THE DRUG USE AND THEIR IMPACT. YOUR HONOR, WE
23 ARE ASKING THAT 5, 7 AND 8 REMAIN SEPARATE, BECAUSE THEY
24 ALL DEAL WITH SLIGHTLY SEPARATE ISSUES. NUMBER 5 IS
25 PURELY SORT OF IMPACT ON FAMILY AND CLOSE FRIENDS AND THIS

19

1 SORT OF THING, AND I THINK IT IS IMPORTANT THAT IS BROAD
2 AND BEYOND A SEXUAL ASSAULT, GIVEN SINCE THE BILL CLINTON
3 DAYS SORT OF THE LOOSE DEFINITION OF WHAT EXACTLY A SEX --
4 - WHAT SEX IS THESE DAYS. BROADENING IT OUT TO AN
5 IMPROPER TOUCHING WOULD COVER SOMEONE WHO MIGHT NOT THINK
6 THAT WHAT --- THAT MIGHT --- THAT AN ASSAULT OCCURRED BUT
7 IT MIGHT NOT HAVE GONE ALL THE WAY TO A SEXUAL ASSAULT,
8 FOR INSTANCE AN ASSAULT WITH INTENT TO COMMIT OR A LEWD
9 ACT OR SOMETHING OF THAT NATURE. SO I THINK IT IS
10 IMPORTANT THAT IT BE A LITTLE BIT BROADER. NUMBER 7
11 SPECIFICALLY DEALS WITH ISSUES OF NON --- AND WHETHER THEY
12 CAN DISCUSS NON-CONSENSUAL SEXUAL CONDUCT. NUMBER 8 IS TO
13 WHETHER THEY CAN --- BEYOND THAT CAN THEY SIMPLY DISCUSS
14 BASICALLY SEXUAL CONDUCT IN GENERAL IN A SITUATION WHERE
15 NOT EVERYONE MAY BE COMFORTABLE DOING THAT OR CAPABLE OF
16 DOING THAT BASED UPON THEIR PERSONAL BELIEFS. SO WE ARE
17 ASKING THAT THOSE REMAIN SEPARATE. WITH REGARD TO THOSE
18 LAST FEW, YOUR HONOR, WE HAVE REQUESTED THAT THE COURT AS
19 OPPOSED TO TAKING ANY GENERAL RESPONSE FROM THE AUDIENCE
20 ABOUT THAT BECAUSE OF THE SIGNIFICANT POSSIBILITY THAT
21 SOMEONE MAY ADD IN OR FEEL A NEED TO EXPLAIN THEIR ANSWER
22 AND THAT MAY POTENTIALLY CONTAMINATE THE ENTIRE JURY POOL
23 WE ARE ASKING THAT WITH REGARD TO THOSE VERY SPECIFIC
24 QUESTIONS THAT INSTEAD OF RECEIVING THE ANSWERS AT THE
25 BENCH THAT INSTEAD WE AT LEAST IN SOMEWHAT PRIVACY MEET IN

1 FRONT OF THE COURT REPORTER AND HAVE THOSE QUESTIONS
2 ADDRESSED JUST AMONGST THE ATTORNEYS, THE POTENTIAL JUROR
3 AND THE JUDGE, YOUR HONOR. AND I BELIEVE WE'VE DONE THAT
4 IN CASES IN THE PAST OF THIS TYPE.

5 THE COURT - I'LL ASK SOMETHING THAT'LL COVER ALL
6 OF THAT I BELIEVE. (PAUSE) YOU READY FOR THE JURY?

7 MR. LEMEL - YOUR HONOR, AND JUST WITH RESPECT TO
8 MY REQUEST TO HAVE THAT IN FRONT OF THE COURT REPORTER ---
9 THAT WAS THE MORE ---

10 THE COURT - I'M PROBABLY NOT GOING TO HAVE THEM
11 COME UP. I TRIED TO COUCH MINE SO THAT WE DON'T HAVE TO
12 DO THAT, BUT IF WE DO, WE'LL --- IF I HAVE TO WE'LL STEP
13 DOWN.

14 MR. LEMEL - YOUR HONOR, IT'S JUST THE CONCERN
15 FOR THE RESPONSE OF THAT QUESTION. PEOPLE ON THOSE SORTS
16 OF QUESTIONS TEND TO BLURT OUT MORE ---

17 THE COURT - I'LL DO MY BEST TO KEEP THE BLURTING
18 TO A MINIMUM.

19 MR. LEMEL - THANK YOU, YOUR HONOR.

20 THE COURT - ALL RIGHT, READY FOR THE JURY?

21 MS. LIPINSKI - YES, YOUR HONOR. I'M SORRY.

22 MR. LEMEL - YES, YOUR HONOR.

23 THE COURT - ALL RIGHT, LET'S BRING UP THE PANEL.
24 I'M GOING TO STEP OUT.

25 (BRIEF PAUSE)

21

1 (JUDGE EXITS THE COURTROOM)

2 (JURY PANEL ENTERS THE COURTROOM)

3 (JUDGE ENTERS THE COURTROOM)

4 THE COURT - THANK YOU. TAKE YOUR SEATS. WE'RE
5 GOING TO START OUR FIRST TRIAL IN THIS COURTROOM FOR THE
6 WEEK AT THIS TIME. THE STATE HAS BROUGHT TWO INDICTMENTS,
7 TWO CHARGES AGAINST MR. TERRY ARNAIL DUNOVANT. MR.
8 DUNOVANT, WILL YOU STAND AND LET THE JURY SEE WHO YOU ARE.

9 (MR. DUNOVANT STANDS)

10 THE COURT - MR. DUNOVANT'S REPRESENTED BY MR.
11 LEMEL AND MS. JOHNSON. YOU MAY BE SEATED.

12 (MR. DUNOVANT COMPLIES)

13 THE COURT - THE STATE IS REPRESENTED BY MR.
14 MAINES AND MS. LIPINSKI.

15 MS. LIPINSKI - AND, YOUR HONOR, YOU SHOULD HAVE
16 THREE INDICTMENTS, NOT TWO.

17 THE COURT - I'VE GOT THREE.

18 MS. LIPINSKI - YOU SAID TWO. I APOLOGIZE.

19 THE COURT - I --- OKAY, I HAVE THREE. I DON'T
20 KNOW WHAT I SAID, BUT THERE ARE THREE. IF I SAID TWO I
21 WASN'T HONEST WITH YOU, BUT THERE ARE THREE. TWO FOR
22 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND ONE FOR
23 KIDNAPPING. IT'S ALLEGED THAT THIS OCCURRED ON MAY 3RD OF
24 2007 HERE IN YORK COUNTY, AND IT'S ALLEGED THAT MR.
25 DUNOVANT DID KIDNAP A MISTI HILL AND IT'S ALLEGED THAT ON

1 THAT SAME DATE THAT HE DID FORCE HER TO HAVE BOTH ORAL AND
2 VAGINAL SEX AGAINST HER WILL WITHOUT HER CONSENT. THOSE
3 ARE THE CHARGES. TO THESE CHARGES HE HAS ENTERED A PLEA
4 OF NOT GUILTY. FIRST, ARE ANY OF YOU RELATED BY BLOOD OR
5 MARRIAGE TO ANY OF THE FIVE INDIVIDUALS TO WHOM YOU'VE
6 JUST BE INTRODUCED, THE ATTORNEYS OR MR. DUNOVANT? IF SO,
7 PLEASE STAND.

8 (NO RESPONSE)

9 THE COURT - NO ONE STANDS. HAVE ANY OF YOU
10 HEARD ABOUT THIS CASE FROM ANY SOURCE WHATSOEVER, HEARD
11 ABOUT IT AT WORK OR CHURCH OR ANYWHERE OR HAVE ANY OF YOU
12 FORMED OR EXPRESSED ANY OPINION ABOUT ANY MATTER OR ISSUE
13 WHICH WOULD BE INVOLVED IN THIS TYPE OF CASE? IF SO,
14 PLEASE STAND.

15 (NO RESPONSE)

16 THE COURT - NO ONE STANDS. ARE ANY OF YOU HERE
17 --- WERE ANY OF YOU HERE MEMBERS OF THE GRAND JURY WHICH
18 PASSED ON THESE INDICTMENTS AT AN EARLIER TIME? IF SO,
19 PLEASE STAND.

20 (NO RESPONSE)

21 THE COURT - NO ONE STANDS. ARE ANY OF YOU AWARE
22 OF ANY BIAS OR PREJUDICE THAT YOU WOULD HAVE TOWARD THE
23 STATE REPRESENTED BY THE INDIVIDUALS YOU'VE JUST BEEN ---
24 I JUST INTRODUCED OR ANY BIAS OR PREJUDICE THAT YOU WOULD
25 HAVE AGAINST MR. DUNOVANT OR COUNSEL THAT'S REPRESENTING

23

1 HIM? IF SO, PLEASE STAND. ALL RIGHT, STAND. I SAW A
2 HAND COME UP, SO I HAVE TO GET YOU TO STAND. MY EYES
3 AREN'T THAT GOOD.

4 (JUROR STANDS)

5 THE COURT - YES, SIR, YOUR NAME?

6 JUROR - MARK HORNE.

7 THE COURT - ALL RIGHT, DID Y'ALL GET THAT?

8 MR. LEMEL - NO, SIR.

9 THE COURT - HORNE?

10 MS. LIPINSKI - NUMBER 108, YOUR HONOR.

11 JUROR - HORNE, H-O-R-N-E.

12 THE COURT - ALL RIGHT. AND YOU BELIEVE YOU
13 WOULD NOT BE ABLE TO BE FAIR AND IMPARTIAL IN THIS TRIAL?

14 JUROR - YES. MY WIFE WAS ---

15 THE COURT - ALL RIGHT, DON'T --- YOU DON'T NEED
16 TO GO IN DETAILS AND I'M GOING TO EXCUSE YOU THEN. DON'T
17 LEAVE. JUST HAVE A SEAT, BUT IF YOU'RE TELLING ME YOU
18 CANNOT BE FAIR AND IMPARTIAL AND BASED ON --- THERE MAY BE
19 SOME OTHER QUESTIONS THAT MAKE YOU WANT TO STAND, BUT YOU
20 DON'T HAVE ANY TO STAND ANYMORE, BECAUSE I'VE EXCUSED YOU,
21 AND YOU WILL NOT BE INCLUDED IN THE DRAW. NO ONE ELSE
22 STANDS. ARE ANY OF YOU MEMBERS OF OR CONTRIBUTORS TO
23 ORGANIZATIONS SUCH AS STUDENTS AGAINST DRUNK DRIVERS,
24 MOTHERS AGAINST DRUNK DRIVERS, CITIZENS AGAINST VIOLENCE,
25 TROOPER'S ASSOCIATION, SHERIFF'S ASSOCIATION, FRATERNAL

1 ORDER OF POLICE? ANY OF YOU MEMBERS OF OR CONTRIBUTORS TO
2 THOSE ORGANIZATIONS? IF SO, PLEASE STAND.

3 (JURORS STAND)

4 THE COURT - ALL RIGHT, YES, MA'AM, YOUR NAME AND
5 NUMBER?

6 JUROR - BONNIE HART, 100.

7 THE COURT - ALL RIGHT, AND YOUR NAME, MA'AM OVER
8 HERE?

9 JUROR - CORNELIA CRAWFORD, NUMBER 60.

10 THE COURT - ALL RIGHT, THE TWO OF YOU WHO ARE
11 STANDING, WOULD THAT RELATIONSHIP WITH THOSE
12 ORGANIZATIONS, IF THAT WOULD PREVENT YOU FROM BEING FAIR
13 AND IMPARTIAL IN THIS TRIAL, PLEASE RAISE YOUR RIGHT HAND.

14 (NO RESPONSE)

15 THE COURT - NEITHER DOES. THANK YOU. YOU MAY
16 BE SEATED. ARE ANY OF YOU OR A MEMBER OF YOUR IMMEDIATE
17 FAMILY INVOLVED IN LAW ENFORCEMENT OR IN THE PROSECUTION
18 OF CRIMINAL CASES AT ANY LEVEL, ANYTHING FROM THE MP'S TO
19 THE LOCAL SHERIFF TO POLICE OR ANYTHING FROM JUDGE
20 ADVOCATE GENERAL TO DISTRICT ATTORNEY TO SOLICITOR, ANY
21 KIND OF PROSECUTOR? IF SO, PLEASE STAND. YOU DON'T EVEN
22 NEED TO RAISE YOUR HAND. YOU JUST NEED TO STAND.

23 (JURORS STAND)

24 THE COURT - ALL RIGHT, WHAT I'M GOING TO DO IS
25 GO --- START FROM THE AISLE WITH THIS LADY IN THE BLUE,

25

1 WORK IN AND WORK BACK THAT WAY AND I'M GOING TO ASK EACH
2 OF YOU TO JUST GIVE ME YOUR NAME AND NUMBER AND TELL ME
3 WHY YOU'RE STANDING, THAT IS, MY BROTHER-IN-LAW IS A
4 PROSECUTOR OR SOMETHING LIKE THAT. THEN I WILL ASK YOU
5 GENERALLY THE QUESTION ABOUT YOUR ABILITY TO BE FAIR AND
6 IMPARTIAL. YES, MA'AM?

7 JUROR - KENDRA RUSSELL, NUMBER 200. MY COUSIN
8 IS A POLICE OFFICER.

9 THE COURT - WHERE?

10 JUROR - LOUISIANA.

11 THE COURT - OKAY.

12 JUROR - LAWRENCE TINKER, NUMBER 231. MY
13 GRANDFATHER IS A STATE CONSTABLE.

14 THE COURT - ALL RIGHT. YES, MA'AM?

15 JUROR - LINDA CRANFORD, NUMBER 59. MY SON-IN-
16 LAW IS A CITY --- ROCK HILL CITY POLICE OFFICER, AND MY
17 NEPHEW IS A DETECTIVE WITH THE ROCK HILL CITY.

18 THE COURT - OKAY. YOU CAN REMAIN STANDING.
19 JUST REMAIN --- YES, MA'AM?

20 JUROR - BARBARA MILLAY, NUMBER 161. MY SON-IN-
21 LAW IS A CORRECTIONS OFFICER IN BUCKNER, NORTH CAROLINA IN
22 THE FEDERAL PRISON SYSTEM.

23 THE COURT - ALL RIGHT. YES, MA'AM?

24 JUROR - NUMBER 27, TRENA BOST. MY DAUGHTER
25 WORKS FOR MIKE BROWN.

1 THE COURT - ALL RIGHT. YES, MA'AM.

2 JUROR - NUMBER 131, LINDA LAFORTUNE. MY
3 HUSBAND, BROTHER AND FATHER-IN-LAW WERE ALL RESERVE POLICE
4 OFFICERS ---

5 COURT REPORTER - I'M HAVING TROUBLE HEARING HER.

6 THE COURT - ALL RIGHT, YOU NEED TO SPEAK UP A
7 LITTLE BIT. THE COURT REPORTER --- I --- OVER HERE IS
8 KIND OF DOWN IN A HOLE FROM WHERE Y'ALL ARE, SO --- SAY IT
9 AGAIN.

10 JUROR - LINDA LAFORTUNE, NUMBER 131, AND MY
11 HUSBAND, BROTHER AND FATHER-IN-LAW ARE RESERVE POLICE
12 OFFICERS IN MASSACHUSETTS.

13 THE COURT - ALL RIGHT, YES, SIR?

14 JUROR - MY NAME IS RONNIE BENTLEY. MY OLDEST
15 DAUGHTER WAS A COUNTY DEPUTY AND NOW I GOT A COUSIN'S
16 SON'S STILL A DEPUTY THERE.

17 THE COURT - IN YORK COUNTY?

18 JUROR - YES, SIR.

19 THE COURT - OKAY, THIS IS A COUNTY CASE?

20 MS. LIPINSKI - YES, YOUR HONOR.

21 THE COURT - OKAY. YES, SIR, YOUR NAME AND
22 NUMBER?

23 JUROR - I'M PRESTON COOPER, NUMBER 53. MY WIFE
24 WORKS FOR AN ATTORNEY.

25 THE COURT - ALL RIGHT, THOSE OF YOU WHO ARE

27

1 STANDING, IF THAT RELATIONSHIP TO SOMEONE INVOLVED IN LAW
2 ENFORCEMENT, IF THAT WOULD PREVENT YOU FROM BEING FAIR AND
3 IMPARTIAL, PLEASE RAISE YOUR RIGHT HAND.

4 (NO RESPONSE)

5 THE COURT - NO ONE DOES. IF THAT WOULD CAUSE
6 YOU TO BE UNABLE TO IN A POSITION TO BASE YOUR VERDICT
7 SOLELY ON THE LAW AND THE EVIDENCE IN THE TRIAL, PLEASE
8 RAISE YOUR RIGHT HAND.

9 (NO RESPONSE)

10 THE COURT - NO ONE DOES. YOU MAY BE SEATED.
11 THANK YOU. DO ANY OF YOU OR A MEMBER OF YOUR IMMEDIATE
12 FAMILY SPEND VOLUNTEER TIME WITH ANY TYPE OF VICTIM'S
13 SUPPORT GROUP OR CITIZEN'S ADVOCACY GROUP? IF SO, PLEASE
14 STAND.

15 (JURORS STAND)

16 THE COURT - ALL RIGHT, YOUR NAME AND NUMBER?

17 JUROR - MAGGIE TYLER, NUMBER 8. IT WAS COLLEGE.
18 I WAS A FIRST RESPONDER, RAPE VICTIMS.

19 THE COURT - ALL RIGHT, JUST REMAIN STANDING.
20 THERE'S ONE PERSON BEHIND YOU.

21 JUROR - CHRIS SHEPPARD, 209. I VOLUNTEER WITH
22 A GROUP CALLED BLESSINGS IN THE STORM THAT HELPS ABUSED
23 VICTIMS.

24 COURT REPORTER - I DIDN'T HEAR HIM, JUDGE.

25 THE COURT - CAN YOU REPEAT IT?

1 JUROR - CHRIS SHEPPARD, 209. I VOLUNTEER WITH
2 A GROUP CALLED BLESSINGS IN THE STORM THAT HELPS ABUSED
3 VICTIMS.

4 THE COURT - ALL RIGHT, THE TWO OF YOU THAT ARE
5 STANDING, IF THAT WOULD PRESENT YOU FROM BEING FAIR AND
6 IMPARTIAL, PLEASE RAISE YOUR RIGHT HAND.

7 (JUROR RESPONDS)

8 THE COURT - ALL RIGHT, AND MS. TYLER, THAT ---
9 SHE RAISED HER HAND, SO I'M GOING TO EXCUSE YOU. DON'T
10 LEAVE. JUST HAVE A SEAT. THANK YOU. MR. SHEPPARD DID
11 NOT. ALL RIGHT, I TOLD YOU THAT THESE CHARGES INVOLVE
12 KIDNAPPING, TAKING SOMEBODY AGAINST THEIR WILL, AND TWO
13 SEPARATE CRIMINAL SEXUAL CONDUCT OR CRIMINAL SEXUAL
14 BATTERY CASES. I TOLD YOU THE VICTIM'S NAME, MISTI HILL,
15 AND I TOLD YOU IT INVOLVED THE USE OF FORCE TO ENGAGE IN
16 BOTH VAGINAL AND ORAL SEX. WOULD THE NATURE OF THESE
17 CHARGES PRESENT ANY OF YOU FROM BEING ABLE TO BE FAIR AND
18 IMPARTIAL OR BASING YOUR VERDICT SOLELY ON THE LAW AND THE
19 EVIDENCE IN THE CASE? IF SO, PLEASE STAND.

20 (NO RESPONSE)

21 THE COURT - NO ONE STANDS. THANK YOU. THE
22 FOLLOWING ARE POSSIBLE WITNESSES IN THIS CASE. IT'S A
23 RATHER LONG LIST. I DON'T KNOW THAT ALL WILL TESTIFY BUT
24 WE'RE REQUIRED TO --- SOME OF THEM'S NAMES JUST MIGHT COME
25 UP, BUT THESE ARE POSSIBLE WITNESSES. IF ANY OF YOU ARE

29

1 RELATED BY BLOOD OR MARRIAGE OR IF YOU'RE A CLOSE PERSONAL
2 FRIEND OR ACQUAINTANCE OF ANY OF THESE INDIVIDUALS, PLEASE
3 STAND. AUDRA EDDIE, BARBIE TAYLOR. BOTH OF THEM ARE WITH
4 THE SHERIFF'S OFFICE HERE IN YORK. J.C. CARRINGER ---

5 MS. LIPINSKI - C.J. CARRINGER, YOUR HONOR.

6 THE COURT - CARRINGER. THEN WITH THE SHERIFF'S
7 OFFICE AGAIN, CLARA PAINTER, CAPTAIN JERRY HOFFMAN,
8 DETECTIVE CHRIS BOMAR, GARY ROLLINS, JOHN WILLIAMS,
9 LIEUTENANT BETH TOLSON. THEN WITH THE STATE LAW
10 ENFORCEMENT DIVISION, SLED, DR. DAVID EAGERTON, KIMBERLY
11 DAVIS, SHEREE OR SHEREE, S-H-E-R-E-E J. BROWN, SPECIAL
12 AGENTS HEATHER DALEY AND LILLY GALLMAN, AND THEN ALSO WITH
13 SLED, TAMMY BANNISTER. ADDITIONAL WITNESSES, KELLY CLEARY
14 OR CLEARY, C-L-E-A-R-Y, LORI RICHARDS, MENTIONED MISTI
15 HILL, SHANE CHILDERS AND VIRGIE JOHNSON. LASTLY WITH
16 GASTON POLICE DEPARTMENT, SERGEANTS JIMMY WEST AND KEVIN
17 MCSWAIN. ANY OF YOU RELATED BY BLOOD OR MARRIAGE OR CLOSE
18 PERSONAL FRIEND OR ACQUAINTANCE WITH ANY OF THOSE
19 INDIVIDUALS? IF SO, PLEASE STAND.

20 (NO RESPONSE)

21 THE COURT - NO ONE STANDS. ANYTHING FURTHER
22 FROM THE STATE?

23 MS. LIPINSKI - NOTHING FROM THE STATE.

24 MR. LEMEL - YOUR HONOR, IF YOU WOULD RE-REQUEST
25 NUMBER 5 UNDER OUR PROPOSED VOIR DIRE.

1 THE COURT - ALL RIGHT. THIS QUESTION HAS
2 SENSITIVITY TO IT, SO I'M NOT GOING TO ASK YOU TO STAND UP
3 AND TELL ME WHY YOU'RE STANDING, BUT I SIMPLY HAVE TO ASK
4 IT. HAVE YOU OR A MEMBER OF YOUR IMMEDIATE FAMILY BEEN
5 THE VICTIM OF WHAT YOU ALLEGE OR THEY ALLEGE TO HAVE BEEN
6 A SEXUAL BATTERY OR BEEN CHARGED WITH HAVING COMMITTED
7 WHAT SOMEONE ELSE ALLEGED TO HAVE BEEN A SEXUAL BATTERY?
8 IF SO, PLEASE STAND.

9 (JURORS STAND)

10 THE COURT - ALL RIGHT, AGAIN, JUST GIVE ME YOUR
11 NAME AND NUMBER AND I'M NOT GOING TO ASK YOU TO GO INTO
12 YOUR PERSONAL STUFF.

13 JUROR - LAWRENCE TINKER, NUMBER 231.

14 THE COURT - ALL RIGHT, AND YOU ALREADY STOOD AND
15 I'VE EXCUSED YOU. YOU CAN SIT BACK DOWN. MR. TINKER,
16 WOULD THAT AFFECT YOUR ABILITY --- THE FACT THAT YOU'RE
17 STANDING AND INDICATING THAT THAT IS PART OF YOUR LIFE'S
18 EXPERIENCE ---

19 JUROR - YES, SIR.

20 THE COURT - --- WOULD THAT PREVENT YOU FROM
21 BEING FAIR AND IMPARTIAL IN THE TRIAL OF THIS CASE?

22 JUROR - YES, SIR.

23 THE COURT - ALL RIGHT, WELL, I'LL EXCUSE YOU
24 ALSO. YOU CAN HAVE A SEAT, TOO. DON'T LEAVE. ALL RIGHT
25 FINALLY, DO ANY OF YOU KNOW OF ANY REASON WHATSOEVER WHY

31

1 YOU COULD NOT OR SHOULD NOT SERVE AS A FAIR AND IMPARTIAL
2 JUROR IN THE TRIAL OF THIS PARTICULAR CASE? IF SO, PLEASE
3 STAND.

4 (NO RESPONSE)

5 THE COURT - NO ONE STANDS. NOW, THE WAY WE DRAW
6 JURIES IN THIS TYPE COURT IS AS FOLLOWS: THE BAILIFF WILL
7 COME DOWN AND STAND SORT OF IN THE MIDDLE OF THE FLOOR UP
8 HERE. IF YOUR NAME IS CALLED, PLEASE COME FORWARD. BRING
9 WITH YOU ANY PERSONAL BELONGINGS SO THAT IF YOU ARE SEATED
10 ON THE JURY YOU WILL NOT HAVE TO GO BACK AND RETRIEVE
11 THEM. WHEN YOU GET UP HERE TO WHERE THE BAILIFF IS
12 STANDING, TURN AROUND AND FACE THE TABLE WHERE THE
13 SOLICITORS ARE SEATED. ONE OF THEM WILL SAY EITHER
14 PRESENT THE JUROR OR --- EXCUSE THE JUROR OR PRESENT THE
15 JUROR. IF THEY SAY EXCUSE THE JUROR, SIMPLY RETURN TO
16 YOUR SEAT. IF THEY SAY PRESENT THE JUROR, TURN AND FACE
17 THE TABLE WHERE MR. DUNOVANT IS SEATED AND ONE OF HIS
18 ATTORNEYS WILL SAY EITHER EXCUSE THE JUROR, WHICH AGAIN
19 MEANS YOU MAY RETURN TO YOUR SEAT, OR SWEAR THE JUROR. IF
20 YOU HEAR THAT, THE BAILIFF WILL TELL YOU WHERE TO SIT IN
21 THE JURY BOX. STRIKES ARE FIVE AND TEN?

22 MS. LIPINSKI - YES, YOUR HONOR.

23 MR. LEMBL - YES, SIR, YOUR HONOR.

24 THE COURT - ALL RIGHT, PLEASE COME FORWARD IF
25 YOU HEAR YOUR NAME CALLED.

1 DEPUTY CLERK - NUMBER 205, FRANCES SAUNDERS.

2 WHAT SAY YOU THE STATE?

3 MS. LIPINSKI - PLEASE PRESENT MS. SAUNDERS.

4 DEPUTY CLERK - DEFENSE?

5 MR. LEMEL - PLEASE EXCUSE THE JUROR IN THIS
6 MATTER.

7 DEPUTY CLERK - YOU'RE EXCUSED FROM THIS CASE,
8 MA'AM. NUMBER 61, PHILLIP CRISCO. WHAT SAY YOU FOR THE
9 STATE?

10 MS. LIPINSKI - PLEASE PRESENT THE JUROR.

11 DEPUTY CLERK - DEFENSE?

12 MR. LEMEL - PLEASE SWEAR THE JUROR.

13 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
14 BOX, SIR.

15 (JUROR SEATED)

16 DEPUTY CLERK - NUMBER 160, ANTONIO MICKEL. WHAT
17 SAY YOU FOR THE STATE?

18 MS. LIPINSKI - PLEASE EXCUSE THE JUROR.

19 DEPUTY CLERK - YOU'RE EXCUSE FROM THIS CASE,
20 SIR. NUMBER 226, RONALD SUTTON. WHAT SAY YOU FOR THE
21 STATE?

22 MS. LIPINSKI - PLEASE PRESENT THE JUROR.

23 DEPUTY CLERK - DEFENSE?

24 MR. LEMEL - PLEASE SWEAR THE JUROR.

25 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY

1 BOX, SIR.
2 (JUROR SEATED)
3 DEPUTY CLERK - NUMBER 60, CORNELIA CRAWFORD.
4 WHAT SAY YOU FOR THE STATE?
5 MS. LIPINSKI - PLEASE PRESENT MS. CRAWFORD.
6 DEPUTY CLERK - DEFENSE?
7 MR. LEMEL - PLEASE SWEAR THE JUROR.
8 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
9 BOX, MA'AM.
10 (JUROR SEATED)
11 DEPUTY CLERK - NUMBER 5, SCOTT ALLEN. WHAT SAY
12 YOU FOR THE STATE?
13 MS. LIPINSKI - PLEASE PRESENT MR. ALLEN.
14 DEPUTY CLERK - DEFENSE?
15 MR. LEMEL - PLEASE SWEAR THE JUROR.
16 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
17 BOX, SIR.
18 (JUROR SEATED)
19 DEPUTY CLERK - NUMBER 189, ERNEST RAMSEY. WHAT
20 SAY YOU FOR THE STATE?
21 MS. LIPINSKI - PLEASE PRESENT THE JUROR.
22 DEPUTY CLERK - DEFENSE?
23 MR. LEMEL - PLEASE SWEAR THE JUROR.
24 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
25 BOX.

1 (JUROR SEATED)

2 DEPUTY CLERK - NUMBER 124, RAYMOND JOHNSON.

3 WHAT SAY YOU FOR THE STATE?

4 MS. LIPINSKI - PRESENT MR. JOHNSON.

5 DEPUTY CLERK - DEFENSE?

6 MR. LEMEL - PLEASE SWEAR THE JUROR.

7 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY

8 BOX, SIR.

9 (JUROR SEATED)

10 DEPUTY CLERK - NUMBER 215, CHANDLER SKINNER.

11 WHAT SAY YOU FOR THE STATE?

12 MS. LIPINSKI - PLEASE PRESENT MR. SKINNER.

13 DEPUTY CLERK - DEFENSE?

14 MR. LEMEL - PLEASE SWEAR THE JUROR.

15 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY

16 BOX, SIR.

17 (JUROR SEATED)

18 DEPUTY CLERK - NUMBER 177, KENNETH NEWELL. WHAT

19 SAY YOU FOR THE STATE?

20 MS. LIPINSKI - PLEASE SWEAR THE JUROR.

21 DEPUTY CLERK - DEFENSE?

22 MR. LEMEL - PLEASE SWEAR THE JUROR.

23 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY

24 BOX, SIR.

25 (JUROR SEATED)

35

1 DEPUTY CLERK - NUMBER 20, RONNIE BENTLEY.
2 MS. LIPINSKI - WHAT WAS HIS NUMBER AGAIN? I'M
3 SORRY.
4 DEPUTY CLERK - 20. WHAT SAY YOU FOR THE STATE?
5 MS. LIPINSKI - PLEASE PRESENT THE JUROR.
6 DEPUTY CLERK - DEFENSE?
7 MR. LEMEL - PLEASE EXCUSE THE JUROR IN THIS
8 MATTER.
9 DEPUTY CLERK - YOU'RE EXCUSE FROM THIS CASE,
10 SIR. NUMBER 186, VICTOR PENDERGRASS. WHAT SAY YOU FOR
11 THE STATE?
12 MS. LIPINSKI - PLEASE PRESENT THE JUROR.
13 DEPUTY CLERK - DEFENSE?
14 MR. LEMEL - PLEASE EXCUSE THE JUROR IN THIS
15 MATTER.
16 DEPUTY CLERK - YOU'RE EXCUSED FROM THIS CASE,
17 SIR.. NUMBER 27, TRENA BOST. WHAT SAY YOU FOR THE STATE?
18 MS. LIPINSKI - PLEASE PRESENT THE JUROR.
19 DEPUTY CLERK - DEFENSE?
20 MR. LEMEL - PLEASE SWEAR THE JUROR.
21 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
22 BOX, MA'AM.
23 (JUROR SEATED)
24 DEPUTY CLERK - NUMBER 56, STEPHEN COWART. WHAT
25 SAY YOU FOR THE STATE?

1 MS. LIPINSKI - PLEASE PRESENT THE JUROR.
2 DEPUTY CLERK - DEFENSE?
3 MR. LEMEL - PLEASE SWEAR THE JUROR.
4 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
5 BOX, SIR..
6 (JUROR SEATED)
7 DEPUTY CLERK - NUMBER 9, JEAN BACCUS. WHAT SAY
8 YOU FOR THE STATE?
9 MS. LIPINSKI - PRESENT THE JUROR.
10 DEPUTY CLERK - DEFENSE?
11 MR. LEMEL - PLEASE SWEAR THE JUROR.
12 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
13 BOX, MA'AM.
14 (JUROR SEATED)
15 DEPUTY CLERK - NUMBER 122, SAMUEL JACKSON. WHAT
16 SAY YOU FOR THE STATE?
17 MS. LIPINSKI - PRESENT THE JUROR.
18 DEPUTY CLERK - DEFENSE?
19 MR. LEMEL - PLEASE EXCUSE THE JUROR IN THIS
20 MATTER.
21 DEPUTY CLERK - YOU'RE EXCUSED FROM THIS CASE,
22 SIR. NUMBER 59, LINDA CRANFORD. WHAT SAY YOU FOR THE
23 STATE?
24 MS. LIPINSKI - PLEASE PRESENT MS. CRANFORD.
25 DEPUTY CLERK - DEFENSE?

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1 MR. LEMEL - PLEASE EXCUSE THE JUROR IN THIS
2 MATTER.

3 DEPUTY CLERK - YOU'RE EXCUSED FROM THIS CASE,
4 MA'AM. NUMBER 33, BEAU BROUSSARD.

5 MR. LEMEL - NUMBER 33, MADAM CLERK?

6 DEPUTY CLERK - YES. WHAT SAY YOU FOR THE STATE?

7 MS. LIPINSKI - PRESENT THE JUROR.

8 DEPUTY CLERK - DEFENSE?

9 MR. LEMEL - PLEASE SWEAR THE JUROR.

10 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
11 BOX, SIR.

12 (JUROR SEATED)

13 THE COURT - ALL RIGHT, WE'LL DRAW ONE ALTERNATE.
14 STRIKES WILL BE ONE AND TWO.

15 MS. LIPINSKI - ONE, YOUR HONOR? ONE ALTERNATE?

16 THE COURT - ONE ALTERNATE. STRIKES WILL BE ONE
17 AND TWO.

18 MS. LIPINSKI - THANK YOU, YOUR HONOR.

19 DEPUTY CLERK - NUMBER 224, PATRICIA STROTHER.
20 WHAT SAY YOU FOR THE STATE?

21 MS. LIPINSKI - PRESENT THE JUROR.

22 DEPUTY CLERK - DEFENSE?

23 MR. LEMEL - PLEASE SWEAR THE JUROR.

24 DEPUTY CLERK - PLEASE HAVE A SEAT IN THE JURY
25 BOX, MA'AM.

1 (JUROR SEATED)

2 THE COURT - ANYTHING FROM THE STATE INVOLVING
3 THE STRIKING OF THE PANEL?

4 MS. LIPINSKI - NOTHING, YOUR HONOR.

5 THE COURT - ANYTHING FROM DEFENSE?

6 MR. LEMEL - NO, SIR, YOUR HONOR.

7 THE COURT - ALL RIGHT, THOSE OF YOU WHO WERE NOT
8 CHOSEN, LET ME ASK THE CLERK WHAT YOU'RE SUPPOSED TO DO.

9 (DISCUSSION IS HELD BETWEEN THE COURT AND THE
10 DEPUTY CLERK WHICH WAS NOT REPORTED.)

11 THE COURT - PLEASE CALL BACK TONIGHT AT SEVEN TO
12 FIND OUT WHAT YOUR NEXT INSTRUCTIONS ARE, AND KEEP IN MIND
13 WHAT I TOLD YOU ABOUT BEING SURE TO FOLLOW THE
14 INSTRUCTIONS YOU RECEIVE, AND I'M GOING TO ASK YOU TO
15 LEAVE QUIETLY SO I CAN START TALKING TO THIS PANEL. THANK
16 YOU.

17 (REMAINING JURY PANEL EXITS THE COURTROOM)

18 THE COURT - NOW, I'M GOING TO ASK ALL OF YOU TO
19 STAND AND RAISE YOUR RIGHT HAND. THE CLERK WILL
20 ADMINISTER THE OATH AND WHEN YOU SIT DOWN MR. JOHNSON AND
21 MR. RAMSEY, IF THE TWO OF YOU WILL JUST SWITCH SEATS
22 BECAUSE I'M GOING TO HAVE MR. RAMSEY BE THE FOREMAN. WHY
23 DON'T Y'ALL GO AHEAD AND DO THAT NOW. ALL RIGHT. I'M
24 SORRY. I HAD YOU BACKWARDS. THIS GENTLEMEN ON THE END.

25 (JURORS COMPLY)

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1 THE COURT - THERE YOU GO. ALL RIGHT, RAISE YOUR
2 RIGHT HANDS.

3 (WHEREUPON, THE DEPUTY CLERK ADMINISTERS THE
4 OATH TO THE JURY)

5 THE COURT - ALL RIGHT. YOU CAN BE SEATED.
6 MEMBERS OF THE JURY PANEL, I'M GOING TO CHAT WITH YOU JUST
7 A MINUTE AND GIVE YOU A LITTLE BIT OF AN OUTLINE OF WHERE
8 WE'RE HEADED AND THEN THE ATTORNEYS HAVE A RIGHT BUT NO
9 OBLIGATION TO COME BEFORE YOU AND MAKE OPENING STATEMENTS.
10 THESE OPENING STATEMENTS ARE NOT ARGUMENTS AND THEY'RE NOT
11 WITNESSES SO THEY'RE NOT TESTIFYING. THEY'RE SIMPLY
12 OUTLINING THE TRIAL. THEY'RE GIVING YOU SORT OF A
13 BLUEPRINT OF THE TRIAL, WHAT TO EXPECT, A LITTLE BIT MORE
14 THAN WHAT I'VE TOLD YOU. OF COURSE, I HAVEN'T TOLD YOU A
15 WHOLE LOT. MR. DUNOVANT HAS ENTERED PLEAS OF NOT GUILTY
16 TO THESE THREE CHARGES, AND THIS PLACES ON THE STATE THE
17 BURDEN OF PROVING HIS GUILT BEYOND A REASONABLE DOUBT.
18 MR. DUNOVANT IS PRESUMED INNOCENT. NEED NOT PROVE HIS
19 INNOCENCE. THE STATE MUST PROVE HIS GUILT BEYOND A
20 REASONABLE DOUBT BEFORE YOU AS THE TRIAL JURY IN THIS CASE
21 COULD CONVICT HIM AND FIND HIM GUILTY. I AM THE JUDGE OF
22 THE LAW IN THIS CASE AND YOU MUST TAKE, ACCEPT AND APPLY
23 THE LAW AS I CHARGE IT. THIS IS TRUE EVEN IF YOU THINK I
24 CHARGE THE LAW IN ERROR OR EVEN IF YOU THINK THE LAW
25 SHOULD BE DIFFERENT. YOU'RE NOT TO INFER FROM ANYTHING I

1 SAY OR DO AT ANYTIME AS INDICATING AN OPINION OF MINE ON
2 THE FACTS. THAT IS SOLELY YOUR JOB. IT'S SOLELY UP TO
3 YOU TO EXAMINE THE EVIDENCE AND TO GIVE TO THE EVIDENCE,
4 THE EFFECT, THE VALUE, THE WEIGHT AND THE TRUTH YOU
5 BELIEVE IT SHOULD HAVE. IN DOING THIS YOU MAY BELIEVE ONE
6 WITNESS AS OPPOSED TO SEVERAL, SEVERAL WITNESSES AS
7 OPPOSED TO ONE. YOU MAY BELIEVE ALL, PART OF NONE OF A
8 WITNESSES' TESTIMONY. USE YOUR COMMON SENSE, YOUR SENSE
9 OF LOGIC, YOUR SENSE OF REASON. USE YOUR EXPERIENCES IN
10 LIFE AS YOU ANALYZE THE EVIDENCE. AS JUDGES OF THE FACTS
11 YOU OF NECESSITY MUST JUDGE THE CREDIBILITY, THAT IS THE
12 BELIEVABILITY OF THE WITNESSES WHO HAVE TESTIFIED. IN
13 ASSESSING BELIEVABILITY USE THE THINGS I HAVE JUST
14 MENTIONED AND USE THE THINGS THAT YOU IN YOUR DAY-TO-DAY
15 LIFE FIND INDICATE TO YOU TRUTHFULNESS. YOU DON'T NEED TO
16 TAKE NOTES. YOU'RE NOT TO DISCUSS THE CASE AMONG
17 YOURSELVES OR TRY TO MAKE UP YOUR OWN MIND UNTIL WE REACH
18 THE POINT IN A TRIAL WHERE I INSTRUCT YOU TO JOINTLY
19 DELIBERATE AND RETURN A UNANIMOUS VERDICT. PRIOR TO THAT
20 TIME YOU'RE NOT EQUIPPED WITH ALL THE TOOLS YOU NEED TO
21 MAKE A FAIR AND REASONED DECISION. DO NOT LET ANYONE
22 DISCUSS THE CASE WITH YOU OUTSIDE THE COURTROOM. YOU MUST
23 BASE YOUR VERDICT SOLELY ON THE LAW AND THE EVIDENCE AS
24 IT'S DEVELOPED IN THE TRIAL OF THE CASE. NOW WITH MODERN
25 THINGS THAT WE HAVE I HAVE TO INSTRUCT YOU NOT ONLY NOT TO

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1 DISCUSS THE CASE WITH ANYONE OUTSIDE THE COURTROOM, DON'T
2 LET ANYONE DISCUSS THE CASE WITH YOU AND REPORT BACK TO ME
3 IF ANYONE DISCUSSES --- IF ANYONE TRIES TO GET YOU TO
4 DISCUSS THIS CASE. I WILL HAVE TO TAKE ACTION AGAINST
5 THAT PERSON, BUT I ALSO HAVE TO TELL YOU NOT TO DO ANY
6 INDEPENDENT RESEARCH. DON'T GO ON-LINE AND TRY TO FIND
7 OUT ANYTHING ABOUT PARTIES TO THIS CASE, THE LAW THAT
8 DEALS WITH THIS CASE OR ANYTHING ABOUT THE CASE
9 WHATSOEVER. WE HAD THAT HAPPEN IN A CASE AND THE SUPREME
10 COURT SET IT ASIDE AND SAID THAT IT WAS NOT RIGHT AND
11 FAIR. SO I DON'T THINK ANY OF YOU WOULD DO IT, BUT DON'T
12 DO IT. DON'T GO TO ANY OF THE SCENES WHERE YOU HEAR THAT
13 SOMETHING MAY HAVE HAPPENED IN THIS CASE. PLEASE AVOID
14 IT. IT MAY HAVE CHANGED. THIS HAPPENED IT LOOKS LIKE
15 ABOUT TWO YEARS AGO. SO BASE YOUR VERDICT SOLELY ON THE
16 THINGS THAT ARE PRESENTED TO YOU AND DEVELOPED IN THE
17 TRIAL. DO NOT LET YOURSELF BE EXPOSED TO ANY NEWS
18 COVERAGE IF THERE IS ANY. DON'T READ ABOUT IT, WATCH
19 ANYTHING OR LISTEN TO ANYTHING. ANYTHING THAT COULD
20 REMOTELY CATCH YOUR EYE OR EAR THAT COULD DEAL WITH THIS
21 TRIAL, DON'T LET YOURSELF BE EXPOSED TO IT. WE TAKE
22 BREAKS ABOUT EVERY HOUR AND A HALF. I FIND THAT IS A GOOD
23 BREAK-TIME, BUT IF ANY OF YOU NEED A BREAK AT ANY TIME,
24 SIMPLY RAISE YOUR RIGHT HAND AND WE'LL TAKE A BREAK WITH
25 NO QUESTIONS ASKED. WE TRY TO TAKE BREAKS, AS I SAID,

1 ABOUT EVERY HOUR AND A HALF. I EXTEND THE OFFER TO TAKE
2 BREAKS TO COUNSEL AND MR. DUNOVANT. AGAIN, WE WANT TO
3 MOVE THE CASE ALONG, BUT IF WE NEED A BREAK WE'LL TAKE
4 ONE. ANYTHING ELSE BEFORE ---

5 MR. LEMEL - NO, SIR.

6 THE COURT - ALL RIGHT, I'LL TURN IT OVER TO THE
7 ATTORNEYS.

8 MS. LIPINSKI - MAY IT PLEASE THE COURT, YOUR
9 HONOR. YOUR HONOR, COULD I HAVE THE INDICTMENTS?

10 (INDICTMENTS HANDED TO MS. LIPINSKI)

11 MS. LIPINSKI - THANK YOU. MAY IT PLEASE THE
12 COURT; MAY IT PLEASE YOU THE MEMBERS OF NOW THE JURY IN
13 THE CASE OF THE STATE VS. TERRY DUNOVANT. AS I WAS
14 INTRODUCED TO YOU BY THE COURT MY NAME IS MINDY HERVEY
15 LIPINSKI. I'M AN ASSISTANT SOLICITOR FOR THE 16TH CIRCUIT
16 WHICH COMPRISES YORK AND UNION COUNTY. I'LL BE ASSISTED
17 HERE TODAY AND THROUGHOUT THIS TRIAL BY J. D. MAINES, ONE
18 OF THE YOUNGER ATTORNEYS IN OUR OFFICE. YOU'LL ALSO SEE
19 MY VICTIM WITNESS ADVOCATE SEATED BEHIND THE VICTIMS WHO
20 WILL COME AND GO AND ALSO MY PARALEGAL. I WORK FOR
21 SOLICITOR KEVIN BRACKETT AND BY NOW YOU'VE PROBABLY
22 CONCLUDED THAT I AM A DISTRICT ATTORNEY OR A PROSECUTOR.
23 THOSE ARE THE TERMS YOU KIND OF MORE COMMONLY HEAR ON T.V.
24 MY FATHER WAS A TOOL AND DYE MAKER ALL HIS LIFE AND WHEN
25 I CALLED TO TELL HIM FROM LAW SCHOOL THAT I WOULD BE AN

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1 ASSISTANT DOOR-TO-DOOR SALESMAN, HE WAS VERY UPSET THAT HE
2 HAD SO ENCOURAGED ME TO GO TO LAW SCHOOL, BUT ONCE I
3 EXPLAINED TO HIM THAT AN ASSISTANT SOLICITOR IS NOT AN
4 ASSISTANT DOOR-TO-DOOR SALESMAN OR NOT JUST THAT, BUT HERE
5 IN SOUTH CAROLINA IS JUST AN OLD ENGLISH TERM THEY RETAIN
6 FOR IN ESSENCE THAT, A PROSECUTOR. AND THAT IS WHAT I AM
7 HERE TO DO TODAY. I'M HERE TO PROSECUTE TERRY DUNOVANT
8 FOR THE THREE CRIMES FOR WHICH THE GRAND JURY HAS INDICTED
9 HIM, TWO COUNTS OF CRIMINAL SEXUAL CONDUCT IN THE FIRST
10 DEGREE AND ONE COUNT OF KIDNAPPING. THESE ARE THE
11 INDICTMENTS RETURNED BY THE GRAND JURY. THEY ARE NOT
12 EVIDENCE. THEY DID NOT RULE ON THE EVIDENCE. THEY GOT A
13 VERY SMALL SNAPSHOT AND MADE THE LIMITED DECISION THERE'S
14 ENOUGH EVIDENCE TO TAKE IT TO TRIAL. IT'S A VERY
15 PRELIMINARY THING AND YOU SHOULD NOT TAKE IT AS EVIDENCE
16 BUT THESE ARE THE CHARGING PAPERS AND WHAT I WANT TO GO
17 OVER WITH YOU IS WHAT EXACTLY DO THOSE THINGS MEAN. WHAT
18 DO THESE CRIMES ENTAIL? BECAUSE WHEN YOU HEAR CRIMINAL
19 SEXUAL CONDUCT IN THE FIRST DEGREE, YOU MAY THINK YOU KNOW
20 WHAT, THAT'S WHAT LAWYERS DO, THEY COME UP WITH BIG TERMS
21 THAT MEAN REALLY SIMPLE THINGS. AND IN ESSENCE IN SOME
22 RESPECTS THAT IS TRUE OF CRIMINAL SEXUAL CONDUCT IN THE
23 FIRST DEGREE. IT REPLACED THE OLD COMMON LAW OFFENSE OF
24 RAPE. AND WHAT SOUTH CAROLINA HAS DONE IS SEPARATE INTO
25 DIFFERENT DEGREES. THE CRIME OF RAPE, SO CRIMINAL SEXUAL

1 CONDUCT INVOLVES FIRST, A SEXUAL BATTERY MEANING THAT THE
2 DEFENDANT PENETRATED SOME ORIFICE OF THE VICTIM. THAT'S
3 SEXUAL BATTERY. IT DOESN'T HAVE TO BE TO ANY GREAT
4 DEGREE. IT'S NO MATTER HOW SLIGHT AND IT CAN BE MOUTH OR
5 VAGINA. IN THIS CASE BECAUSE THERE ARE TWO COUNTS, THE
6 STATE WILL ELICIT EVIDENCE THAT HE BOTH FORCED HER TO
7 PERFORM FELLATIO OR ORAL SEX ON HIM AND THAT HE ALSO
8 FORCED HER TO ENGAGE IN VAGINAL SEX. HE IS ALSO INDICTED
9 FOR THE OFFENSE OF KIDNAPPING. ONCE AGAIN, WE ALL WATCH
10 T.V., PERHAPS TOO MUCH LAW & ORDER AND PERRY MASON. IN
11 SOUTH CAROLINA KIDNAPPING DOESN'T JUST MEAN THROWING
12 SOMEBODY IN THE TRUNK AND CARRYING THEM OVER STATE LINES.
13 KIDNAPPING IS DEFINED AS NOT ONLY CARRYING SOMEBODY AWAY
14 BUT ALSO TRICKING THEM OR CONFINING THEM AGAINST THEIR
15 WILL. YOU COULD BE KIDNAPPED IN YOUR VERY OWN HOME. IF
16 SOMEBODY CAME INTO YOUR HOME AND HELD YOU AT GUNPOINT,
17 THEY COULD'VE IN ESSENCE KIDNAPPED YOU BECAUSE THEY HAD
18 CONFINED YOU AGAINST YOUR WILL. WHAT YOU WILL HEAR IS
19 THAT WHILE MISTI HILL ORIGINALLY WENT WITH THE DEFENDANT
20 VOLUNTARILY TO GET A RIDE HOME THAT DAY, THAT AT SOME
21 POINT, OBVIOUSLY, THEIR ENCOUNTER BECAME NON-CONSENSUAL
22 AND THAT SHE WAS CONFINED AGAINST HER WILL IN THE AREA
23 BEHIND THE WEEPING MARY BAPTIST CHURCH WHERE THE SEX ACTS
24 ARE ALLEGED TO HAVE OCCURRED. SO THOSE ARE THE TWO THINGS
25 THAT THE EVIDENCE YOU ALL WILL HEAR TODAY. THERE IS NO

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1 DOUBT ABOUT IT THAT THIS IS A VERY DIFFICULT CASE. THIS
2 IS NOT A SUBJECT MATTER MOST OF US SIT AROUND OUR HOUSES
3 AND CONTEMPLATE. THIS IS A VERY UNCOMFORTABLE SUBJECT
4 MATTER FOR THAT VERY REASON. HOWEVER, IT HAS OCCURRED
5 HERE IN SOUTH CAROLINA AND YOU HAVE BEEN SELECTED UPON
6 THAT JURY. THE REASON THAT WE ASKED YOU THOSE LITANY OF
7 QUESTIONS OUT THERE WAS TO DETERMINE WHETHER OR NOT YOU
8 COULD INDEED CONTEMPLATE THIS VERY DIFFICULT SUBJECT
9 MATTER. I WANT TO TALK TO YOU NOT ONLY ABOUT KIDNAPPING
10 BUT WHAT IS CRIMINAL SEXUAL CONDUCT BEYOND JUST THAT
11 SEXUAL BATTERY. WHAT MAKES IT FIRST DEGREE? WE HAVE
12 FIRST, SECOND AND THIRD DEGREE HERE IN THE STATE OF SOUTH
13 CAROLINA. YOU WILL BE FOCUSED ON CRIMINAL SEXUAL CONDUCT
14 IN THE FIRST DEGREE, AND WHAT IT MEANS IS THAT THAT SEXUAL
15 BATTERY WAS ACCOMPANIED BY AGGRAVATED FORCE. SECOND
16 DEGREE IS AGGRAVATED COERCION, THE THREAT OF FORCE AND
17 THIRD DEGREE IS JUST WITHOUT CONSENT, VERY COMMONLY
18 REFERRED TO AS DATE RAPE. IN THIS PARTICULAR CASE THE
19 ALLEGATIONS WILL BE THAT HE ACCOMPLISHED THE SEXUAL
20 BATTERY, THE ORAL AND THE VAGINAL INTERCOURSE, BY
21 CIRCUMSTANCES ENCOUNTERING AGGRAVATED FORCE. AND
22 AGGRAVATED FORCE MEANS PHYSICAL FORCE MEANT TO ACCOMPLISH
23 THE BATTERY THAT CAN OR MAY RESULT IN PHYSICAL INJURY,
24 THAT CAN OR MAY INCLUDE THE USE OF THE THREAT OF A DEADLY
25 WEAPON. IN THIS CASE YOU WILL HEAR TESTIMONY ABOUT THE

1 INJURIES THE VICTIM RECEIVED, THAT SHE HAD BRUISES ON HER
2 NECK, ON HER BACK, ON HER ELBOWS, HER ARMS AND HER KNEES,
3 THAT SHE HAD VAGINAL INJURIES, THAT SHE HAD OTHER INJURIES
4 AND THAT THOSE INJURIES WERE THE RESULT OF THE AGGRAVATED
5 FORCE THE DEFENDANT USED TO ACCOMPLISH THIS CRIME. THE
6 DEFENDANT WILL TALK ABOUT --- THE JUDGE WILL CHARGE YOU ON
7 THAT I NOT ONLY MUST PRESENT THESE EVIDENCE TO YOU AND
8 THIS CRIME AND THIS TALE OF MISTI HILL, BUT I MUST PROVE
9 TO YOU THESE THINGS BEYOND A REASONABLE DOUBT. THAT'S
10 ANOTHER TERM THAT WE HEAR ON T.V. WHAT YOU NEED TO KNOW
11 IS BEYOND A REASONABLE DOUBT IS NOT BEYOND ALL DOUBT, ANY
12 SHADOW OF A DOUBT, IS NOT YOUR NATURAL RELUCTANCE TO
13 CONSIDER THE SUBJECT MATTER. IT IS BEYOND A DOUBT WHICH
14 YOU CAN GIVE REASON TO, AND FOR THAT REASON AS YOU LISTEN
15 TO THE EVIDENCE AND YOU LISTEN TO THE CROSS EXAMINATION OF
16 MR. LEMEL, YOU MUST THEN ONCE YOU GO BACK INTO THAT JURY
17 ROOM DELIBERATE ABOUT WHETHER OR NOT THERE IS A REASON TO
18 DOUBT THE DEFENDANT'S GUILT. AND THAT IS A VERY IMPORTANT
19 RIGHT THAT IS GUARANTEED BY HIM, AND I EMBRACE THAT
20 BURDEN. I AM ASKING YOU TO DO AN EXTRAORDINARY THING.
21 I'M ASKING YOU TO CONVICT A MAN OF VERY SERIOUS CRIMES.
22 AND IF I CANNOT PUT EVIDENCE BEFORE YOU THAT CONVINCES YOU
23 BEYOND A REASONABLE DOUBT, THEN THE DEFENDANT DESERVES TO
24 BE ACQUITTED, BUT THE STATE IS CONFIDENT THAT AFTER YOU
25 LISTEN TO THE EVIDENCE AND THAT YOU GO BACK IN THE JURY

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1 ROOM AND DELIBERATE ABOUT THE WITNESSES AND THE EVIDENCE
2 THAT YOU'VE HEARD, THAT YOU TOO WILL BE CONVINCED THAT THE
3 DEFENDANT IS GUILTY OF THESE CRIMES. SO WHAT REALLY
4 HAPPENED ON THIS PARTICULAR NIGHT? YOU WILL HEAR THAT THE
5 VICTIM, MISTI HILL, ON THE DAY BEFORE WORKED AT A FEED AND
6 SEED STORE UP IN GASTONIA, THAT SHE LIVED IN THAT AREA,
7 THAT SHE GOT OFF AT SIX O'CLOCK, THAT SHE WENT WITH HER
8 GIRLFRIENDS AFTER WORK, THAT THEY WENT BACK TO --- ONE OF
9 THEM HAD A FARM AND THEY RODE SOME HORSES AND FED SOME
10 HORSES, THAT THEY THEN WENT TO A COUPLE OF BARS IN THE
11 AREA, A BAR CALLED HAPPY DAYS AND A BAR CALLED GOOD TIME
12 CHARLIES, THAT THE FRIENDS THAT SHE WAS WITH, THAT SHE
13 LEFT WORK WITH WENT ON HOME AND THAT SHE HAD MET UP WITH
14 SOME OTHER FRIENDS AND THAT SHE STAYED THERE. YOU WILL
15 HEAR HER TALK ABOUT HOW AT ABOUT FOUR O'CLOCK IN THE
16 MORNING WHEN THESE BARS WERE CLOSING THAT SHE ASKED THESE
17 FRIENDS THAT SHE HAD MET UP WITH TO GIVE HER A RIDE HOME
18 AND THAT SHE LIVED CLOSER DOWN TOWARDS CLOVER. SHE STILL
19 LIVED IN NORTH CAROLINA, BUT SHE LIVED JUST OVER THE STATE
20 LINE IN NORTH CAROLINA, AND THAT SHE IS UP ABOVE I-85 IN
21 GASTONIA. THAT'S WHERE THESE PLACES ARE AT. THAT THESE
22 FRIENDS INSTEAD OF TAKING HER HOME, PRETTY MUCH WENT TO
23 THEIR HOME, IN THE DIRECTION OF THEIR HOME AND THAT SHE
24 BECAME WORRIED THAT THEY WEREN'T TAKING HER HOME AND SHE
25 WASN'T GOING TO GET TO WHERE SHE NEEDED TO BE, SO SHE

1 ASKED THEM TO PUT HER OUT AT A GAS STATION, A GRAB AND GO
2 WHICH IS IN GASTONIA ON BESSEMER CITY ROAD, THAT WHILE SHE
3 WAS THERE IT WAS HER DESIGN TO EITHER CALL A CAB OR CALL
4 HER MOM TO COME GET HER IF SHE COULDN'T FIND A RIDE, THAT
5 SHE WAS THERE FOR A WHILE OUTSIDE, THAT THE DEFENDANT,
6 TERRY DUNOVANT, PULLED UP IN A GREEN FORD TAURUS, THAT SHE
7 HAD MET HIM IN THE PAST OR AT LEAST THOUGHT SHE RECOGNIZED
8 HIM, THAT SHE ASKED HIM FOR A RIDE, THAT HE AGREED TO GIVE
9 HER A RIDE AND THAT THEY TRAVELLED SOUTH IN THE DIRECTION
10 OF HER HOUSE ON FORBES ROAD JUST OVER THE STATE LINE. YOU
11 WILL HEAR THAT IN ROUTE THAT THEY SMOKED CRACK, THAT THEY
12 DISCUSSED SMOKING CRACK, THAT THEY DISCUSSED HIM GIVING
13 HER A RIDE HOME, BUT THAT INSTEAD OF TURNING OFF ON FORBES
14 ROAD, WHICH IS NORTH OF THE STATE LINE, THAT MR. DUNOVANT
15 CONTINUED SOUTH INTO SOUTH CAROLINA, THAT HE CAME SOUTH
16 AND WENT TO THE WEEPING MARY BAPTIST CHURCH WHICH IS
17 BEHIND THE DIXIE DINER IN CLOVER. IT'S KIND OF A LANDMARK
18 MOST PEOPLE ARE FAMILIAR WITH. THAT HE TOOK HER OUT
19 BEHIND THE CHURCH IN A GRAVEYARD, THAT HE DEMANDED ORAL
20 SEX FROM HER, THAT SHE REFUSED, THAT HE HIT HER, THAT HE
21 DRUG HER OUT OF THE CAR, THAT HE THEN FORCED HER TO HER
22 KNEES. HE FORCED HER TO PERFORM THAT ORAL SEX ON HIM AND
23 THAT WASN'T ENOUGH. HE DEMANDED MORE, THAT HE PUSHED HER
24 INTO THE BACK OF THE CAR, BUT THERE HE TRYING TO HAVING
25 VAGINAL INTERCOURSE WITH HER. WHEN HE COULDN'T ACCOMPLISH

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1 THAT, HE DRUG HER BACK OUT OF THE CAR TO THE BACK OF THE
2 CAR WHERE HE BENT HER OVER THE TRUNK AND FORCED HER TO
3 ENGAGE IN VAGINAL INTERCOURSE. YOU WILL HEAR THAT SHE
4 STRUGGLED WITH HIM. YOU WILL HEAR ABOUT THE INJURIES SHE
5 RECEIVED DURING THAT STRUGGLE. YOU WILL SEE PICTURES OF
6 THOSE INJURIES. HE THEN LEFT HER THERE AT THE WEEPING
7 MARY BAPTIST CHURCH IN THE GRAVEYARD, THAT SHE RAN TO THE
8 DIXIE DINER. SO BASICALLY THERE'S A DIXIE DINER; THERE'S
9 SOME TYPE OF COMMERCIAL BUSINESS AND THEN WEEPING MARY
10 BAPTIST CHURCH SITS BACK OFF THE ROAD. THAT SHE RAN TO
11 THE DIXIE DINER, THAT THEY WERE NOW OPENING. THIS WAS
12 ABOUT SIX O'CLOCK IN THE MORNING. THAT ONCE SHE WAS THERE
13 SHE CALLED 9-1-1 AND EMS AND LAW ENFORCEMENT RESPONDED.
14 THAT IS THE NATURE OF THESE CRIMES AS THE STATE ALLEGES
15 THAT THEY OCCURRED ON THE MORNING OF MAY 3RD, 2007. IN
16 SOME RESPECTS --- AND I PREDICT THIS AND I COULD BE WRONG
17 --- MR. LEMEL AND I ARE --- HAVE TRIED CASES AGAINST ONE
18 ANOTHER IN THE PAST. WE MAY INDEED EVEN DEBATED EACH
19 OTHER IN HIGH SCHOOL, SO WE HAVE A LONG HISTORY THAT GOES
20 WAY BACK. SO I TRY AND ANTICIPATE HIS MOVES, BUT
21 SOMETIMES I'M NOT RIGHT. BUT IN THIS CASE I DO NOT
22 BELIEVE THAT THE DEFENSE WILL CONTEST THAT THE DEFENDANT
23 AND THE VICTIM WERE TOGETHER THAT NIGHT, THAT THEY HAD
24 ORAL SEX, THAT THEY HAD VAGINAL SEX AND THAT HE LEFT HER
25 IN THE VICINITY OF THE DIXIE DINER. SO THE GOOD NEWS FOR

1 YOU IS IN THIS PARTICULAR CASE IT'S NOT THE TRADITIONAL
2 WHO DONE IT. IT'S NOT A CASE WHERE YOU'RE GOING TO HAVE
3 TO SIT THERE AND GO, DID WE GET THE RIGHT GUY. IS REALLY
4 THE REAL PERPETRATOR OUT THERE SOMEWHERE? THIS CASE WILL
5 FOR THE MOST PART FALL AND RISE ON THE ISSUE OF CONSENT
6 AND CONFINEMENT. WAS THIS A CONSENSUAL ENCOUNTER BETWEEN
7 MISTI HILL AND TERRY DUNOVANT? WAS IT SOME TYPE OF SEX
8 FOR CRACK TRADE GONE BAD? OR WAS IT A NON-CONSENSUAL
9 ENCOUNTER THAT GOT SIGNIFICANTLY OUT OF HAND WHERE TERRY
10 DUNOVANT USED AGGRAVATED FORCE TO ACCOMPLISH THOSE SEXUAL
11 ACTS? SO FOR THAT PARTICULAR REASON THIS IS A MORE
12 DIFFICULT CASE, BECAUSE IT IS NOT GOING TO BE A SMOKING
13 GUN. THERE'S NOT GOING TO BE ANY GRAND CONFESSION OR
14 ANYTHING OF THAT NATURE BY ANYONE. IT IS GOING TO BE
15 LIMITED TO WHETHER OR NOT IT WAS CONSENSUAL. THAT WILL BE
16 WHERE THIS CASE MUST LIE, AND FOR THAT REASON THE STATE
17 ASKS YOU TO PAY ATTENTION TO THE WITNESSES, BECAUSE THIS
18 IS NOT CSI. I DO NOT GET MY DNA RESULTS IN A HALF HOUR.
19 MY CSI FORENSICS SERVICES GUYS DO NOT DRIVE AROUND IN '09
20 HUMMERS. THEY, UNFORTUNATELY, PROBABLY HAVE TEN YEAR OLD
21 FORD EXPLORERS. THERE WILL BE NO DRAMATIC RE-ENACTMENT OR
22 ANYTHING OF THAT KIND. THIS IS A CASE WHERE YOU WILL HAVE
23 TO PAY ATTENTION. THE TRUTH IS IN THE DETAILS. WE ASK
24 YOU FOR THAT ATTENTION. WE ASK YOU FOR THAT PATIENCE. WE
25 ARE GOING TO HAVE TO CALL WITNESSES OUT OF ORDER TO

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1 ACCOMMODATE EVERYONE'S SCHEDULE. BUT THE STATE DOES FEEL
2 FIRMLY CONVINCED THAT AFTER YOU LISTEN TO ALL THE EVIDENCE
3 YOU WILL BELIEVE, AS THE STATE DOES, THAT THE DEFENDANT IS
4 GUILTY OF TWO COUNTS OF CRIMINAL SEXUAL CONDUCT IN THE
5 FIRST DEGREE AND ONE COUNT OF KIDNAPPING. THANK YOU VERY
6 MUCH.

7 MR. LEMBL - MAY IT PLEASE THE COURT. NOTHING
8 GOOD HAPPENS AT A TRUCK STOP AT FOUR THIRTY IN THE
9 MORNING. AND IF THERE IS A WOMAN WHO IS ALONE WITHOUT A
10 CAR APPROACHING MEN AT A TRUCK STOP THERE IS A REASON FOR
11 IT. NOW, THAT MERE FACT IS SOMEWHAT INCIDENTAL TO THIS
12 CASE, BECAUSE ONE OF THE THINGS THAT YOU ARE GOING TO HAVE
13 AN OPPORTUNITY TO DO IN THIS CASE I BELIEVE WILL BE TO SEE
14 THE FRONT OF THE TRUCK STOP OFF OF I-85 THE NIGHT THAT
15 MISTI HILL APPROACHED TERRY DUNOVANT. HOW THIS IS
16 RELEVANT HAS TO DO WITH WHAT YOUR JOB IS HERE TODAY AS
17 JURORS. IT IS YOUR JOB TO DECIDE WHAT THE FACTS OF THIS
18 CASE ARE, WHAT THE FACTS OF THE CASE ARE. THAT'S A VERY,
19 VERY SPECIFIC ROLE, AND IT IS, QUITE FRANKLY, THE HARDEST
20 ROLE HERE IN THE COURTROOM. EVERYONE IN THE COURT HAS A
21 ROLE. THE JUDGE TOLD YOU EARLIER THAT IT IS HIS ROLE TO
22 GUIDE THE TRIAL AND TO EXPLAIN THE LAW TO YOU. MS.
23 LIPINSKI TOLD YOU ABOUT HER ROLE WHICH IS TO PROSECUTE THE
24 CASE. SHE WENT INTO DETAIL ABOUT THAT. MY ROLE TO
25 DEFEND THE CASE. BUT YOU TWELVE COLLECTIVELY HAVE THE

1 RESPONSIBILITY TO DECIDE WHAT THE FACTS OF THE CASE ARE.
2 AND THE REASON WHY THAT IS SO DIFFICULT IS SOMETHING DOES
3 NOT BECOME A FACT IN THIS COURTROOM MERELY BECAUSE
4 SOMEBODY TAKES A SEAT IN A WITNESS STAND AND SAYS IT.
5 SOMETHING DOES NOT BECOME A FACT MERELY BECAUSE THEY
6 PLACED THEIR HAND ON THE BIBLE BEFORE THEY SAY IT.
7 SOMETHING ONLY BECOMES A FACT IN THIS COURTROOM WHEN YOU
8 ARE CONVINCED OF IT TO A CERTAIN VERY SPECIFIC LEGAL
9 STANDARD AND YOU HAVE TO BE CONVINCED BY EVIDENCE THAT IS
10 WHAT WE CALL CONFIDENT AND BELIEVABLE AND REASONABLE, AND
11 THAT IS A VERY, VERY DIFFICULT THING TO DETERMINE, AND
12 THAT IS WHAT THE TWELVE OF YOU ARE BEING CALLED ON TO
13 DETERMINE TODAY IN THIS CASE, THE FACTS OF WHAT HAPPENED
14 THAT NIGHT FROM THE POINT IN TIME WHEN MS. HILL GOT IN
15 TOUCH WITH TERRY UP TO THE POINT IN TIME WHEN THEY
16 SEPARATED. NOW, BECAUSE THAT IS SUCH A DIFFICULT TASK,
17 OUR SYSTEM DOESN'T JUST THROW Y'ALL IN HERE AND NOT GIVE
18 YOU ANY ASSISTANCE. WE HAVE ESTABLISHED SOME VERY BASIC
19 RULES OF BEING IN COURT TO HELP YOU MAKE THAT DECISION
20 ABOUT WHAT THE FACTS OF THE CASE ARE AND THE JUDGE HAS
21 ELUDED TO SOME OF THEM VERY BRIEFLY. THERE'S THREE WHAT
22 WE CALL FUNDAMENTAL PRINCIPLES OR CARDINAL RULES OF LAW
23 THAT YOU ARE GOING TO USE IN MAKING YOUR DECISION. THE
24 FIRST OF THESE PRINCIPLES AND THE ONE THAT IS, PERHAPS,
25 MOST DIFFICULT TO DEAL WITH AS A JUROR IN A CASE LIKE THIS

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1 IS WHAT WE CALL THE PRESUMPTION OF INNOCENCE. YOU SEE,
2 EVERY PERSON WHO IS CHARGED WITH A CRIME IS PRESUMED
3 INNOCENT. TERRY, AS HE SITS THERE TODAY IS PRESUMED
4 INNOCENT. HE STARTS OFF WITH HIS INNOCENCE WRAPPED AROUND
5 HIM LIKE A CLOAK IS WHAT WE SAY, BUT THE REASON WHY IT'S
6 SO DIFFICULT IN A CASE LIKE THIS IS THERE IS A NATURAL
7 PART OF US AS HUMAN BEINGS, WHEN WE HEAR ABOUT ALLEGATIONS
8 OF THIS TYPE, WHICH ARE ALLEGATIONS OF THE MOST SERIOUS
9 TYPE, NOT JUST LEGALLY BUT IN OUR DAILY LIVES THERE IS,
10 PERHAPS, NO ALLEGATION THAT CAN BE MADE AGAINST SOMEBODY
11 THAT BASICALLY THEY ASSAULTED THEM AND COMMITTED RAPE
12 AGAINST THEM, NO HIRER --- NO HIRER CHARGE THAT WE CAN
13 REALLY THINK OF AND IT'S NATURAL AS HUMAN BEINGS TO SAY,
14 WHOA, IF SOMEBODY'S CHARGED WITH SOMETHING LIKE THAT, BOY,
15 THEY GOT TO BE GUILTY OF IT. AND THAT MAY BE YOUR FIRST
16 INCLINATIONS WHEN YOU HEARD THE JUDGE READ THE
17 INDICTMENTS. OH, HE WOULDN'T BE CHARGED WITH THAT IF HE
18 WASN'T GUILTY OF IT. YOU HAVE GOT TO PUT THAT NATURAL
19 INCLINATION ASIDE AND APPROACH THIS FROM THE STANDPOINT OF
20 HE IS NOT GUILTY OF ANYTHING. HE IS INNOCENT UNTIL HE IS
21 PROVEN GUILTY. AND HOW IS HE PROVEN GUILTY? WELL,
22 THERE'S TWO FUNDAMENTAL PRINCIPLES, A SET OF FUNDAMENTAL
23 PRINCIPLES THAT HAVE TO DO WITH THAT. THE FIRST HAS TO DO
24 WITH WHO HAS WHAT WE CALL THE BURDEN OF PROOF. THERE'S
25 BASICALLY TWO TYPES OF LAW IN THIS COUNTRY. THERE IS

1 CIVIL LAW AND CRIMINAL LAW. CIVIL LAW IS WHERE SOMEBODY
2 SUES SOMEBODY OVER A MATTER OF MONEY, A DISPUTED CONTRACT,
3 A CAR WRECK, SOMETHING LIKE THAT. AND IN CIVIL LAW BOTH
4 SIDES HAVE AN OBLIGATION TO BRING YOU EVIDENCE. AND YOU
5 AS JURORS IN A CIVIL CASE YOU PUT THAT EVIDENCE ON THE SET
6 OF SCALES AND YOU WEIGH IT BASING ONE OFF OF THE OTHER.
7 CRIMINAL LAW IS ENTIRELY DIFFERENT. IN CRIMINAL LAW ONLY
8 ONE SIDE HAS THE BURDEN TO PROVE ANYTHING TO YOU. ONLY
9 ONE SIDE HAS THE BURDEN TO ANSWER ANY QUESTIONS AT ALL AND
10 THAT SIDE IS, OF COURSE, THE STATE. THE STATE OF SOUTH
11 CAROLINA THROUGH THEIR PROSECUTOR HAVE THAT BURDEN. WHAT
12 THAT MEANS TO YOU IN PRACTICAL TERMS HERE IS TERRY DOESN'T
13 HAVE TO PROVE HE'S INNOCENT. IN FACT, THERE'S NO WAY YOU
14 CAN PROVE THAT YOU'RE INNOCENT. HE DOESN'T HAVE TO PROVE
15 ANYTHING TO YOU. AND THE NEXT PRINCIPLE GOES INTO HOW
16 MUCH PROOF DO THEY HAVE TO BRING TO YOU. AGAIN, IF YOU GO
17 BACK TO CIVIL LAW AND YOU WERE TO PUT THAT EVIDENCE ON
18 THAT SET OF SCALES --- THE WAY CIVIL LAW WORKS IS IF THAT
19 SCALE TILTS EVER SO SLIGHTLY ONE WAY, WHAT WE CALL THE
20 PREPONDERANCE OF THE EVIDENCE, YOU VOTE THAT WAY. THAT'S
21 A FACT. BOTH SIDES BRING YOU EVIDENCE; ONE SIDE TILTS IT
22 EVERY SO SLIGHTLY, THAT CREATES A FACT BY THE
23 PREPONDERANCE OF THE EVIDENCE. AGAIN, CRIMINAL LAW IS
24 ENTIRELY DIFFERENT, BECAUSE CRIMINAL LAW REQUIRES PROOF
25 BEYOND A REASONABLE DOUBT, BEYOND A REASONABLE DOUBT.

55

1 IT'S A PHRASE MS. LIPINSKI USED. IT'S A PHRASE THAT YOU
2 MAY HAVE HEARD ON THE T.V., IN MOVIES. IT'S BEEN THE
3 TITLE OF BOOKS. I WANT YOU TO PUT ASIDE WHAT YOU THINK A
4 REASONABLE DOUBT MAY BE BASED UPON ALL THAT, BECAUSE OUR
5 SUPREME COURT HAS DEFINED WHAT A REASONABLE DOUBT IS IN
6 ONE VERY SIMPLE SENTENCE. A REASONABLE DOUBT IS THE KIND
7 OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE
8 TO ACT, A REASONABLE PERSON TO HESITATE TO ACT. AND IT IS
9 THE BURDEN OF THE STATE TO BRING YOU THAT EVIDENCE BEYOND
10 THAT REASONABLE DOUBT, BEYOND THAT POINT WHERE YOU
11 HESITATE TO ACT. SO INSTEAD OF THE SET OF SCALES, IT'S
12 ALMOST AS IF THIS WAS ONE OF THOSE GAMES AT THE FAIR WHERE
13 YOU HAVE THE COLUMN AND THE BELLS AT THE TOP OF THE
14 COLUMN. THE STATE HAS THE OBLIGATION TO BRING THAT BELL,
15 TO BRING ENOUGH EVIDENCE TO SLAM THAT BUTTON AT THE BOTTOM
16 AND TAKE THE RINGER ALL THE WAY UP TO THE TOP BEFORE THEY
17 ESTABLISH ANY FACT. AND THOSE THREE PRINCIPLES, THAT
18 PRESUMPTION OF INNOCENCE, WHO HAS THE BURDEN OF PROOF,
19 WHAT THE STANDARD OF PROOF IS, THOSE ARE GOING TO GUIDE
20 YOU WHEN YOU ARE TAKING IN THE EVIDENCE FROM THE WITNESS
21 STAND. BUT THAT'S NOT THE ONLY THING THAT YOU'RE GOING TO
22 USE. AS THE JUDGE SAID, YOU AS JURORS ARE GOING TO BE THE
23 JUDGES OF THE CREDIBILITY OF THESE WITNESSES. AND AS MS.
24 LIPINSKI SAID, THIS IS GOING TO BE THE KEY PART OF THIS
25 CASE, BECAUSE I WILL TELL YOU RIGHT NOW, IN A BIZARRE KIND

1 OF WAY THIS PROBABLY WOULD BE A CASE THAT CSI ON T.V.
2 WOULD LOVE, BECAUSE THERE'S DNA EVIDENCE EVERYWHERE AND
3 ALL SORTS OF STUFF LIKE THAT. THE DNA EVIDENCE REALLY HAS
4 NOTHING TO DO WITH THE KEY PARTS OF THIS CASE. YOU ARE
5 GOING TO HEAR ANY NUMBER OF PEOPLE GET UP THERE AND SAY
6 THAT THESE TWO PARTIES HAD SEXUAL CONTACT AND THAT TERRY
7 WAS WITH MS. HILL THAT NIGHT, COMPLETELY UNDISPUTED.
8 HASN'T BEEN UNDISPUTED I THINK YOU WILL SEE THROUGHOUT
9 THIS CASE. AND THAT'S NOT THE ISSUE. THE ISSUE IS
10 EXACTLY WHAT HAPPENED BEHIND THE WEEPING MARY BAPTIST
11 CHURCH AND HOW THEY GOT THERE. AND YOU ARE GOING TO HAVE
12 TO TEST THE CREDIBILITY OF THE WITNESSES ON THAT MATTER,
13 AND YOU ARE GOING TO HAVE TO SEE WHO IS MORE FORTHRIGHT
14 ABOUT WHAT HAPPENED, WHO IS MORE WILLING TO ADMIT THE
15 GOOD THINGS AND THE BAD THINGS, AND ALSO YOU ARE GOING TO
16 HAVE TO DECIDE WHOSE BEHAVIOR MATCHES UP AND MAKES SENSE
17 BASED UPON THE UNDISPUTED THINGS IN THIS CASE. AND THERE
18 ARE CERTAIN THINGS THAT ARE UNDISPUTED. WHAT HAPPENED AT
19 THE TRUCK STOP THAT NIGHT IS ON VIDEO TAPE. SO THE
20 INTERACTIONS THAT WERE HAPPENING THERE CANNOT BE DENIED.
21 THE QUESTION IS THE PEOPLE INVOLVED WITH THIS CASE WHEN
22 THEY WERE GOING OVER WHAT HAPPENED THAT NIGHT, WERE THEY
23 FORTHRIGHT ABOUT IT OR DID THEY HIDE THEIR BEHAVIOR THAT
24 NIGHT OR DID THEY PUT A SPIN ON WHAT THEY WERE DOING THERE
25 THAT NIGHT? AND WHAT YOU WILL SEE WHEN YOU ARE JUDGING

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1 THE CREDIBILITY OF THESE INDIVIDUALS --- AND IT'S THE ONLY
2 WAY TO REALLY TEST THE REST OF THEIR STORY BALANCED OUT
3 AGAINST THESE THINGS --- IS WHO WAS FORTHRIGHT AND WHO
4 WASN'T SO FORTHRIGHT ABOUT WHAT WAS GOING ON AT THAT TRUCK
5 STOP AT FOUR THIRTY BACK IN MAY OF 2007. AND WHAT YOU
6 WILL FIND AT THE END IS THAT THE EVIDENCE THAT THE STATE
7 IS GOING TO BRING FORWARD ABOUT HOW THEY GOT TO WEEPING
8 MARY BAPTIST CHURCH AND WHAT HAPPENED AT THE CHURCH THAT
9 NIGHT IS NOT BELIEVABLE. YOU ARE GOING TO SEE THAT IT IS
10 NOT CREDIBLE. YOU ARE GOING TO SEE THAT YOU HAVE MANY
11 DOUBTS BASED UPON THAT. AND WHEN YOU HAVE THOSE DOUBTS,
12 YOU AS JURORS ARE GOING TO RETURN A VERDICT, AND BECAUSE
13 OF THOSE DOUBTS YOU ARE GOING TO SEE THAT TERRY IS, IN
14 FACT, NOT GUILTY, AND THAT IS THE VERDICT THAT YOU ARE
15 GOING TO RETURN IN THIS CASE.

16 THE COURT - CALL YOUR FIRST WITNESS.

17 MS. LIPINSKI - YOUR HONOR MAY WE APPROACH, JUST
18 THE TWO OF US.

19 (BENCH CONFERENCE WAS HELD IN THE PRESENCE OF
20 THE JURY BUT OUT OF THE HEARING OF THE JURY WHICH WAS NOT
21 REPORTED.)

22 MS. LIPINSKI - COULD YOU GET DR. RIMMER FROM THE
23 HALLWAY, PLEASE.

24 (DR. RIMMER ENTERS THE COURTROOM)

25 DR. GREGORY RIMMER, AFTER BEING FIRST DULY

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 SWORN, TESTIFIES AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MS. LIPINSKI -

4 Q DR. RIMMER, COULD YOU PLEASE STATE YOUR FULL NAME FOR
5 THE RECORD?

6 A GREGORY ALLEN RIMMER.

7 Q AND, DR. RIMMER, YOU ARE INDEED A DOCTOR, A MEDICAL
8 DOCTOR?

9 A (INDICATING YES) YES.

10 Q AND IF YOU COULD, JUST TELL THE JURY BRIEFLY ABOUT
11 YOUR EDUCATION AND TRAINING BEFORE YOU BECAME THAT DOCTOR.

12 A I WENT TO UNDERGRADUATE AT BERRY COLLEGE IN ROME,
13 GEORGIA. I DID MY MEDICAL TRAINING AT KIRKSVILLE COLLEGE
14 OF OSPETIC (SIC) MEDICINE IN KIRKSVILLE, MISSOURI. I DID
15 INTERNSHIP YEAR AT UNIVERSITY OF TENNESSEE IN PEDIATRICS,
16 AND THEN I FINISHED MY EMERGENCY MEDICINE TRAINING AT
17 MICHIGAN STATE UNIVERSITY.

18 Q SO YOU'VE BEEN ALL OVER SO-TO-SPEAK?

19 A BEEN ALL OVER.

20 Q AND ARE YOU BOARD CERTIFIED IN ANY SPECIAL FIELD OR -

21 --

22 A I AM BOARD CERTIFIED IN EMERGENCY MEDICINE.

23 Q IN EMERGENCY MEDICINE.

24 A YES.

25 MS. LIPINSKI - AND YOUR HONOR, AT THIS TIME WE

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 WOULD TENDER DR. RIMMER AS AN EXPERT IN THE FIELD OF
2 EMERGENCY MEDICINE.

3 MR. LEMEL - AS AN EXPERT IN EMERGENCY MEDICINE,
4 YOUR HONOR, WE HAVE NO OBJECTION.

5 THE COURT - I FIND HE IS AN EXPERT IN EMERGENCY
6 MEDICINE.

7 Q AND, DR. RIMMER, WITH WHOM ARE YOU CURRENTLY
8 EMPLOYED?

9 A GREENVILLE UNIVERSITY HOSPITAL SYSTEM IN GREENVILLE,
10 SOUTH CAROLINA.

11 Q AND IN WHAT CAPACITY?

12 A AS AN EMERGENCY PHYSICIAN.

13 Q AND SO JUST --- IT MAY SEEM OBVIOUS TO SAY YOU'RE AN
14 ER DOC, BUT WHAT DO YOU DO ON A DAY-TO-DAY BASIS?

15 A TREAT ANYTHING FROM COLDS TO HEART ATTACKS, GUNSHOTS,
16 STABBINGS, JUST A LITTLE BIT OF EVERYTHING.

17 Q AND HOW LONG EXACTLY HAVE YOU WORKED IN THE EMERGENCY
18 ROOM?

19 A 2006.

20 Q SO A FEW YEARS NOW?

21 A YES.

22 Q AND PRIOR TO BECOMING EMPLOYED WITH THE GREENVILLE
23 UNIVERSITY HOSPITAL SYSTEM IN GREENVILLE, WERE YOU EVER
24 EMPLOYED HERE IN YORK COUNTY?

25 A I WAS EMPLOYED AT PIEDMONT MEDICAL CENTER.

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 Q AND WERE YOU ALSO EMPLOYED THERE AS AN EMERGENCY ROOM
2 DOCTOR?

3 A YES.

4 Q AND APPROXIMATELY HOW LONG DID YOU WORK HERE AT
5 PIEDMONT MEDICAL CENTER?

6 A TWO YEARS.

7 Q AND ARE YOU FAMILIAR WITH THEIR RECORDS THAT THEY
8 KEEP ON PATIENTS THAT ARE SEEN IN THE ER?

9 A YES.

10 Q ALL RIGHT.

11 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WITH
12 DEFENSE CONSENT I'M GOING TO APPROACH DR. RIMMER AND HAND
13 HIM THE MEDICAL RECORDS OF MISTI HILL.

14 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT - ALL RIGHT.

16 Q DR. RIMMER, ARE YOU THE FIRST PERSON THAT SOMEONE
17 SEES WHEN THEY GO IN THE ER OR DO THEY --- ARE THEY FIRST
18 SEEN BY A TRIAGE NURSE OR AN ER NURSE?

19 A THEY'RE USUALLY SEEN BY A ER NURSE PRIOR TO MYSELF
20 SEEING THEM.

21 Q AND IF IT'S EITHER NON-EXIGENT TYPE THING, LIKE
22 STITCHES, THEY MAY NOT EVEN ACTUALLY GET TO A DOCTOR FAIR
23 TO SAY.

24 A THAT'S FAIR TO SAY.

25 Q ALL RIGHT. AND DO YOU HAVE ANY PERSONAL RECOLLECTION

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 OF MISTI HILL?

2 A I CAN'T SAY THAT I REMEMBER THIS CASE EXACTLY. I'M
3 READING THIS.

4 Q AND YOU SEE A NUMBER OF PATIENTS ON ANY GIVEN NIGHT?

5 A YES.

6 Q AND THEN COMPOUNDED BY THAT, YOU WORK MORE THAN ONE
7 NIGHT A WEEK.

8 A RIGHT.

9 Q AND THIS WAS APPROXIMATELY TWO YEARS AGO WHEN YOU SAW
10 HER. IS THAT FAIR TO SAY?

11 A YES.

12 Q AND WOULD YOU ACTUALLY GO IN AND TAKE A MEDICAL
13 HISTORY FROM MISTI HILL TO FIND OUT WHAT TYPE OF ISSUES
14 SHE'S PRESENTING WITH?

15 A YES.

16 Q AND HAVE YOU --- DO YOU PUT A NARRATIVE IN YOUR
17 NOTES?

18 A I DO.

19 Q HAVE YOU BEEN ABLE TO LOCATE THAT IN THAT PILE OF
20 DOCUMENTS THERE?

21 A I JUST FOUND THAT.

22 Q AND JUST BRIEFLY, WHAT DID SHE DESCRIBE HAD OCCURRED
23 TO HER THAT NIGHT?

24 A SHE HAD STATED THAT SHE WAS SEXUALLY ASSAULTED AND
25 THAT SHE WAS BEAT REALLY BAD. SHE SAID THAT IT OCCURRED

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 SOME TIME THAT MORNING JUST BEFORE SUNRISE. STATES IT WAS
2 OUTSIDE HER CAR AND SHE --- THE MAN THAT ATTACKED HER SHE
3 STATED TO ME WAS A DRUG DEALER THAT SHE RECOGNIZED. SHE
4 SAID THAT SHE HAD BOUGHT DRUGS EARLIER THAT EVENING BUT
5 OTHERWISE WAS NOT AN ACQUAINTANCE OF THIS GENTLEMAN. SHE
6 STATES SHE WAS PUNCHED SEVERAL TIMES IN THE FACE AND THEN
7 KICKED IN THE HEAD AND THE ABDOMEN. AND SHE DENIES HAVING
8 ANY KIND OF INTERCOURSE PRIOR TO THAT EVENT OR IN THE LAST
9 WEEK.

10 Q DID SHE DESCRIBE ANY PAIN SHE MIGHT'VE BEEN HAVING
11 WHILE SHE WAS THERE IN THE ER?

12 A (NO RESPONSE)

13 Q I BELIEVE THE SECOND TO THE LAST SENTENCE OF YOUR
14 NARRATIVE.

15 A OH, YES. SHE WAS SAYING SHE HAD HEADACHE AND RIGHT
16 FLANK PAIN AT THE TIME OF PRESENTATION.

17 Q AND FOR THOSE OF US OF A MORE SIMPLE FAMILIARITY WITH
18 THE BODY, WHAT DOES RIGHT FLANK MEAN?

19 A SHE POINTED OFF TO THE SIDE HERE.

20 Q MORE TOWARDS THE BACK AREA INTO THE SIDE?

21 A CAN BE SOMEWHAT IN THE BACK, YES.

22 Q ALL RIGHT. AND DID YOU NOTE ANY BRUISING OR OTHER
23 INJURIES TO MISTI HILL?

24 A I BELIEVE THAT SHE HAD A SMALL HEMATOMA IN THE LEFT
25 OCCIPITOPARIETAL REGION OF HER HEAD.

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 Q ALL RIGHT, LET ME STOP YOU THERE. AGAIN, YOU'RE
2 USING BIG MEDICAL TERM. WHAT DOES THAT MEAN? POINT IT
3 OUT ON YOUR HEAD.

4 A SO SHE WAS --- KIND OF OFF IN THE BACK SIDE OF YOUR
5 HEAD HERE, ON THE SIDE AND THE BACK.

6 Q ALL RIGHT.

7 A AND THEN SHE ALSO HAD LEFT ORBITAL BRUISING AROUND
8 HER EYE.

9 Q BIG MEDICAL TERM FOR A BLACK EYE OR SOME TYPE OF
10 THAT.

11 A AND THEN SHE HAD A SWOLLEN RED NOSE. HER --- SHE HAD
12 SOME BLOOD NOTED IN HER EAR CANAL OF HER RIGHT EAR.

13 Q AND WHAT COULD CAUSE BLOOD IN YOUR EAR CANAL?

14 A IT CAN BE EITHER PHYSICAL TRAUMA TO THE EAR CANAL
15 ITSELF OR IT COULD'VE BEEN TRAUMA DEEPER IN THE HEAD THAT
16 WAS COMING OUT THROUGH THE EAR DRUM INTO THE EAR CANAL.

17 Q WERE THERE ANY OTHER INJURIES TO HER EAR DRUM NOTED
18 BEYOND THAT BLOOD?

19 A IT LOOKED LIKE SHE DID HAVE A SMALL RUPTURE OF THE
20 ANTERIOR PART OF HER EAR DRUM.

21 Q AND HOW WOULD THAT INJURY BE CAUSED OR COULD IT BE
22 CAUSED?

23 A THERE ARE MULTIPLE WAYS THAT COULD BE CAUSED BUT
24 TRAUMA CAN BE ONE AND THEN IT COULD EVEN BE AS SOMETHING
25 AS LIKE A HEAD COLD COULD CAUSE THAT, BUT SOME SORT OF

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 PRESSURE HAD TO BE FORMED BEHIND THE EAR DRUM. SHE ALSO
2 HAD BRUISING ON THE RIGHT SIDE OF HER LATERAL NECK. SHE
3 HAD SOME BRUISING AROUND HER LOWER SPINE IN THE UPPER BACK
4 AND I DIDN'T NOTE ANY OTHER BRUISING ON MY CHART AT THAT
5 TIME.

6 Q AND BEYOND THAT PHYSICAL EXAM DID YOU REFER MISTI FOR
7 ANY X-RAYS OR CT'S CONSISTENT THAT THE INJURIES THAT SHE
8 DESCRIBED?

9 A SHE GOT A CT OF HER HEAD, CAT SCAN OF HER HEAD AND
10 SHE ALSO GOT A CAT SCAN OF HER ABDOMEN AND PELVIS, AS WELL
11 AS X-RAYS OF HER RIGHT RIBS.

12 Q AND WHAT WAS THE PURPOSE OF DOING THAT CT SCAN OF HER
13 ABDOMEN AND HEAD?

14 A WE LOOK FOR BLEEDING PRIMARILY IN THE HEAD BECAUSE
15 SHE HAD A HEMATOMA TO HER HEAD, MAKE SURE WASN'T ANY
16 INTERNAL INJURY AND THEN THE CT OF THE ABDOMEN BECAUSE OF
17 THE LOCATIONS WHERE SHE WAS HURTING TO MAKE SURE SHE
18 DIDN'T HAVE ANY ORGAN INJURIES LIKE TO HER SPLEEN OR
19 LIVER, KIDNEYS.

20 Q AND DID THEY INDICATE THAT THERE WAS ANY DAMAGE TO
21 HER SPLEEN OR LIVER OR ANYTHING OF THAT NATURE?

22 A IT SAID HER HEAD SCAN WAS NORMAL. THE IMPRESSION BY
23 THE RADIOLOGIST OF THE ABDOMEN AND PELVIS WAS THAT SHE HAD
24 A LOW DENSITY AREA IN THE LATERAL ASPECT OF THE LEFT LOBE
25 OF THE LIVER THAT MOST LIKELY WAS A HEMANGIOMA WHICH CAN

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 BE A THING YOU'RE BORN WITH, JUST A NORMAL MALFORMATION,
2 BUT A LACERATION SAID COULD NOT BE EXCLUDED FROM THAT
3 IMAGING, AND HE ASKED TO CORRELATE THAT IF NEEDED OR HAVE
4 SERIALS CAT SCANS OVER TIME TO VALUATE THAT.

5 Q AND THE X-RAY OF HER RIBS?

6 A NO RIB FRACTURES WERE SEEN ON THE X-RAY OF THE RIBS.

7 Q WHAT ABOUT THE CT?

8 A I ONLY SEEM TO HAVE THE IMPRESSION OF THE ABDOMEN.
9 I DON'T KNOW IF THE PELVIS WAS IN THERE BUT HE --- HE SAID
10 THAT JUST --- THE ABDOMEN --- THE QUESTIONABLE FRACTURE OF
11 THE RIGHT POSTERIOR TENTH RIB, THAT --- WITH DEFINITE RIB
12 FRACTURES OF THE ELEVENTH AND TWELFTH RIBS, SO SHE HAD ONE
13 POSSIBLE, BUT TWO OTHERS THAT WERE DEFINITE.

14 Q AND IN TERMS OF RIB FRACTURES, WHERE ARE THOSE TEN,
15 ELEVEN AND TWELVE RIBS. Y'ALL NUMBER THEM, DON'T YOU LIKE
16 ---

17 A IT'S IN THE --- THE BOTTOM THREE. THEY'RE GOING TO
18 BE THE LAST THREE YOU CAN FEEL ON YOUR RIB CAGE.

19 Q SO CONSISTENT WITH THE PAIN THAT SHE'S DESCRIBING IN
20 THAT AREA SHE HAD SOME FRACTURED RIBS?

21 A RIGHT.

22 Q AND JUST BRIEFLY, IS THERE ANY PAIN OR OTHER
23 DISCOMFORT OR OTHER SYMPTOMS ASSOCIATED THAT ONE MIGHT
24 EXPERIENCE IF YOU HAVE THOSE RIB FRACTURES?

25 A IT WOULD HURT TO BREATHE. IT WOULD HURT TO MOVE.

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 ANY KIND OF BASIC MOVEMENT WOULD PROBABLY BOTHER THOSE.
2 THEY'RE VERY PAINFUL, SO SHE WOULD DEFINITELY KNOW SHE HAD
3 THEM.

4 Q WOULD IT BE --- WOULD YOU BE ABLE TO SIT COMFORTABLY
5 OR WALK COMFORTABLY?

6 A PROBABLY NOT IN THE ACUTE PHASE WHEN IT JUST
7 HAPPENED. IT WOULD STILL BE VERY PAINFUL JUST TO DO ANY
8 KIND OF MOVEMENT.

9 Q OVER TIME AS THOSE INJURIES HEAL SHE WOULD REGAIN
10 MOBILITY WITHOUT PAIN, BUT IMMEDIATELY SHE WAS DEFINITELY
11 IN SOME PAIN ASSOCIATED WITH THAT?

12 A YES.

13 Q IS THERE ANY TREATMENT OR ANYTHING YOU CAN DO FOR
14 FRACTURED RIBS?

15 A NOT WITH THOSE KIND OF FRACTURED RIBS OTHER THAN PAIN
16 CONTROL.

17 Q SO THERE ARE NO CAST OR ANYTHING THEY PUT YOU IN,
18 NOTHING OF THAT? THEY JUST BASICALLY TELL YOU TO TRY TO
19 STAY STILL FOR A LITTLE WHILE?

20 A YES, THAT'S CORRECT.

21 Q AND IS IT POSSIBLE THAT YOU SAID THAT THE HEMANGIOMA
22 THAT THEY NOTED --- IS THAT NEAR OR IN RELATION TO THOSE
23 RIB FRACTURES IN ANY WAY?

24 A DOES NOT APPEAR TO BE NEAR THOSE RIB FRACTURES.

25 Q AND YOU STATED THAT SHE ACTUALLY HAD A X-RAY OF HER

DR. GREGORY RIMMER - DIRECT BY MS. LIPINSKI

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1 RIBS, BUT THAT DIDN'T SHOW THE FRACTURES. WHY DID THAT
2 SHOW UP ON THE CT SCANS BUT NOT THE X-RAY?

3 A IF THEY'RE NOT DISPLACED MEANING THEY'RE NOT --- THE
4 TWO BONES ARE NOT APART IN TWO --- THEN THERE'S --- THE
5 PLAIN FILMS --- THE PLAIN X-RAYS SOMETIMES WILL NOT SHOW
6 THAT THREE DIMENSIONAL FRACTURE WHEREAS AS A CAT SCAN CAN
7 SEE IT IN THREE DIMENSIONS AND CAN SEE THAT THERE IS A
8 CRACK THAT --- CAN SEE THAT IN THE TWO DIMENSIONAL IMAGE.

9 Q AND MISTI INDICATED THAT SHE HAD BEEN SEXUALLY
10 ASSAULTED. DID YOU DO ANY TYPE OF GYNECOLOGICAL EXAM ON
11 HER OR DID YOU LEAVE THAT TO THE NURSES?

12 A IT LOOKS LIKE --- WE HAVE A SEXUAL ASSAULT NURSE THAT
13 COMES TO THE ER WHEN NEEDED. LOOKS LIKE THE SEXUAL
14 ASSAULT NURSE CAME AND DID ALL THE COLLECTION OF SPECIMENS
15 FOR THAT.

16 Q SO THAT'S SOMETHING THAT YOU DEFER TO THEM?

17 A YES. THEY USUALLY --- TYPICALLY GET US FOR SPECIFIC
18 COLLECTIONS THEY NEED, OTHERWISE THEY COLLECT THE WHOLE
19 KIT.

20 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
21 YOUR HONOR.

22 Q LET ME ASK YOU JUST BRIEFLY THIS --- YOU NOTICED THE
23 BRUISING TO HER HEAD, THE RIGHT --- OR LEFT OCCIPITAL
24 LOBE. I CAN'T REMEMBER WHICH ONE ---

25 A IT WAS RIGHT. SORRY. IT WAS THE RIGHT OCCIPITAL.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 Q AND AGAIN SIMILAR TO THE INJURY TO HER EAR, IS THAT
2 AN INJURY BROUGHT ON BY TRAUMA OR SOME OTHER CAUSE?

3 A THAT DEFINITELY WOULD'VE BEEN BROUGHT ON BY SOME SORT
4 OF TRAUMA. THAT WOULD NOT HAVE JUST BEEN THERE. HAD TO
5 BEEN SOME SORT OF TRAUMA FORM THAT.

6 Q AND BY TRAUMA YOU MEAN?

7 A EITHER A FALL OR A STRIKE TO THE HEAD.

8 Q AND YOU ALSO NOTICED SOME OTHER BRUISING YOU SAID ON
9 HER NECK AND OTHER AREAS CONSISTENT WITH THAT?

10 A YES.

11 Q OTHER --- MINOR OR LESSER TRAUMA, THAT TYPE THING?

12 A YES.

13 MS. LIPINSKI - I HAVE NOTHING FURTHER OF DR.
14 RIMMER AT THIS TIME.

15 CROSS EXAMINATION

16 BY MR. LEMEL -

17 Q GOOD AFTERNOON, DR. RIMMER.

18 A HEY.

19 Q NOW, AS I UNDERSTAND IT, DR. RIMMER, YOU TREATED MS.
20 HILL IN THE CAPACITY AS AM EMERGENCY ROOM PHYSICIAN.

21 A YES, SIR.

22 Q AND YOU'VE NEVER TREATED HER BEFORE THAT.

23 A NOT TO MY KNOWLEDGE.

24 Q NEVER TREATED HER AFTER THAT.

25 A NOT TO MY KNOWLEDGE.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 Q SO YOU WOULD NOT SAY YOU HAVE WHAT YOU WOULD CALL A
2 LONG-TERM MEDICAL RELATIONSHIP WITH HER.

3 A CORRECT.

4 Q OKAY. BECAUSE YOU DON'T HAVE THAT SORT OF EXTENDED
5 RELATIONSHIP LIKE ONE MIGHT HAVE WITH A FAMILY PHYSICIAN,
6 YOU'RE PRIMARILY DEPENDENT UPON HER TO GIVE YOU HER
7 MEDICAL HISTORY.

8 A THAT'S CORRECT.

9 Q AND HER MEDICAL HISTORY IS, OF COURSE, SOMETHING YOU
10 AS AN EMERGENCY ROOM DOCTOR HAVE TO TAKE INTO ACCOUNT. IS
11 THAT RIGHT?

12 A YES.

13 Q BECAUSE WHAT THEY'VE DONE IN THE PAST MAY AFFECT HOW
14 YOU TREAT THEM?

15 A YES.

16 Q FOR EXAMPLE, MEDICATIONS THAT A PERSON MAY BE ON MAY
17 HAVE AN IMPACT ON WHAT MEDICATIONS YOU CAN GIVE THEM IN
18 THE EMERGENCY ROOM.

19 A THAT'S CORRECT.

20 Q OKAY. SO THAT MEDICAL HISTORY IS A SIGNIFICANT PART
21 OF WHAT YOU HAVE TO DO WHEN YOU TAKE SOMEBODY IN TO THE
22 EMERGENCY ROOM.

23 A YES.

24 Q OKAY. NOW, IN THIS PARTICULAR CASE YOU SAID YOU TOOK
25 A DESCRIPTION FROM MS. HILL OF WHAT HAPPENED IN HER

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

70

1 ASSAULT.

2 A YES.

3 Q THAT WAS THE PART THAT YOU CALLED THE NARRATIVE, I
4 BELIEVE?

5 A YES, SIR.

6 Q OKAY. THE --- AGAIN, THE DETAILS ARE IMPORTANT FOR
7 YOUR TREATMENT.

8 A YES.

9 Q AND THOSE ARE TRANSCRIBED BASICALLY AT THE TIME SHE'S
10 RELAYING THAT INFORMATION?

11 A YES.

12 Q SO THE --- AND DID YOU YOURSELF ACTUALLY DO THAT OR
13 WOULD THAT HAVE BEEN MERELY THE STAFF?

14 A THE NARRATIVE THAT'S IN MY SECTION I DID.

15 Q OKAY. SO YOU'VE RECEIVED TRAINING IN HOW TO DO THOSE
16 NARRATIVES?

17 A YES.

18 Q AND YOU WERE TAUGHT THAT THAT INFORMATION HAS TO BE
19 TAKEN DOWN ACCURATELY.

20 A YES.

21 Q AND COMPLETELY.

22 A YES.

23 Q BECAUSE THE FAILURE TO HAVE THESE THINGS BE ACCURATE
24 AND COMPLETE LITERALLY COULD BE FATAL IN THAT SITUATION.

25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 Q SO YOU JUST DON'T MAKE STUFF UP TO PUT IN THOSE
2 NARRATIVES.

3 A YES.

4 Q YOU'RE TRYING TO PUT DOWN THAT STUFF AS ACCURATELY
5 AND COMPLETELY AS YOU POSSIBLY CAN.

6 A YES..

7 Q OKAY. NOW, IN THIS CASE MS. HILL STATED SHE'D BEEN
8 ASSAULTED.

9 A YES.

10 Q AND I'M GOING TO ASK YOU TO SPEAK UP JUST A LITTLE
11 BIT. I'M HAVING A LITTLE BIT OF TROUBLE HEARING YOU. I'M
12 SORRY. I DON'T KNOW WHETHER THE JURY CAN HEAR YOU, SO I'M
13 GOING TO ASK YOU TO SPEAK UP A LITTLE BIT FOR ME. OKAY?

14 A SURE.

15 Q AND SHE STATED THAT SHE RECOGNIZED THE MAN THAT DID
16 THIS TO HER.

17 A. YES.

18 Q SHE STATED THAT HE WAS A DRUG DEALER.

19 A YES.

20 Q SHE STATED THAT SHE HAD ACTUALLY BOUGHT DRUGS FROM
21 HIM EARLIER THAT EVENING.

22 A YES.

23 Q BUT OTHERWISE HE WAS NOT AN ACQUAINTANCE OF HERS.

24 A YES.

25 Q OKAY, AND THAT'S EXPLICITLY WHAT SHE TOLD YOU THAT

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 NIGHT.

2 A YES.

3 Q OKAY. NOW, AS YOU PREVIOUSLY TESTIFIED YOU'D NEVER
4 SEEN MS. HILL BEFORE THE NIGHT OF MAY 3RD.

5 A YES.

6 Q AND SHE CAME TO YOUR CONTACT AS A RESULT OF HER BEING
7 TRANSPORTED TO THE ER BY EMS.

8 A YES.

9 Q AND YOU NOTED THAT SHE HAD A NUMBER OF BRUISES,
10 SCRAPES AND OTHER TYPES OF EXTERNAL INJURIES ESSENTIALLY.

11 A YES.

12 Q YOU WERE NOT THERE, OF COURSE, WHEN ANY OF THESE
13 INJURIES WERE RECEIVED.

14 A CORRECT.

15 Q SO YOU ARE DEPENDENT UPON HER AGAIN TO TELL YOU WHERE
16 THESE BRUISES CAME FROM.

17 A YES.

18 Q AND AT ANY POINT IN TIME WITHIN WHAT YOU INDICATED
19 DID YOU NOTE ANY PARTICULAR IMPRINT PATTERN ON ANY OF
20 THESE BRUISES, FOR EXAMPLE, SOMETHING LIKE LOOKING LIKE A
21 SHOE IMPRINT OR ANYTHING OF THAT NATURE?

22 A I DIDN'T MAKE ANY REFERENCE TO THAT IN MY CHART.

23 Q OKAY. BUT SHE HAD THESE BRUISES.

24 A YES.

25 Q AND A BRUISE IS ESSENTIALLY A SMALL AREA OF BLOOD

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 UNDER THE SKIN.

2 A YES.

3 Q THAT BLOOD BASICALLY POOLS UP WHEN BLOOD VESSELS ARE
4 BROKEN UNDER THE SKIN.

5 A YES.

6 Q AND BRUISES CAN OCCUR FROM BASIC NOCUCOUS EVENTS IN
7 EVERY DAY LIFE.

8 A YES.

9 Q I MEAN WE ALL GET A BRUISE WHEN WE RUN INTO THE
10 DRAWER THAT'S OPEN, FOR EXAMPLE, AT HOME.

11 A YES.

12 Q BRUISES CAN ACTUALLY OCCUR JUST, FOR EXAMPLE, FROM
13 PRESSURE.

14 A YES.

15 Q OKAY. DOESN'T ACTUALLY HAVE TO BE A STRIKE THAT
16 CAUSES A BRUISE.

17 A YES.

18 Q AS A BRUISE CHANGES AND HEALS AFTER IT'S GIVEN, IT
19 TYPICALLY CHANGES COLOR? IS THAT CORRECT?

20 A YES.

21 Q OKAY. IT CAN EVOLVE, FOR EXAMPLE, IT MAY START OFF
22 RED?

23 A YES.

24 Q TYPICALLY, AFTER A PERIOD OF TIME EVOLVES TO MORE OF
25 A BLACKISH OR PURPLISH HUE?

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 A YES.

2 Q AND AS IT GOES THROUGH THAT PROCESS, EVENTUALLY GETS
3 TO A YELLOWISH KIND OF HUE?

4 A YES.

5 Q SO DIFFERENT BRUISES OCCURRING AT DIFFERENT TIMES
6 WILL SHOW DIFFERENT HUES.

7 A YES.

8 Q OKAY. SIMILAR SORT OF THINGS WITH A SCRAPE OR AN
9 ABRASION TO THE SKIN. RIGHT?

10 A YES.

11 Q THEY'LL SHOW DIFFERENT LEVELS OF HEALING BASED UPON
12 HOW OLD THEY ARE.

13 A YES.

14 Q THERE'S AN INITIAL BREAKING OF THE SKIN IN THAT
15 SITUATION.

16 A YES.

17 Q WHICH WILL CAUSE BLOOD TO EMERGE FROM THE SKIN.

18 A YES.

19 Q AND AFTER IT'S BLED FOR SOME PERIOD OF TIME IT WILL
20 START TO SCAB OVER.

21 A YES.

22 Q AGAIN, THAT SCABBING TAKES A PERIOD OF TIME FOR IT TO
23 OCCUR.

24 A YES.

25 Q AND EVENTUALLY THE WOUND HEALS UP.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

75

1 A YES.

2 Q AND IF A SCRAPE OR ABRASION --- WHEN THAT IMMEDIATELY
3 OCCURS YOU WOULD --- IF IT WAS COVERED BY SOME SORT OF
4 CLOTH, WOULD YOU EXPECT THAT CLOTH TO, FOR EXAMPLE, IF IT
5 CAME IN CONTACT WITH THE ABRASION SHOW SIGNS OF THE BLOOD
6 THAT CAME OUT OF THE ABRASION?

7 A YES.

8 Q OKAY. SOMEBODY'S WEARING A SHIRT GETS AN ABRASION
9 UNDERNEATH THE SHIRT, A LOT OF TIMES YOU'RE GOING TO SEE
10 SPOTS OF BLOOD ON THE INTERIOR OF THE SHIRT. CORRECT?

11 A YES.

12 Q OKAY. AND IN THIS CASE AT THE END OF IT, YOU
13 RECOMMENDED SOME FOLLOW-UPS FOR MS. HILL. RIGHT?

14 A YES.

15 Q ONE THING IN PARTICULAR LOOKING BACK HEMANGIOMA ON
16 THE LIVER AS I UNDERSTOOD IT.

17 A YES.

18 Q BUT YOU'RE --- YOU DIDN'T DO THE FOLLOW-UP YOURSELF.

19 A NO.

20 Q OKAY. YOU DIDN'T PARTICIPATE AT ALL, BASICALLY IN
21 THE SEXUAL ASSAULT EXAMINATION?

22 A NO, SIR.

23 Q DIDN'T TAKE THAT INTO ACCOUNT AT ALL IN TERMS OF YOUR
24 DIAGNOSES?

25 A NO, SIR.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 MR. LEMEL - OKAY. BEG THE COURT'S INDULGENCE
2 JUST FOR ONE MOMENT. (PAUSE). IF I COULD HAVE THIS MARKED
3 AS DEFENDANT'S EXHIBIT NUMBER 1 FOR IDENTIFICATION
4 PURPOSES ONLY.

5 (DOCUMENT MARKED FOR IDENTIFICATION AS
6 DEFENDANT'S EXHIBIT NUMBER 1.)

7 Q DOCTOR, I'M GOING TO HAND YOU A PICTURE THAT I AM
8 IDENTIFYING AS DEFENSE EXHIBIT NUMBER 1 FOR IDENTIFICATION
9 PURPOSES ONLY. YOU'VE NEVER SEEN THAT PICTURE BEFORE,
10 HAVE YOU? ,

11 A NO.

12 Q OKAY. BUT THAT IS A PICTURE OF AN AFRICAN AMERICAN
13 MALE'S HANDS. DOES THAT LOOK CONSISTENT WITH WHAT YOU'RE
14 SEEING?

15 A YES.

16 Q AND ON THE RIGHT HAND THE SKIN IS SPLIT. CORRECT?

17 A YES.

18 Q OVER A KNUCKLE. IS THAT RIGHT?

19 A YES.

20 Q AND THERE IS A SIGNIFICANT TEAR IN THAT SKIN.

21 A YES.

22 Q FROM YOUR EXPERIENCE AS A DOCTOR, YOU WOULD EXPECT A
23 TEAR SUCH AS SEEN ON THAT KNUCKLE STILL HAVE SOME ACTIVE
24 BLEEDING FROM THAT SITE.

25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

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1 Q AND, IN FACT, YOU CAN SEE TRACES OF BLOOD THAT
2 ACTUALLY EXTEND FROM THE KNUCKLE SORT OF DOWN THE MIDDLE
3 FINGER. CORRECT?

4 A YES.

5 Q TO SHOW WHERE IT HAD ACTIVELY BEEN BLEEDING AT SOME
6 POINT IN TIME.

7 A CORRECT.

8 Q AND THAT BLOOD IS DRIED ON THAT PARTICULAR FINGER.

9 A CORRECT.

10 Q YOU WOULD EXPECT THAT PARTICULAR INJURY WHEN FRESH TO
11 DEPOSIT BLOOD ON STUFF THAT'S AROUND IT.

12 A YES.

13 Q OKAY. ALL RIGHT. THANK YOU VERY MUCH. THAT'S IT
14 FROM THAT. OKAY, NOW PART OF THE IN-TAKE FOR MS. HILL WAS
15 SHE WAS QUESTIONED ABOUT HER PAST MEDICAL HISTORY.
16 CORRECT?

17 A YES.

18 Q I BELIEVE ON THE FIRST PAGE IT STARTS OFF WITH PAST
19 HISTORY. AND WHAT I'M LOOKING AT IS, ACCORDING TO THE
20 COPY I HAVE, PAGE 1 OF 20.

21 A GET BACK TO PAGE 1. GOT IT.

22 Q OKAY. NOW, UNDER THE CATEGORY OF PERTINENT MEDICAL
23 HISTORY SHE LISTED BIPOLAR DISEASE. CORRECT?

24 A YES.

25 Q NOW, BIPOLAR DISEASE IS SOMETIMES REFERRED TO AS A

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

78

1 MANIC DEPRESSIVE SYNDROME?

2 A YES.

3 Q OKAY. IT'S A MENTAL HEALTH DISEASE.

4 A YES.

5 Q THAT IS CHARACTERIZED BY EXTREME CHANGES IN MOOD AND
6 BEHAVIOR.

7 A YES.

8 Q YOU'RE FAMILIAR WITH THAT DISEASE JUST IN GENERAL AS
9 A DOCTOR.

10 A YES.

11 Q OKAY. WITHIN THE DISEASE OF BIPOLAR THERE ARE UP TO
12 FOUR MOODS THAT CAN BE ASSOCIATED WITH THAT. RIGHT?

13 A YES.

14 Q OKAY.

15 MS. LIPINSKI - I'M GOING TO OBJECT TO THIS
16 UNLESS HE'S GOING TO SAY THAT HE OBSERVED THAT. OTHER
17 THAT THAT BEING PART OF HIS HISTORY TO GO INTO LONG
18 EXPLANATION OF WHAT COULD OR COULD BE HAPPENING, I THINK
19 WE NEED TO LIMIT IT TO WHAT THE DOCTOR OBSERVED ASSOCIATED
20 WITH THAT FROM MS. HILL.

21 THE COURT - I OVERRULE YOUR OBJECTION.

22 Q OKAY. SO, OFFICER --- EXCUSE ME --- DOCTOR, AS WE
23 TALKED ABOUT, THERE ARE UP TO FOUR MOODS ASSOCIATED WITH
24 BIPOLAR. CORRECT?

25 A IN MY TRAINING, TO BE HONEST WITH YOU, I'M ONLY

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

79

1 SPECIFIC WITH THE MANIC AND THE DEPRESSIVE STATE.

2 Q OKAY. YOU'RE NOT FAMILIAR WITH THE HYPOMANIA STAGE?

3 A SURE, I'VE HEARD OF IT, BUT I'M NOT AN EXPERT IN THE
4 FIELD OF PSYCHIATRY.

5 Q RIGHT. AND NOT ASKING YOU --- I'M JUST TALKING VERY
6 GENERAL TERMS HERE.

7 A SURE.

8 Q YOU'RE THE DOCTOR WE'VE GOT HERE TODAY.

9 A SURE.

10 Q HYPOMANIA IS SORT OF A INTRODUCTORY --- IT'S A
11 GENERAL SORT OF UP PHASE. RIGHT?

12 A THERE'S A ---

13 MS. LIPINSKI - YOUR HONOR, AT THIS HE'S
14 ADMITTEDLY GOING BEYOND THIS DOCTOR'S ---

15 THE COURT - I SUSTAIN. HE WAS QUALIFIED AS AN
16 EXPERT IN EMERGENCY ROOM. YOU'VE GONE BEYOND THAT, SO I
17 SUSTAIN THE OBJECTION.

18 Q THERE IS --- YOU SAID YOU WERE FAMILIAR WITH THE
19 MANIC PHASE AS A PHYSICIAN.

20 A YES.

21 Q CORRECT?

22 A YES.

23 Q OKAY. AND THE MANIC PHASE IS THE SEVERE UP PHASE ---

24 A YES.

25 Q --- OF BIPOLARISM.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

80

1 A YES.

2 Q OKAY. A PERSON DURING --- IS THAT SOMETHING YOU'VE
3 ENCOUNTERED IN YOUR EXPERIENCES?

4 A MANY TIMES.

5 Q OKAY. A PERSON IN THE MANIC PHASE MAY FEEL LIKE
6 THEY'RE FILLED WITH AN EXTREME AMOUNT OF ENERGY.

7 A YES.

8 Q THEY BECOME EXPANSIVE.

9 A YES.

10 Q DURING THIS PHASE THEY CAN ACT IN AN OUT OF CONTROL
11 MANNER.

12 A YES.

13 Q THEY CAN ENGAGE IN RISKY BEHAVIOR.

14 A YES.

15 Q INCLUDING RISKY SEXUAL BEHAVIOR.

16 A YES.

17 Q THEY CAN BECOME IRRITABLE.

18 A YES.

19 Q THEY CAN BE EASILY ANGERED.

20 A YES.

21 Q THEY MAY EXHIBIT EXTREME ANGER OVER VERY TRIVIAL
22 THINGS.

23 A YES.

24 Q THEY CAN BECOME IRRATIONAL.

25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

81

- 1 Q UNREASONABLE.
- 2 A YES.
- 3 Q UNPREDICTABLE.
- 4 A YES.
- 5 Q AND THIS ILLNESS AFFECTS THEIR JUDGMENT.
- 6 A YES.
- 7 Q THEIR PERCEPTION.
- 8 A YES.
- 9 Q THEIR MEMORY.
- 10 A YES.
- 11 Q BEYOND THE MANIC PHASE AS YOU DESCRIBE, YOU'RE ALSO
- 12 FAMILIAR WITH THE DEPRESSIVE PHASE.
- 13 A YES.
- 14 Q AND THIS IS SOMETHING YOU'VE ALSO ENCOUNTERED.
- 15 A YES.
- 16 Q AND THE DEPRESSIVE PHASE IS THE SEVERE LOW PHASE.
- 17 CORRECT?
- 18 A YES.
- 19 Q AND THAT IS CHARACTERIZED BY EXTREME SADNESS.
- 20 A YES.
- 21 Q LACK OF ENERGY.
- 22 A YES.
- 23 Q AND AGAIN FROM A MENTAL STANDPOINT A PERSON CAN BE
- 24 IRRATIONAL DURING THAT STAGE.
- 25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

82

1 Q UNPREDICTABLE.

2 A YES.

3 Q UNREASONABLE.

4 A YES.

5 Q AND, AGAIN, IT AFFECTS THEIR JUDGMENT.

6 A YES.

7 Q THEY CAN --- THEIR PERCEPTION CAN BE AFFECTED.

8 A YES.

9 Q THEIR MEMORY.

10 A YES.

11 Q AND UNDER A MIXED MOOD SITUATION IT'S POSSIBLE FOR A
12 PERSON TO EXHIBIT BEHAVIORS OF BOTH A MANIC AND A
13 DEPRESSIVE PHASE SHIFTING BACK AND FORTH ESSENTIALLY.

14 A YES.

15 Q OKAY. ALL RIGHT. NOW, SOME CASES OF BIPOLAR ARE
16 TREATED WITH BASIC THERAPY. CORRECT?

17 A YES.

18 Q BUT MORE SIGNIFICANT CASES REQUIRE TREATMENT WITH
19 MEDICATION.

20 A YES.

21 Q AND YOU FOLLOWED UP WITH MS. HILL. SHE WAS ASKED
22 ABOUT HER HOME MEDICATIONS.

23 A YES.

24 Q AND, AGAIN, THAT IS IMPORTANT FOR YOU BECAUSE IT MAY
25 HAVE AN IMPACT ON HOW YOU TREAT THEM, WHAT MEDICINES YOU

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

83.

1 TREAT THEM WITH.

2 A YES.

3 Q OKAY. AND WHEN SHE WAS ASKED ABOUT THIS AS PART OF
4 HER IN-TAKE, SHE INDICATED THAT SHE WAS TREATED WITH THE
5 DRUG EFFEXOR.

6 A YES.

7 Q AND EFFEXOR IS A PRESCRIPTION ANTI-DEPRESSANT.

8 A YES.

9 Q WHICH WORKS BY AFFECTING THE LEVELS OF THE CHEMICAL
10 IN THE BRAIN.

11 A YES.

12 Q THE CHEMICAL SEROTONIN?

13 A YES.

14 Q AND NOREPINEPHRINE IF I'M PRONOUNCING THAT CORRECTLY.

15 A YES.

16 Q OKAY. BASICALLY IT AFFECTS THE UPTAKE OF THOSE
17 PARTICULAR DRUGS INTO THE BRAIN CELLS.

18 A YES.

19 Q OKAY. AND SHE ALSO INDICATED SHE WAS TAKING A
20 SEPARATE PSYCHOTROPIC DRUG, THAT BEING SEROQUEL.

21 A YES.

22 Q AND SEROQUEL IS A MOOD STABILIZING DRUG.

23 A YES.

24 Q AND THAT'S USED TO TREAT BOTH DEPRESSIVE AND MANIC
25 PHASES OF BIPOLAR DISEASE.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

84

1 A YES.

2 Q AND IT IS CLASSIFIED AS WITH WHAT WE CALL AN A-
3 TYPICAL ANTI-PSYCHOTIC DRUG.

4 A YES.

5 Q ALL RIGHT. AND IF A PERSON IS PRESCRIBED THESE
6 MEDICATIONS, IT'S IMPORTANT FOR THEM TO TAKE IT.

7 A YES.

8 Q FAILURE TO TAKE THESE MEDICATIONS MAY TRIGGER EXACTLY
9 THE SORTS OF BEHAVIORS THAT THEY'RE DESIGNED TO PREVENT.

10 A YES.

11 Q OKAY. MAY CAUSE OTHER IRRATIONAL BEHAVIORS.

12 A YES.

13 Q OKAY. FURTHER ON, MS. HILL WAS REQUESTED AS PART OF
14 HER SCREENING ABOUT OTHER SUBSTANCES SHE HAD TAKEN.
15 RIGHT?

16 A YES.

17 Q OKAY. AND LOOKING AT --- WHAT I'M LOOKING AT NOW AT
18 PAGE 2, SHE WAS ASKED ABOUT ALCOHOL. CORRECT?

19 A YES.

20 Q AND SHE INDICATED AT THAT POINT IN TIME THAT SHE
21 NORMALLY DOESN'T DRINK.

22 A YES.

23 Q BUT IT WAS NOTED THAT SHE SMELLED OF ALCOHOL.

24 A BY THE PERSON THAT DOCUMENTED THAT, YES.

25 Q RIGHT. AND THAT'S THE RECORDS THAT YOU'RE WORKING

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

85

1 OFF OF AS A ---

2 A RIGHT, EXACTLY.

3 Q OKAY. AND YOU OBSERVED THAT SHE HAD BEEN DRINKING
4 PRIOR TO HER ARRIVAL AT THE ER. DO YOU REMEMBER THAT?

5 A I DON'T REMEMBER. IF I DOCUMENTED, THEN I --- I
6 CAN'T REMEMBER HER.

7 Q AND I UNDERSTAND. YOU DON'T HAVE INDIVIDUAL
8 RECOLLECTION OF THAT.

9 A RIGHT. I DO NOT.

10 Q BUT IT DOES SHOW IN HER MEDICAL RECORDS ---

11 A RIGHT.

12 Q --- THAT SHE SMELLED OF ALCOHOL.

13 A THIS PRACTITIONER HERE THAT SIGNED THIS SAYS THAT
14 THEY THOUGHT SHE SMELLED OF ALCOHOL.

15 Q OKAY. SHE WAS ASKED ABOUT ILLEGAL DRUGS.

16 THE COURT - MR. LEMEL, WE'RE GOING TO --- I HAD
17 TO BREAK IT UP, BUT WE'RE GOING TO HAVE TO TAKE A BREAK.
18 I'M GOING TO LET YOU GO TO THE JURY ROOM JUST FOR A FEW
19 MINUTES AND WE'LL FINISH UP WHEN YOU COME BACK.

20 (JURY EXITS THE COURTROOM)

21 THE COURT - WE'LL TAKE ABOUT A TEN OR SO MINUTE
22 BREAK. DOCTOR, YOU CAN SIT THERE OR YOU CAN GET UP AND
23 MOVE AROUND AND USE THE RESTROOM AND HAVE SOME WATER.

24 (RECESS TAKEN)

25 THE COURT - TAKE YOUR SEATS. THANK YOU. GET

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1 MR. DUNOVANT BACK IN. NEITHER SIDE NEEDS TO HAVE THIS
2 NOTE THAT INDICATES THE DEFENDANT NEEDED TO USE THE
3 RESTROOM MADE A COPY OF THE RECORD, DO THEY?

4 MR. LEMEL - NO, SIR.

5 THE COURT - WE'LL FINISH WITH THIS WITNESS AND
6 THAT'LL BE IT FOR THE DAY.

7 MS. LIPINSKI - YES, YOUR HONOR. I'VE ALREADY
8 CUT MY WITNESSES ---

9 MR. LEMEL - I DON'T THINK IT'S GOING TO BE THAT
10 MUCH MORE, JUDGE.

11 THE COURT - CAN'T EVER TELL.

12 MR. LEMEL - ESPECIALLY ---

13 BAILIEF - YOU WANT THE JURY?

14 THE COURT - BEG YOUR PARDON?

15 BAILIEF - YOU WANT THE JURY?

16 THE COURT - WELL, WE'VE GOT TO GET THE DEFENDANT
17 IN FIRST. WE'LL TELL YOU.

18 (MR. DUNOVANT ENTERS THE COURTROOM)

19 THE COURT - ALL RIGHT, NOW, YOU CAN. THANK YOU.

20 (JURY ENTERS THE COURTROOM)

21 THE COURT - YOU MAY PROCEED.

22 MR. LEMEL - THANK YOU, YOUR HONOR.

23 Q DOCTOR, WHEN WE BROKE WE WERE TALKING ABOUT MS.
24 HILL'S IN-TAKE AND THE QUESTIONS THAT SHE WAS ASKED
25 REGARDING THAT IN-TAKE. OKAY? ONE OF THOSE QUESTIONS

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

87

1 THAT IS TYPICALLY ASKED AS PART OF THE IN-TAKE IN THE
2 EMERGENCY ROOM IS ABOUT ILLEGAL DRUG USE. CORRECT?

3 A YES.

4 Q BECAUSE, AGAIN, ILLEGAL DRUG USE CAN HAVE AN IMPACT
5 ON HOW SOMEBODY IS TREATED IN TERMS OF MEDICATIONS AND
6 THINGS OF THAT NATURE.

7 A YES.

8 Q NOW, INITIALLY ACCORDING TO WHAT WE HAVE HERE IT
9 INDICATES THAT THE PATIENT DOES NOT USE DRUGS.

10 A YES.

11 Q BUT SUBSEQUENTLY IT SAYS THAT THE DRUG USE IS AS
12 FOLLOWS: THAT SHE SMOKED CRACK COCAINE THAT DAY.

13 A YES.

14 Q AND THAT FOLLOWING THAT SHE STATED THAT SHE NORMALLY
15 DOESN'T DO DRUGS.

16 A YES.

17 Q OKAY. NOW, ALCOHOL, WHICH WE HAD DISCUSSED, AGAIN
18 BEFORE THE BREAK THAT SHE SMELLED OF ALCOHOL THAT DAY, IS
19 A DEPRESSANT DRUG. CORRECT?

20 A YES.

21 Q IT ACTS TO SLOW DOWN THE CENTRAL NERVOUS SYSTEM ---

22 A YES.

23 Q --- AND BASICALLY SLOW DOWN THE MENTAL ACTIVITY OF A
24 PERSON.

25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMEL

88

1 Q OKAY. CRACK COCAINE ON THE OTHER HAND IS STIMULANT
2 DRUG.

3 A YES.

4 Q AND IT SPEEDS UP THE CENTRAL NERVOUS SYSTEM.

5 A YES.

6 Q OKAY. WITH REGARD TO THE INTERACTION OF DRUGS,
7 PEOPLE WHO ARE TAKING EFFEXOR, FOR EXAMPLE, SHOULD NOT BE
8 USING ALCOHOL AND SMOKING CRACK COCAINE.

9 A YES.

10 Q BECAUSE ALCOHOL AND CRACK COCAINE WHILE YOU'RE ON
11 EFFEXOR IS A BAD THING.

12 A YES.

13 Q IT CAN CAUSE SIGNIFICANT DRUG INTERACTIONS.

14 A YES.

15 Q AND IT CAN ACTUALLY INTERFERE WITH, FOR EXAMPLE, THE
16 EFFEXOR DOING ITS JOB.

17 A YES.

18 Q OKAY. IT'S ALSO A VERY BAD THING TO USE ALCOHOL AND
19 CRACK COCAINE IF A PERSON IS ON SEROQUEL.

20 A YES.

21 Q BECAUSE THAT ALSO CAN CAUSE SEVERE SIDE AFFECTS ---

22 A YES.

23 Q AND MAY INTERFERE WITH THE ABILITY OF THE SEROQUEL TO
24 CONTROL THE BIPOLAR DISEASE.

25 A YES.

DR. GREGORY RIMMER - CROSS BY MR. LEMBL

89

1 Q NOW, IT'S NOT UNCOMMON FOR PEOPLE WITH BIPOLAR
2 DISEASE NOT TO TAKE THEIR MEDICATIONS, THEIR PRESCRIBED
3 MEDICATIONS.

4 A YES.

5 Q AND IT'S ALSO NOT UNCOMMON IN THAT SITUATION FOR THEM
6 TO TRY TO CONTROL THE DISEASE VIA SELF MEDICATION. HAVE
7 YOU ENCOUNTERED THAT BEFORE?

8 A CAN'T SAY I PERSONALLY HAVE, BUT ---

9 Q FAMILIAR WITH THAT.

10 A --- IN SOME MENTAL ILL PATIENTS WILL DO STUFF LIKE
11 THAT, YES.

12 MS. LIPINSKI - YOUR HONOR, WE'RE GOING TO RENEW
13 OUR OBJECTION ---

14 THE COURT - LET'S STRIKE THAT. I SUSTAIN THE
15 OBJECTION.

16 MR. LEMBL - OKAY.

17 THE COURT - JUST DISREGARD THAT LAST STATEMENT.

18 Q IN A SITUATION WHERE SOMEONE IS TAKING THEIR
19 MEDICATION, THE USE --- AND THEY HAVE BIPOLAR DISEASE ---
20 THE USE OF CRACK COCAINE AND ALCOHOL IS A BAD THING.
21 RIGHT?

22 A YES.

23 Q IN A SITUATION WHERE SOMEONE IS DIAGNOSED WITH
24 BIPOLARISM AND THEY'RE NOT TAKING THEIR MEDICATION, AGAIN,
25 THE USE OF THOSE DRUGS IS A BAD THING STILL.

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI

90

1 A YES.

2 Q OKAY. AGAIN, CAN WORSEN THE PROBLEM WITH REGARD TO
3 THE MANIA OR THE DEPRESSION.

4 A YES.

5 Q AND, IN FACT, USING THOSE DRUGS ACTUALLY CAN WORSEN
6 THE CONDITIONS THAT ARE TRYING TO BE PREVENTED.

7 A YES.

8 MR. LEMEL - NO FURTHER QUESTIONS, DOCTOR. THANK
9 YOU VERY MUCH.

10 THE COURT - RE-DIRECT?

11 MS. LIPINSKI - YES, YOUR HONOR, JUST BRIEFLY.

12 RE-DIRECT EXAMINATION

13 BY MS. LIPINSKI -

14 Q LET ME SHOW YOU WHAT DEFENDANT SHOWED YOU,
15 DEFENDANT'S EXHIBIT NUMBER 1 MARKED FOR I.D. MR. LEMEL
16 ASKED YOU IF THIS WAS AN AFRICAN AMERICAN MAN. YOU STATED
17 YOU COULD TELL THAT BY THE PHOTO.

18 A IT WOULD APPEARS TO BE.

19 Q APPEARS TO BE.

20 A YES.

21 Q YOU DON'T KNOW TO WHOM THOSE HANDS ARE ATTACHED.

22 A NO.

23 Q COULD BE A MALE OR A FEMALE FOR ALL YOU KNOW.

24 A CORRECT.

25 Q AND THE INJURY THAT YOU OBSERVED THERE, IS THERE ANY

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI 91

1 INDICATION THAT THAT WOUND HAS STARTED TO HEAL? IS THERE
2 ANY SCABBING OR DRIED BLOOD OF THAT KIND?

3 A IT DOES APPEAR TO BE HEALING. IT'S STILL OPEN, BUT
4 IT DOESN'T APPEAR TO BE ACTIVELY BLEEDING OR OOOZING
5 ANYTHING AT THIS --- AT THE TIME OF THIS PHOTO.

6 Q AND IS IT POSSIBLE TO GET INJURED --- THIS IS FOR THE
7 MOST PART --- BECAUSE THE JURY'S NOT SEEN THOSE PHOTOS,
8 BUT THIS IS THE MOST PART RIGHT ON THE TOP OF OUR KNUCKLES
9 HERE.

10 A YES.

11 Q AND IS IT POSSIBLE TO INJURE THAT KNUCKLE, HAVE IT
12 SOMEWHAT START TO HEAL AND THEN HIT IT AND RE-INJURY IT
13 AGAIN IF YOU DON'T COVER IT OR PROTECT IT?

14 A YES.

15 Q CAN YOU TELL IF THAT --- THAT HE BROKE THE HAND
16 BENEATH THAT INJURY?

17 A NO.

18 Q SO FROM THAT PHOTO, VERY LITTLE YOU CAN TELL.

19 A CORRECT.

20 Q CAN'T TELL WHEN HE GOT THAT INJURY. IT COULD BE
21 HOURS OLD OR IT COULD BE HE RE-INJURED IT RECENTLY.

22 A CORRECT.

23 Q THANK YOU. NOW, LET'S GO BACK TO MISTI HILL, THE
24 PATIENT YOU DID HAVE THE OPPORTUNITY TO EXAMINE. IN THE
25 (SIC) PATIENT THEN COMES INTO YOUR ER, ARE YOU FAMILIAR

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI

92

1 WITH PEOPLE WHO APPEAR TO BE UNDER THE INFLUENCE OF DRUGS
2 OR ALCOHOL? .

3 A YES.

4 Q AND IF SOMEONE APPEARS TO BE UNDER THE INFLUENCE OF
5 DRUGS OR ALCOHOL, IS THAT SOMETHING THAT YOU WOULD NOTICE
6 IN YOUR QUESTIONING THEIR HISTORY?

7 A YES.

8 Q AND DID YOU NOTE IN YOUR HISTORY WHETHER OR NOT MS.
9 HILL APPEARED TO BE UNDER THE INFLUENCE OF DRUGS OR
10 ALCOHOL?

11 A NO, I DID NOT.

12 Q AND YOU STATED THAT THE REFERENCE OF SOMEONE STATING
13 THAT THEY SMELLED ALCOHOL, THAT WAS (SIC) ACTUALLY CAME
14 NOT FROM YOU BUT FROM SOMEONE ELSE.

15 A YES.

16 Q AND YOU INDICATED THAT YOU SENT MS. HILL FOR A CT
17 SCAN AND FOR SOME X-RAYS.

18 A YES.

19 Q HAS IT EVER HAVE (SIC) THE OCCASION WHERE A PATIENT
20 PRESENTED TO THE ER WHO WAS SUFFERING FROM BIPOLAR DISEASE
21 THAT YOU ACTUALLY REQUESTED WHAT IS CONSIDERED A PSYCH
22 CONSULT?

23 A YES.

24 Q AND WHAT DOES THAT MEAN, A PSYCH CONSULT?

25 A EACH HOSPITAL IS DIFFERENT, BUT AT PIEDMONT IT WOULD

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI

93

1 REQUIRE HAVING A TRAINED PSYCHIATRIC NURSE COME TO THE ER
2 AND DO AN INITIAL EVALUATION AND THEN SHE WOULD CALL THE
3 PSYCHIATRIST ON CALL AND DISCUSS THE CASE AND WE WOULD
4 HAVE FURTHER RECOMMENDATIONS BASED ON THAT DISCUSSION.

5 Q WHAT WOULD PROMPT YOU TO REFER A PATIENT FOR A PSYCH
6 CONSULT?

7 A IF THEY APPEAR TO BE A --- EITHER A HARM TO
8 THEMSELVES OR OTHERS OR IF THEY APPEAR TO BE NOT THINKING
9 CLEARLY AND HAVE A HISTORY OF MENTAL ILLNESS.

10 Q AND IN THIS PARTICULAR CASE DID YOU FEEL THAT MISTI
11 HILL REQUIRED A PSYCHIATRIC CONSULT?

12 A NO.

13 Q AND MR. LEMEL WENT THROUGH QUITE A LITANY OF SYMPTOMS
14 THAT BIPOLARITY CAN PRODUCE IN AN INDIVIDUAL. IF MS. HILL
15 WAS EXHIBITING ANY OF THOSE SYMPTOMS, IS THAT SOMETHING
16 YOU WOULD'VE NOTED IN YOUR HISTORY?

17 A YES.

18 Q AND DID YOU NOTE ANYTHING ON HER PART REGARDING THAT?

19 A NO.

20 Q AND WHILE HE TALKED TO YOU ABOUT PEOPLE WHO HAVE
21 BIPOLAR DISEASE AND ENGAGE IN RISKY BEHAVIOR AND THOSE
22 TYPE THINGS, IS IT NOT ALSO POSSIBLE THAT PEOPLE WHO ARE
23 DIAGNOSED AS BIPOLAR CAN RUN COMPANIES?

24 A YES.

25 Q CAN FUNCTION WHILE NORMALLY IN DAY-TO-DAY SOCIETY?

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI

94

1 A YES.

2 Q CAN AVOID THE RISKY BEHAVIORS THAT SOME PEOPLE MIGHT
3 SUCCUMB TO.

4 A YES.

5 Q SO WHILE ALL OF THESE THINGS ARE POSSIBLE ON THE PART
6 OF MS. HILL, YOU DIDN'T OBSERVE ANY OF THEM WITH SUCH
7 PARTICULARITY THAT YOU EITHER NOTED IT IN YOUR FILE OR
8 REFERRED HER FOR A PSYCH CONSULT.

9 A NO.

10 Q AND MR. LEMEL ASKED YOU A BUNCH OF QUESTIONS
11 REGARDING DATING BRUISES, YOU KNOW, HOW LONG WOULD THESE
12 BRUISES HAVE BEEN HERE, THAT CAN DEPEND ON THE MEDICATION
13 PEOPLE ARE ON.

14 A YES.

15 Q THEIR COMPLEXION.

16 A YES.

17 Q WHETHER OR NOT THEY'RE A HEMOPHILIAC OR THOSE TYPE --
18 - HAVE ANY OTHER BLEEDING DISORDERS?

19 A YES.

20 Q CAN DEPEND ON HOW TANNED THEY HAPPEN TO BE AT THAT
21 PARTICULAR TIME, WHETHER OR NOT, YOU KNOW, THEY MIGHT BE
22 SUN-BURNED, OR THOSE TYPE THINGS. ALL THESE THINGS CAN
23 IMPACT HOW A BRUISE HAPPENS ON SOMEONE'S BODY.

24 A YES.

25 Q SO ARE YOU ANY TYPE OF EXPERT IN DATING BRUISES OR

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI 95

1 ARE YOU FAMILIAR WITH THAT TO BE AN EXACT SCIENCE?

2 A NO.

3 Q AS TO MS. HILL'S MEDICATION, DID YOU PRESCRIBE HER
4 ANYTHING?

5 A YES, I DID. LOOK LIKE I PRESCRIBED HER A MUSCLE
6 RELAXER AND A NARCOTIC PAIN MEDICATION, AS WELL AS AN
7 ANTIBIOTIC FOR HER EAR AND AN ANTI-NAUSEA MEDICATION,
8 BECAUSE SHE HAD SOME NAUSEA.

9 Q AND WAS --- DID YOU QUESTION HER ABOUT WHETHER OR NOT
10 SHE WAS TAKING HER BIPOLAR MEDICINE?

11 A I CANNOT RECOLLECT THAT FROM JUST LOOKING AT THIS.

12 Q BUT DID YOU SEE ANY INDICATION FROM HER THAT SHE HAD
13 BEEN OFF OF IT FROM ANY SIGNIFICANT LENGTH OF TIME? IF
14 SHE WAS THIS EXTREME CASE THAT MR. LEMEL DESCRIBED, DID
15 YOU SEE ANY OF THAT IN HER?

16 A I DID NOT.

17 Q AND IF YOU WOULD HAVE, AGAIN, YOU WOULD'VE REFERRED
18 HER FOR A PSYCH CONSULT.

19 A CORRECT.

20 Q ONCE AGAIN, MR. LEMEL ASKED YOU ABOUT THE AFFECTS OF
21 ALCOHOL AND CRACK COCAINE ON PEOPLE WHO ARE BIPOLAR.
22 THESE ARE THINGS THAT IT CAN DO TO THEM. CORRECT?

23 A CORRECT.

24 Q SO SOMEONE WHO IS BIPOLAR AND IS ON HIS MEDICATION
25 MAY BE ABLE TO CONSUME SOME AMOUNT OF ALCOHOL WITHOUT IT

DR. GREGORY RIMMER - RE-DIRECT BY MS. LIPINSKI

96

1 AFFECTING THEM IN THIS SEVERE WAY.

2 A CORRECT.

3 Q AND ARE YOU AWARE OF WHETHER OR NOT A TOX SCREEN WAS
4 EVER DONE ON MS. HILL?

5 A DO NOT APPEAR TO BE IN THE ORDERS I SAW. I DO NOT
6 SEE ONE OF THOSE ON THE ORDER SET HERE.

7 Q AND WHAT IS A TOX SCREEN?

8 A AGAIN, THAT VARIES, BUT FOR THIS INSTITUTION THAT
9 WOULD BE A SCREEN THAT LOOKS BASICALLY AT MORPHINE ANALOGS
10 LIKE --- OR HEROINE OR COCAINE AND LSD AND BENZODIAZEPENES
11 LIKE VALIUM AND ATIVAN. DOES NOT SEE EVERY DRUG, BUT
12 SCREENS FOR THE MOST COMMON ONES.

13 Q AND WHY WOULD YOU ASK FOR A TOX SCREEN ON A PATIENT?

14 A IF WE HAD SOMEBODY THAT CAME IN THAT WE WERE NOT SURE
15 WHY THEY WERE ACTING BIZARRELY OR HAD SOME KIND OF
16 INTERESTING BEHAVIOR THAT COULD NOT EXPLAIN. DON'T
17 ROUTINELY ORDER THEM ON SOMEBODY WHO JUST HAS A HISTORY OF
18 USING DRUGS OR NOT USING DRUGS.

19 Q SO WOULD IT BE FAIR TO SAY IN THIS PARTICULAR CASE,
20 MS. HILL DID NOT EXHIBIT ANY OF THOSE UNRATIONAL (SIC) OR
21 UNPREDICTABLE BEHAVIORS THAT WOULD PROMPT YOU TO ORDER
22 THAT TOX SCREEN?

23 A CORRECT.

24 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT.

25 Q DID AT ANY TIME MS. HILL INDICATE TO YOU THAT SHE HAD

DR. GREGORY RIMMER - RE-CROSS BY MR. LEMEL

97

1 STOPPED TAKING HER MEDICATION OR SOMETHING OR WASN'T
2 TAKING HER PRESCRIBED MEDICATION?

3 A NOT THAT I HAD NOTED ON HERE.

4 Q AND YOU SAW NO SYMPTOMS OF THAT OR NOTED NO SYMPTOMS
5 OF THAT WHEN YOU EXAMINED HER.

6 A THAT'S CORRECT.

7 MS. LIPINSKI - NOTHING FURTHER.

8 RE-CROSS EXAMINATION

9 BY MR. LEMEL -

10 Q YOU SAID YOU NOTICED NO SYMPTOMS. FOR EXAMPLE, IN
11 THE DEPRESSIVE PHASE WOULD CRYING CONSTANTLY BE AN EXAMPLE
12 OF BEING IN A DEPRESSIVE PHASE OF A BIPOLAR SITUATION?

13 A YES.

14 Q OKAY. BRING WITHDRAWN?

15 A YES.

16 Q QUIET?

17 A YES.

18 Q IS IT ALWAYS EASY TO RECOGNIZE WHEN SOMEBODY'S
19 UNDERGOING A CYCLE UNDER HAVING BIPOLAR DISEASE?

20 A NO.

21 Q OKAY. SOMEBODY CAN ACTUALLY BE EXPERIENCING ONE OF
22 THE STAGES AND YOU AS AN ER DOCTOR UNDER THE RELATIVELY
23 NARROW TIME CONSTRAINTS THAT YOU DEAL WITH SOMEBODY MAY
24 NOT BE ABLE TO NECESSARILY RECOGNIZE THAT.

25 A THAT'S CORRECT.

1 MR. LEMEL - NOTHING FURTHER.

2 THE COURT - YOU CAN STEP DOWN AND BE EXCUSED.
3 WE APPRECIATE YOUR TIME.

4 MS. LIPINSKI - HE'S EXCUSED, YOUR HONOR?

5 THE COURT - MEMBERS OF THE JURY PANEL, WE'RE
6 GOING TO STOP FOR THE DAY. WE'LL START BACK AND 9:30. I
7 HAVE A 9:15 CONFERENCE CALL. I FEEL CONFIDENT I'LL BE
8 THROUGH BY 9:30, BUT I'M GOING TO HAVE YOU HERE AT 9:30
9 AND WE'LL START PROMPTLY AROUND 9:30 AS WE CAN. KEEP IN
10 MIND NOT TO DISCUSS THE CASE; DON'T LET ANYONE DISCUSS THE
11 CASE WITH YOU. DON'T LET YOURSELF BE EXPOSED TO ANYTHING
12 ABOUT THE CASE. DON'T GO TO THE LOCALE. STAY OFF THE
13 INTERNET REGARDING ANYTHING THAT COULD BE AT ISSUE IN THIS
14 CASE, AND WHEN YOU ARE SERVING ON THE JURY THE BAILIFF
15 WILL SHOW YOU HOW TO GET IN AND OUT. YOU WON'T BE GOING
16 THROUGH THIS DOOR AND YOU WON'T BE GOING WHEN YOU REPORT
17 IN THE MORNING BACK TO THE JURY ASSEMBLY ROOM. YOU'LL
18 COME TO THIS FLOOR TO THE ROOM YOU WERE IN IN JUST A
19 MOMENT. SO HAVE A PLEASANT EVENING AND WE'LL SEE YOU AT
20 9:30. EVERYBODY ELSE REMAIN SEATED WHILE THE JURY EXITS.

21 (JURY EXITS THE COURTROOM)

22 THE COURT - ALL RIGHT, 9:30 IN THE MORNING.

23 MS. LIPINSKI - THANK YOU, YOUR HONOR.

24 MR. LEMEL - THANK YOU, YOUR HONOR.

25 (COURT IN RECESS FOR THE DAY AT 5:30 P.M.)

99

* * * * *

1

2

(COURT RESUMES ON TUESDAY, MARCH 31ST, 2009)

3

THE COURT - ALL RIGHT, STATE READY?

4

MS. LIPINSKI - YES, YOUR HONOR, WE ARE.

5

THE COURT - DEFENSE READY?

6

MR. LEMEL - YES, SIR.

7

THE COURT - ALL RIGHT, BRING IN THE JURY.

8

MS. LIPINSKI - AND, YOUR HONOR, MY FIRST WITNESS

9

--- I DON'T THINK IT VIOLATES THE ORDERS OF SEQUESTRATION,

10

HE'S SEATED IN THE COURTROOM HERE.

11

THE COURT - THAT'S FINE.

12

(JURY RETURNS TO THE COURTROOM)

13

THE COURT - ALL RIGHT, LET'S TRY TO JUST HAVE

14

SIX ON THE FRONT ROW. ALL RIGHT, THE BAILIFF CALLED TO MY

15

ATTENTION SOMETHING THAT I ALREADY REALIZED AND THAT IS

16

THAT I MADE A LITTLE CONFUSION IN APPOINTING A FOREMAN

17

YESTERDAY. I LEARNED EARLY THAT YOU SHOULD NEVER DO MATH

18

OR SPELL IN PUBLIC BECAUSE YOU'LL ALWAYS GET IT WRONG, AND

19

MY COUNTING WAS WRONG BECAUSE WE HAD SEVEN PEOPLE ON THE

20

FRONT ROW INSTEAD OF SIX AS USUAL. SO I APPOINTED MR.

21

JOHNSON AND THAT WAS MY INTENTION BUT I THINK I MENTIONED

22

MR. RAMSEY. IS THAT CORRECT?

23

JUROR - (INDICATING YES)

24

THE COURT - ALL RIGHT, WELL, I APOLOGIZE FOR THE

25

CONFUSION AND AGAIN IT WAS --- AN ERROR IN MY COUNTING AS

JEFF CORNWELL - DIRECT BY MR. MAINES

100

1 TO WHO WAS WHERE, BECAUSE I DON'T KNOW ALL OF YOU AND I
2 HAVE TO GO BY MY LIST, SO I DID CREATE CONFUSION AND I
3 REALIZED IT AFTER I'D DONE IT AND I THOUGHT IT WOULD GO
4 QUIETLY AND Y'ALL WOULDN'T REALIZE IT, BUT APPARENTLY YOU
5 DID, AND I JUST WANT TO TELL YOU THAT'S WHAT HAPPENED. SO
6 WE'VE GOT THE RIGHT FOREPERSON, AND AGAIN I APOLOGIZE.
7 ALL RIGHT, MS. LIPINSKI? MR. MAINES.

8 MR. MAINES - YOUR HONOR, THE STATE CALLS
9 SERGEANT JEFF CORNWELL.

10 JEFF CORNWELL, AFTER BEING FIRST DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. MAINES -

14 Q. SERGEANT CORNWELL, COULD YOU PLEASE GIVE US YOUR FULL
15 NAME?

16 A. JEFFREY NBBLY CORNWELL.

17 Q. OKAY, WHERE ARE YOU EMPLOYED?

18 A. YORK COUNTY SHERIFF'S OFFICE.

19 Q. AND WHAT DO YOU DO THERE?

20 A. I'M A PATROL SERGEANT IN THE ROCK HILL DISTRICT.

21 Q. AND HOW LONG HAVE YOU BEEN WORKING FOR THE SHERIFF'S
22 DEPARTMENT?

23 A. SINCE MAY OF 1993.

24 Q. AND DO YOU KNOW HOW YOU'RE INVOLVED IN THIS CASE?

25 A. YES, SIR, I DO.

JEFF CORNWELL - DIRECT BY MR. MAINES

101

1 Q AND HOW ARE YOU INVOLVED?

2 A I PICKED UP A SEXUAL ASSAULT KIT FROM THE HOSPITAL
3 AND TRANSPORTED IT TO THE MOSS JUSTICE CENTER.

4 Q WAS THAT AT THE PIEDMONT MEDICAL CENTER?

5 A YES.

6 Q AND DO YOU REMEMBER WHAT THAT SEXUAL ASSAULT KIT
7 LOOKED LIKE?

8 A IT WAS THREE ITEMS. IT WAS ACTUALLY A CLOTHING BAG,
9 I THINK A BOX AND A SMALLER BAG.

10 Q I'M SHOWING YOU WHAT'S BEEN MARKED FOR EXHIBIT
11 PURPOSES ONLY, STATE'S EXHIBIT 1. IT'S PROBABLY IN A
12 PACKAGE YOU DIDN'T ORIGINALLY PUT IT IN, BUT CAN YOU TELL
13 US WHAT IT IS?

14 A IT APPEARS TO BE A SEXUAL ASSAULT KIT THAT'S BEEN ---
15 THAT WAS PROCESSED BY SLED.

16 Q OKAY.

17 A THE PACKAGE IS NOT --- IT IS NOT THE SAME AS WHEN I
18 TURNED IT IN. OF COURSE, THEY DID THEIR EXAM ON IT.

19 Q OKAY. IF I SHOWED YOU YOUR PROPERTY INVENTORY SHEET
20 --- DO YOU ALREADY HAVE A COPY OF YOUR ---

21 A I HAVE A COPY.

22 Q AND DOES THAT INDICATE WHERE YOU PICKED THAT SEXUAL
23 ASSAULT KIT UP FROM?

24 A AT 222 SOUTH HERLONG FROM SANE NURSE C.J. CARRINGER.

25 Q OKAY. DO YOU REMEMBER WHAT YOU DID WITH IT AFTER ---

JEFF CORNWELL - DIRECT BY MR. MAINES

102

1 OR WHO YOU GAVE IT TO NEXT?

2 A I TRANSPORTED DIRECTLY THERE TO THE MOSS JUSTICE
3 CENTER AND THEN TURNED IT INTO EVIDENCE TECHNICIAN BARBIE
4 TAYLOR OR BARBARA TAYLOR.

5 MR. MAINES - YOUR HONOR, STATE REQUEST SUBJECT
6 TO FURTHER DEVELOPMENT IN THE CHAIN OF EVIDENCE THAT
7 STATE'S EXHIBIT 1 BE PLACED INTO EVIDENCE.

8 THE COURT - YOU ASKING FOR IT TO BE PLACED INTO
9 EVIDENCE?

10 MS. MAINES - I'M SORRY, YOUR HONOR. WE'LL WAIT
11 FOR THAT.

12 Q I'M SHOWING YOU WHAT'S BEEN MARKED FOR STATE'S
13 EXHIBIT 2. DO YOU KNOW WHAT THIS IS?

14 A LOOKS LIKE A CLOTHING BAG, THE CLOTHING BAG I PICKED
15 UP AT THE HOSPITAL, DROPPED OFF AT EVIDENCE.

16 Q OKAY. IS IT IN THE SAME CONDITION THAT YOU
17 ORIGINALLY POSSESSED IT? IS THIS THE SHERIFF'S DEPARTMENT
18 EVIDENCE LOG ON THE PROPERTY?

19 A YES, IT IS.

20 Q OKAY. SO WAS THIS EVER SENT TO SOUTH CAROLINA LAW
21 ENFORCEMENT DIVISION AS FAR AS YOU KNOW?

22 A IF YOU'LL LET ME LOOK AT IT I CAN TELL YOU.

23 Q OKAY.

24 A CHECK TO SEE WHAT'S ON IT. LOOKED LIKE IT WENT FROM
25 BARBIE TAYLOR TO CLARA PAINTER TO CHRIS BOMAR. I DON'T

JEFF CORNWELL - DIRECT BY MR. MAINES

103

1 SEE THEM IN THE CUSTODY. IT'S STILL --- LOOKING FOR THE
2 SEALS HERE --- IF THE BAG'S STILL SEALED. I'M NOT SURE.
3 I DON'T SEE --- I DON'T SEE WHERE IT WENT TO SLED.
4 PROBABLY BE ON SLED'S EVIDENCE REPORT IF IT WAS.

5 Q SO DID YOU GET THESE CLOTHES WHILE YOU WERE AT THE
6 PIEDMONT MEDICAL CENTER?

7 A YES.

8 Q OKAY.

9 A THEY WERE ALREADY PACKAGED THERE IN A BAG WHEN I
10 PICKED THEM UP.

11 Q NOW, I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S
12 EXHIBIT 3. CAN YOU TELL US WHAT THIS IS?

13 A THAT'S THE OTHER ITEM I PICKED UP FROM PIEDMONT
14 MEDICAL CENTER MARKED ITEM NUMBER 2, BAG CONTAINING WHAT
15 SAYS UNDERWEAR, AND IT WAS SIGNED OVER ALSO TO BARBIE
16 TAYLOR AND EVIDENCE MYSELF, SEALED WITH EVIDENCE TAPE.

17 Q DID YOU PICK UP ALL OF THESE ITEMS AT THE SAME TIME?

18 A YES.

19 MR. MAINES - YOUR HONOR, THE STATE WOULD REQUEST
20 TO MOVE EXHIBIT 2 AND 3 INTO TO BE EVIDENCE.

21 THE COURT - ANY OBJECTION?

22 MR. LEMEL - NO OBJECTION AT THIS TIME, YOUR
23 HONOR.

24 THE COURT - BE RECEIVED WITHOUT OBJECTION.

25 (ITEMS MARKED INTO EVIDENCE AS STATE'S EXHIBITS

JEFF CORNWELL - CROSS BY MR. LEMEL

104

1 2 AND 3.)

2 Q NOW, DID YOU RESPOND TO PIEDMONT MEDICAL CENTER ON
3 MAY 3RD, 2007?

4 A MAY THE 3RD, YES.

5 Q OKAY. AND DID YOU EVER SPEAK WITH MISTI HILL AT THE
6 HOSPITAL?

7 A THE VICTIM IN THE SEXUAL ASSAULT?

8 Q WELL, LET'S JUST REFER TO HER AS MISTI HILL. DID YOU
9 SPEAK WITH MISTI HILL?

10 A MS. HILL? I DON'T BELIEVE SO. I THINK I JUST SAW
11 THE SAME NURSE. I DON'T RECALL SEEING HER PRIOR TO TODAY.

12 Q SO YOU DON'T HAVE ANY RECOLLECTION OF INTERACTING
13 WITH HER?

14 A NO.

15 MR. MAINES - OKAY. THAT'S ALL THE QUESTIONS I
16 HAVE, YOUR HONOR. PLEASE ANSWER ANY QUESTIONS MR. LEMEL
17 HAS.

18 CROSS EXAMINATION

19 BY MR. LEMEL -

20 Q SINCE YOU HAVE NO RECOLLECTION OF MEETING HER BEFORE
21 TODAY, IS IT SAFE TO SAY YOU DIDN'T DO ANY REAL
22 INVESTIGATING ON THIS CASE OR ANYTHING LIKE THAT?

23 A NO, I JUST PICKED UP THE KIT AND TOOK IT TO THE MOSS
24 JUSTICE CENTER?

25 Q SO YOU CAN'T GIVE US ANY INFORMATION ABOUT WHAT

JEFF CORNWELL - CROSS BY MR. LEMEL

105

1 HAPPENED, ABOUT THE INVESTIGATION?

2 A I HAD NEVER SEEN EITHER ONE OF THE PEOPLE INVOLVED IN
3 THIS CASE UNTIL TODAY IN THE COURTROOM, SO ---

4 Q OKAY. SO YOU CAN'T SHED ANY LIGHT ON US ABOUT WHAT
5 HAPPENED AT WEEPING MARY BAPTIST CHURCH?

6 A I HAVE NO IDEA WHAT HAPPENED THERE.

7 Q OR THE TRUCK STOP UP BY I-85?

8 A NO. I HAVE NO IDEA WHAT HAPPENED THERE. NO.

9 Q NOW, AT THE TIME THIS INCIDENT TOOK PLACE --- I
10 UNDERSTAND YOU WORK ON THE ROCK HILL SIDE ---

11 A YES.

12 Q --- AT THIS POINT. BACK IN 2007 WERE YOU WORKING A
13 DIFFERENT PART OF THE COUNTY?

14 A BACK IN 2007 THE SERGEANTS COVERED AN ENTIRE ---
15 EITHER THE EAST SIDE OR THE WEST SIDE AND IF THE WEST SIDE
16 SERGEANT WAS OUT, YOU'D HAVE TO COVER BOTH SIDES.

17 Q SO IT'S POSSIBLE DURING THAT POINT IN TIME YOU
18 COULD'VE BEEN THE PATROL SUPERVISOR FOR THE WHOLE COUNTY,
19 SAY WHEN SOMETHING HAPPENED ON MAY 3RD?

20 A YES, AND UM --- I VERY WELL MAY HAVE BEEN THAT DAY.

21 Q OKAY. AND IN YOUR CAPACITY AS A PATROL SERGEANT, DO
22 YOU SOMETIMES REVIEW THE INCIDENT REPORTS THAT ARE
23 GENERATED BY THE PATROL OFFICERS ON DUTY AT A PARTICULAR
24 TIME?

25 A YES, I REVIEW THEM, JUST MAKE SURE THEY'RE COMPLETE

JEFF CORNWELL - CROSS BY MR. LEMEL

106

1 AND USUALLY SIGN THEM OFF.

2 Q OKAY. THAT'S ONE OF THE STANDARD PRACTICES WITH THE
3 SHERIFF'S DEPARTMENT?

4 A YES.

5 Q A PATROL OFFICER WHO'S A MORE JUNIOR OFFICER FILLS
6 OUT THE REPORT.

7 A RIGHT.

8 Q BUT A SUPERVISOR, A SERGEANT, HAS TO SIGN OFF ON THE
9 REPORT IN ORDER FOR IT TO SORT OF GO INTO THE SYSTEM AS
10 BEING PROPERLY DONE.

11 A RIGHT.

12 Q AND YOU YOURSELF HAVE BEEN INVOLVED IN THE TRAINING
13 OF OFFICERS WITH HOW TO DO THE REPORTS?

14 A YES.

15 Q AND OFFICERS ARE PROVIDED REPORTS BY THE SHERIFF'S
16 DEPARTMENT TO FILL OUT ---

17 A EITHER --- YES, EITHER BLANK FORMS. A LOT OF THEM DO
18 THEM ON COMPUTER NOW, BUT THERE'S A STANDARDIZED FORM.

19 Q RIGHT. AND THAT FORM IS SET BY THE SHERIFF'S
20 DEPARTMENT.

21 A YES.

22 Q AND THEY'RE TRAINED IN HOW TO DO IT WITH THE
23 SHERIFF'S DEPARTMENT.

24 A YES.

25 Q AND WHEN YOU'RE TRAINING AN OFFICER TO FILL SOMETHING

JEFF CORNWELL - CROSS BY MR. LEMEL

107

1 OUT, YOU TRAIN THEM TO FILL IT OUT COMPLETELY.

2 A YES.

3 Q TRAIN THEM TO FILL IT OUT ACCURATELY.

4 A YES.

5 Q WITH REGARD TO --- PARTICULARLY WITH REGARD TO
6 INFORMATION DIRECTLY RELATED TO A CASE FOR EXAMPLE.

7 A AS FAR AS ---

8 Q WELL, IF AN OFFICER HEARD SOMETHING RELATING TO THE
9 IDENTIFICATION OF AN ALLEGED ASSAILANT, THAT WOULD BE A
10 VERY IMPORTANT FACT. RIGHT?

11 A YES, IT WOULD.

12 Q OKAY. AND THEY WOULD BE TRAINED AS A FIRST
13 RESPONDER, BECAUSE THAT'S WHAT PATROL OFFICERS ARE.
14 RIGHT?

15 A ESSENTIALLY YOU COULD CLASSIFY THEM AS FIRST
16 RESPONDERS.

17 Q THEY'RE USUALLY THE FIRST PEOPLE WHO RESPOND WHEN
18 SOMEBODY CALLS 9-1-1.

19 A RIGHT. RIGHT.

20 Q AND THOSE INITIAL REPORTS FOR INSTANCE ON SOMETHING
21 LIKE IDENTIFICATION CAN BE VERY IMPORTANT TO A CASE LATER
22 ON DOWN THE ROAD.

23 A YES, IT CAN.

24 Q SO WHEN THEY RECEIVE INFORMATION REGARDING IDENTITY
25 FOR EXAMPLE, THEY ARE TAUGHT TO DOCUMENT THAT ACCURATELY.

JEFF CORNWELL - CROSS BY MR. LEMEL

108

1 A YES.

2 Q THEY JUST DON'T MAKE STUFF UP ABOUT THE ---

3 A RIGHT, WHICH MAY END UP GOING ON THE INCIDENT REPORT
4 OR IT MAY GO ON A FOLLOW-UP REPORT OR AN ENTAIL SHEET AND
5 JUST DEPENDS ON THE CIRCUMSTANCES.

6 Q DO YOU REMEMBER AT ALL SIGNING OFF ON A SHEET --- ON
7 A INCIDENT REPORT IN THIS PARTICULAR CASE?

8 A I DON'T PARTICULAR REMEMBER SIGNING OFF THIS ONE. I
9 PROBABLY DID BECAUSE I THINK I WAS THE SUPERVISOR THAT
10 DAY, BUT I DON'T RECALL ANY OF THE DETAILS OF IT BECAUSE
11 I SIGN OFF PROBABLY SEVERAL THOUSAND OF THEM BETWEEN, YOU
12 KNOW, COUPLE OF YEARS AGO AND NOW.

13 Q IF YOU WERE TO LOOK AT A PARTICULAR INCIDENT REPORT
14 COULD YOU TELL FROM LOOKING AT THAT INCIDENT REPORT
15 WHETHER YOU SIGNED OFF ON IT?

16 A YES, SHOULD HAVE --- SHOULD HAVE MY INITIALS ON THE
17 BOTTOM RIGHT-HAND CORNER..

18 Q OKAY. AND IF I SHOWED YOU ONE, WOULD THAT HELP YOU
19 REFRESH YOUR RECOLLECTION AS TO THAT?

20 A SURE.

21 Q I'M SHOWING YOU A YORK COUNTY SHERIFF'S INCIDENT
22 REPORT. NOW, THAT WASN'T PREPARED BY YOU I UNDERSTAND,
23 BUT WHO WAS THE APPROVING OFFICER ON THAT?

24 A I'M THE APPROVING OFFICER.

25 Q OKAY. AND THAT WAS CREATED BY WHAT OFFICER?

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

109

1 A T.S. CHILDERS.

2 Q OFFICER CHILDERS.

3 A YES, SIR.

4 Q OKAY. THANK YOU VERY MUCH. SO BASICALLY YOU'RE
5 SIGNING OFF ON THAT, THAT WOULD BE YOUR APPROVAL THAT THIS
6 REPORT WAS FILLED OUT PROPERLY?

7 A IT'S BASICALLY THE COMPLETENESS AND ACCURACY AND IT'S
8 CODED CORRECTLY FOR CRIME STATISTICS AND SUCH AS THAT.

9 Q OKAY.

10 MR. LEMEL - NO FURTHER QUESTIONS, YOUR HONOR.

11 MR. MAINES - NO FURTHER RE- ---

12 THE COURT - ALL RIGHT, YOU CAN STEP DOWN AND BE
13 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU.

14 MR. CORNWELL - THANK YOU, YOUR HONOR.

15 MS. LIPINSKI - YOUR HONOR, THE STATE CALLS SHANE
16 CHILDERS TO THE STAND.

17 SHANE CHILDERS, AFTER BEING FIRST DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. LIPINSKI -

21 Q MR. CHILDERS, IF YOU COULD PLEASE STATE YOUR FULL
22 NAME FOR THE RECORD.

23 A SHANE TERRY CHILDERS.

24 Q AND WITH WHOM ARE YOU CURRENTLY EMPLOYED?

25 A BLACKSBURG POLICE DEPARTMENT.

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

110

1 Q AND IN WHAT CAPACITY?

2 A POLICE OFFICER.

3 Q AND WERE YOU PREVIOUSLY ON ONE OCCASION EMPLOYED BY
4 THE YORK COUNTY SHERIFF'S OFFICE?

5 A YES, I WAS.

6 Q AND WERE YOU SO EMPLOYED BACK ON MAY 3RD OF 2007?

7 A YES, MA'AM.

8 Q AND I SEE YOU HOLDING A COUPLE OF DOCUMENTS IN YOUR
9 HAND. IS THAT YOUR REPORT FROM THIS INCIDENT?

10 A YES, MA'AM.

11 Q AND THE PURPOSES OF GENERATING THESE REPORTS IS SO
12 THAT YOU REMEMBER PARTICULAR DETAILS THAT YOU MIGHT NOT
13 REMEMBER WHEN CALLED IN COURT TO TESTIFY.

14 A CORRECT.

15 Q AND IN THE --- SINCE MAY OF 2007 HAVE YOU BEEN FOR
16 THE MOST PART CONTINUOUSLY EMPLOYED IN LAW ENFORCEMENT?

17 A YES, MA'AM.

18 Q SO YOU'VE RESPONDED TO A NUMBER OF CALLS SINCE THAT
19 TIME?

20 A YES, MA'AM.

21 Q AND IN THIS PARTICULAR CASE, DO YOU REMEMBER WHERE
22 YOU RESPONDED, WHERE YOU WERE SENT TO?

23 A YES, MA'AM, IT WAS THE DIXIE DINER ON HIGHWAY 321 IN
24 CLOVER.

25 Q AND THE DIXIE DINER, ARE YOU FAMILIAR WITH THAT

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

111

- 1 ESTABLISHMENT PERSONALLY?
- 2 A UH ---
- 3 Q YOU KNOW WHERE IT IS?
- 4 A YES, MA'AM.
- 5 Q ALL RIGHT. AND IT'S A RESTAURANT, FAIR TO SAY?
- 6 A CORRECT.
- 7 Q AND, APPROXIMATELY WHAT TIME DID YOU ARRIVE ON THE
- 8 SCENE? DOES IT SAY?
- 9 A APPROXIMATELY 6:41 IN THE MORNING.
- 10 Q AND WHAT TIME WERE YOU DISPATCHED?
- 11 A 6:34.
- 12 Q AND WHEN YOU ARRIVED THERE, WHOM DID YOU SPEAK WITH?
- 13 A ORIGINALLY THE WAITRESS AT THE RESTAURANT BUT THEN I
- 14 WAS LED STRAIGHT TO MISTI HILL.
- 15 Q SO A WAITRESS DIRECTED YOU TO HOW THEY CALLED 9-1-1,
- 16 HOW YOU CAME TO BE THERE?
- 17 A YES, MA'AM.
- 18 Q AND WHEN YOU WENT TO SPEAK WITH MISTI HILL, DO YOU
- 19 REMEMBER HER?
- 20 A YES, MA'AM.
- 21 Q AND DO YOU REMEMBER ANYTHING ABOUT HER Demeanor,
- 22 CONDITION, WHEN YOU SPOKE WITH HER?
- 23 A YES, MA'AM.
- 24 Q WHAT DO YOU REMEMBER?
- 25 A SHE WAS UPSET AND CRYING AND VISIBLY SHAKEN.

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

112

1 Q AND WHAT DO YOU DO? WHAT WAS YOUR ROLE THERE AS THE
2 FIRST RESPONDING OFFICER?

3 A TO PRELIMINARY --- TO ORIGINALLY GAIN AS MUCH
4 INFORMATION ABOUT THE CRIME, THAT'S --- THAT HAPPENED AND
5 GIVE INFORMATION OUT TO OTHER OFFICERS AS FAR AS VEHICLE
6 INFORMATION AND THAT SORT OF THING.

7 Q AND JUST GENERALLY, WITHOUT GOING INTO THE DETAILS,
8 WHAT TYPE OF CRIME DID MISTI TELL YOU SHE HAD BEEN THE
9 VICTIM OF?

10 A A RAPE.

11 Q AND WAS SHE ABLE TO GIVE YOU ANY DETAILS REGARDING
12 HER ASSAILANT?

13 A YES, MA'AM.

14 Q WHAT WAS SHE ABLE TO TELL YOU?

15 A SHE ADVISED ME IT WAS A BLACK MALE, APPROXIMATELY SIX
16 FOOT, TWO HUNDRED POUNDS AND THAT HE WENT BY THE --- ALL
17 SHE KNEW HIM TO GO BY WAS THE FIRST NAME TONY.

18 Q WAS SHE ABLE TO GIVE YOU ANYTHING IN REGARDS TO THIS
19 PARTICULAR CAR THAT HE WAS DRIVING ON THAT DATE?

20 A YES, MA'AM. SHE STATED HE WAS IN A TEAL GREEN FOUR-
21 DOOR VEHICLE. SHE STATED IT WAS POSSIBLY A NEWER FORD
22 TAURUS THAT HAD TAN INTERIOR, AND SHE ALSO GAVE ME A
23 PARTIAL LICENSE PLATE OF

24 Q AND WHAT DID YOU DO WITH THE LICENSE PLATE NUMBER AND
25 THE VEHICLE DESCRIPTION?

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

113

1 A SHE STATED THE VEHICLE LEFT GOING TOWARDS NORTH
2 CAROLINA, SO I RADIOED MY DISPATCHER, ADVISED THEM TO PASS
3 IT ON TO NORTH CAROLINA, GASTON COUNTY, ALSO GAVE IT OUT
4 TO OTHER UNITS FROM YORK COUNTY, AND WE RAN THE LICENSE
5 PLATE WHICH CAME BACK NOT ON FILE IN SOUTH CAROLINA.

6 Q SO IT WASN'T A SOUTH CAROLINA TAG.

7 A CORRECT.

8 Q COULD'VE BEEN A NORTH CAROLINA TAG OR ANY OTHER
9 STATE, BUT IT WASN'T A TAG THAT WAS REGISTERED HERE IN
10 SOUTH CAROLINA?

11 A RIGHT.

12 Q AND YOU STATED THAT YOU RADIOED DISPATCH AND PUT OUT
13 IN ESSENCE WHAT'S KNOWN AS A BOLO TO BE ON THE LOOKOUT FOR
14 THIS CAR.

15 A YES, MA'AM.

16 Q AND DID YOU HAVE THE OCCASION TO TAKE A WRITTEN
17 STATEMENT FROM MISTI HILL AT ANY TIME?

18 A NO, MA'AM, NOT ON THE SCENE. SHE WAS TAKEN BY EMS TO
19 THE HOSPITAL.

20 Q YOU JUST BRIEFLY TOOK DOWN WHAT SHE TOLD YOU HAD
21 OCCURRED FOR THE PURPOSES OF INITIATING THE INVESTIGATION
22 OF KNOWING WHERE TO GO FROM THERE?

23 A YES, MA'AM.

24 Q AND DID SHE HAVE ANYTHING ON HER --- LET ME SHOW YOU
25 WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER 5 AND ASK YOU

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

114

1 ARE YOU FAMILIAR WITH THIS TYPE OF ENVELOPE? IS THIS A
2 SHERIFF'S OFFICE EVIDENCE COLLECTION ENVELOPE?

3 A YES, MA'AM.

4 Q AND DOES IT BEAR YOUR SIGNATURE?

5 A YES, MA'AM.

6 Q AND YOU'RE THE FIRST SIGNATURE ON THERE. CORRECT?

7 A CORRECT.

8 Q AND WHAT IS DESCRIBED AS THE ITEM IN HERE? WHAT
9 PIECE OF EVIDENCE DID YOU TAKE POSSESSION OF THAT DAY?

10 A A RED IN COLOR BANDANNA, PIECE OF CLOTH.

11 Q AND YOU WOULD'VE TURNED IT OVER TO JOHN WILLIAMS?

12 A YES, MA'AM.

13 Q AND MR. WILLIAMS ---

14 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WE WOULD
15 JUST MARK STATE'S EXHIBIT NUMBER 5 FOR I.D. ONLY.

16 THE COURT - OKAY.

17 (ITEM MARKED FOR IDENTIFICATION AT STATE'S
18 EXHIBIT NUMBER 5.)

19 Q YOU TURNED THAT OVER TO JOHN WILLIAMS WHO'S WITH THE
20 FORENSICS SERVICES UNIT.

21 A YES, MA'AM.

22 Q AND DID YOU COLLECT ANY OTHER EVIDENCE OUT THERE?

23 A NO, MA'AM, I DID NOT.

24 Q AND IT'S GENERALLY YOUR DUTY AS A FIRST RESPONDER TO
25 PROCESS THE SCENE FOR EVIDENCE AND DO THOSE TYPE THINGS.

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

115

- 1 A YES, MA'AM.
- 2 Q BUT IN THIS PARTICULAR CASE, FORENSICS SERVICES WERE
- 3 CALLED. WHY WERE THEY CALLED VERSUS HAVING YOU DO IT?
- 4 A WELL, IT WAS EARLY MORNING; IT WAS DAY SHIFT. THEY
- 5 WERE SIGNING ON. WE CALLED THEM TO LET THEM HANDLE IT
- 6 BECAUSE OF THE TYPE OF CRIME.
- 7 Q WERE YOU GETTING OFF SOON?
- 8 A NO, MA'AM, I JUST CAME TO WORK.
- 9 Q OKAY. YOU HAD JUST GOTTEN OFF?
- 10 A YES, MA'AM.
- 11 Q AND WAS --- DID THE RAPE OCCUR AT THE DIXIE DINER OR
- 12 AT A NEARBY LOCATION?
- 13 A IT WAS A NEARBY.
- 14 Q AND DID THE VICTIM EVER DIRECT YOU TO WHERE THAT WAS
- 15 NEARBY? DID SHE TAKE YOU OUT THERE OR GIVE YOU
- 16 DIRECTIONS?
- 17 A YES, MA'AM, I --- I BELIEVE SHE RODE IN THE AMBULANCE
- 18 AND TOOK US TO THE EXACT LOCATION.
- 19 Q SO THE EMS WORKERS ARRIVED; THEY START TAKING CARE OF
- 20 MISTI HILL, TREATING HER FOR WHATEVER INJURIES SHE MAY
- 21 HAVE.
- 22 A CORRECT.
- 23 Q AND YOU DETERMINED THAT BECAUSE IT DIDN'T HAPPEN
- 24 THERE YOU'RE GOING TO HAVE YOU TAKE YOU OUT THERE TO SEE
- 25 EXACTLY WHERE IT OCCURRED.

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

116

- 1 A YES, MA'AM.
- 2 MR. LEMEL - OBJECTION TO LEADING, YOUR HONOR.
- 3 THE COURT - YES, YOU ARE LEADING. JUST ---
- 4 MS. LIPINSKI - I'M SORRY, YOUR HONOR, ---
- 5 THE COURT - --- REPHRASE YOUR QUESTIONS.
- 6 MS. LIPINSKI - --- JUST TRYING TO MOVE HIM
- 7 ALONG.
- 8 Q AND WHEN SHE --- YOU SAID THAT SHE RODE IN THE
- 9 AMBULANCE.
- 10 A YES, MA'AM.
- 11 Q DID YOU FOLLOW HER IN THE PATROL CAR?
- 12 A YES, MA'AM.
- 13 Q AND AT THAT POINT ARE THERE ANY OTHER OFFICERS ON
- 14 SCENE ASSISTING YOU?
- 15 A I DON'T RECALL ANY AT THAT TIME.
- 16 Q SO YOU JUST FOLLOWED THE AMBULANCE OUT THERE, ALLOWED
- 17 HER TO DIRECT YOU TO WHERE THE CRIME OCCURRED?
- 18 A CORRECT.
- 19 Q DO YOU FOLLOW THE AMBULANCE TO PIEDMONT MEDICAL
- 20 CENTER?
- 21 A NO, MA'AM.
- 22 Q DO YOU REMAIN AT THE SCENE UNTIL FORENSICS SERVICES
- 23 ARRIVE?
- 24 A YES, MA'AM.
- 25 Q AND THAT'S AT WHAT POINT YOU GAVE THEM THE RED

SHANE CHILDERS - DIRECT BY MS. LIPINSKI

117

1 BANDANNA?

2 A YES, MA'AM.

3 Q AND WHAT DID SHE --- IN YOUR REPORT WHAT DO YOU
4 DOCUMENT THAT SHE TOLD YOU WHERE IT HAPPENED? WAS SHE
5 ABLE TO PROVIDE YOU A BUSINESS OR A CHURCH OR SOMETHING OF
6 THAT NATURE?

7 A YES, MA'AM. SHE STATED IT HAPPENED IN THE WEEPING
8 MARY BAPTIST CHURCH PARKING LOT, WHICH ACTUALLY, I
9 BELIEVE, ONCE WE GOT TO THE SCENE IT WAS IN THE GRAVEYARD.

10 Q AND DID SHE INDICATE TO YOU HOW SHE GOT FROM WEEPING
11 MARY BAPTIST CHURCH TO THE DIXIE DINER WHERE YOU MET UP
12 WITH HER?

13 A SHE STATED SHE RAN THROUGH THE --- THROUGH THE FIELD.

14 Q AND DO YOU REMEMBER HOW CLOSE THE CHURCH IS TO THE
15 DIXIE DINER? IS IT EASILY WITHIN WALKING DISTANCE OR NOT?

16 A YES, MA'AM.

17 Q AND WHAT DID SHE TELL YOU ABOUT THE NATURE OF HER
18 ASSAULT?

19 A I'M SORRY.

20 Q WHAT DID SHE TELL YOU ABOUT WHAT HAD HAPPENED TO HER?

21 A SHE STATED THAT ONCE THEY GOT TO THE CHURCH HE
22 STARTED DEMANDING SEXUAL ACTS WHICH SHE DID NOT WANT TO DO
23 AND HE BEGAN TO HIT HER IN THE HEAD WHICH SHE SAID SHE WAS
24 HIT SEVERAL TIMES IN THE HEAD WITH A CLOSED FIST AND ALSO
25 SHE WAS KICKED IN THE BACK.

SHANE CHILDERS - CROSS BY MR. LEMEL

118

1 Q AND DID SHE INDICATE WHERE SHE HAD MET UP WITH THE
2 DEFENDANT?

3 A YES, MA'AM. SHE STATED SHE WAS WAITING ON A TAXI AT
4 A CONVENIENCE STORE IN BESSEMER CITY WHEN HE OFFERED TO
5 GIVE HER A RIDE TO HER RESIDENCE.

6 Q AND ON THE SECOND PAGE OF YOUR REPORT YOU INDICATE
7 THAT A RAPE KIT WAS CONDUCTED AT PIEDMONT MEDICAL CENTER.
8 WERE YOU PRESENT FOR THAT?

9 A NO, MA'AM.

10 Q THAT WAS JUST SOMETHING YOU LEARNED THROUGH YOUR
11 PARTICIPATION IN THE INVESTIGATION?

12 A YES, MA'AM.

13 MS. LIPINSKI - WE HAVE NOTHING FURTHER OF
14 OFFICER CHILDERS.

15 CROSS EXAMINATION

16 BY MR. LEMEL -

17 Q OFFICER CHILDERS, BACK IN MAY OF 2007 YOU WERE
18 WORKING WITH THE YORK COUNTY SHERIFF'S DEPARTMENT?

19 A YES, SIR.

20 Q AND AT THAT TIME YOU WERE ASSIGNED TO WHAT WE CALL
21 THE PATROL DIVISION?

22 A YES.

23 Q NOW, THE PATROL DIVISION IS THE UNIFORMED OFFICERS OF
24 THE YORK COUNTY SHERIFF'S DEPARTMENT. CORRECT?

25 A YES, SIR.

SHANE CHILDERS - CROSS BY MR. LEMEL

119

1 Q THOSE ARE THE GUYS WE SEE RIDING AROUND IN THE CARS
2 NOW THAT ARE BROWN WITH THE BIG DECALS DOWN THE SIDE?

3 A CORRECT.

4 Q BIG LIGHT BAR ON TOP?

5 A (INDICATING YES)

6 Q AND I'M GOING TO ASK IF YOU CAN ANSWER ME YES OR NO
7 JUST SO THE COURT REPORTER CAN HEAR.

8 A OKAY.

9 Q AND WHEN YOU SAY UH-HUH, HUH-UH, IT TENDS TO GET LOST
10 IN THE RECORD.

11 A OKAY.

12 Q SO THEY'RE THE ONES THAT HAVE THE LIGHT BARS ON THE
13 TOP.

14 A YES, SIR.

15 Q AND USUALLY A PATROL OFFICER IS DRESSED SIMILAR TO
16 WHAT WE SAW SERGEANT CORNWELL IN EARLIER TODAY?

17 A YES, SIR.

18 Q DID YOU SEE SERGEANT CORNWELL?

19 A I DIDN'T SEE HIM.

20 Q BUT USUALLY A PATROL OFFICER FOR THE SHERIFF'S
21 DEPARTMENT THEY'RE GOING TO BE DRESSED IN THE SORT OF
22 BROWN UNIFORM?

23 A YES, SIR.

24 Q WITH THE BADGE?

25 A YES, SIR.

SHANE CHILDERS - CROSS BY MR. LEMEL

120

1 Q THE BIG SAND BROWN BELT?

2 A YES, SIR.

3 Q WITH THE GUN ---

4 A YES, SIR.

5 Q --- AND ALL THE OTHER ACCOUTREMENTS THAT GO ALONG ON
6 THAT BELT?

7 A YES, SIR.

8 Q NO QUESTION WHO A PATROL OFFICER IS?

9 A CORRECT.

10 Q WHICH IS A LITTLE BIT DIFFERENT THAN SAY A DETECTIVE
11 WHO MIGHT BE IN PLAIN CLOTHES.

12 A CORRECT.

13 Q OKAY. BUT AS A PATROL OFFICER YOUR PRIMARY DUTY IS
14 TO RESPOND TO CALLS OF SERVICE.

15 A CORRECT.

16 Q WHICH MEANS IF SOMEBODY DIALS 9-1-1 IT'S USUALLY THE
17 PATROL THAT'S DISPATCHED OUT TO A PARTICULAR LOCATION.

18 A YES.

19 Q AND YOU CAN ALSO INITIATE THINGS IF YOU HAPPEN TO SEE
20 SOMETHING RIGHT IN FRONT OF YOU.

21 A YES, SIR.

22 Q BUT MOST OF THE TIME YOU'RE RESPONDING TO SOMEBODY
23 ELSE CALLING IN FOR HELP OR TO REPORT SOMETHING.

24 A CORRECT.

25 Q AND IN THAT CAPACITY YOU AS A PATROL OFFICER ARE WHAT

SHANE CHILDERS - CROSS BY MR. LEMEL

121

1 IS KNOWN AS A FIRST RESPONDER.

2 A YES.

3 Q BECAUSE TYPICALLY YOU'RE ONE OF THE FIRST ONES ON
4 SCENE.

5 A YES.

6 Q AND AS A FIRST RESPONDER YOU HAVE CERTAIN DUTIES.
7 CORRECT?

8 A YES.

9 Q AND IN SOME CASES YOU AS A PATROL OFFICER YOU HANDLE
10 THE ENTIRE CASE.

11 A SOME CASES.

12 Q SAY SOMEBODY'S COMPLAINING ABOUT, YOU KNOW, A SIMPLE
13 ASSAULT, FOR EXAMPLE, YOU MIGHT HANDLE THAT ENTIRE CASE
14 AND NOT INVOLVE ANY OTHER OFFICERS, BASICALLY.

15 A CORRECT.

16 Q MIGHT GO FROM THE INITIAL --- THE INITIAL REPORT,
17 QUICK INVESTIGATION AND EVEN MAKE AN ARREST THERE ON THE
18 SCENE POSSIBLY.

19 A POSSIBLY.

20 Q IN SOME CASES YOU AS A FIRST RESPONDER ARE JUST
21 SETTING THE TABLE FOR OTHER OFFICERS TO COME IN AND DO
22 ADDITIONAL WORK.

23 A YES.

24 Q AND IN THAT CAPACITY YOU AGAIN HAVE CERTAIN SPECIFIC
25 THINGS THAT YOU'RE SUPPOSED TO DO.

SHANE CHILDERS - CROSS BY MR. LEMEL

122

1 A YES.

2 Q AND IT'S IMPORTANT THAT YOU AS A FIRST RESPONDER DO
3 THESE THINGS CORRECTLY.

4 A YES.

5 Q THINGS LIKE PRESERVING EVIDENCE RIGHT THERE ON THE
6 SCENE.

7 A YES.

8 Q THINGS LIKE GETTING INITIAL DESCRIPTIONS.

9 A YES.

10 Q THINGS LIKE GETTING INITIAL IDENTIFICATIONS.

11 A YES.

12 Q AND ALL THESE THINGS ARE IMPORTANT SO YOU CAN PASS
13 THEM ON TO OTHER OFFICERS WHO WILL BE CONDUCTING A MORE
14 DETAILED INVESTIGATION.

15 A CORRECT.

16 Q BUT IT'S ALSO POSSIBLE THAT IF YOU GET SOMETHING
17 IMPORTANT AT THE VERY START IT MAY CAUSE A VERY QUICK
18 RESOLUTION OF A MORE COMPLICATED CASE.

19 A POSSIBLY.

20 Q OKAY. SO WHEN YOU'RE GETTING THIS INFORMATION AS A
21 FIRST RESPONDER, YOU'RE PAYING ATTENTION TO IT.

22 A CORRECT.

23 Q WHEN YOU DOCUMENT THE INFORMATION THAT YOU RECEIVE,
24 YOU WANT TO MAKE SURE THAT YOU DOCUMENT THAT COMPLETELY.

25 A CORRECT.

SHANE CHILDERS - CROSS BY MR. LEMEL

123

- 1 Q . AND ACCURATELY.
- 2 A CORRECT.
- 3 Q BECAUSE THE DOCUMENTATION THAT YOU --- THAT'S USUALLY
- 4 IN THE FORM OF THE INCIDENT REPORT THAT YOU'RE HOLDING
- 5 RIGHT THERE.
- 6 A YES, SIR.
- 7 Q AND YOU TYPED UP THAT INCIDENT REPORT?
- 8 A YES, SIR.
- 9 Q DID YOU DO IT ON THE COMPUTER THERE IN THE CAR?
- 10 A NO, SIR, IT WAS AT DISTRICT OFFICE IN CLOVER.
- 11 Q OKAY. SO INITIALLY YOU HAD SOME HANDWRITTEN NOTES OR
- 12 SOMETHING OF THAT NATURE THAT YOU TRANSCRIBED INTO THAT
- 13 REPORT?
- 14 A YES, SIR.
- 15 Q OKAY. SO YOU'VE BEEN TAKING THOSE NOTES AS YOU GOT
- 16 THE INFORMATION.
- 17 A YES, SIR.
- 18 Q OKAY. AND ACCURATELY TRANSCRIBING THEM FROM YOUR
- 19 WRITTEN NOTES INTO THAT REPORT.
- 20 A YES, SIR.
- 21 Q AND THAT REPORT, FOR EXAMPLE, IS GOING TO BE USED BY .
- 22 OTHER OFFICERS WHEN THEY'RE CONDUCTING THEIR
- 23 INVESTIGATION.
- 24 A YES, SIR.
- 25 Q WHEN A DETECTIVE, FOR EXAMPLE, GETS A CASE, HE ---

SHANE CHILDERS - CROSS BY MR. LEMEL

124

1 THE FIRST THING HE MAY LOOK AT IS YOUR INCIDENT REPORT.

2 A YES, SIR.

3 Q AND IT'S ALSO IMPORTANT BECAUSE SOMETIMES CASES SUCH

4 AS THIS ONE CAN TAKE ALMOST TWO YEARS TO GO TO COURT.

5 A CORRECT.

6 Q AND SUFFICE IT TO SAY THAT IT'S BEEN, YOU KNOW,

7 ALMOST TWO YEARS. YOU'VE BEEN INVOLVED IN HUNDREDS, IF

8 NOT THOUSANDS, OF OTHER CALLS FOR SERVICE IN THAT TIME.

9 A YES, SIR.

10 Q AND IT HELPS YOU TO HAVE AN INCIDENT REPORT TO

11 REFRESH YOUR RECOLLECTION OF WHAT WAS GOING ON IN A CASE.

12 A YES, SIR.

13 Q AND YOU YOURSELF ARE READING THAT INCIDENT REPORT TO

14 REMIND YOU EXACTLY WHAT YOU DID AND WHAT YOU HEARD AND

15 WHAT WAS SAID TO YOU.

16 A YES, SIR.

17 Q SO WHEN YOU'RE MAKING UP THAT INCIDENT REPORT, YOU'RE

18 DOING IT WITH THE IDEA OF ONE DAY DOWN THE ROAD I MAY BE

19 LOOKING AT THIS TO REFRESH MY MEMORY OF WHAT HAPPENED IN

20 A CASE.

21 A YES, SIR.

22 Q AND SO THAT'S THE REASON WHY IT'S IMPORTANT THAT IT

23 BE COMPLETE AND ACCURATE.

24 A YES, SIR.

25 Q YOU WOULDN'T JUST MAKE UP STUFF TO PUT IN THERE,

SHANE CHILDERS - CROSS BY MR. LEMEL

125

1 WOULD YOU?

2 A NO, SIR.

3 Q OKAY. SO YOU INDICATED THAT YOU TOOK THIS STATEMENT
4 FROM MS. HILL. RIGHT?

5 A YES.

6 Q SHE WAS TALKING AND YOU WERE BASICALLY TAKING NOTES
7 AS SHE WAS TALKING.

8 A YES.

9 Q SHE INDICATED TO YOU AT THAT POINT IN TIME THAT SHE
10 WAS WAITING ON A CAB ---

11 A YES.

12 Q --- AT A GAS STATION ---

13 A YES.

14 Q --- UP IN NORTH CAROLINA.

15 A YES.

16 Q THAT SHE INDICATED THAT DURING THAT PROCESS THAT A
17 BLACK MALE CAME UP TO HER AND OFFERED HER A RIDE.

18 A YES.

19 Q AT THAT POINT IN TIME SHE INDICATED SHE --- SHE
20 DIDN'T INDICATE SHE HAD ANY PRIOR RELATIONSHIP WITH THIS
21 BLACK MALE.

22 A NO, SHE DIDN'T.

23 Q OKAY. AND, IN FACT, THERE IS A PLACE FOR YOU TO PUT
24 ON YOUR INCIDENT REPORT THE RELATIONSHIP OF THE PARTIES
25 INVOLVED. CORRECT?

SHANE CHILDERS - CROSS BY MR. LEMEL

126

- 1 A YES.
- 2 Q AND WHAT DID YOU LIST DOWN AS THE RELATIONSHIP
- 3 BETWEEN MS. HILL AND THE SUBJECT IN THIS CASE, THE BLACK
- 4 MALE?
- 5 A A STRANGER.
- 6 Q OKAY. AND THAT WOULD'VE BEEN INFORMATION THAT SHE
- 7 WOULD'VE GIVEN YOU. RIGHT?
- 8 A CORRECT.
- 9 Q BUT SHE DID HAVE A NAME.
- 10 A SHE STATED THAT SHE KNEW HIS NAME AS TONY, THAT HE
- 11 KEPT SAYING HIS NAME WAS TONY.
- 12 Q OKAY. THAT THAT'S HOW SHE KNEW WHAT HIS NAME WAS,
- 13 AND HE KEPT SAYING IT WAS TONY.
- 14 A YES, SIR.
- 15 Q BUT THAT SHE DIDN'T KNOW TONY FROM BEFORE BECAUSE HE
- 16 WAS A STRANGER.
- 17 A THAT'S WHAT SHE TOLD ME, YES, SIR.
- 18 Q OKAY. YOU ALSO DOCUMENTED WITH HER ONE OF THE THINGS
- 19 THAT YOU DO IS ANY ITEMS THAT MIGHT BE INVOLVED IN THE
- 20 CASE. CORRECT?
- 21 A YES, SIR.
- 22 Q THAT WOULD INCLUDE THE BANDANNA THAT YOU COLLECTED.
- 23 A YES, SIR.
- 24 Q THAT SHE INDICATED HAD BEEN INVOLVED IN THIS ASSAULT.
- 25 A YES, SIR.

SHANE CHILDERS - CROSS BY MR. LEMEL

127

1 Q AND ALSO ASKED HER ABOUT ANY OTHER ITEMS THAT MAY
2 HAVE BEEN INVOLVED OR MAY BE RELEVANT TO THE CASE.

3 A YES.

4 Q AND SHE DID INDICATE TO YOU THAT THERE WAS ONE OTHER
5 ITEM SORT OF RELEVANT TO THE CASE. CORRECT?

6 A YES.

7 Q THAT ITEM WAS HER PURSE.

8 A CORRECT.

9 Q THAT SHE INDICATED WAS IN THE VEHICLE WHEN THE
10 VEHICLE DROVE OFF.

11 A CORRECT.

12 Q OKAY. AND YOU DOCUMENTED THAT.

13 A YES, SIR.

14 Q BECAUSE THAT'S ONE THING THAT PEOPLE ARE GOING TO BE
15 LOOKING FOR DOWN THE ROAD IS CAN WE FIND HER PURSE, IS IT
16 IN THE CAR. RIGHT?

17 A YES.

18 Q SHE DIDN'T MENTION ANY OTHER ITEMS AT THAT POINT IN
19 TIME.

20 A NOT THAT I RECALL.

21 Q AND IF SHE'D MENTIONED OTHER ITEMS YOU WOULD DOCUMENT
22 THAT.

23 A YES, SIR.

24 Q NOT JUST THE ITEMS BUT ALSO HOW MUCH THEY'RE WORTH,
25 FOR EXAMPLE.

SHANE CHILDERS - CROSS BY MR. LEMEL

128

- 1 A YES.
- 2 Q BECAUSE YOU PUT A VALUE ON THE PURSE OF FIFTEEN
- 3 DOLLARS.
- 4 A YES.
- 5 Q BECAUSE EVEN SMALL ITEMS CAN BE IMPORTANT IN A CASE
- 6 LIKE THIS.
- 7 A CORRECT.
- 8 Q CLOTHING.
- 9 A YES.
- 10 Q GLASSES.
- 11 A YES.
- 12 Q JEWELRY.
- 13 A YES.
- 14 Q FOOTWEAR.
- 15 A YES.
- 16 Q ANY LITTLE ITEM LIKE THAT YOU'RE LOOKING FOR BECAUSE
- 17 IT CAN BECOME IMPORTANT TO TRACK THINGS DOWN.
- 18 A CORRECT.
- 19 Q AND THE ONLY THING SHE TALKED ABOUT WAS THE PURSE.
- 20 A CORRECT.
- 21 Q OKAY. NOW, YOU INDICATED THAT AT THE TIME THAT YOU
- 22 WERE SPEAKING WITH HER THERE AT THE RESTAURANT THAT SHE
- 23 WAS ABLE TO IDENTIFY THE SITE OF THE ALLEGED ATTACK.
- 24 A THE AREA WHERE IT OCCURRED.
- 25 Q RIGHT. DID SHE INDICATE BY NAME THAT IT WAS AT THE

SHANE CHILDERS - CROSS BY MR. LEMEL

129

1 WEEPING MARY BAPTIST CHURCH?

2 A I DON'T RECALL --- I BELIEVE SHE KEPT SAYING IT WAS
3 AT THE --- IN THE GRAVEYARD AT THE CHURCH BEHIND THE
4 RESTAURANT.

5 Q OKAY. DO YOU REMEMBER WHETHER SHE NAMED THE CHURCH
6 OR NOT?

7 A I DON'T RECALL.

8 Q OKAY. BUT IT'S POSSIBLE SHE DIDN'T EVEN AT THAT
9 POINT IN TIME WAS ABLE TO NAME THE CHURCH.

10 A POSSIBLE.

11 Q OKAY. AND YOU INDICATED THAT SHE SAID THAT SHE'D RUN
12 THROUGH SOME FIELD TO GET TO THE SITE.

13 A YES, SIR.

14 Q AS YOU'RE TALKING WITH HER YOU'RE ALSO TRAINED TO
15 MAKE OBSERVATIONS OF HER. RIGHT?

16 A YES.

17 Q ONE OF WHICH YOU NOTICE THAT SHE WAS VERY EMOTIONAL
18 AT THAT POINT IN TIME.

19 A YES, SIR.

20 Q CRYING.

21 A YES, SIR.

22 Q SHAKING.

23 A YES, SIR.

24 Q AND YOU'D NEVER ENCOUNTERED HER OR SEEN HER BEFORE.

25 A NO, SIR.

SHANE CHILDERS - CROSS BY MR. LEMEL

130

1 Q OKAY. BUT YOU ALSO NOTICED AT THAT POINT IN TIME
2 THAT SHE HAD BEEN DRINKING.

3 A I DON'T RECALL.

4 Q OKAY. IS THERE NOT A LINE ON THERE THAT SAYS ---

5 A IT IS, BUT --- I CAN'T READ IT ON MINE.

6 Q OKAY. ALL RIGHT, WELL, THE COPIES UNFORTUNATELY
7 AREN'T REAL GOOD, BUT YOU'RE FAMILIAR WITH THESE REPORTS.
8 RIGHT?

9 A YES.

10 Q AND THE LINE THAT YOU'RE LOOKING AT IS A LINE THAT
11 TYPICALLY ASK A QUESTION, SUBJECT USING ALCOHOL.

12 A I CAN'T READ IT ON MY REPORT. I KNOW WHICH LINE IT
13 IS.

14 Q OKAY. BUT THERE'S AN X ON THAT LINE.

15 A CORRECT.

16 Q DO YOU REMEMBER WHETHER SHE WAS USING ALCOHOL THAT
17 NIGHT?

18 A I DO NOT RECALL.

19 Q OKAY. BUT YOU ALSO ON THAT SAME LINE, THERE'S AN
20 INDICATION FOR IF SOMEBODY IS USING DRUGS. RIGHT?

21 A CORRECT.

22 Q AND THERE IS AN INDICATION THERE THAT SHE WAS USING
23 DRUGS. RIGHT?

24 A CORRECT.

25 Q SPECIFICALLY THAT SHE HAD SMOKED CRACK COCAINE.

SHANE CHILDERS - CROSS BY MR. LEMEL

131

1 A CORRECT.

2 Q OKAY. AND THAT'S THE SAME LINE THAT THE QUESTION
3 ABOUT THE ALCOHOL WOULD BE ON, TOO.

4 A CORRECT.

5 Q YOU JUST CAN'T READ YOUR REPORT AT THIS POINT.

6 A RIGHT.

7 Q OKAY. YOU NOTICE ANY CLOTHING OF NOTE, FOR EXAMPLE?

8 A ON THE VICTIM?

9 Q YES.

10 A NO, SIR.

11 Q THE ITEM THAT SPECIFICALLY THAT YOU NOTICED WAS THE
12 BANDANNA.

13 A CORRECT.

14 Q BUT SHE INDICATED THAT WAS RELEVANT.

15 A YES.

16 Q AND YOU WOULD'VE LOOKED AT HER OTHER CLOTHES. YOU
17 WOULD'VE SEEN HER.

18 A YES, SIR, IT WAS A CHAOTIC SCENE WITH EMS AND PATRONS
19 AT THE RESTAURANT AND STUFF BUT ---

20 Q SURE. BUT YOU'RE THERE SPECIFICALLY TO TAKE THAT
21 FIRST RESPONDER REPORT. CORRECT?

22 A CORRECT.

23 Q AND WHEN YOU REALIZE AN ITEM MIGHT HAVE SOME
24 SIGNIFICANT YOU'RE GOING TO NOTE THAT LIKE YOU DID WITH
25 THE BANDANNA.

SHANE CHILDERS - RE-DIRECT BY MS. LIPINSKI

132

1 A CORRECT.

2 Q AND AT NO POINT IN TIME DO YOU NOTE ANYWHERE THAT SHE
3 HAD ANY TORN CLOTHING.

4 A NO, SIR.

5 Q STRETCHED CLOTHING.

6 A NO, SIR.

7 Q BLOODY CLOTHING.

8 A NO, SIR.

9 Q ANYTHING INDICATING THE PHYSICALITY (SIC) OF THE
10 ASSAULT ON HER CLOTHES.

11 A NO, SIR.

12 MR. LEMEL - BEGGING THE COURT'S INDULGENCE. NO
13 FURTHER QUESTIONS, YOUR HONOR.

14 MS. LIPINSKI - JUST BRIEFLY SOME RE-DIRECT.

15 RE-DIRECT EXAMINATION

16 BY MS. LIPINSKI -

17 Q YOU DON'T ACTUALLY TAKE A WRITTEN STATEMENT FROM
18 MISTI HILL. IS THAT CORRECT?

19 A NO, SIR. NO, MA'AM.

20 Q AND DO YOU REMEMBER IF YOUR CONVERSATION WITH HER ---
21 IS THAT A ONE-ON-ONE CONVERSATION OR YOU IN PART
22 OVERHEARING A CONVERSATION SHE WAS HAVING WITH THE
23 PARAMEDIC?

24 A IT WAS --- PARTIALLY BOTH. I WAS TRYING TO ASK
25 QUESTIONS. EMS WAS TRYING TO TAKE CARE OF HER. LIKE I

SHANE CHILDERS - RE-DIRECT BY MS. LIPINSKI

133

1 SAID, IT WAS CHAOTIC.

2 Q SO YOU DON'T EVER HAVE THE OPPORTUNITY TO GO BACK
3 WITH MISTI HILL AND ASK HER IF YOU GOT EVERYTHING CORRECT
4 AND ASK HER TO SIGN OFF ON IT OR ANYTHING LIKE THAT.

5 A NO, MA'AM.

6 Q AND AS TO YOUR REPORT WHERE YOU INDICATE STRANGER,
7 WAS THAT HER WORD, HE WAS A STRANGER TO ME, OR IS THAT
8 YOUR CHARACTERIZATION OF WHAT SHE TOLD YOU? DO YOU RECALL
9 EVEN?

10 A THERE'S SEVERAL --- FOR THAT PARTICULAR BLOCK ON THE
11 REPORT THERE'S SEVERAL WAYS TO LIST AN INDIVIDUAL AND THAT
12 WAS ONE OF THEM. SHE STATED TO ME THAT SHE DID NOT KNOW
13 HIM.

14 Q DID NOT KNOW HIM. WHAT ARE THE OTHER OPTIONS THAT IT
15 COULD'VE BEEN?

16 A SIBLING, PARENT ---

17 Q BOYFRIEND ---

18 A --- ACQUAINTANCE. YES, MA'AM.

19 Q SO YOU'RE REALLY PICKING ONE OF THOSE OPTIONS.

20 A CORRECT.

21 Q AND AS TO THE FIFTEEN DOLLARS YOU GIVE TO THE VALUE
22 OF THE PURSE, IS THAT BECAUSE SHE SAYS THERE'S FIFTEEN
23 DOLLARS IN IT WHEN SHE LEFT IT IN THE VEHICLE OR IS THAT
24 JUST THE VALUE OF HER PURSE?

25 A I BELIEVE THAT WAS THE VALUE OF THE PURSE.

SHANE CHILDERS - RE-DIRECT BY MS. LIPINSKI

134

1 Q AND YOU THEN GO ON TO SAY THE INVENTORY OF THE PURSE
2 IS INCOMPLETE AT THIS TIME.

3 A CORRECT.

4 Q WHY IS THAT?

5 A I TRIED TO ASK HER WHAT ALL WAS IN THE PURSE. SHE
6 WAS UPSET. I COULDN'T GAIN ANY INFORMATION ON WHAT WAS
7 INSIDE THE PURSE.

8 Q BECAUSE SHE WAS UPSET.

9 A CORRECT.

10 Q HAVE YOU EVER HAD THE OCCASION IN YOUR INVESTIGATION
11 WHERE INITIALLY BECAUSE A VICTIM IS UPSET WHEN YOU TRY AND
12 GET THAT INITIAL INFORMATION FROM HER, YOU GOT BACK OR
13 ANOTHER OFFICER GOES BACK AND TALKS TO THEM AGAIN ONCE
14 THEY'VE HAD THE OPPORTUNITY TO CALM DOWN?

15 A YES, MA'AM.

16 Q AND DID YOU NOTICE THE BANDANNA AND ASK FOR IT OR DID
17 THE VICTIM OFFER IT TO YOU AND TELL YOU IT WAS SIGNIFICANT
18 IN SOME WAY?

19 A YES, MA'AM. AS SOON AS I WALKED --- AS SOON AS I
20 WALKED INTO THE RESTAURANT TO WHERE SHE WAS AT SHE ALMOST
21 KIND OF TOSSED IT TO ME.

22 Q AND DID SHE TELL YOU ANYTHING SIGNIFICANT ABOUT WHY
23 SHE WAS GIVING YOU THE BANDANNA?

24 A YES, MA'AM, SHE STATED THAT IT HAD HIS SEMEN ON IT.

25 Q SO YOU DON'T TAKE HER CLOTHES OFF OF HER AT THAT TIME

SHANE CHILDERS - RE-DIRECT BY MS. LIPINSKI

135

1 OR ANYTHING LIKE THAT.

2 A NO, MA'AM.

3 Q SO THE ONLY REASON YOU REALLY CONNECTED THE BANDANNA
4 WAS SHE OFFERED IT TO YOU?

5 A CORRECT.

6 Q AND MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT SOME
7 BOXES THAT ARE CHECKED UNDER MISTI HILL'S NAME. THERE'S
8 SOME ACTUAL SIMILAR BOXES CHECKED UNDER THE SUSPECT'S
9 DESCRIPTION. CORRECT?

10 A CORRECT.

11 Q AND DOES IT ALSO INDICATE BASED ON YOUR INITIAL FACT-
12 FINDING THAT HE WAS UNDER THE INFLUENCE OF ALCOHOL AND
13 COCAINE OR THAT THOSE SIMILAR BOXES ARE CHECKED?

14 A THE BOX FOR CRACK COCAINE WAS CHECKED AND I CAN'T
15 READ THE ONE FOR THE ALCOHOL.

16 Q AND MR. LEMEL STATED THAT SHE COULD'VE GIVEN YOU THE
17 WEEPING --- THE NAME OF WEEPING MARY BAPTIST CHURCH BUT
18 SHE COULD'VE ALSO NOT GIVEN YOU THAT NAME.

19 A CORRECT. IF I RECALL CORRECTLY, SHE JUST KEPT
20 STATING THE CHURCH.

21 Q SHE WASN'T ACTUALLY EVEN ABLE TO --- WAS SHE ABLE TO
22 GIVE YOU DIRECTIONS OR DID YOU ACTUALLY HAVE TO FOLLOW HER
23 OUT THERE IN THE AMBULANCE TO FIND OUT WHERE IT HAPPENED?

24 A SHE WAS POINTING BEHIND THE RESTAURANT, BUT I
25 FOLLOWED HER --- FOLLOWED THE AMBULANCE.

SHANE CHILDERS - RE-CROSS BY MR. LEMEL

136

1 Q AND DOES THE CHURCH, IF YOU RECALL, BUTT UP AGAINST
2 THE DIXIE DINER OR DOES IT SET BACK A LITTLE?

3 A IT SITS BEHIND THE DIXIE DINER.

4 MS. LIPINSKI - THAT'S ALL WE HAVE ON RE-DIRECT,
5 YOUR HONOR.

6 RE-CROSS EXAMINATION

7 BY MR. LEMEL -

8 Q JUST A BRIEF --- I WANT TO CLARIFY THE QUESTION OF
9 THE RELATIONSHIP BETWEEN THE SUBJECTS. OKAY? AS I
10 UNDERSTAND IT, WHEN YOU TYPE THIS UP ON THE COMPUTER IT
11 GIVES YOU A NUMBER OF DIFFERENT OPTIONS THAT YOU CAN PUT
12 IN THAT PARTICULAR BOX. CORRECT?

13 A CORRECT.

14 Q ONE OF THOSE OPTIONS IS ACQUAINTANCE. RIGHT?

15 A CORRECT.

16 Q INDICATING SOMEBODY THAT THEY HAVE SOME FAMILIARITY
17 WITH BUT MIGHT NOT KNOW VERY CLOSELY.

18 A CORRECT.

19 Q NOT A FRIEND.

20 A CORRECT.

21 Q OKAY. BUT THAT'S NOT WHAT SHE INDICATED TO YOU THAT
22 DAY.

23 A NO, SIR.

24 Q SHE INDICATED STRANGER.

25 A THAT'S WHAT --- THAT'S THE BOX I CHECKED. SHE

KELLY CLEARY - DIRECT BY MR. MAINES

137

1 INDICATED TO ME THAT SHE DID NOT KNOW HIM.

2 Q OKAY. WHICH IS --- THAT'S A STRANG --- I MEAN SHE
3 DIDN'T USE THE WORD STRANGER, BUT WHEN SOMEBODY SAYS SHE
4 DID NOT KNOW HIM ---

5 A YES.

6 Q STRANGER. WHICH IS MUCH DIFFERENT THAN ACQUAINTANCE.

7 A YES..

8 MR. LEMEL - OKAY. NOTHING FURTHER, YOUR HONOR.

9 THE COURT - ALL RIGHT. YOU CAN STEP DOWN AND BE
10 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU VERY MUCH.
11 CALL YOUR NEXT WITNESS.

12 MS. LIPINSKI - YOUR HONOR, MR. MAINES IS GOING
13 TO GO GET KELLY CLEARY. SHE'S JUST IN A ROOM OUTSIDE THE
14 COURTROOM.

15 KELLY CLEARY, AFTER BEING FIRST DULY SWORN,
16 TESTIFIES AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. MAINES -

19 Q MS. CLEARY, CAN YOU PLEASE GIVE US YOUR FULL NAME?

20 A KELLY STILES CLEARY.

21 Q OKAY. AND WHERE ARE YOU CURRENTLY EMPLOYED?

22 A CURRENTLY I WORK FULL-TIME FOR REGIONAL ONE AIR
23 MEDICAL SERVICE IN SPARTANBURG, SOUTH CAROLINA, AND I'M
24 ALSO EMPLOYED PART-TIME WITH PIEDMONT MEDICAL CENTER EMS.

25 Q OKAY. AND WERE YOU WORKING WITH EMS ON MAY 3RD,

KELLY CLEARY - DIRECT BY MR. MAINES

138

1 2007?

2 A YES.

3 Q AND HOW LONG HAD YOU BEEN WITH THE EMS ON MAY 3RD,
4 2007?

5 A WITH PIEDMONT I HAD BEEN THERE JUST A COUPLE OF
6 MONTHS.

7 Q SO YOU WERE --- WERE YOU RELATIVELY NEW?

8 A NOT NEW TO EMS. I WAS NEW TO PIEDMONT MEDICAL CENTER
9 EMS.

10 Q OKAY. HOW LONG HAVE YOU BEEN DOING EMS?

11 A FIFTEEN YEARS.

12 Q OKAY. NOW, DO YOU REMEMBER RESPONDING TO THE CALL
13 AT THE DIXIE DINER OFF HIGHWAY 321 IN YORK COUNTY?

14 A YES, I DO.

15 Q AND DO YOU REMEMBER APPROXIMATELY WHAT TIME THAT WAS?

16 A APPROXIMATELY --- I CAN LOOK HERE AND TELL YOU
17 EXACTLY. IT WAS AT ---

18 Q WELL, LET'S TELL THE JURY WHAT YOU'RE LOOKING AT.
19 WHAT ARE YOU LOOKING AT?

20 A I AM LOOKING AT THE PATIENT CARE REPORT THAT I FILLED
21 OUT THE DAY THE INCIDENT OCCURRED.

22 Q IS THIS THE SAME REPORT?

23 A YES. AND WE RECEIVED THE CALL AT 6:36 A.M.

24 Q AND DOES THIS REPORT INDICATE WHAT TIME YOU ARRIVED
25 AT THE DIXIE DINER?

KELLY CLEARY - DIRECT BY MR. MAINES

139

1 A YES, IT DOES. WE ARRIVED AT 6:52 A.M.

2 Q OKAY. DID YOU RESPOND TO A LOT OF CALLS THAT SAME
3 DAY?

4 A ACTUALLY I HAD WORKED THAT NIGHT, SO I WAS GETTING
5 OFF THAT MORNING AT 8:00 A.M.

6 Q OKAY. WAS THIS CALL MEMORABLE IN SOME WAY?

7 A YES, IT WAS. DUE TO THE FACT THAT I WAS NEW AT
8 PIEDMONT EMS --- WHEN YOU COME INTO A NEW AGENCY THERE ARE
9 NEW PROTOCOLS, NEW EQUIPMENT. YOU HAVE TO LEARN ALL THE
10 NEW RULES AND YOU HAVE TO RIDE AS A THIRD PERSON BEFORE
11 YOU'RE RELEASED TO RIDE WITH JUST YOUR PARTNER ON AN
12 AMBULANCE AND THE DAY THAT THIS CALL OCCURRED WAS THE
13 FIRST DAY I HAD BEEN RELEASED AND WAS RIDING WITH MY
14 PARTNER WHICH IS WHY IT WAS MEMORABLE TO ME AND ALSO AFTER
15 READING THE CALL REPORT IT BROUGHT BACK.

16 Q OKAY. AND DO YOU REMEMBER MEETING MISTI HILL AT THE
17 DIXIE DINER?

18 A YES.

19 Q AND WHEN YOU FIRST MET WITH HER, WERE YOU A FIRST
20 MEDICAL RESPONDER?

21 A YES.

22 Q AND WHEN YOU FIRST MET HER, DID SHE APPEAR TO BE
23 UNDER THE INFLUENCE OF ANY ALCOHOL OR DRUGS?

24 A SHE DID NOT EXHIBIT WHAT --- THE SIGNS THAT WE WOULD
25 RECOGNIZE SUCH AS SLURRED SPEECH OR HAVING A STAGGERED

KELLY CLEARY - DIRECT BY MR. MAINES

140

1 GAIT.

2 Q ARE YOU TRAINED TO LOOK FOR THOSE TYPES OF THINGS?

3 A YES, WE ARE.

4 Q ARE THOSE THINGS IMPORTANT IN RESPONDING TO A
5 EMERGENCY MEDICAL SITUATION?

6 A YES, SIR, THEY ARE.

7 Q CAN YOU DESCRIBE HER APPEARANCE? DO YOU REMEMBER
8 WHAT SHE LOOKED LIKE?

9 A WE FOUND HER SEATED IN A CHAIR. SHE APPEARED TO BE
10 UPSET. SHE HAD SOME MAKEUP THAT HAD OBVIOUSLY RAN FROM
11 WHAT APPEARED TO BE --- SHE'D BEEN CRYING.

12 Q OKAY. DO YOU REMEMBER ANY BRUISING OR ANYTHING OF
13 THAT NATURE ON HER PERSON?

14 A YES. AS I ASSESSED HER SHE HAD --- AND I'M GOING TO
15 REFER ---

16 Q TO YOUR REPORT? THAT'S FINE.

17 A --- TO THE REPORT.

18 Q IF THAT HELPS YOU ---

19 A SHE HAD SOME BRUISING ON THE RIGHT SIDE OF HER NECK
20 AND ALSO --- SHE HAD ABRASIONS TO THE RIGHT SIDE OF THE
21 BACK AREA, RIGHT SIDE OF HER BACK.

22 Q AND CAN YOU SHOW THE JURY WHERE THAT WOULD BE ON HER?

23 A (WITNESS COMPLIES)

24 Q RIGHT THERE ON THE LOWER PORTION OF HER BACK?

25 A (INDICATING YES) ON THE LOWER PORTION OF THE RIGHT

KELLY CLEARY - DIRECT BY MR. MAINES

141

1 SIDE OF THE BACK.

2 Q OKAY. DID SHE DESCRIBE ANY KIND OF PAIN TO YOU?

3 A SHE COMPLAINED OF PAIN IN THAT AREA, AND SHE
4 COMPLAINED OF PAIN IN HER RIGHT EAR. SHE ALSO COMPLAINED
5 OF DECREASED HEARING IN THE RIGHT EAR AND PAIN IN THE BACK
6 AREA.

7 Q DID SHE COMPLAIN OF ANY PAIN IN HER EAR?

8 A SHE MAINLY COMPLAINED OF DECREASED HEARING IN THE
9 EAR.

10 Q OKAY. DID SHE COMPLAIN OF ANY PROBLEMS WITH HER
11 VISION?

12 A SHE DID. SHE COMPLAINED OF HAVING BLURRY VISION.

13 Q WHAT KINDS OF EVENTS COULD CAUSE A PERSON TO HAVE
14 IMPAIRATORY VISION?

15 A IT COULD BE A NUMBER OF THINGS. YOU KNOW, I DON'T
16 FEEL LIKE I'M REALLY ---

17 Q THAT'S FINE IF YOU DON'T FEEL COMFORTABLE. AND YOU
18 TESTIFIED EARLIER THAT YOU ARRIVED AT DIXIE DINER IN AN
19 AMBULANCE.

20 A YES.

21 Q DID YOU PUT MISTI HILL INTO THE AMBULANCE?

22 A YES, WE DID.

23 Q DID YOU TAKE HER ANYWHERE IN THAT AMBULANCE BEFORE
24 GOING TO THE HOSPITAL?

25 A YES, WE DID. BASED ON HER CONVERSATION WITH THE LAW

KELLY CLEARY - DIRECT BY MR. MAINES

142

1 ENFORCEMENT OFFICER THAT WAS PRESENT, SHE HAD DESCRIBED
2 SOME EVENTS THAT TOOK PLACE AT ANOTHER LOCATION WHICH WAS
3 AT A CHURCH WHICH WAS JUST BEHIND THE DIXIE DINER, AND LAW
4 ENFORCEMENT ASKED IF SHE AT THAT MOMENT COULD POSSIBLY
5 SHOW HIM EXACTLY WHERE EVENTS TOOK PLACE AND SHE ADVISED
6 THAT SHE COULD AND HE ASKED IF WE WOULD MIND DRIVING HER
7 AROUND SO THAT SHE COULD PICK THOSE AREAS OUT, WHICH WE
8 DID.

9 Q OKAY. AND HOW FAR AWAY IS THE CHURCH FROM THE DIXIE
10 DINER? DO YOU RECALL?

11 A I CAN'T GIVE YOU A MEASUREMENT. I CAN TELL YOU IT
12 TOOK US LESS THAN A MINUTE OR A MINUTE AND A HALF AT THE
13 MOST TO PULL OUT OF THE DIXIE DINER, DOWN THE STREET AND
14 THEN BACK INTO THE ROAD THAT LED BACK TO THE CHURCH.

15 Q OKAY. AND WHEN YOU GOT TO THE CHURCH, WHERE
16 SPECIFICALLY DID YOU GO?

17 A WE WENT TO A GRAVEL PARKING LOT THAT'S ADJACENT TO A
18 GRAVEYARD.

19 Q AND WHEN YOU GOT TO THE GRAVEYARD, WHAT DID YOU DO?

20 A WE ESCORTED MS. HILL OUT OF THE AMBULANCE AND THEN
21 SHE TALKED WITH THE LAW ENFORCEMENT OFFICER.

22 Q OKAY. DID SHE INDICATE TO YOU WHERE THE ASSAULT SHE
23 COMPLAINED OF HAPPENED?

24 A SHE JUST STATED IN THE PARKING LOT AREA.

25 Q OKAY. DID MS. HILL EVER INDICATE TO YOU THAT SHE

KELLY CLEARY - CROSS BY MR. LEMEL

143

1 WENT WITH THE DEFENDANT TO PURCHASE CRACK COCAINE?

2 A SHE STATED --- I WROTE DOWN THAT SHE STATES THAT THEY
3 HAD BEEN RIDING AROUND AND THAT THEY HAD SMOKED CRACK IN
4 BESSEMER CITY ---

5 Q OKAY.

6 A --- WAS WHAT SHE STATED.

7 MR. MAINES - THAT'S ALL THE QUESTIONS I HAVE.

8 PLEASE ANSWER ANY QUESTIONS OF MR. LEMEL.

9 MS. CLEARY - YES, SIR.

10 CROSS EXAMINATION

11 BY MR. LEMEL

12 Q GOOD MORNING, MS. CLEARY.

13 A HELLO.

14 Q NOW, IN YOUR CAPACITY --- AM I CORRECT IN CALLING YOU
15 AN EMT?

16 A PARAMEDIC.

17 Q PARAMEDIC.

18 A YES, SIR.

19 Q I WANT TO MAKE SURE I HAVE MY NAMES RIGHT. IN YOUR
20 CAPACITY AS A PARAMEDIC WORKING FOR PMC THEY GAVE YOU
21 THESE FORMS TO FILL OUT. CORRECT?

22 A YES, SIR. WE CARRY THESE ON THE AMBULANCE TO FILL
23 OUT, YES, SIR.

24 Q AND YOU'RE TRAINED IN HOW TO FILL THESE FORMS OUT.

25 A YES, SIR.

KELLY CLEARY - CROSS BY MR. LEMEL

144

1 Q AND YOU'RE TRAINED TO DO THAT IN A CERTAIN WAY.

2 A YES, SIR.

3 Q BECAUSE THESE FORMS --- YOU TYPICALLY DON'T USE THEM

4 TO HAVE TO COME TO COURT TO TESTIFY. RIGHT?

5 A THAT IS TRUE.

6 Q BUT THEY ARE USED FURTHER ON DOWN THE LINE, FOR

7 EXAMPLE, TO CHECK YOUR WORK.

8 A THEY ARE AND THEY ARE ALSO PLACED AS A PERMANENT PART

9 OF A PATIENT'S MEDICAL RECORD.

10 Q OKAY. HADN'T GOTTEN THERE YET. BUT FOR BOTH THOSE

11 REASONS THEY ARE IMPORTANT.

12 A YES.

13 Q ONE, IT'S THE WAY YOUR BOSS REVIEWS YOUR ACTIVITY TO

14 MAKE SURE YOU'RE DOING YOUR JOB RIGHT.

15 A YES.

16 Q SO YOU WANT TO MAKE SURE YOU'RE FILLING IT OUT RIGHT

17 FOR THEM. AND, TWO, IT'S IMPORTANT BECAUSE IT MAY IMPACT

18 THE WAY A PATIENT IS TREATED LATER ON DOWN THE LINE

19 MEDICALLY. RIGHT?

20 A I DON'T --- I DON'T KNOW THAT IT WOULD IMPACT IT, BUT

21 THEY DEFINITELY MAY REFER TO IT TO FIND OUT INITIAL

22 ASSESSMENT AND TREATMENT OF A PATIENT.

23 Q BECAUSE YOU CAN GET INFORMATION INITIALLY THAT MAY

24 HAVE AN IMPACT ON WHAT, FOR INSTANCE, THEY DO IN THE

25 EMERGENCY ROOM, FOR EXAMPLE.

KELLY CLEARY - CROSS BY MR. LEMEL

145

1 A TRUE.

2 Q PARTICULARLY WITH REGARD TO INTERACTION WITH
3 MEDICATIONS, DRUGS. RIGHT?

4 A TRUE.

5 Q WHAT DRUGS YOU FIND RELEVANT ON THE SCENE CAN BE VERY
6 RELEVANT TO THE EMERGENCY ROOM DOCTOR IN TERMS OF WHAT
7 MEDICATION THEY'RE GOING TO BE GIVING SOMEBODY.

8 A YES.

9 Q OKAY. SO IT'S PARTICULARLY IMPORTANT THAT YOU
10 DOCUMENT THAT SORT OF THING.

11 A YES.

12 Q OKAY. NOW, IN THIS PARTICULAR CASE YOU WERE ASKED
13 WHETHER MS. HILL EXHIBITED THE SIGNS OF INTOXICATION.
14 RIGHT?

15 A RIGHT.

16 Q AND THE SIGNS THAT YOU SAID AT THAT POINT IN TIME YOU
17 ONLY INDICATE TO ARE SLURRED SPEECH AND A STAGGERING GAIT.
18 RIGHT?

19 A RIGHT.

20 Q NOW, THERE ARE OTHER SIGNS THAT CAN BE RELATED TO
21 INTOXICATION AS WELL. CORRECT?

22 A CORRECT.

23 Q OKAY. ONE OF THOSE, FOR EXAMPLE, COULD BE BLOOD-
24 SHOT, GLASSY EYES.

25 A TRUE.

KELLY CLEARY - CROSS BY MR. LEMEL

146

1 Q BUT IT'S VERY DIFFICULT TO TELL THAT FROM SOMEBODY
2 WHO'S CRYING.

3 A TRUE.

4 Q SO IF SHE'D EXHIBITED THAT SIGN, THERE WOULD'VE BEEN
5 NO WAY YOU COULD'VE THOUGHT THAT WAS RELATED TO SOMETHING
6 ELSE OR JUST FROM THE CRYING.

7 A TRUE.

8 Q AT THE TIME THAT YOU FIRST ENCOUNTERED HER, SHE WAS
9 SEATED.

10 A YES.

11 Q SHE MOVED WITH YOU INTO THE GURNEY, I ASSUME, THAT
12 YOU PUT HER IN.

13 A YES.

14 Q SHE DIDN'T HAVE TO WALK VERY FAR FOR HER TO DO THAT,
15 DID SHE?

16 A NOT AT THAT POINT, BUT SHE DID WALK ON HER OWN ONCE
17 WE DROVE AROUND TO THE CHURCH PARKING LOT.

18 Q RIGHT. BUT YOU WERE THERE WITH HER. YOU WEREN'T
19 JUST LETTING HER WANDER AROUND ALONE AT THAT POINT IN
20 TIME.

21 A I MEAN I WASN'T HOLDING ON TO HER, BUT, YES, I WAS
22 DEFINITELY THERE.

23 Q ALL RIGHT. OTHER THINGS, CONFUSED MEMORY MAY BE AN
24 EXAMPLE OF INTOXICATION.

25 A COULD BE.

KELLY CLEARY - CROSS BY MR. LEMEL

147

1 Q AND JUST THE FACT THAT SOMEBODY ADMITS THAT THEY'VE
2 TAKEN SOME SORT OF INTOXICATION ELEMENT.

3 A THAT IS TRUE.

4 Q WHICH SHE IN THIS CASE ADMITTED TO YOU THAT SHE'D
5 BEEN SMOKING CRACK COCAINE RECENTLY.

6 A THAT IS THE --- YES, SIR, THAT IS THE ONE THING SHE
7 ADMIT TO.

8 Q RIGHT. DID YOU NOTICE ABOUT THE ALCOHOL AND ODOR OF
9 ALCOHOL OR ANYTHING LIKE THAT ABOUT HER?

10 A NO, SIR.

11 Q OKAY. WHEN --- BUT YOU WOULD AGREE WITH ME THAT
12 CERTAINLY CRACK COCAINE IS AN INTOXICANT.

13 A YES.

14 Q AND WOULD AFFECT THE WAY SOMEBODY MAY ACT OR THINK OR
15 DO THINGS.

16 A YES.

17 Q OKAY. AND SHE ADMITTED TO YOU AT THAT POINT IN TIME
18 THAT SHE HAD HAD THAT.

19 A EARLIER, YES.

20 Q AND NOT JUST EARLIER BUT THAT SHE HAD BEEN WITH A
21 BLACK MALE.

22 A YES.

23 Q AND WHAT SHE TOLD YOU IS THAT THEY HAD BEEN RIDING
24 AROUND BESSEMER CITY.

25 A YES.

KELLY CLEARY - RE-DIRECT BY MR. MAINES

148

1 Q AND WHILE THEY WERE RIDING AROUND BESSEMER CITY THEY
2 HAD BOTH SMOKED CRACK COCAINE.

3 A YES.

4 Q OKAY. AND CRACK COCAINE IS A STIMULANT. RIGHT?

5 A YES.

6 Q AND CRACK COCAINE, THE USE OF THAT CAN CAUSE, FOR
7 INSTANCE, BLOOD PRESSURE TO BE ELEVATED.

8 A IT CAN.

9 Q HEART RATE TO BE ELEVATED.

10 A SURE.

11 MR. LEMEL - BEGGING THE COURT'S INDULGENCE. NO
12 FURTHER QUESTIONS OF THIS WITNESS.

13 RE-DIRECT EXAMINATION

14 BY MR. MAINES -

15 Q IN YOUR MULTIPLE YEARS OF WORKING AS AN EMS
16 RESPONDER, HAVE YOU HAD EXPERIENCES DEALING WITH PEOPLE
17 INTOXICATED BY CRACK COCAINE?

18 A YES.

19 Q ARE YOU FAMILIAR WITH ITS EFFECTS?

20 A SOME.

21 Q AND DID YOU HAVE ANY PROBLEM COMMUNICATING WITH MS.
22 HILL?

23 A NO, I DID NOT.

24 Q AND WAS SHE ABLE TO WALK?

25 A YES, SHE WAS.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

149

1 Q WITHOUT ASSISTANCE?

2 A YES, SHE WAS.

3 MR. LEMEL - NOTHING FURTHER, YOUR HONOR.

4 THE COURT - ALL RIGHT, YOU CAN STEP DOWN AND BE

5 EXCUSED. THANK YOU FOR YOUR TIME.

6 MS. CLEARY - THANK YOU.

7 THE COURT - LET'S TAKE ABOUT A TEN MINUTE BREAK.

8 (RECESS TAKEN)

9 THE COURT - THANK YOU. TAKE YOUR SEATS. ALL
10 RIGHT, GET MR. DUNOVANT IN.

11 (MR. DUNOVANT ENTERS THE COURTROOM)

12 THE COURT - BRING IN THE JURY.

13 (JURY ENTERS THE COURTROOM)

14 THE COURT - ALL RIGHT, CALL YOUR NEXT WITNESS.

15 MS. LIPINSKI - THE STATE CALLS MS. CARRINGER,
16 YOUR HONOR.

17 C.J. CARRINGER, AFTER BEING FIRST DULY SWORN,

18 TESTIFIES AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. LIPINSKI -

21 Q COULD YOU PLEASE STATE YOUR FULL NAME FOR THE RECORD?

22 A CATHY JO CARRINGER.

23 Q AND WHAT IS YOUR OCCUPATION?

24 A I'M A REGISTERED NURSE.

25 Q AND JUST BRIEFLY WHAT DOES MEAN? YOU HEAR THAT TERM

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

150

1 A LOT.

2 A WHEN ---

3 Q WHAT DOES A REGISTERED NURSE DO?

4 A WELL, I WORKED IN THE ER TREATING PATIENTS AND ---

5 Q AND ---

6 A --- WITH THE DOCTORS.

7 Q AND HOW LONG HAVE YOU WORKED AS A REGISTERED NURSE?

8 A THIRTY-FOUR YEARS.

9 Q AND ARE YOU CURRENTLY EMPLOYED AT PIEDMONT MEDICAL
10 CENTER IN THE EMERGENCY ROOM?

11 A NO. I AM NOW THE COORDINATOR FOR POLICY AND
12 PROCEDURE.

13 Q SO A MORE ADMINISTRATIVE ROLE ---

14 A YES.

15 Q --- AFTER YOUR THIRTY YEARS OF EXPERIENCE. IN MAY OF
16 2007 WERE YOU STILL WORKING IN THE EMERGENCY ROOM?

17 A YES, I WAS.

18 Q AND WE'VE HEARD A TERM --- I KNOW YOU HAVEN'T BEEN IN
19 THE COURTROOM HERE TODAY, BUT WE'VE HEARD A TERM CALLED A
20 SANE NURSE, AN S-A-N-E NURSE.

21 A CORRECT.

22 Q ARE YOU FAMILIAR WITH THAT TERM?

23 A YES, I AM.

24 Q AND WHAT DOES THAT MEAN? THAT'S AN ACRONYM. ARE YOU
25 AWARE OF WHAT IT STANDS FOR?

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

151

1 A IT'S A SEXUAL ASSAULT NURSE EXAMINER.

2 Q AND ARE YOU A SANE NURSE?

3 A NO, I'M NOT.

4 Q AND WHAT SPECIAL --- IF YOU KNOW, WHAT SPECIAL
5 TRAINING DO THEY HAVE DIFFERENT AND APART FROM WHAT YOU
6 HAVE AS A REGISTERED NURSE?

7 A I REALLY DON'T KNOW THE TRAINING. I KNOW IT'S VERY
8 EXTENSIVE, BUT I DO NOT KNOW WHAT THE DIFFERENCE IS.

9 Q AND WHAT IS THE SIGNIFICANCE OF HAVING NURSES WHO ARE
10 SPECIFICALLY TRAINED IN SEXUAL ASSAULT EXAMINATION VERSUS
11 YOUR TRAINING AS A REGISTERED NURSE? WHY DO WE HAVE THESE
12 SPECIAL NURSES?

13 A THEY ARE TRAINED TO COLLECT EVIDENCE IN A SYSTEMATIC
14 MANNER, TO TALK TO THE PATIENT MORE-SO THAN I AM.

15 Q AND IN MAY OF 2007 ARE YOU AWARE OF WHETHER OR NOT
16 PMC, PIEDMONT MEDICAL CENTER, HAD ANY SANE NURSES
17 AFFILIATED WITH IT?

18 A NO, WE DIDN'T. WE COULD SEND PEOPLE TO RIVERVIEW
19 ONCE THEY WERE MEDICALLY CLEARED, AND THAT'S WHERE THEY --
20 - SANE OPERATED FROM.

21 Q IN THIS PARTICULAR OCCASION DID YOU HAVE THE
22 OPPORTUNITY TO TREAT AND CARE FOR MISTI HILL?

23 A I DID.

24 Q AND DO YOU REMEMBER MISTI HILL?

25 A I DO.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

152

1 Q AND WERE --- DID YOU SEND MISTI HILL TO RIVERVIEW FOR
2 THAT SANE EXAMINATION?

3 A NO, MA'AM.

4 Q AND WHAT --- HOW DID IT COME APART (SIC) THAT YOU DID
5 GO ABOUT DOING THAT THERE AT THE HOSPITAL, IF THAT'S WHAT
6 HAPPENED?

7 A BECAUSE THEY NEEDED THE EVIDENCE GATHERED AND SHE WAS
8 NOT MEDICALLY CLEARED YET, SO SHE COULD NOT LEAVE.

9 Q SO DID YOU BRING IN THE SANE NURSE?

10 A SANE NURSE DID COME IN TO HELP WALK ME THROUGH EVERY
11 STEP.

12 Q AND DO YOU REMEMBER WHO THAT WAS?

13 A LORI.

14 Q LORI RICHARDS, PERHAPS?

15 A RIGHT.

16 Q AND LET'S GO BACK TO --- AND ---

17 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
18 YOUR HONOR.

19 Q I KNOW I PROVIDED YOU WITH SOME OF YOUR NOTES FROM
20 TREATING MISTI HILL, BUT I'M GOING TO ALSO SHOW YOU THESE
21 WHICH I THINK ARE MORE HER KIND OF MEDICAL ASSESSMENT AND
22 ASK YOU IF YOU'RE FAMILIAR WITH THOSE DOCUMENTS?

23 A (NO RESPONSE)

24 Q SOME OF THEM --- ARE THOSE PMC MEDICAL RECORDS?

25 A YES, THEY ARE.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

153

- 1 Q YOU'RE FAMILIAR WITH THAT ---
- 2 A YES.
- 3 Q --- TO A CERTAIN EXTENT. AND SOME OF THE NOTES
- 4 INDICATED THERE ARE WHAT YOU DID; SOME OF THEM ARE WHAT
- 5 DR. RIMMER DID.
- 6 A CORRECT.
- 7 Q AND DO YOU REMEMBER SEEING MISTI HILL IN THE
- 8 EMERGENCY ROOM?
- 9 A YES.
- 10 Q AND DO YOU REMEMBER HER INITIAL APPEARANCE AND
- 11 Demeanor OR ANYTHING REMARKABLE ABOUT THAT?
- 12 A SHE LOOKED PRETTY DISHEVELED. YOU KNOW, SHE --- YOU
- 13 COULD TELL SHE HAD BEEN CRYING, BUT PHYSICALLY SHE --- SHE
- 14 WAS NOT IN ANY DISTRESS. THAT'S THE FIRST THING WE WOULD
- 15 NOTICE, IS RESPIRATORY CARDIAC DISTRESS.
- 16 Q AND SHE WASN'T HAVE THOSE ---
- 17 A NO.
- 18 Q --- THOSE MORE SEVERE PROBLEMS. JUST MORE EMOTIONAL
- 19 ---
- 20 A CORRECT.
- 21 Q AND DO YOU DO LIKE AN INITIAL ASSESSMENT OF HER?
- 22 A I DO.
- 23 Q AND IS FOR THE MOST PART HER HEART RATE NORMAL OR
- 24 BLOOD RATE NORMAL, ANYTHING LIKE THAT THAT YOU RECALL?
- 25 A HEART RATE WAS --- I --- JUST LOOKING AT WHAT I'VE

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1 WRITTEN, BECAUSE IT'S NOT SOMETHING THAT I WOULD REMEMBER,
2 HEART RATE'S A LITTLE BIT ELEVATED, BUT THAT SEEMS TO BE
3 THE ONLY ABNORMAL VITAL SIGN.

4 Q AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
5 STATE'S EXHIBIT 4(A) THROUGH 4(V) AS IN VICTOR, AND ASK
6 YOU IF YOU RECOGNIZE THOSE PHOTOGRAPHS AND WHO THEY
7 DEPICT?

8 MS. LIPINSKI - AND, YOUR HONOR, I'VE SHOWED THEM
9 TO MR. LEMEL DURING OUR BREAK.

10 A FROM WHAT MEMORY SERVES, THIS ALL LOOKS ACCURATE.

11 MS. LIPINSKI - YOUR HONOR, AT THIS TIME THE
12 STATE WOULD MOVE 4(A) THROUGH (V) AS IN VICTOR INTO
13 EVIDENCE.

14 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT - IN WITHOUT OBJECTION.

16 (PHOTOS MARKED INTO EVIDENCE WITHOUT OBJECTION
17 AS STATE'S EXHIBITS 4(A) THROUGH 4(V).

18 Q AND YOU'RE OBVIOUSLY NOT THE ONE TAKING THE
19 PHOTOGRAPHS.

20 A NO.

21 Q I BELIEVE SOMEONE FROM FORENSICS SERVICES RESPONDED
22 AND DID THAT.

23 A YES, MA'AM.

24 Q BUT YOU DO GO OVER IN DETAIL THE INJURIES DEPICTED IN
25 THESE PHOTOGRAPHS.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

155

1 A YES, MA'AM. I'VE GOT THEM LISTED ON THE --- WHAT I
2 COLLECTED.

3 MS. LIPINSKI - AND, YOUR HONOR, AT THIS TIME WE
4 WOULD ASK TO PASS 4(A) THROUGH (V) TO PUBLISH TO THE JURY.

5 THE COURT - THEY'RE IN WITHOUT OBJECTION, YES.

6 Q AND YOU HAVE, I BELIEVE, A FOUR-PAGE DOCUMENT CALLED
7 A SEXUAL ASSAULT EXAMINATION PROTOCOL.

8 A YES, MA'AM.

9 Q AND DID YOU FILL OUT THOSE FOUR PAGES?

10 A YES, MA'AM.

11 Q AND THAT AGAIN IS SOMETHING LORI RICHARDS THE SAME
12 NURSE IS WALKING YOU THROUGH HOW TO DO?

13 A YES, MA'AM.

14 Q HAD YOU EVER FILLED OUT ONE OF THESE FORMS PRIOR TO
15 THAT?

16 A YES, MA'AM.

17 Q BUT WAS THAT SOMETHING YOU ROUTINELY DID?

18 A DEFINITELY NOT.

19 Q SO THIS WAS A UNIQUE OR RARE OCCASIONS FOR YOU.
20 WOULD THAT ---

21 A YES, MA'AM.

22 Q AND WHERE DID THE EXAMINATION TAKE PLACE?

23 A IN ONE OF THE EXAM ROOMS. I --- BY LOOKING AT THE
24 RECORD I COULD TELL YOU WHICH ROOM, BUT THAT WOULD BE IT.

25 Q BUT STILL IN THE EMERGENCY ROOM.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

156

1 A YES, MA'AM.

2 Q ALL RIGHT. AND DID SHE PROVIDE YOU WITH A BRIEF
3 SUMMARY OF THE ASSAULT, MISTI HILL?

4 A YES, MA'AM.

5 Q AND WHAT DID SHE TELL YOU HAD OCCURRED?

6 A THAT SHE HAD BEEN ASSAULTED BY A GENTLEMAN THAT HAD
7 OFFERED HER A RIDE HOME AND THAT SHE WAS DRAGGED FROM THE
8 CAR AND RAPED.

9 Q AND YOU USE THE TERM RAPE. DID SHE DESCRIBE ANY SEX
10 ACTS IN PARTICULAR, WHETHER IT BE ORAL SEX OR VAGINAL
11 INTERCOURSE OR ANYTHING LIKE THAT?

12 A I BELIEVE SHE MENTIONED BOTH, ORAL AND VAGINAL SEX.

13 Q AND DO YOU ALSO TALK ABOUT, I BELIEVE ON PAGE 2, THE
14 TOP OF PAGE 2, DIRECTING YOUR ATTENTION THERE, DOES IT
15 INDICATE WHETHER OR NOT SHE HAD ANY HISTORY OF MEDICATION,
16 SOCIAL DRUGS OR ALCOHOL TAKEN BEFORE OR DURING THE
17 ASSAULT?

18 A BEER AND CRACK COCAINE.

19 Q AND THEN AFTER THAT YOU HAVE AMOUNT. WHAT DO THOSE
20 TWO NUMBERS REFERENCE?

21 A FOUR BEERS AND ONE HIT OF CRACK COCAINE.

22 Q AND DID SHE INDICATE ALSO WHETHER OR NOT THE
23 ASSAILANT HAD ANY DRUGS OR ALCOHOL PRIOR TO OR DURING THE
24 ASSAULT?

25 A ACCORDING TO THIS THE ASSAILANT HAD ONE HIT OF CRACK.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

157

1 Q AND YOU STATED THAT SHE STATED SHE HAD BEEN ASSAILED
2 BY ONE MAN.

3 A CORRECT.

4 Q AND WAS SHE ABLE TO DESCRIBE ANYTHING ABOUT HIM?

5 A SAID AGE IS APPROXIMATELY FORTY, RACE IS BLACK.

6 Q AND DID SHE DESCRIBE HER RELATIONSHIP TO HIM?

7 A AS AN ACQUAINTANCE.

8 Q AND I BELIEVE SHE'S GIVEN FOUR OPTIONS, STRANGER,
9 ACQUAINTANCE, FRIEND OR RELATIVE, AND DID SHE SELECT
10 ACQUAINTANCE OR IS THAT SOMETHING YOU DID?

11 A SHE MUST'VE TOLD ME. I MEAN IT'S NOT SOMETHING I
12 WOULD'VE KNOWN.

13 Q AND DID SHE INDICATE WHEN WAS THE LAST TIME SHE HAD
14 SEX PRIOR TO THE ASSAULT?

15 A I DON'T SEE THAT.

16 Q IF YOU COULD LOOK AT MEDICAL HISTORY, WHAT I'M
17 REFERRING TO --- IT'S ABOUT THE THIRD TO THE LAST
18 QUESTION, ASK THE VICTIM ABOUT HER SEXUAL ACTIVITY IN THE
19 PAST SEVEN DAYS. DO YOU SEE THAT?

20 A OH, I --- YES, MA'AM. I'M SORRY. NOT WITHIN THE
21 LAST SEVEN DAYS, AND THEN NOTHING IS FILLED OUT AS FAR AS
22 WHEN.

23 Q AND WHEN YOU TREAT MISTI HILL BEYOND THIS PHYSICAL
24 EXAMINATION OF HER OUTER BODY, HER ARMS AND HER NECK AND
25 HER BACK, AND WE'LL GET TO THAT AS WELL, BUT JUST SO THE

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158

1 JURY UNDERSTANDS WHAT TYPE OF EXAMINATION THAT YOU
2 CONDUCTED, DO YOU ALSO DO FOR LACK OF A BETTER TERM SOME
3 TYPE OF MINOR GYNECOLOGICAL EXAM, SOME EXAM OF HER VAGINAL
4 AREA?

5 A VERY RUDIMENTARY.

6 Q VERY RUDIMENTARY. AND THAT'S PART OF WHERE YOU'RE
7 BEING WALKED THROUGH THE EXAM BY THE SAME NURSE, LORI
8 RICHARDS.

9 A YES, MA'AM.

10 Q AND I BELIEVE ON THE BOTTOM OF PAGE 2 THERE'S SOME
11 EXAMINATION OF HER HYMEN.

12 A CORRECT.

13 Q AND WHAT DO YOU NOTE ABOUT THAT?

14 A REDNESS.

15 Q AND WHAT DOES THAT REDNESS INDICATE TO YOU AS A
16 NURSE?

17 A RECENT SEX.

18 Q AND DO YOU THEN ALSO GO THROUGH THE POINT OF
19 COLLECTING SOME EVIDENCE?

20 A WE CHECKED PREGNANCY AND GOT A URINALYSIS. WE DID
21 NOT DO ANY KIND OF VAGINAL EXTRACTION.

22 Q AND WHAT DO YOU MEAN BY VAGINAL EXTRACTION, BECAUSE -
23 --

24 A WE DIDN'T TAKE ---

25 Q --- THAT DOESN'T SOUND GOOD?

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

159

- 1 A I DIDN'T TAKE ANYTHING OUT.
- 2 Q YOU DIDN'T TAKE ANYTHING OUT.
- 3 A NO.
- 4 Q ALL RIGHT. NO SAMPLES OR THAT TYPE THING.
- 5 A CORRECT.
- 6 Q AND DO YOU GIVE HER SOME MEDICATION?
- 7 A WE GAVE ANTIBIOTICS.
- 8 Q AND WHAT'S THE PURPOSE OF THE ANTIBIOTICS?
- 9 A FOR JUST ABOUT ANY SEXUAL ASSAULT YOU PROTECT FOR ANY
- 10 KIND OF STD.
- 11 Q SO NOTHING PARTICULAR TO THIS DEFENDANT. IT'S JUST
- 12 KIND OF THE ROUTINE THAT YOU GIVE SOMEONE WHO'S BEEN THE
- 13 VICTIM OF A SEXUAL ASSAULT OUT OF AN ABUNDANCE OF CAUTION.
- 14 A YES, MA'AM.
- 15 Q AND DO YOU GIVE HER ANYTHING FOR PAIN OR ANYTHING OF
- 16 THAT NATURE?
- 17 A NOT UNTIL AFTER THE EXAM.
- 18 Q SO DURING THE EXAM IS SHE ABLE TO COMMUNICATE WITH
- 19 YOU EFFECTIVELY?
- 20 A VERY MUCH SO.
- 21 Q YOU UNDERSTAND HER QUESTIONS. DOES SHE APPEAR TO
- 22 UNDERSTAND YOURS?
- 23 A YES, MA'AM.
- 24 Q DO YOU EXPLAIN THE EXAM TO HER PRIOR TO YOU
- 25 CONDUCTING IT?

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

160

1 A YES, MA'AM.

2 Q ANY PROBLEM WITH THAT EXCHANGE BETWEEN YOU AND MS.
3 HILL?

4 A NO, MA'AM.

5 Q DO YOU NOTICE THAT SHE'S UNDER THE INFLUENCE OF ANY
6 DRUGS OR ALCOHOL? YOU ABLE TO SEE ANY OF THOSE SYMPTOMS?

7 A I DIDN'T NOTICE ANY SIGNS OR SYMPTOMS OF IT.

8 Q AND IF YOU --- IF YOU DO --- IF YOU COULD GO TO PAGE
9 4 OF YOUR SANE EXAM.

10 A YES, MA'AM.

11 Q AND THE PURPOSE OF THIS IS TO KNOW WHERE THERE ARE
12 INJURIES ON THE PATIENTS THAT YOU OBSERVE. IS THAT FAIR
13 TO SAY?

14 A YES, MA'AM.

15 Q AND IF WE COULD JUST KIND OF GO THROUGH YOUR NUMBERED
16 LIST FOR EASE. THE FIRST ONE WHAT DO YOU SEE?

17 A NUMBER ONE IS THE REDNESS TO THE POSTERIOR
18 FOURCHETTE, WHICH IS THE AREA ON THE LOWER PART OF THE
19 VAGINA.

20 Q SO WHEN YOU SAY THE LOWER PART, IF SHE'S ON A TABLE
21 KIND OF DURING A TYPICAL GYNECOLOGICAL EXAM, THE AREA
22 CLOSEST TO HER ANUS, THAT ---

23 A YES, MA'AM.

24 Q --- THAT BOTTOM PART.

25 A YES, MA'AM.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

161

1 Q YOU LOOK AT IT LIKE A CLOCK; WE'RE TALKING AROUND SIX
2 O'CLOCK.

3 A YES, MA'AM.

4 Q AND THE SECOND ONE?

5 A WAS DONE WITH THE SPECULUM AND THERE WAS REDNESS TO
6 THE CERVIX.

7 Q AND DO YOU INDICATE WHERE AGAIN ON THAT --- USING
8 THAT CLOCK MODEL WHERE THAT IS?

9 A I'VE GOT ONE TO THREE O'CLOCK.

10 Q AND I'M SURE THE GENTLEMEN ON THE JURY ARE ENJOYING
11 THIS VAGINAL DIAGRAM, BUT IF YOU COULD EXPLAIN TO THEM THE
12 DIFFERENCE BETWEEN THE CERVIX AND THE OUTER AREA THAT YOU
13 DESCRIBED INITIALLY, SO IS THERE REDNESS ON THE OUTSIDE
14 AND THEN REDNESS INSIDE AS WELL?

15 A YES, MA'AM.

16 Q AND NUMBER THREE.

17 A NUMBER THREE IS BRUISING TO THE RIGHT SIDE OF THE
18 NECK.

19 Q IS THAT DEPICTED IN THOSE PHOTOGRAPHS THAT I SHOWED
20 YOU INITIALLY?

21 A YES, MA'AM.

22 Q AND NUMBER FOUR.

23 A ABRASIONS TO THE RIGHT SIDE.

24 Q AND I BELIEVE THERE'S A NUMBER FIVE.

25 A THAT IS --- I THINK THAT'S HER --- ABRASIONS TO THE

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

162

1 ELBOW.

2 Q AND NUMBER SIX.

3 A ABRASIONS AND BRUISING TO THE ELBOW, TO THE OTHER
4 ELBOW.

5 Q SO SHE'S GOT ABRASIONS ON THE LEFT AND THE RIGHT?

6 A YES, MA'AM.

7 Q AND NUMBER SEVEN.

8 A ABRASIONS ON HER LEFT KNEE.

9 Q AND NUMBER EIGHT.

10 A MULTIPLE SCRATCHES ON HER BACK, LOWER BACK.

11 Q LOWER BACK.

12 A YES, MA'AM.

13 Q NOT UPPER HERE, BUT DOWN HERE?

14 A YES, MA'AM.

15 Q AND NUMBER NINE.

16 A SCRATCHES AND BRUISING TO THE WRIST.

17 Q AND LET ME SHOW YOU WHAT'S BEEN MARKED FOR STATE'S
18 EXHIBIT AS NUMBER 12 FOR I.D. ONLY, ASK YOU --- THIS IS A
19 COPY OF A DOCUMENT, BUT ARE YOU FAMILIAR WITH A LABEL
20 DEPICTED IN THAT DOCUMENT?

21 A THAT'S A PIEDMONT IDENTIFICATION LABEL, NAME LABEL.

22 Q AND WHAT WOULD YOU PUT THAT LABEL ON? IN THIS
23 PARTICULAR CASE, WHAT IS THAT A LABEL THAT YOU USE IT FOR?

24 A BLOOD.

25 Q A BLOOD DRAW?

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

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1 A YES, MA'AM.

2 Q SO YOU WOULD'VE DONE A BLOOD DRAW OF MISTI HILL AT
3 SOME POINT WHILE SHE WAS IN YOUR CARE?

4 A YES, MA'AM.

5 Q AND THEN DO YOU PUT A TIME ON THERE ---

6 A YES, MA'AM.

7 Q --- ALONG WITH HER INITIALS? AND WHAT DOES IT
8 INDICATE?

9 A THE TIME IS 12:30.

10 Q AND YOU ACTUALLY --- I KNOW THE SANE NURSE RICHARDS
11 WALKS YOU THROUGH IT, BUT YOU ACTUALLY GO THROUGH THE
12 PROCESS OF COLLECTING SOME EVIDENCE IN THIS PARTICULAR
13 CASE.

14 A YES, MA'AM.

15 Q AND LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED FOR
16 I.D. ONLY AS STATE'S EXHIBIT NUMBER 1, AND IF YOU COULD,
17 DOES IT ALSO HAVE SOME OF THOSE SIMILAR PMC LABELS ON IT?

18 A THAT'S WHAT THEY ARE.

19 Q OKAY. IF YOU COULD --- I DON'T KNOW IF YOU CAN ---
20 IF YOU CAN OPEN THAT IF YOU WANT TO LOOK AT IT, BUT ARE
21 THOSE THE COMPONENT PARTS OF THAT SEXUAL ASSAULT KIT THAT
22 YOU TOOK FROM MISTI HILL? LET ME SEE IF I CAN GET THIS
23 OPEN ---

24 A THANK YOU.

25 Q I'M SORRY.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

164

1 A THANK YOU.

2 Q YOU CAN PROBABLY LOOK DOWN IN THERE ---

3 A THIS IS --- THIS HAS MY INITIALS ON EVERYTHING.

4 Q AND IF YOU COULD, TO THE BEST OF YOUR RECOLLECTION --

5 - I KNOW SEXUAL ASSAULT KITS OBVIOUSLY AREN'T YOUR FORTE

6 BUT THEY CALL IT A KIT. IT'S GOT MANY COMPONENT PARTS.

7 A YES, MA'AM.

8 Q SO IN ADDITION TO THE BLOOD DRAW, WHAT OTHER TYPE OF

9 SAMPLINGS DO YOU RECALL ATTEMPTING TO TAKE IN THIS

10 PARTICULAR CASE?

11 A HAIR SAMPLES, BOTH PUBIC AND ON THE HEAD, UM --- I'M

12 DRAWING A TOTAL BLANK.

13 Q DO YOU TAKE ANY SWABBINGS OF ANY KIND? DO YOU RECALL

14 DOING THAT?

15 A I DO --- ALL I CAN --- LET ME JUST TELL YOU THAT WITH

16 EACH KIT COME STEP-BY-STEP INSTRUCTIONS, SO IF IT SAID DO

17 THIS FOR NUMBER ONE, THAT'S WHAT I DID.

18 Q YOU FOLLOWED THAT PROTOCOL ---

19 A YES, MA'AM.

20 Q --- UNDER NURSE RICHARD'S INSTRUCTIONS.

21 A RIGHT.

22 Q BUT EACH OF THOSE COMPONENT PARTS IN THERE, ONCE YOU

23 TAKE THAT SAMPLING YOU'RE PUTTING YOUR INITIALS ON IT.

24 A YES, MA'AM.

25 Q AND IF YOU COULD PUT THOSE COMPONENTS BACK INTO THAT

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

165

1 --- I BELIEVE YOU ALREADY HAVE. THANK YOU. AND DO YOU
2 ALSO HAVE THE OCCASION TO TAKE HER CLOTHES FROM MS. HILL?

3 A YES, MA'AM.

4 Q DO YOU REMEMBER DOING THAT?

5 A YES.

6 Q AND YOU DON'T DO ANY OF THE ANALYSIS ON THE KIT OR
7 ANYTHING LIKE THAT. YOU TURN IT OVER TO THE SHERIFF'S
8 OFFICE?

9 A CORRECT.

10 Q AND THERE WAS AN OFFICER THERE THAT DAY WHO COLLECTED
11 THOSE ITEMS FROM YOU.

12 A THEY CALLED THEM WHEN I GOT FINISHED AND ---

13 Q LET ME SHOW YOU STATE'S EXHIBIT NUMBER 2. I DON'T
14 KNOW IF YOUR IDENTIFICATION IS ON THIS, BUT IT ALSO
15 INDICATES THAT THIS IS THE CLOTHING FROM THE SEXUAL
16 ASSAULT KIT.

17 A CORRECT.

18 Q AND THEN FINALLY THIS NUMBER 3, STATE'S EXHIBIT
19 NUMBER 3, DID YOU HAVE THE OCCASION TO ALSO COLLECT MISTI
20 HILL'S UNDERWEAR SEPARATELY ---

21 A YES.

22 Q --- FROM THE REST OF HER CLOTHES? AND IF YOU COULD
23 I KNOW I GAVE YOU A THICK PACKET OF DOCUMENTS MORE OF HER
24 TRADITIONAL MEDICAL RECORDS, I'M GOING TO ASK YOU SOME
25 QUESTIONS ABOUT THOSE IF YOU STILL HAVE THOSE IN YOUR

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

166

1 POSSESSION? DR. RIMMER MAY HAVE MISHANDLED THE ORDER, BUT
2 THERE'S A PAGE 2 OF 20 IF YOU COULD FIND THAT.

3 A PAGE 2 OF 20?

4 Q YES, MA'AM.

5 A I'M ON 2 OF 20.

6 Q THANK YOU.

7 A I'M SORRY.

8 Q I KNOW IT'S 20, SO I --- AND I APOLOGIZE. I
9 SHOULD'VE PUT THEM BACK IN ORDER AFTER DR. RIMMER. DO YOU
10 --- THIS INDICATES SOME PART OF A HISTORY. IS THIS
11 HISTORY COMING FROM YOU OR ARE YOU TRANSCRIBING THIS? ARE
12 YOU HAVING THIS DISCUSSION WITH MISTI?

13 A I --- YES, I ENTER IT IN THE COMPUTER AS I ASK THE
14 QUESTIONS.

15 Q SO AT THE END OF THE QUESTIONS IT'LL SAY CJC AND A
16 DATE AND A TIME.

17 A CORRECT.

18 Q AND THOSE ARE YOUR INITIALS CJC.

19 A CORRECT.

20 Q AND DO YOU ASK HER ABOUT HER SMOKING HABITS?

21 A YES, MA'AM.

22 Q AND WHAT DID SHE TELL YOU?

23 A ABOUT A HALF A PACK A DAY.

24 Q AND DOES SHE --- YOU ASK HER ABOUT HER ALCOHOL
25 CONSUMPTION.

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

167

1 A I'VE GOT AS A NOTE, PATIENT STATES THAT SHE NORMALLY
2 DOESN'T DRINK.

3 Q AND DID YOU NOTE ANYTHING ABOUT HER --- WHETHER SHE
4 WAS UNDER THE INFLUENCE THAT DAY OR HAD HAD ANY ---

5 A I DID PUT THAT SMELLS OF ALCOHOL.

6 Q AND DO YOU RECALL IF THAT WAS A VERY STRONG SMELL OR
7 VERY LIGHT SMELL, OR DO YOU RECALL?

8 A IT WAS PROBABLY NOTED WHEN I WAS CLOSE, SO --- BUT I
9 COULDN'T --- I WOULDN'T VENTURE A GUESS.

10 Q CAN'T REMEMBER.

11 A NO, MA'AM.

12 Q YOU ASKED HER ABOUT HER DRUG USE.

13 A I'VE GOT PATIENT --- I SAID THAT SHE SAID SHE DOESN'T
14 DO DRUGS AND THEN I'VE GOT SMOKED CRACK COCAINE TODAY, AND
15 THEN AS ANOTHER NOTE I PUT STATES THAT SHE NORMALLY
16 DOESN'T DO DRUGS AND THAT'S IN QUOTES.

17 Q AND IF YOU COULD, JUST BRIEFLY DESCRIBE TO THE JURY
18 HOW YOU ENCOUNTERED MISTI THAT DAY. WHAT WAS HER OVERALL
19 DEMEANOR AND BEHAVIOR WITH YOU, IF YOU RECALL?

20 A WELL, LIKE I SAID BEFORE, SHE WAS CRYING BUT SHE WAS
21 VERY COOPERATIVE. I MEAN SHE DIDN'T SEEM BELLIGERENT OR -
22 --

23 Q DID YOU HAVE ANY DIFFICULTY UNDERSTANDING HER?

24 A NO.

25 Q DID YOU HAVE ANY --- SEE --- OBSERVE ANY SLURRED

C.J. CARRINGER - DIRECT BY MS. LIPINSKI

168

1 SPEECH ON HER PART?

2 A NO, MA'AM.

3 Q DID YOU EVER NOTICE --- OR DID YOU HAVE ANY
4 INDICATIONS OF --- OBSERVE HER WALKING AROUND?

5 A NO, MA'AM.

6 Q SHE WAS FOR THE MOST PART ON THE BED WHEN YOU WERE
7 DEALING WITH HER?

8 A RIGHT.

9 Q BUT DID SHE HAVE ANY MOTOR CONTROL ISSUES OR ANYTHING
10 OF THAT NATURE?

11 A SHE WAS IN TOTAL CONTROL.

12 Q BEING IN THE ER HAVE YOU EVER HAD THE OCCASION TO
13 OBSERVE PEOPLE UNDER THE INFLUENCE OF CRACK COCAINE?

14 A OH, YES, MA'AM.

15 Q DID MS. HILL APPEAR TO BE UNDER THE INFLUENCE OF
16 CRACK COCAINE?

17 A NO, MA'AM, SHE DIDN'T SHOW ANY SYMPTOMS.

18 Q DID SHE SHOW ANY SYMPTOMS OF BEING UNDER THE
19 INFLUENCE OF ANY INTOXICANT OR NARCOTIC ON THAT PARTICULAR
20 DAY?

21 A NO, MA'AM.

22 Q AND YOU STATED THAT SHE WAS VERY EMOTIONAL. WERE
23 THERE ANY FAMILY MEMBERS IN THERE AT ANY TIME WHILE YOU
24 WERE TREATING HER?

25 A YES, MA'AM, HER MOTHER WAS IN THERE.

C.J. CARRINGER - CROSS BY MR. LEMEL

169

1 Q AND IS THAT SOMETHING THAT'S DONE IN THE ER. YOU'D
2 LET THAT FAMILY MEMBER COME BACK THERE.

3 A WE LET TWO PEOPLE BACK AT ANY TIME. IN A CASE LIKE
4 THIS, IF SHE REQUESTED HER MOTHER TO STAY WE WOULD'VE LET
5 HER.

6 Q AND ARE YOU THERE WHEN LIEUTENANT BETH TOLSON TALKS
7 TO HER? DO YOU RECALL THAT, IF AT ALL?

8 A (NO RESPONSE)

9 Q IF YOU DON'T RECALL, THAT'S FINE.

10 A I DON'T REMEMBER. I MEAN I --- I WOULDN'T KNOW NAMES
11 ANYWAY. I MEAN I WAS THERE WHEN --- WHEN SHE WAS SPOKEN
12 TO BUT IT'S NOT LIKE I STAYED IN THE ROOM JUST FOR THAT
13 CONVERSATION.

14 Q DID YOU HAVE OTHER PATIENTS THAT YOU WERE TREATING AT
15 THAT PARTICULAR ---

16 A YES, MA'AM.

17 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
18 YOUR HONOR. I THINK THAT'S ALL WE HAVE OF MS. CARRINGER
19 AT THIS POINT, YOUR HONOR.

20 CROSS EXAMINATION

21 BY MR. LEMEL -

22 Q GOOD MORNING, MS. CARRINGER.

23 A HOW ARE YOU DOING, SIR?

24 Q I'M FINE. THANK YOU VERY MUCH. NOW, AS I UNDERSTAND
25 YOU --- AT THE POINT IN TIME THAT WE'RE TALKING ABOUT BACK

C. J. CARRINGER - CROSS BY MR. LEMEL

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1 IN MAY OF 2007 YOU WERE ONE OF THE EMERGENCY ROOM NURSES.

2 A YES, SIR.

3 Q AND THAT WAS THE CAPACITY IN WHICH YOU TREATED MS.
4 HILL.

5 A YES, SIR.

6 Q AND AS I UNDERSTAND AT THAT POINT IN --- NURSES HAVE
7 CERTAINLY PRIVILEGES I GUESS AT CERTAIN INSTITUTIONS SORT
8 OF LIKE DOCTORS DO? IS THAT RIGHT?

9 A YES. YES, SIR.

10 Q AND SO AT THAT PARTICULAR MOMENT IN TIME THERE WAS NO
11 NURSE THAT WAS QUALIFIED AS A SEXUAL ASSAULT NURSE
12 EXAMINER WHO HAD PRIVILEGES AT PIEDMONT MEDICAL CENTER.

13 A CORRECT.

14 Q AND SO IN THAT SORT OF SCENARIO EVEN IF YOU WANT TO
15 HAVE A SEXUAL ASSAULT EXAMINATION DONE, BECAUSE YOU DON'T
16 HAVE A NURSE THAT'S ON PRIVILEGES, YOU JUST DON'T LET ANY
17 NURSE OFF THE STREET WALK IN THERE AND START USING
18 PIEDMONT MEDICAL CENTER TO DO THAT.

19 A NO, SIR.

20 Q THERE'S ALL SORTS OF REGULATIONS AND PROBLEMS AND ---

21 A YES, SIR.

22 Q --- LIABILITY THAT THAT COULD CAUSE. BUT IN THIS
23 CASE IT WAS DECIDED THAT THAT EXAMINATION SHOULD BE DONE.

24 A YES, SIR.

25 Q YOU HAD SOME FAMILIARITY WITH THIS?

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1 A YES, SIR.

2 Q YOU HAD DONE THIS IN THE PAST BEFORE THAT ---

3 A YES, SIR.

4 Q THE EVOLUTION OF THE SEXUAL ASSAULT NURSE EXAMINER IS
5 RELATIVELY RECENT.

6 A YES, SIR.

7 Q WE'VE HAD ONE HERE IN YORK COUNTY OR THAT PROGRAM
8 SINCE ABOUT FIVE OR SIX YEARS AGO, WOULD YOU SAY?

9 A I'M FROM CHARLOTTE.

10 Q OKAY. BUT IT'S A RELATIVELY RECENT PROCESS.

11 A YES, SIR.

12 Q AND BEFORE THEY ACTUALLY FORMALLY ESTABLISHED THESE
13 SEXUAL ASSAULT NURSE EXAMINERS OTHER NURSES WOULD'VE DONE
14 THIS EXAMINATION.

15 A YES, SIR.

16 Q AND IN THAT CAPACITY HAD YOU DONE OTHER SORTS OF
17 EXAMINATIONS OF THIS TYPE BEFORE?

18 A YES, SIR.

19 Q AND IS THAT WHY SORT OF YOU GOT CHOSEN TO DO THE
20 ACTUAL EXAMINATION IN THIS CASE BECAUSE YOU WERE THE MOST
21 FAMILIAR PERSON?

22 A I --- I WAS ASSIGNED TO DO IT.

23 Q OKAY. ALL RIGHT. AND IN ORDER TO ASSIST YOU WITH
24 THAT YOU HAD THOUGH THE NURSE WHO WAS QUALIFIED AS A
25 SEXUAL ASSAULT NURSE EXAMINER SORT OF STANDING OVER YOUR

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1 SHOULDER.

2 A YES, SIR.

3 Q OKAY. BASICALLY GUIDING YOU STEP-BY-STEP.

4 A YES, SIR.

5 Q MAKING SURE YOU FOLLOWED ALL THE PROCEDURES.

6 A YES, SIR.

7 Q MAKING SURE YOU DID ALL THE PAPERWORK RIGHT.

8 A YES, SIR.

9 Q OKAY. AND SHE TOLD YOU VERY SPECIFIC THINGS OF WHAT
10 YOU'RE LOOKING FOR AND WHY YOU'RE LOOKING FOR THEM.

11 A YES, SIR.

12 Q AND AGAIN WITH YOUR FAMILIARITY THAT YOU HAD BEFORE
13 YOU KIND OF HAD AN IDEA WHAT YOU WERE LOOKING FOR EVEN
14 THOUGH YOU DIDN'T HAVE THE SPECIFIC TRAINING AS SHE DID.

15 A YES, SIR.

16 Q IT WASN'T LIKE YOU WERE DELVING INTO COMPLETELY
17 UNFAMILIAR TERRITORY?

18 A OH, NO, SIR.

19 Q OKAY. YOU SAID --- HOW MANY TIMES WOULD YOU SAY YOU
20 PERFORMED THESE SORT OF EXAMINATIONS?

21 A PROBABLY NOT MORE THAN FIVE TIMES IN THE PAST.

22 Q OKAY.. BUT ENOUGH THAT YOU WERE FAMILIAR WITH IT.

23 A YES, SIR.

24 Q AND YOU --- HAD YOU OBSERVED THEM AT ANY OTHER TIMES
25 AND THINGS OF THAT NATURE?

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1 A YES, SIR.

2 Q OKAY. IT WAS SOMETHING THAT YOU WERE FAMILIAR WITH.

3 A YES, SIR.

4 Q OKAY. ALL RIGHT. NOW, AS I UNDERSTAND IT, YOU DATED
5 THE BLOOD DRAW IN THIS CASE FROM WHAT HAS BEEN MARKED AS
6 STATE'S EXHIBIT NUMBER 12 FOR IDENTIFICATION PURPOSES AS
7 BEING ROUGHLY 12:30?

8 A YES, SIR.

9 Q IS THAT CORRECT? AND THAT WAS DURING THE COURSE OF
10 THE SEXUAL ASSAULT EXAMINATION THAT YOU DREW THAT BLOOD.

11 A YES, SIR.

12 Q OTHER BLOOD HAD BEEN TAKEN FROM MS. HILL FOR OTHER
13 REASONS AS SHE CAME IN THE ER AS PART OF THE NORMAL
14 PROCEDURE OR WOULD THAT NOT --- WOULD SHE NOT HAVE HAD A
15 BLOOD DRAW?

16 A DO YOU MIND IF I LOOK?

17 Q ABSOLUTELY, PLEASE. AND WHAT YOU'RE LOOKING AT IS
18 THE MEDICAL RECORDS FROM PIEDMONT MEDICAL CENTER?

19 A YES, SIR, I AM. I CAN FIND IT EASIER ON THE
20 COMPUTER.

21 Q AND IT IS --- LET ME JUST --- AND TO SAVE SOME TIME.
22 DO YOU RECALL ONE WAY OR ANOTHER JUST OFF THE TOP OF YOUR
23 HEAD ON THAT PARTICULAR ISSUE WHETHER SHE HAD ANOTHER
24 BLOOD DRAW AT ANY POINT IN TIME?

25 A I DON'T REMEMBER DRAWING BLOOD BEFORE THEN, SIR.

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- 1 Q AND THAT'S FINE.
- 2 A OKAY.
- 3 Q BUT THE BLOOD THAT WAS DRAWN FOR THE SEXUAL ASSAULT
- 4 KIT ACTUALLY WAS DONE AT ABOUT 12:30 ---
- 5 A YES, SIR.
- 6 Q --- DURING THE COURSE OF THE EXAMINATION.
- 7 A RIGHT.
- 8 Q NOW SHE FIRST CAME TO THE EMERGENCY ROOM AROUND 8:00
- 9 O'CLOCK THAT MORNING?
- 10 A YES, MA'AM. YES, SIR.
- 11 Q OKAY. AND THAT'S WHEN YOU WOULD'VE DONE THIS INITIAL
- 12 IN-TAKE HISTORY ON HER. RIGHT?
- 13 A YES, SIR.
- 14 Q OKAY. AND THAT'S DATED AT ABOUT 8:15, 8:13, I THINK
- 15 IS ACTUALLY WHAT IT SAYS SPECIFICALLY, BUT A LITTLE BIT
- 16 AFTER 8:00 O'CLOCK.
- 17 A SHE CAME IN AT 8:08, YES, SIR.
- 18 Q OKAY. AND YOU WOULD'VE BEEN TAKING THAT SOCIAL
- 19 HISTORY THEN WITHIN ABOUT FIVE MINUTES OF HER ARRIVAL.
- 20 A RIGHT.
- 21 Q OKAY. BUT THE ACTUAL EXAMINATION WHERE YOU GOT TO
- 22 THE POINT --- THAT WOULD'VE BEEN A GOOD FOUR TO FOUR AND
- 23 A HALF HOURS AFTER HER ARRIVAL.
- 24 A YES, SIR.
- 25 Q AND SHE DID NOT INDICATE TO YOU, FOR EXAMPLE, WHEN

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1 YOU WERE GOING THROUGH THE HISTORY WITH HER AT WHAT POINT
2 IN TIME SHE STOPPED DRINKING ALCOHOL.

3 A I HAVE ON MY NOTE THAT IT WAS --- THE DRINKING AND
4 THE CRACK WAS BEFORE 2:00 A.M.

5 Q OKAY. SO IT WOULD'VE BEEN AT A MINIMUM, ACCORDING TO
6 THE NOTES THAT YOU HAVE, ABOUT SIX HOURS BEFORE YOU SAW
7 HER THAT SHE SAYS SHE STOPPED ---

8 A YES, SIR.

9 Q --- DRINKING AND SMOKING CRACK COCAINE.

10 A YES, SIR.

11 Q OKAY. AND THAT SIX HOURS IN WHICH THOSE THINGS
12 WOULD'VE BEEN PROCESSING THROUGH HER SYSTEM.

13 A YES, SIR.

14 Q OKAY. SHE STILL SMELLED OF THE ODOR OF ALCOHOL AT
15 THAT POINT IN TIME.

16 A YES.

17 Q BUT AT SIX HOURS THAT'S A FAIRLY SIGNIFICANT AMOUNT
18 OF TIME FOR ALCOHOL TO BE PROCESSED OUT OF THE SYSTEM.
19 RIGHT?

20 A YES, SIR.

21 Q SO JUST BECAUSE SOMEBODY'S NOT NECESSARILY ACTIVELY
22 UNDER THE INFLUENCE AT 8:00, IT DOESN'T MEAN THAT AT 4:00
23 THEY WEREN'T UNDER THE INFLUENCE. RIGHT?

24 A THAT WOULD BE HARD FOR ME TO SAY, SIR. IT DEPENDS ON
25 THEIR METABOLISM.

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1 Q RIGHT. BUT CERTAINLY THERE COULD BE A DIFFERENCE IN
2 THEIR ABILITIES ---

3 A OH, YES, SIR.

4 Q --- BETWEEN 4:00 AND 8:00.

5 A YES, SIR.

6 Q OKAY. IN THIS PARTICULAR CASE AS PART OF THE HISTORY
7 YOU DID TAKE THE SOCIAL HISTORY OF HER, HER PAST MEDICAL
8 HISTORY. CORRECT?

9 A YES, SIR.

10 Q SHE INDICATED TO YOU WHEN YOU ASKED HER ABOUT OTHER
11 RELEVANT STUFF IN THE MEDICAL HISTORY THAT SHE HAD BEEN
12 DIAGNOSED WITH BIPOLAR DISEASE? FOCUSING ON THE BOTTOM OF
13 PAGE 1. DO YOU HAVE PAGE 1 HANDY?

14 A YES, SIR.

15 Q OKAY. AND ARE YOU AWARE OF ANY MEDICATIONS THAT SHE
16 WAS SUPPOSED TO BE TAKING FOR THOSE DISEASES --- FOR THAT
17 DISEASE?

18 A (NO RESPONSE)

19 Q AND IF I COULD, IF I COULD FOCUS YOUR ATTENTION ON
20 PAGE 17 IF YOU HAVE THAT.

21 A THANK YOU. ON PAGE 7?

22 Q 17. 1-7.

23 A OH, 17. YES, SIR.

24 Q OKAY. AND THAT THE MEDICATION NOTES THAT WAS ENTERED
25 --- EXCUSE ME --- BY YOU AT ABOUT 8:12 ---

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- 1 A YES, SIR.
- 2 Q --- AND INDICATES THAT WITH REGARD TO THOSE MEDICINES
- 3 THAT SHE WAS TAKING EFFEXOR ---
- 4 A YES, SIR.
- 5 Q --- AND SEROQUEL.
- 6 A YES, SIR.
- 7 Q BOTH OF WHICH ARE DRUGS THAT ARE USED TO TREAT
- 8 BIPOLAR DISEASE, AMONG OTHER THINGS.
- 9 A AMONG OTHER THINGS, YES, SIR.
- 10 Q OKAY. IF WE COULD FOCUS A LITTLE BIT ON YOUR
- 11 EXAMINATION THAT YOU BEGAN AROUND NOON WITH REGARD TO
- 12 SPECIFICALLY THE PELVIC EXAMINATION THAT YOU --- THE
- 13 GYNECOLOGICAL INDICATION: (SIC) --- EXAMINATION, YOU
- 14 INDICATED THAT THIS WAS WHAT YOU CALLED A RUDIMENTARY
- 15 GYNECOLOGICAL EXAMINATION. CORRECT?
- 16 A YES, SIR.
- 17 Q AND THAT YOU ARE LOOKING FOR CERTAIN VERY BASIC
- 18 THINGS IN THIS EXAMINATION.
- 19 A YES, SIR.
- 20 Q A FULL SCALE GYNECOLOGICAL EXAMINATION MAY INCLUDE
- 21 TESTING, PAP SMEARS, EXTENSIVE WORK-UPS, THINGS LIKE THAT.
- 22 RIGHT?
- 23 A YES, SIR.
- 24 Q THAT'S NOT WHAT YOU'RE LOOKING FOR IN A CASE LIKE
- 25 THIS.

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1 A NO, SIR.

2 Q NOW, BUT WHEN YOU SAY RUDIMENTARY, THAT DOESN'T MEAN
3 THAT IT'S NOT THOROUGH.

4 A CORRECT.

5 Q OKAY. THERE'S --- RUDIMENTARY JUST MEANS YOUR FOCUS
6 IS MORE NARROW THAN WHAT A GENERAL GYNECOLOGICAL EXAM
7 WOULD BE.

8 A YES, SIR.

9 Q THAT DOESN'T MEAN ---

10 A WHEN I THINK RUDIMENTARY I THINK THAT I'M NOT DOING
11 A MANUAL EXAM OR ANYTHING LIKE THAT.

12 Q OKAY. WHAT YOU'RE BASICALLY DOING IN THIS SITUATION
13 IS A VISUAL EXAM.

14 A YES, SIR.

15 Q WHICH CAN INCLUDE IN THIS CASE A MICROSCOPIC EXAM IF
16 NEEDED.

17 A CORRECT.

18 Q OKAY. BUT AGAIN THERE'S A DIFFERENCE BETWEEN --- I
19 WANT TO MAKE THIS CLEAR --- RUDIMENTARY AND THOROUGH.

20 A RIGHT. YES, SIR.

21 Q YOU DID DO A VERY THOROUGH JOB EXAMINING HER.

22 A YES, SIR.

23 Q OKAY. AND AS PART OF THE PROCESS OF DOING A SEXUAL
24 ASSAULT EXAMINATION THERE ARE WHAT WE CALL PROTOCOLS THAT
25 ARE GENERALLY FOLLOWED. RIGHT?

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- 1 A YES, SIR.
- 2 Q AND THESE PROTOCOLS HAVE BEEN ESTABLISHED BASICALLY
- 3 TO ASSIST THE PERSON WHO IS DOING THE EXAMINATION.
- 4 A YES, SIR.
- 5 Q A PROTOCOL IS A SET OF GUIDELINES OR INSTRUCTIONS
- 6 THAT ARE MEANT TO BE FOLLOWED.
- 7 A YES, SIR.
- 8 Q TO MAKE THE EXAMS CONSISTENT FROM ONE EXAM TO THE
- 9 NEXT.
- 10 A CORRECT.
- 11 Q AND ALSO TO TRY TO PICK UP THE MOST SIGNIFICANT
- 12 PORTIONS OF WHAT MEDICAL HISTORY HAS TOLD US IS RELEVANT
- 13 IN A CASE LIKE THIS.
- 14 A YES, SIR.
- 15 Q AND THERE ARE PROTOCOLS FOR ALMOST EVERYTHING I
- 16 IMAGINE YOU DO IN THE HOSPITAL. RIGHT?
- 17 A CORRECT.
- 18 Q OKAY. THE REASON WHY IT'S IMPORTANT TO FOLLOW THE
- 19 PROTOCOLS IS THAT BY FOLLOWING A PROTOCOL YOU REDUCE THE
- 20 CHANCE THAT AN ERROR OCCURS.
- 21 A YES, SIR.
- 22 Q OKAY. BECAUSE ERRORS CAN OCCUR. RIGHT?
- 23 A CORRECT.
- 24 Q YOU CAN HAVE IMPROPER REPORTING.
- 25 A (INDICATING YES)

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1 Q IS THAT RIGHT?

2 A CORRECT.

3 Q MISDIAGNOSIS.

4 A CORRECT.

5 Q AND I NEED TO HAVE AN ORAL ANSWER. I'M SORRY ---

6 A OH, I'M SORRY.

7 Q --- SO THE COURT REPORTER CAN GET IT. I APOLOGIZE
8 ABOUT THAT. YOU CAN EVEN HAVE AN INCOMPLETE INVESTIGATION
9 IF THE PROTOCOL IS NOT FOLLOWED.

10 A CORRECT.

11 Q ALL OF WHICH COULD AFFECT THE RESULTS AND THE
12 VALIDITY OF THE EXAMINATION ITSELF.

13 A YES, SIR.

14 Q OKAY. THE PROTOCOL REQUIRED YOU TO CONDUCT AN
15 INTERVIEW OF THE PERSON WHO ALLEGEDLY HAD BEEN ASSAULTED.

16 A YES, SIR.

17 Q AND DOCUMENT WHAT THEY TOLD YOU ABOUT THAT.

18 A YES, SIR.

19 Q DOCUMENT WHAT THE NATURE OF THE ALLEGED ASSAULT WAS.

20 A CORRECT.

21 Q WERE YOU ACTUALLY FILLING OUT THE FORMS IN THIS CASE?

22 A YES, SIR.

23 Q AND WITH REGARD TO FILLING OUT THOSE FORMS WERE YOU
24 DOING THEM WITH REGARD TO THE INTERVIEW LIKE AS SHE WAS
25 SAYING THESE THINGS?

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1 A TO THE BEST OF MY KNOWLEDGE, YES, SIR.

2 Q IN OTHER WORDS, YOU WOULDN'T WAIT FOR --- YOU
3 WOULDN'T WAIT FOR THE END OF THE EXAM AND THEN GO BACK AND
4 TRY TO FILL THIS STUFF IN.

5 A NO, SIR.

6 Q YOU KIND OF GO AS --- YOU FILL THIS STUFF IN AS YOU
7 GO.

8 A CORRECT.

9 Q OKAY. AND YOU UNDERSTAND THAT AS YOU'RE DOING THIS
10 IT'S VERY IMPORTANT THAT YOU DOCUMENT WHAT SHE IS SAYING
11 ACCURATELY.

12 A CORRECT.

13 Q AND COMPLETELY.

14 A CORRECT.

15 Q BECAUSE, ONE, THAT'S WHAT THE PROTOCOL SAYS YOU'RE
16 SUPPOSED TO DO.

17 A CORRECT.

18 Q AND ALSO IT HAS AN IMPACT ON WHETHER YOU'RE DOING
19 YOUR JOB RIGHT AT THAT POINT IN TIME.

20 A CORRECT.

21 Q OKAY. SHE INDICATED --- DO YOU HAVE A COPY OF YOUR -
22 -- OF THE PAPERWORK FROM THE SEXUAL ASSAULT EXAMINATION?

23 A YES, SIR.

24 Q OKAY. AND THAT'S A FOUR-PAGE DOCUMENT THAT YOU
25 BASICALLY WENT THROUGH WITH HER.

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- 1 A YES, SIR.
- 2 Q SHE INDICATED ON THERE THAT HER RELATIONSHIP TO THE
- 3 VICTIM WAS THAT OF AN ACQUAINTANCE.
- 4 A YES, SIR.
- 5 Q YES, THAT'S ON PAGE 2.
- 6 A YES, SIR.
- 7 Q OKAY. INDICATING THAT SHE HAD SOME PRIOR KNOWLEDGE
- 8 OF WHO THIS INDIVIDUAL WAS.
- 9 A YES, SIR.
- 10 Q THAT'S WHAT AN ACQUAINTANCE IS.
- 11 A THAT'S --- YES, THAT WAS MY TAKE.
- 12 Q OKAY. AND AGAIN, DID SHE ACTUALLY USE THE WORD
- 13 ACQUAINTANCE? DO YOU REMEMBER OR WAS THAT JUST AS YOU
- 14 SAID YOUR TAKE?
- 15 A NO, SIR, I THINK I GAVE HER THOSE THREE CHOICES.
- 16 Q OKAY, AND SHE CHOSE ACQUAINTANCE.
- 17 A YES, SIR.
- 18 Q OKAY. SHE INDICATED TO YOU THAT SHE AND THE
- 19 GENTLEMAN INVOLVED IN THIS SITUATION HAD BEEN USING CRACK
- 20 COCAINE.
- 21 A YES, SIR.
- 22 Q AND SHE SAID THAT SHE LIMITED THAT TO ONE HIT.
- 23 A YES, SIR.
- 24 Q AND HE HAD HAD ONE HIT.
- 25 A YES, SIR.

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1 Q SHE ALSO ADMITTED TO YOU THAT SHE'D HAD FOUR BEERS.

2 A YES, SIR.

3 Q OKAY. IN THE COURSE OF THE ACTUAL EXAMINATION YOU
4 ARE LOOKING FOR CERTAIN PHYSICAL EXAMS, PHYSICAL
5 INDICATORS. CORRECT?

6 A YES, SIR.

7 Q THERE IS A PROTOCOL IN THIS EXAMINATION REFERRED TO
8 AS BRATS. EVER HEARD OF THAT BEFORE? B-R-A-T-S.

9 A NO, SIR.

10 Q STANDING FOR BRUISING ---

11 A OH, ---

12 Q --- REDNESS ---

13 A --- REDNESS.

14 Q ABRASIONS ---

15 A CORRECT.

16 Q --- TEARING, SWELLING.

17 A CORRECT.

18 Q I REFER TO --- MAYBE I REFER TO IT AS BRATS.

19 A WE JUST --- I PERSONALLY JUST LOOK FOR ANYTHING THAT
20 IS ABNORMAL THAT SHOULDN'T BE THERE. IT DOESN'T MATTER
21 WHAT IT IS.

22 Q OKAY. BUT CER --- LET'S GO THIS --- CERTAIN THINGS
23 THAT SHOULD NOT BE THERE IN THESE SITUATIONS.

24 A CORRECT.

25 Q PRIMARILY BRUISING ---

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- 1 A YES, SIR.
- 2 Q AND I'M NOT TALKING BRUISING LIKE --- I'M TALKING
- 3 ABOUT BRUISING WITHIN THE AREA OF THE GENITALIA.
- 4 A YES, SIR.
- 5 Q REDNESS IS ONE.
- 6 A YES, SIR..
- 7 Q ABRASIONS.
- 8 A YES, SIR.
- 9 Q AND AN ABRASION IS BASICALLY A SCRAPE FOR LACK OF A
- 10 BETTER WORD.
- 11 A CORRECT.
- 12 Q AND ABRASIONS CAN BE DEEP OR RELATIVELY SHALLOW.
- 13 A YES, SIR.
- 14 Q AND THERE ARE WAYS --- FOR SHALLOW ABRASIONS YOU CAN
- 15 ACTUALLY LOOK FOR THOSE USING AN UP-TAKE DYE?
- 16 A YES, SIR.
- 17 Q ARE YOU FAMILIAR WITH THAT?
- 18 A YES, SIR.
- 19 Q DID YOU DO THAT IN THAT --- IN THIS PARTICULAR CASE?
- 20 A NO, SIR.
- 21 Q DID YOU FEEL LIKE THERE WAS A NEED TO DO THAT IN THIS
- 22 PARTICULAR CASE?
- 23 A NO, SIR.
- 24 Q OKAY. COULD YOU HAVE DONE IT IF YOU THOUGHT IT WAS
- 25 NEEDED?

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1 A I PROBABLY WOULD HAVE BOWED TO THE PHYSICIAN.

2 Q OKAY. BUT IF YOU HAD THOUGHT THAT IT WAS NEEDED YOU
3 COULD'VE THEN HAD THE PHYSICIAN ---

4 A YES, SIR.

5 Q --- COME IN TO DO IT. OKAY. ABRASIONS. TEARING ---

6 A YES, SIR.

7 Q --- THE T, WHICH IS A DEEPER WOUND. RIGHT?

8 A CORRECT.

9 Q OR SWELLING.

10 A CORRECT.

11 Q ALL OF WHICH ARE THINGS THAT ARE ABNORMAL ---

12 A YES, SIR.

13 Q --- AND ARE TYPICALLY OR ARE THINGS THAT YOU LOOK FOR
14 WHEN YOU ARE SEEING ABOUT A SEXUAL ASSAULT CASE.

15 A CORRECT.

16 Q OKAY. NOW, WHEN ASKED BY MS. HERVEY ABOUT THIS, YOU
17 INDICATED IN THE AREA OF HER HYMEN THAT THERE WAS REDNESS.

18 A YES, SIR.

19 Q AND THAT'S --- AND EXCUSE ME IF I MISPRONOUNCE THIS -
20 -- IN THE AREA OF THE POSTERIOR FOURCHETTE.

21 A YES. SIR

22 Q OKAY, IS THAT --- IS THAT THE SAME AREA OF THE HYMEN,
23 THE POSTERIOR FOURCHETTE WHEN YOU REFERRED TO THE REDNESS?

24 A YES, SIR.

25 Q THAT WAS THE SAME AREA.

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- 1 A RIGHT.
- 2 Q WE'RE NOT TAKING ABOUT TWO DIFFERENT SPOT IN THERE.
- 3 A NO, SIR.
- 4 Q SO THERE'S ONE SPOT OF REDNESS IN --- TRYING TO
- 5 NARROW IT DOWN SOME --- THE AREA OF THE POSTERIOR
- 6 FOURCHETTE.
- 7 A RIGHT.
- 8 Q AND ONE AREA OF REDNESS IN THE AREA OF THE CERVIX.
- 9 A RIGHT.
- 10 Q AND THAT'S IT.
- 11 A YES, SIR.
- 12 Q FROM AN ABNORMAL STANDPOINT.
- 13 A YES, SIR.
- 14 Q AND YOU JUST DON'T LOOK AT THOSE TWO PLACES WITHIN
- 15 THE GENITALIA OF MS. HILL, DO YOU?
- 16 A NO.
- 17 Q YOU'RE BASICALLY EXAMINING ALL OF THEM.
- 18 A YES, SIR.
- 19 Q AND THOSE CAN BE BROKEN DOWN INTO VARIOUS AREAS
- 20 BASICALLY FOR TRACKING PURPOSES. CORRECT?
- 21 A CORRECT.
- 22 Q ONE AREA COULD BE THE MONS PUBIS.
- 23 A CORRECT.
- 24 Q WHICH IS SORT OF THE UPPER PART IF WE'RE ---
- 25 A RIGHT.

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1 Q THE TWELVE O'CLOCK SECTION. CORRECT?

2 A CORRECT.

3 Q YOU COULD HAVE INJURY OR EXAMINATION IN THE AREA OF
4 THE CLITORIS.

5 A CORRECT.

6 Q YOU CAN HAVE INJURY IN THE AREA OF THE URETHRA MYALIS
7 (SIC).

8 A CORRECT.

9 Q IN THE AREA OF THE HYMEN.

10 A YES, SIR.

11 Q IN THE AREA OF THE PERINEUM.

12 A YES, SIR.

13 Q THERE IN THE BUTTOCKS.

14 A YES, SIR.

15 Q THE ANUS.

16 A (NO RESPONSE)

17 Q THE VAGINAL VAULT.

18 A YES, SIR.

19 Q OKAY. IN ALL THOSE PARTICULAR AREAS AND THROUGHOUT
20 HER GENITALIA YOU FOUND MY SIGNS OF ANY BRUISING.

21 A NO, SIR.

22 Q IN ALL THOSE AREAS YOU FOUND ABSOLUTELY NO ABRASIONS.

23 A NO, SIR.

24 Q NO TEARS.

25 A NO, SIR.

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1 Q NO SWELLING.

2 A NO, SIR.

3 Q THE ONLY THING YOU FOUND WAS THE REDNESS IN THE AREA
4 OF THE CERVIX AND THE POSTERIOR FOURCHETTE.

5 A YES, SIR.

6 Q WHICH AS YOU INDICATED COMES FROM SEX IN YOUR
7 OPINION.

8 A YES, SIR.

9 Q OKAY. AND IT IS POSSIBLE FOR REDNESS TO OCCUR IN
10 THOSE AREAS DURING CONSENSUAL SEX.

11 A OKAY.

12 Q AND I DON'T HAVE THE EXPERTISE BUT ---

13 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT
14 TO THAT ANSWER. SHE SEEMS TO BE NOT REALLY AFFIRMING WHAT
15 HE'S SAYING AND CERTAINLY MR. LEMEL ---

16 THE COURT - ALL RIGHT, ASK THE QUESTION AGAIN
17 AND THE ANSWER --- JUST DON'T AGREE WITH HIM. JUST --- IF
18 YOU DON'T KNOW ---

19 MS. CARRINGER - I MEAN I --- I'M --- YOU KNOW,
20 THAT'S ---

21 THE COURT - WELL, LET'S START OVER.

22 MS. CARRINGER - OKAY, PLEASE.

23 THE COURT - ASK THE QUESTION AND LET'S SEE WHAT
24 THE ANSWER IS.

25 Q YOU INDICATED BEFORE THAT REDNESS INDICATES SEX.

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1 A IT CAN, YES, SIR.

2 Q IT CAN. DOES IT --- IN YOUR EXPERIENCE AS A NURSE
3 WITH YOUR UNDERSTANDING OF WHAT YOU WERE DOING ON THIS
4 PARTICULAR CASE, DOES REDNESS INDICATE WHETHER THAT SEX
5 WAS CONSENSUAL OR NOT OR DO YOU KNOW?

6 A NO, SIR, IT DOESN'T INDICATE ONE OR THE OTHER.

7 Q OKAY. COULD BE EITHER WAY.

8 A CORRECT.

9 Q OKAY. YOUR EXAMINATION OF HER INDICATED INITIALLY
10 YOU SAID THAT SHE WASN'T UNDER DISTRESS. NOW, BY DISTRESS
11 THAT'S MORE OF A MEDICAL TERM OF ART?

12 A YES, SIR.

13 Q THAT JUST MEANS THAT SOMEBODY LITERALLY IS ---

14 A CAN'T BREATHE.

15 Q CAN'T BREATHE.

16 A YES, SIR.

17 Q HEART HAS STOPPED BEATING ---

18 A CORRECT.

19 Q --- AND THAT --- LIFE-THREATENING SORT OF SITUATION.

20 A CORRECT.

21 Q SHE CERTAINLY WAS DISTRESSED IN THIS CASE.

22 A YES, ---

23 Q SHE SAID SHE WAS ---

24 A --- EMOTIONALLY SHE WAS DISTRESSED.

25 Q RIGHT. SHE WAS CRYING.

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1 A YES, SIR.

2 Q BASICALLY CRYING FROM THE TIME SHE CAME IN ---

3 A YES, SIR.

4 Q --- UP TO FOUR HOURS LATER WHEN YOU'RE DEALING WITH
5 HER SHE'S STILL CRYING AT THAT POINT IN TIME.

6 A PRETTY MUCH SO.

7 Q OKAY. PRETTY MUCH NON-STOP EMOTIONAL ---

8 A YES, SIR.

9 Q OKAY. AS PART OF THE SEXUAL ASSAULT PAPERWORK THAT
10 YOU FILLED OUT, YOU ASKED HER ABOUT THE TYPES OF SEXUAL
11 CONTACT THAT OCCURRED IN A CASE LIKE THIS. RIGHT?

12 A YES, SIR.

13 Q OKAY, FOCUSING ON PAGE 1, THERE'S A SECTION THAT'S
14 TITLED DURING ALLEGED ASSAULT.

15 A YES, SIR.

16 Q AND ONE OF THE FIRST QUESTIONS THAT'S ASKED THERE IS
17 WHAT DID THE PENIS PENETRATE.

18 A YES, SIR.

19 Q AND THERE ARE A NUMBER OF --- THERE'S ATTEMPTED.
20 RIGHT?

21 A YES, SIR.

22 Q WHICH WOULD INDICATE NO ACTUAL ENTRY.

23 A CORRECT..

24 Q VAGIN --- VAGINA.

25 A CORRECT.

C.J. CARRINGER - CROSS BY MR. LEMEL

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- 1 Q ANUS.
- 2 A CORRECT.
- 3 Q MOUTH.
- 4 A CORRECT.
- 5 Q AND NO OR NOT KNOWN.
- 6 A CORRECT.
- 7 Q THE INDICATION AT THAT POINT IN TIME THAT SHE GAVE
- 8 YOU THAT WHAT THE PENIS PENETRATED IN THIS CASE WAS THE
- 9 VAGINA.
- 10 A YES, SIR.
- 11 Q THERE'S NO INDICATION AS YOU GO THROUGH THAT SHE
- 12 INDICATED THAT THE MOUTH WAS EVER PENETRATED.
- 13 A I DIDN'T CHECK THAT, NO, SIR.
- 14 Q OKAY. THERE'S ALSO A QUESTION FURTHER ON DOWN ABOUT
- 15 FIVE QUESTIONS DOWN ABOUT ORAL COPULATION.
- 16 A YES, SIR.
- 17 Q THAT'S BASICALLY ORAL SEX. CORRECT?
- 18 A CORRECT.
- 19 Q AND AGAIN THEY GIVE YOU OPTIONS. THE OPTION THERE IS
- 20 OF THE VICTIM BY THE ASSAILANT.
- 21 A CORRECT.
- 22 Q AND OF THE ASSAILANT BY THE VICTIM.
- 23 A CORRECT.
- 24 Q OKAY. NOW, --- TRYING TO KEEP THIS --- MAKE SURE WE
- 25 UNDERSTAND. OF THE VICTIM BY THE ASSAILANT WOULD MEAN

C.J. CARRINGER - CROSS BY MR. LEMEL

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1 THAT THE PERSON WHO IS COMMITTING THE ASSAULT PERFORMED
2 ORAL SEX ON THE GENITALIA OF THE VICTIM. CORRECT?

3 A THAT'S WHAT I WOULD ASSUME.

4 Q OKAY. SO IN A MAN AND A WOMAN WHERE A MAN IS ACCUSED
5 OF ASSAULTING A WOMAN, THAT WOULD MEAN THAT THE MAN
6 PERFORMED ORAL SEX ON THE WOMAN.

7 A OKAY. YES, SIR.

8 Q IS THAT --- THAT'S WHAT THAT INDICATES. VERSUS OF
9 THE ASSAILANT BY THE VICTIM, IN THAT SAME SCENARIO THAT
10 WOULD BE THE VICTIM PERFORMING ORAL SEX ON THE --- THAT
11 WOULD BE THE FEMALE PERFORMING ORAL SEX ON THE MAN.

12 A YES, SIR.

13 Q AND IN THIS CASE WHAT WAS INDICATED OR WHAT YOU'D
14 WRITE THERE IS THAT THE ASSAILANT PERFORMED ORAL SEX ON
15 THE VICTIM, THE MAN PERFORMED IT ON THE WOMAN.

16 A RIGHT.

17 Q WHICH IS CONSISTENT WITH WHAT YOU CHECKED ABOVE WHEN
18 SHE SAID IT DIDN'T PENETRATE THE MOUTH, THE PENIS DID NOT
19 PENETRATE THE MOUTH.

20 A RIGHT.

21 Q THAT'S CONSISTENT.

22 A RIGHT.

23 Q OKAY. AND, AGAIN, YOU WOULD'VE BEEN CHECKING THIS
24 STUFF OFF AS YOU WENT.

25 A YES, SIR.

C.J. CARRINGER - RE-DIRECT BY MS. LIPINSKI

193

1 Q OKAY. AND YOU WOULDN'T HAVE DOCUMENTED THAT
2 OTHERWISE AND THAT'S ---

3 A NO. CORRECT.

4 Q OKAY. ALL RIGHT. THIS PARTICULAR SITUATION, THIS
5 WAS THE FIRST TIME YOU EVER ENCOUNTERED MS. HILL?

6 A YES, SIR.

7 Q OKAY. YOU HAVEN'T EVER TREATED HER SINCE.

8 A NO, SIR.

9 Q AND CERTAINLY YOU'VE NEVER PERFORMED ANOTHER
10 GYNECOLOGICAL EXAM ON HER SINCE THIS PARTICULAR DAY.

11 A NO, SIR.

12 Q SO YOU WOULD NOT BE FAMILIAR WITH NORMALLY AREAS OF
13 REDNESS OR ANY OTHER PHYSICAL SITUATION SHE ---

14 A NO, SIR.

15 Q --- MIGHT HAVE VAGINALLY. AND ALL YOU CAN BASE IF
16 OFF IS THAT OF ALL THOSE AREAS, SOME ELEVEN OR TWELVE
17 AREAS OF THE VAGINA WITH FIVE DIFFERENT INDICATORS,
18 BRUISING, REDNESS, ABRASIONS, TEARING, SWELLING, THAT ON
19 TWO SITES YOU SAW REDNESS.

20 A CORRECT.

21 MR. LEMEL - BEGGING THE COURT'S INDULGENCE.

22 NO FURTHER QUESTIONS, YOUR HONOR.

23 RE-DIRECT EXAMINATION

24 BY MS. LIPINSKI -

25 Q JUST BRIEFLY, MS. CARRINGER. I WANT TO GO BACK TO

C.J. CARRINGER - RE-DIRECT BY MS. LIPINSKI

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1 THESE PHOTOS OF MISTI HILL AND SOME OF THEM THAT WE SPOKE
2 OF. I'M SHOWING YOU STATE'S EXHIBIT NUMBER 4(D). ARE
3 THOSE THE ABRASIONS --- AND (E) ACTUALLY --- ARE THOSE THE
4 ABRASIONS TO THE NECK AREA THAT YOU INDICATED IN YOUR
5 REPORT?

6 A ABRASIONS AND BRUISING.

7 Q AND ALSO SOME IN THAT KIND OF UPPER CHEST AREA IN
8 4(G) JUST SLIGHTLY A LITTLE REDNESS?

9 A YES, MA'AM.

10 MR. LEMEL - YOUR HONOR, I'M GOING TO OBJECT AT
11 THIS POINT. I DON'T SEE HOW THIS IN REPLY TO ANY QUESTION
12 I ASKED IN THIS PICTURES, DIDN'T REFER TO THE ABRASIONS.

13 MS. LIPINSKI - MR. LEMEL INDICATED THAT WAS HER
14 ONLY BRUISING OF REDNESS IN THE SMALL AREA OF THE VAGINA.
15 I'M JUST GOING INTO THAT THERE WAS ALSO BRUISING AND
16 REDNESS ON THE REST OF HER BODY.

17 THE COURT - I'LL ALLOW THE QUESTION.

18 MS. LIPINSKI - THANK YOU.

19 Q 4(I), IS A SCRAPE TO THE INNER ELBOW. IS THAT
20 CORRECT?

21 A CORRECT.

22 Q 4(L), DOES THAT DEPICT SOME OF THE INJURIES TO HER
23 ELBOW?

24 A YES, MA'AM.

25 Q 4(N), DOES THAT DEPICT INJURIES TO HER KNEES?

C.J. CARRINGER - RE-DIRECT BY MS. LIPINSKI

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1 A YES, MA'AM.

2 Q 4(U), THAT WOULD BE SOME SCRAPES ON HER BACK?

3 A YES, MA'AM.

4 Q AND FINALLY 4(B) SOME OTHER BRUISING AND ABRASIONS?

5 A YES, MA'AM.

6 Q THANK YOU. AND I WANT TO TAKE YOU BACK. MR. LEMEL
7 ASKED YOU SOME QUESTIONS ABOUT PAGE 1 OF THE SANE
8 PROTOCOL. IF YOU COULD TURN BACK TO THAT.

9 A YES, MA'AM. GOT IT.

10 Q AND IF YOU GO THERE'S A PORTION FOR THE BRIEF SUMMARY
11 OF THE ASSAULT.

12 A YES, MA'AM.

13 Q AND IF YOU COULD, THAT SECOND LINE, WHAT DOES THAT
14 INDICATE?

15 A THE SECOND LINE?

16 Q YES, OF THE SUMMARY. STARTING WITH THE THIRD WORD.

17 A ATTEMPTED.

18 Q AND WHAT DOES IT GO ON TO SAY?

19 A SAYS ATTEMPTED FORCED ORAL SEX.

20 Q AND THEN?

21 A AFTER VICTIM REFUSED, ASSAILANT STRUCK VICTIM
22 REPEATEDLY WITH CLOSED FIST.

23 Q AND WHEN YOU'RE WRITING THIS, IS SHE DESCRIBING AT
24 THAT POINT HIM FORCING HIMSELF TO PERFORM ORAL SEX ON HER
25 OR ATTEMPTING TO FORCE HER TO PERFORM ORAL SEX ON HIM?

C.J. CARRINGER - RE-CROSS BY MR. LEMEL

196

1 A HER ON HIM.

2 Q HER ON HIM.

3 A YES, MA'AM.

4 Q SO WHEN SHE GOES TO THE SUMMARY OF THE ASSAULT, SHE'S
5 GOING THROUGH THAT DESCRIPTION.

6 A CORRECT.

7 Q AND MR. LEMEL ASKED YOU SOME QUESTIONS OF VICTIM BY
8 ASSAILANT AND BY ASSAILANT OF VICTIM. DO YOU REMEMBER HER
9 DESCRIBING HIM ATTEMPTING TO PERFORM ORAL SEX ON HER?

10 A NO, MA'AM. I DON'T REMEMBER.

11 Q IS THIS A FORM YOU'RE FAMILIAR WITH?

12 A NO, MA'AM.

13 Q IS IT POSSIBLE THAT YOU GOT THOSE BACKWARDS?

14 A YES, MA'AM.

15 MS. LIPINSKI - THAT'S ALL WE HAVE OF MS.
16 CARRINGER, YOUR HONOR.

17 RE-CROSS EXAMINATION

18 BY MR. LEMEL -

19 Q IS IT ALSO POSSIBLE YOU GOT THAT RIGHT, THAT WHAT YOU
20 PUT DOWN?

21 A I'M SORRY.

22 Q IS IT ALSO POSSIBLE THAT WHAT YOU WROTE DOWN IS WHAT
23 SHE SAID?

24 A IT'S POSSIBLE, YES, SIR.

25 Q OKAY. AND, IN FACT, ISN'T IT MORE CONSISTENT WITH

C.J. CARRINGER - RE-CROSS BY MR. LEMEL

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1 WHAT THE REST OF THE REPORT SHOWS WITH REGARD TO WHETHER
2 MS. HILL PERFORMED ORAL SEX ON HER ALLEGED ASSAILANT?

3 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT
4 AS TO THAT BEING OUTSIDE THE SCOPE OF HER EXPERTISE.

5 THE COURT - I SUSTAIN THE OBJECTION.

6 Q OKAY. YOU --- I'M TALKING ---

7 A WAY BEYOND ME.

8 Q OKAY. I'M TALKING ABOUT --- YOU FILLED THIS REPORT
9 OUT.

10 A YES, SIR.

11 Q OKAY. NOW, IN THIS REPORT IN YOUR WRITTEN
12 DESCRIPTION OF WHAT --- OF WHAT SHE SAID HAPPENED, IT
13 INDICATES THAT HE ATTEMPTED FORCED ORAL SEX AND SHE
14 REFUSED.

15 A OKAY. YES, SIR.

16 Q THAT'S WHAT ---

17 A THAT'S ---

18 Q --- YOU WROTE DOWN, WHICH INDICATES NO ORAL SEX
19 ACTUALLY WAS PERFORMED BY HER. RIGHT?

20 A UM ---

21 Q WHEN SHE SAYS ATTEMPTED FORCED ORAL SEX ---

22 A CORRECT.

23 Q --- THAT'S NOT COMPLETED. THAT'S ATTEMPTED.

24 A CORRECT.

25 Q AND SHE REFUSED.

C.J. CARRINGER - RE-CROSS BY MR. LEMEL

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1 A CORRECT.

2 Q AND THEN LATER ON IN THIS REPORT, AGAIN WHEN YOU'RE
3 FILLING IT OUT BASED UPON WHAT SHE'S TELLING YOU, YOU HAVE
4 A SPECIFIC QUESTION ABOUT WHAT WAS PENETRATED.

5 A CORRECT.

6 Q AND YOU DID CHECK VAGINA.

7 A YES, SIR.

8 Q BUT YOU DID NOT CHECK MOUTH.

9 A CORRECT.

10 Q WHICH AGAIN IS AN INDICATOR THAT NO ORAL PENETRATION
11 OCCURRED OF MS. HILL BY SOMEONE'S PENIS.

12 A THAT'S WHAT I'VE GOT CHECKED.

13 Q OKAY. WHICH IS CONSISTENT WITH WHAT YOU REPORTED
14 ABOVE.

15 A RIGHT.

16 Q AND A LITTLE BIT LATER DOWN THAT PAGE WHEN THE
17 QUESTION IS ASKED, WAS THERE ORAL COPULATION OF THE
18 ASSAILANT, OF THE MAN, BY THE VICTIM, BY THE WOMAN, THAT'S
19 CHECKED NO..

20 A CORRECT.

21 Q SO ALL THREE OF THOSE SECTIONS ARE CONSISTENT WITH
22 REGARD TO WHETHER THERE WAS ORAL SEX PERFORMED BY MS. HILL
23 ON HER ASSAILANT. RIGHT?

24 A CORRECT.

25 Q THREE DIFFERENT SECTIONS ALL CONSISTENT NO ORAL

JOHN WILLIAMS - DIRECT BY MR. MAINES

199

1 PENETRATION ---

2 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT.

3 HE'S DRAWING THE ULTIMATE CONCLUSION THAT THE JURY --- SHE

4 SHOULD JUST BE ASKING HER ---

5 THE COURT - YES, JUST ASK QUESTIONS AND DON'T

6 COMMENT ON ANY ---

7 Q BUT ALL THREE OF THOSE INDICATE THE SAME THING.

8 RIGHT? THOSE THREE SECTIONS.

9 A CORRECT.

10 MR. LEMEL - OKAY. NOTHING FURTHER, YOUR HONOR.

11 THE COURT - YOU CAN STEP DOWN AND BE EXCUSED.

12 WE APPRECIATE YOUR TIME. THANK YOU.

13 MS. CARRINGER - THANK YOU.

14 THE COURT - CALL YOUR NEXT WITNESS.

15 MS. LIPINSKI - YOUR HONOR, THE STATE CALLS JOHN

16 WILLIAMS TO THE STAND.

17 JOHN WILLIAMS, AFTER BEING FIRST DULY SWORN,

18 TESTIFIES AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MR. MAINES -

21 Q OFFICER WILLIAMS, WOULD YOU MIND STARTING OFF WITH

22 YOUR FULL NAME?

23 A JOHN H. WILLIAMS.

24 Q AND WHERE ARE YOU CURRENTLY EMPLOYED?

25 A YORK COUNTY SHERIFF'S OFFICE.

JOHN WILLIAMS - DIRECT BY MR. MAINES

200

1 Q AND WHAT DO YOU DO FOR THE SHERIFF'S DEPARTMENT?

2 A I'M A DUTY OFFICER.

3 Q OKAY, AND WERE YOU EVER EMPLOYED WITH THE FORENSICS
4 SERVICES UNIT?

5 A YES, SIR, I WAS.

6 Q AND WAS THAT FOR YORK COUNTY?

7 A YES, I WAS.

8 Q WERE YOU EMPLOYED WITH THE FORENSICS SERVICES UNIT ON
9 MAY 3RD, 2007?

10 A YES, I WAS.

11 Q DO YOU RECALL WHAT YOUR INVOLVEMENT WAS IN THIS CASE?

12 A YES, I RESPONDED TO LOCATION AT WEEPING MARY BAPTIST
13 CHURCH.

14 Q OKAY, AND WHEN YOU GOT TO THE WEEPING MARY BAPTIST
15 CHURCH, WHAT DID YOU DO? DID YOU PROCESS THE SCENE?

16 A MADE PHOTOS OF THE SCENE AND RECOVERED ITEMS THAT WE
17 FOUND AT THE SCENE.

18 Q OKAY. AND DID YOU EVER MEET WITH THE VICTIM, MISTI
19 HILL?

20 A NO.

21 Q OKAY. I'M PASSING UP MULTIPLE PHOTOS ALL STARTING
22 WITH THE NUMBER 9 AND EACH WITH A DIFFERENT INDICATING
23 NUMBER. CAN YOU PLEASE TELL US WHAT YOU'RE LOOKING AT?

24 A THESE ARE PHOTOGRAPHS THAT I MADE AT THE SCENE THAT
25 DAY.

JOHN WILLIAMS - DIRECT BY MR. MAINES

201

1 Q CAN YOU PLEASE GO THROUGH ALL OF THEM AND INDICATE
2 WHICH EXHIBIT YOU'RE LOOKING AT SPECIFICALLY?
3 A YES. STATE'S EXHIBIT 9(A) IS A PHOTOGRAPH OF THE
4 CHURCH; 9(B) IS A PHOTOGRAPH OF THE --- APPEARS TO BE THE
5 REAR SIDEWALK OF THE CHURCH AND THE GRAVEYARD AREA BEHIND
6 THE CHURCH WITH A PORTION OF WHAT LOOKS LIKE PARKING LOT
7 AND FOREGROUND. STATE'S EXHIBIT 9(C) SHOWS AN AREA
8 ADJACENT TO THE GRAVEYARD WHERE THERE ARE NO GRAVE OR
9 MONUMENTS. THERE'S THE EDGE OF THE WOODS NEXT TO THE
10 GRAVEYARD; 9(D) SHOWS A SPACE BEHIND A GRAVE, A HALL GRAVE
11 SHOWING THE EDGE OF THE WOOD LINE. STATE'S EXHIBIT 9(E)
12 IS A PLASTIC PULL LYING IN THE GRASS OFF OF SOME TYPE OF
13 WRAPPER. STATE'S EXHIBIT 9(F) SHOWS THIS WRAPPER AND ITS
14 RELATIONSHIP TO --- LOOKS LIKE A DISCARDED WREATH AT THE
15 EDGE OF THE GRAVEYARD. STATE'S EXHIBIT 9(G) IS A
16 PHOTOGRAPH OF WHAT APPEARS TO BE A BEADED BEAD-TYPE
17 BRACELET AND WHAT APPEARS TO BE AN EARRING. STATE'S
18 EXHIBIT 9(H) IS A CHARM LYING IN THE GRASS. STATE'S
19 EXHIBIT 9(O) IS AN OVERALL SHOT OF THE EDGE OF THE
20 GRAVEYARD. IT ALSO INCLUDES THE --- YOU CAN SEE THE
21 BEADED BRACELET AND THE CHARM. THEY'RE VERY SMALL IN THE
22 PHOTO. STATE'S EXHIBIT 9(I) SHOW THE PLASTIC WRAPPER AND
23 THE BEADED BRACELET AT THE EDGE OF THE GRAVEYARD. STATE'S
24 EXHIBIT 9(M) SHOWS A PORTION OF THE PAVED PARKING LOT, A
25 PORTION OF THE GRASSY PARKING LOT AND A PORTION OF THE

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1 GRAVEYARD; 9(N) IS A PHOTOGRAPH SHOWING THE EDGE OF THE
2 GRAVEYARD ALONG WITH THE BRACELET AND THE CHARM; 9(J) IS
3 A PHOTOGRAPH OF THE BRACELET AT THE EDGE OF THE GRAVEYARD
4 AND ITS RELATIONSHIP TO THE DISCARDED PINK WREATH; 9(K) IS
5 AN OVERALL VIEW OF THE AREA WHERE THESE ITEMS WERE FOUND
6 BEHIND THE HALL MONUMENT THERE. AND 9(L) WE HAVE ANOTHER
7 VIEW OF THE PAVED PARKING LOT AND THE GRASSY PARKING LOT
8 AND A PORTION OF THE GRAVEYARD.

9 Q DID YOU TAKE THOSE PICTURES?

10 A YES, I DID.

11 Q ARE THEY A FAIR AND ACCURATE PICTURE OF WHAT YOU SAW
12 THAT DAY?

13 A YES, THEY ARE.

14 MR. MAINES - YOUR HONOR, STATE REQUEST TO PLACE
15 ALL OF THE PHOTOS WITH EXHIBIT NUMBER 9 AND THE
16 CORRESPONDING LETTERS INTO EVIDENCE.

17 MR. LEMBL - JUDGE, I THINK THERE'S SOME ---
18 UNFORTUNATELY SOME DUPLICATION IN THE LETTERS THAT WE WENT
19 THROUGH. WE HAVE NO OBJECTION TO THE INTRODUCTION OF THE
20 PICTURES THAT WE'RE MEANING TO CLARIFY IN THE FUTURE AND
21 HAVE THEM --- I THINK THERE WERE TWO (J'S) CITED IN THERE
22 AT SOME POINT IN TIME. I THINK WE GOT OFF TRACK, BUT WE
23 HAVE NO OBJECTION TO THAT.

24 THE COURT - THEY'RE ENTERED WITHOUT OBJECTION
25 SUBJECT TO BEING ENUMERATED PROPERLY.

JOHN WILLIAMS - DIRECT BY MR. MAINES

203

1 MR. MAINES - THANK YOU, YOUR HONOR.

2 Q WOULD YOU GO THROUGH THOSE PHOTOS TO SEE IF WE FIND
3 THERE'S NO TWO LETTER J'S.

4 A I ONLY SEE ONE.

5 Q THERE'S ONLY ONE (J)?

6 A YES, SIR.

7 (PHOTOS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
8 NUMBER 9.)

9 Q OKAY. NOW, I WANT TO FOCUS ON --- IF I COULD SEE THE
10 PICTURES REAL QUICK --- THE PHOTO OF EXHIBIT 9(E), THE
11 PLASTIC OBJECT THERE. IS THAT A TYPE OF PLASTIC PULL
12 STRING?

13 A YES, IT IS.

14 Q OKAY. NOW, CAN YOU TELL BASED ON THE OTHER PHOTOS
15 THAT I'VE SHOWN YOU HERE WHERE THEY'RE AT, WHERE IT'S AT
16 IN RELATION TO THE GRAVEYARD ITSELF?

17 A YES, THOSE ITEMS WERE TAKEN TO THE RIGHT SIDE TOWARD
18 THE BACK OF THE GRAVEYARD.

19 Q CAN YOU PLEASE POINT OUT WHICH PICTURE WOULD GIVE THE
20 JURY THE BEST RESPECT TO THE AREA THAT YOU'RE TALKING
21 ABOUT?

22 A I THINK 9(B) WOULD SHOW YOU THAT AREA THE BEST.

23 Q 9(B)? AND POINTING AT THE AREA THAT WE'RE TALKING
24 ABOUT SO THE JURY CAN SEE AS BEST THEY CAN AND ALSO MR.
25 LEMEL, CAN YOU MAYBE CIRCLE THE AREA WITH YOUR PEN?

JOHN WILLIAMS - DIRECT BY MR. MAINES

204

1 A (WITNESS COMPLIES)

2 Q NOW, DID YOU FIND A SILVER CHARM AT THAT SAME AREA OR
3 NEARBY?

4 A YES, I DID.

5 Q AND A NECKLACE OF SOME TYPE? BRACELET ---

6 A IT WAS A BRACELET.

7 Q BRACELET, I'M SORRY. SO YOU OBVIOUSLY KNOW. AN
8 EARRING?

9 A YES, SIR.

10 Q AND WERE THEY IN THAT SAME GENERAL VICINITY?

11 A YES, SIR, THEY WERE.

12 Q AND IS THAT THE VICINITY YOU CIRCLED ON 9(B)?

13 A THAT'S CORRECT.

14 MR. MAINES - YOUR HONOR, WE'D SIMPLY REQUEST TO
15 PUBLISH EXHIBIT 9(B).

16 THE COURT - ALL RIGHT.

17 Q DID YOU COLLECT THE ASSORTED ITEMS YOU JUST DESCRIBED
18 YOURSELF?

19 A YES, I DID.

20 Q WHAT DID YOU DO WITH THEM?

21 A I PLACED THEM IN ENVELOPES AND PLACED THEM IN
22 EVIDENCE.

23 Q IF I SHOWED YOU THOSE SAME ENVELOPES WOULD YOU
24 RECOGNIZE THEM?

25 A I'M SURE I WOULD.

JOHN WILLIAMS - DIRECT BY MR. MAINES

205

1 Q I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
2 6, 7 AND 8. WOULD YOU PLEASE TELL THE JURY WHAT THOSE
3 ARE?

4 A STATE'S EXHIBIT 6 IS ONE SILVER CHARM. THAT I
5 RECOVERED AT THE SCENE.

6 Q OKAY.

7 A STATE'S EXHIBIT 7 IS A SILVER BEAD BRACELET AND
8 EARRING THAT I PACKAGED TOGETHER AND RECOVERED AT THE
9 SCENE. STATE'S EXHIBIT 8 IS A PLASTIC WRAPPER PULL THAT
10 I RECOVERED AT THE SCENE.

11 Q OKAY.

12 MR. MAINES - AND, YOUR HONOR, THE STATE REQUEST
13 TO PLACE EXHIBITS 6, 7 AND 8 INTO EVIDENCE.

14 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT - ENTERED WITHOUT OBJECTION.

16 (ITEMS MARKED INTO EVIDENCE AS STATE'S EXHIBITS
17 6, 7 AND 8.)

18 Q LET'S GO AHEAD AND OPEN THOSE UP. CAN YOU OPEN THOSE
19 UP FOR US?

20 A (WITNESS COMPLIES)

21 Q DO YOU HAVE IT OPEN?

22 A YES, I DO.

23 Q TAKE IT OUT. CAN YOU PLEASE SHOW THE JURY WHAT YOU
24 FOUND THAT DAY?

25 A STATE'S EXHIBIT 6, THE SILVER CHARM. IT'S THIS ITEM

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206

1 HERE.

2 Q AND THAT'S THE SAME --- IS THAT THE SAME SILVER CHARM
3 YOU TOOK A PICTURE OF THAT ---

4 A YES, IT IS. STATE'S EXHIBIT 7 IS A BEADED BRACELET
5 AND AN EARRING. STATE'S EXHIBIT 8 IS A PLASTIC WRAPPER
6 PULL.

7 Q NOW, WE DIDN'T SEE A PICTURE OF ANY RED BANDANNA, DID
8 WE?

9 A NO, WE DID NOT.

10 Q DID YOU RECOVER A RED BANDANNA?

11 A I DON'T RECALL RECOVERING A RED BANDANNA, SIR.

12 Q LET ME SHOW YOU THIS EXHIBIT. I'M SHOWING YOU
13 STATE'S EXHIBIT NUMBER 5. CAN YOU PLEASE TELL THE JURY
14 WHAT YOU'RE LOOKING AT?

15 A IT'S A RED IN COLOR BANDANNA; PLACE FOUND WAS
16 VICTIM'S LEFT HAND; SHOWS A DATE RECOVERED AND TIME, WHO
17 IT WAS RECOVERED FROM, AND IT WAS RECOVERED BY T.S.
18 CHILDERS. T.S. CHILDERS TURNED THIS PIECE OF EVIDENCE
19 OVER TO ME ON 5/3/07 AT 9:00 O'CLOCK. I PLACED THIS INTO
20 EVIDENCE ON THE SAME DAY.

21 MR. MAINES - YOUR HONOR, STATE REQUEST TO PLACE
22 STATE'S EXHIBIT 5 INTO EVIDENCE.

23 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

24 THE COURT - IN WITHOUT OBJECTION.

25 (ITEM MARKED INTO EVIDENCE AS STATE'S EXHIBIT

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207

1 NUMBER 5.)

2 Q NOW, DID YOU ALSO HAPPEN TO PROCESS A GREEN FORD
3 TAURUS?

4 A YES, I DID.

5 Q WHEN YOU PROCESS A VEHICLE, WHAT KINDS OF THINGS DO
6 YOU DO?

7 A WE PHOTOGRAPH THE VEHICLE AND ---

8 Q OKAY. WHAT OTHER --- WHAT OTHER THINGS DO YOU DO TO
9 A VEHICLE?

10 A WE LOOK INSIDE THE VEHICLE AND MAKE A VISUAL
11 INSPECTION OF ANY EVIDENCE THAT MIGHT BE IN THERE THEN WE
12 PROCESS THE VEHICLE FOR LATENT PRINTS.

13 Q CAN YOU PLEASE TELL US WHAT PHOTOS YOU'RE LOOKING AT
14 OR --- I'M SORRY, COULD YOU LOOK AT THE EXHIBITS AND SAY
15 WHAT THEY ARE AND WHAT THEY DEPICT?

16 A STATE'S EXHIBIT 10(A) IS A PHOTOGRAPH OF A GREEN
17 TAURUS. STATE'S EXHIBIT 10(B) IS THE SAME VEHICLE SHOWING
18 THE LICENSE PLATE.

19 Q CAN YOU --- WELL, I'M SORRY. GO AHEAD. KEEP GOING.

20 A STATE'S EXHIBIT 10(C) SHOWS THE --- IS A PHOTOGRAPH
21 OF THE FRONT SEAT AREA OF THE VEHICLE. STATE'S EXHIBIT
22 10(D) IS A PHOTOGRAPH OF THE BACK-SEAT OF THE VEHICLE.
23 STATE'S EXHIBIT --- THAT WAS 10(D). STATE'S EXHIBIT 10(E)
24 IS A PHOTOGRAPH OF THE REAR WINDSHIELD OF THE VEHICLE
25 WHERE A FINGERPRINT WAS RECOVERED. THE FINGERPRINT'S BEEN

JOHN WILLIAMS - DIRECT BY MR. MAINES

208

1 TAPED UP WITH A PIECE OF TAPE. STATE'S EXHIBIT 10(F)
2 SHOWS THE REAR OF THE VEHICLE WITH A NUMBER OF SMUDGES AND
3 THINGS AND A PIECE OF TAPE. STATE'S EXHIBIT 10(G) SHOWS
4 THE REAR OF THE VEHICLE. NOW, THE REAR OF THE VEHICLE HAS
5 A LOT OF BLACK POWDER ON IT. THAT'S RESIDUE FROM THE
6 FINGERPRINT PROCESSING. HAS A NUMBER OF PIECES OF TAPE ON
7 THE TRUNK, THE TRUNK AREA. STATE'S EXHIBIT 10(H) IS A
8 CLOSE-UP OF THAT AREA. STATE'S EXHIBIT 10(I) IS THE
9 FRONT-END OF THE VEHICLE AFTER IT HAD BEEN PROCESSED WITH
10 FINGERPRINT POWDER. THERE'S A CAN OF FINGERPRINT POWDER
11 SITTING ON THE HOOD OF THE VEHICLE WITH A BRUSH STICKING
12 OUT OF IT. STATE'S EXHIBIT 10(J) IS THE DOOR AREA OF THE
13 VEHICLE. THAT'S THE ONLY STATE'S EXHIBITS.

14 Q OKAY. AND DO THOSE PICTURES --- WELL, DO THOSE
15 FAIRLY AND ACCURATELY REPRESENT THE ---

16 A YES, SIR.

17 Q --- CAR THAT WAS PROCESSED THAT DAY? DID YOU TAKE
18 THOSE PHOTOS YOURSELF?

19 A YES, I DID.

20 MR. MAINES - YOUR HONOR, THE STATE REQUESTS TO
21 PLACE EXHIBIT 10 AND THEIR ASSOCIATED IDENTIFYING LETTER
22 INTO EVIDENCE, YOUR HONOR.

23 MR. LEMEL - NO OBJECTION TO 10(A) THROUGH (J),
24 YOUR HONOR.

25 THE COURT - IN WITHOUT OBJECTION.

JOHN WILLIAMS - DIRECT BY MR. MAINES

209

1 (PHOTOS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
2 10 (A) THROUGH 10 (J) .)

3 Q NOW, ARE THERE ANY ONE OF THOSE PHOTOS OF THE GREEN
4 FORD TAURUS WHERE YOU CAN SEE THE LICENSE PLATE NUMBER?

5 A YES, SIR.

6 Q AND CAN YOU, PLEASE TELL US WHAT THAT LICENSE PLATE
7 IS?

8 A IT'S A NORTH CAROLINA LICENSE PLATE

9 Q NOW, DO YOU HAVE THE PICTURE IN THE EXHIBITS THAT YOU
10 HAVE RIGHT NOW SHOWING THE INTERIOR OF THE FRONT PASSENGER
11 SEAT?

12 A YES, SIR, I DO.

13 Q OKAY. AND CAN YOU PLEASE IDENTIFY WHAT PICTURE THAT
14 IS?

15 A STATE'S EXHIBIT 10 (C) .

16 Q NOW, IS THAT A PACK OF CIGARETTES IN THE FRONT
17 PASSENGER SEAT?

18 A YES, SIR, THAT APPEARS TO BE A PACK OF CIGARETTES.

19 Q DOES IT LOOK LIKE IT'S OPEN OR CLOSED? CAN YOU TELL?

20 A I CAN'T SAY FOR CERTAIN.

21 Q OKAY.

22 MR. MAINES - YOUR HONOR, STATE REQUESTS TO
23 PUBLISH EXHIBIT 10 (C) .

24 Q AS TO THE FINGERPRINT ANALYSIS, WERE YOU ABLE TO
25 RECOVER A SUFFICIENT LATENT PRINT TO MAKE IT A MATCH TO

JOHN WILLIAMS - DIRECT BY MR. MAINES

210

1 ANYONE INVOLVED IN THIS CASE?

2 A YES, I IDENTIFIED A FINGERPRINT WITH MISTI L. HILL.

3 Q WHERE WAS THAT FINGERPRINT LIFTED FROM?

4 A IT WAS ON THE REAR WINDSHIELD.

5 Q CAN YOU IDENTIFY WHICH SPECIFIC PICTURE YOU'RE
6 REFERRING TO?

7 A STATE'S EXHIBIT 10 (E) IS A CLOSE-UP OF THE --- WHERE
8 I LIFTED THE PRINT, FINGERPRINT.

9 MR. MAINES - YOUR HONOR, CAN I PUBLISH THIS TO
10 THE JURY?

11 THE COURT - (INDICATING YES)

12 Q DID YOU DUST THE ENTIRE CAR FOR FINGERPRINTS?

13 A WE DUSTED THE EXTERIOR OF THE CAR AND THE EXTERIOR --
14 - AND THE INTERIOR OF THE UNPAINTED SURFACES AROUND THE
15 DOORS.

16 Q AND WERE THERE ANY OTHER PLACES IN THE CAR SUFFICIENT
17 --- WERE THERE ANY OTHER SUFFICIENT PRINTS TO MATCH --- OF
18 SUFFICIENT QUALITY TO MATCH TO ANOTHER PERSON?

19 A I DON'T RECALL. WE LIFTED A NUMBER OF FINGERPRINTS.

20 Q I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
21 11. DO YOU REMEMBER WHETHER OR NOT YOU TOOK THOSE
22 CIGARETTES FROM THE GREEN FORD TAURUS?

23 A YES, I DID.

24 Q IS THAT THE CIGARETTES THAT YOU RECOVERED?

25 A YES, IT IS.

JOHN WILLIAMS - CROSS BY MR. LEMEL

211

1 Q AND COULD YOU, PLEASE, REFER --- I FORGET WHICH
2 EXHIBIT NUMBER THAT IS.

3 A STATE'S EXHIBIT 11.

4 MR. MAINES - YOUR HONOR, STATE REQUESTS TO PLACE
5 STATE'S EXHIBIT 11 INTO EVIDENCE.

6 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

7 THE COURT - IN WITHOUT OBJECTION.

8 (ITEM MARKED INTO EVIDENCE AS STATE'S EXHIBIT
9 NUMBER 11.)

10 Q WOULD YOU, PLEASE, GO AHEAD AND OPEN THAT UP SO THE
11 JURY CAN SEE IT.

12 A (WITNESS COMPLIES)

13 Q NOW, IS THE TOP WHERE THE PLASTIC LINING AROUND THE
14 TOP PORTION OF THOSE CIGARETTES, IS THAT MISSING?

15 A YES, IT IS.

16 Q OKAY.

17 MR. MAINES - THAT'S ALL THE QUESTIONS I HAVE FOR
18 YOU. PLEASE ANSWER ANY QUESTIONS MR. LEMEL MAY HAVE.

19 CROSS EXAMINATION

20 BY MR. LEMEL -

21 Q GOOD AFTERNOON, OFFICER WILLIAMS. HOW ARE YOU DOING?

22 A FINE. HOW ARE YOU TODAY?

23 Q I'M DOING FINE. I'M GOING TO PICK UP SOME OF THESE
24 EXHIBITS IF I COULD. STATE'S EXHIBIT NUMBER 8 YOU'VE
25 IDENTIFIED AS A PIECE OF PLASTIC, BASICALLY YOU PICKED UP

JOHN WILLIAMS - CROSS BY MR. LEMEL

212

1 OFF THE GROUND THAT ---

2 A YES, SIR.

3 Q --- HAS BEEN INDICATED AS SOME SORT OF WRAPPER PULL?

4 A YES, SIR, THAT'S CORRECT.

5 Q DO YOU KNOW WHAT THAT'S A WRAPPER PULL FROM?

6 A NO, SIR, I DON'T.

7 Q COULD BE A WRAPPER PULL FROM ANYTHING THAT WAS
8 COVERED IN CELLOPHANE.

9 A THAT'S CORRECT.

10 Q COULD BE A PACK OF CIGARETTES?

11 A THAT IS CORRECT.

12 Q COULD BE ONE OF THOSE DISPOSABLE CAMERAS?

13 A I'M NOT FAMILIAR WITH THAT.

14 Q COULD BE ANY NUMBER OF THINGS.

15 A ANYTHING THAT HAD A PLASTIC WRAPPER PULL.

16 Q THIS, AS I UNDERSTAND IT, WAS PICKED UP BY YOU AND
17 PLACED INTO EVIDENCE BACK IN MAY OF '07. IS THAT CORRECT?

18 A YES, SIR, THAT'S CORRECT.

19 Q AND FROM MAY OF '07 TO TODAY, WHICH IS THE 31ST, DID
20 ANYTHING HAPPEN WITH THAT?

21 A I PLACED IT INTO EVIDENCE ON THE 3RD. IT WAS CHECKED
22 INTO EVIDENCE BY EVIDENCE TECHNICIAN THEN CHECKED BACK OUT
23 TO CHRIS BOMAR ON THE 31ST.

24 Q TODAY.

25 A YES, SIR.

JOHN WILLIAMS - CROSS BY MR. LEMEL

213

1 Q SO FROM THE TIME THAT IT WAS PLACED INTO EVIDENCE
2 BACK IN MAY OF '07, FROM THAT TIME TO NOW IT HAS NOT LEFT
3 THE EVIDENCE ROOM.

4 A THERE'S NO INDICATION THAT IT HAS, SIR.

5 Q SO, --- AND IT CERTAINLY WOULD INDICATE ON THERE IF
6 IT HAD BEEN TAKEN OUT.

7 A IT SHOULD, YES, SIR.

8 Q IT SHOULD. SO NO PROCESSING WAS DONE WITH THAT OR
9 ANYTHING OF THAT ---

10 A THAT'S CORRECT.

11 Q OKAY. SAME THING WITH THIS PACK OF CIGARETTES THAT
12 WAS STATE'S NUMBER 11. AGAIN, THIS INDICATES IT'S PLACED
13 INTO EVIDENCE BACK IN MAY OF '07. CORRECT?

14 A YES, SIR.

15 Q CHECKED OUT BY OFFICER BOMAR TODAY?

16 A THAT'S CORRECT.

17 Q BETWEEN THEN AND NOW NO PROCESSING DONE?

18 A THAT'S CORRECT.

19 Q THAT PACK OF CIGARETTES HAS WHAT LOOKS TO BE --- I
20 DON'T KNOW IF YOU LOOKED AT IT. DID YOU LOOK TO SEE WHAT
21 WAS IN THE PACK OF CIGARETTES?

22 A NO, I DIDN'T LOOK IN ---

23 Q OKAY, WHY DON'T YOU TAKE IT AND LOOK AT IT NOW.

24 A (WITNESS COMPLIES) APPEARS TO HAVE FOUR CIGARETTES
25 LEFT IN IT.

JOHN WILLIAMS - CROSS BY MR. LEMEL

214

1 Q OKAY. FOUR CIGARETTES LEFT IN THAT PACK. DO YOU
2 KNOW WHEN THAT PACK WAS OPENED?

3 A NO, SIR.

4 Q ANY IDEA HOW LONG IT HAD HAD FOUR CIGARETTES IN IT OR
5 ANYTHING OF THAT NATURE?

6 A NO, SIR.

7 Q BUT, OBVIOUSLY, IT WASN'T A FRESHLY OPENED PACK
8 BECAUSE A NUMBER OF CIGARETTES ARE MISSING.

9 A THAT'S CORRECT.

10 Q OKAY. ANY ATTEMPT TO COMPARE AND ANY WAY CONNECT
11 BETWEEN THE WRAPPER YOU FOUND AND THAT PACK OF CIGARETTES
12 AT ALL?

13 A NO, SIR.

14 Q OKAY. I HAVE 6 AND 7 HERE. 6 AND 7 ARE THE VARIOUS
15 PIECES OF JEWELRY THAT YOU PULLED OFF THE GROUND THAT DAY?

16 A THAT'S CORRECT.

17 Q AGAIN, THOSE SHOW THAT THEY WERE CHECKED IN BACK IN
18 MAY OF '07.

19 A THAT'S CORRECT.

20 Q HAVE BEEN IN EVIDENCE AT THE YORK COUNTY SHERIFF'S
21 DEPARTMENT SINCE MAY OF '07.

22 A THAT'S CORRECT.

23 Q AND THEY WERE NOT CHECKED OUT FOR ANY SORT OF
24 PROCESSING BETWEEN THAT TIME AND TODAY WHEN OFFICER BOMAR
25 PICKED THEM UP.

JOHN WILLIAMS - CROSS BY MR. LEMEL

215

1 A THAT IS CORRECT.

2 Q AND THEY'D BEEN AVAILABLE TO YOU IN FORENSICS OR WHEN
3 YOU WORKED IN FORENSICS DURING THAT WHOLE TIME. YOU
4 COULD'VE GONE DONE UPON REQUESTS AND PROCESSED THEM.
5 CORRECT?

6 A THAT'S CORRECT.

7 Q THEY WERE NEVER FINGER-PRINTED?

8 A NO, THEY WEREN'T.

9 Q NEVER SWABBED FOR ANY SORT OF DNA?

10 A NO, SIR.

11 Q SO THERE'S NOTHING THAT IDENTIFIES THOSE PARTICULAR
12 OBJECTS AS BELONGING TO ANYONE?

13 A NO, SIR, THERE'S NOT.

14 Q AND YOU CAN'T SAY HOW LONG THEY'VE BEEN SITTING THERE
15 IN THAT GRASSY AREA IN THE FIELD?

16 A NO, SIR, I CANNOT.

17 Q NO ONE TOLD YOU TO GO LOOK FOR A SILVER BRACELET.

18 A NO, I DON'T RECALL ANYBODY ---

19 Q OKAY. I MEAN NOBODY SAID SPECIFICALLY WE'RE MISSING,
20 YOU KNOW, OR THERE'S BEEN A REPORT OF A BRACELET OR AN
21 EARRING OR A CHARM BEING LOST, GO SEE IF THIS IS THERE?

22 A I DON'T RECALL ANYONE MENTIONING IT.

23 Q OKAY. THAT'S JUST --- HAPPENED TO BE --- AND YOU
24 WERE TOLD TO, YOU KNOW, PROCESS THIS AREA AND IT JUST SO
25 HAPPENED THAT THESE THINGS WERE IN THAT AREA.

JOHN WILLIAMS - CROSS BY MR. LEMEL

216

1 A THAT'S CORRECT.

2 Q OKAY. NOW, YOU LOOKED AT THE FRONT OF THE CAR; YOU
3 TOOK PICTURES OF IT AS ---

4 A YES, I DID.

5 Q --- PART OF THE PROCESSING. THEN THE FRONT SEAT OF
6 THE CAR.

7 A YES, SIR, I DID.

8 Q AND THE BACK-SEAT OF THE CAR.

9 A THAT'S CORRECT.

10 Q AND YOU HAD ACCESS TO SEE IF THERE WAS ANYTHING IN
11 THERE.

12 A THAT'S CORRECT.

13 Q TOOK OUT THE CIGARETTES, FOR EXAMPLE.

14 A THAT IS CORRECT.

15 Q AT THAT POINT IN TIME DID YOU NOTE THAT THERE WAS ---
16 WAS THERE A PURSE FOUND IN THE CAR?

17 A I DON'T RECALL A PURSE.

18 Q AND CERTAINLY IF A PURSE WAS IN THERE, THAT'S
19 SOMETHING THAT SHOULD'VE BEEN NOTED. CORRECT?

20 A YES, SIR.

21 Q AND WOULD SHOW UP ON THE PHOTOGRAPHS.

22 A YES, SIR.

23 Q AND THERE IS NO PURSE ON THE PHOTOGRAPHS.

24 A NO, SIR, NOT THAT I RECALL.

25 Q OKAY. WITH REGARD TO THE INTERIOR OF THE CAR, ANY

JOHN WILLIAMS - CROSS BY MR. LEMEL

217

1 RIPS, TEARS, BREAKS, ANYTHING OF THAT NATURE IN THE CAR?

2 A NO, SIR, I --- I ---

3 Q ANYTHING ---

4 A --- DON'T THINK SO.

5 Q I'M SORRY. I'LL LET YOU FINISH. I APOLOGIZE.

6 A I DON'T RECALL SEEING ANYTHING LIKE THAT.

7 Q AND, AGAIN, THAT'S SOMETHING YOU WOULD NOTE AS PART
8 OF YOUR INVESTIGATION.

9 A YES, SIR.

10 Q SO IF IT WAS THERE YOU WOULD PUT IT --- YOU WOULD PUT
11 IT SOMEWHERE.

12 A YES, SIR.

13 Q OKAY. SAME THING WITH REGARD TO TEARING, RIPPING,
14 ANY DISRUPTION OF THE INTERIOR OF THE CAR, BASICALLY.

15 A THAT'S CORRECT.

16 Q OKAY. NO BROKEN WINDOWS, ANYTHING OF THAT NATURE.

17 A I DON'T RECALL ANY DAMAGE TO THE WINDOWS.

18 Q THE FINGERPRINT THAT YOU LIFTED IS FROM THE BACK REAR
19 WINDOW.

20 A THAT IS CORRECT.

21 Q THE OUTSIDE OF THAT WINDOW.

22 A THAT IS CORRECT.

23 Q AND IT IS WHAT WE CALL --- IT'S A LATENT FINGERPRINT.
24 RIGHT?

25 A THAT IS CORRECT.

JOHN WILLIAMS - CROSS BY MR. LEMEL

218

1 Q AND A LATENT FINGERPRINT JUST MEANS THAT IT'S NOT
2 VISIBLE TO THE NAKED EYE WITHOUT SOMETHING EXTRA.

3 A THAT IS CORRECT. IT HAS TO BE PROCESSED TO BE
4 VISIBLE.

5 Q AND IT'S BASICALLY A PRODUCT OF A FINGERPRINT --- A
6 FINGER TOUCHING A SURFACE AND LEAVING BEHIND OILS IN A
7 PARTICULAR PATTERN.

8 A THAT IS CORRECT, SIR.

9 Q WHICH MIGHT BE VISIBLE AS A SMUDGE, BUT IT'S NOT
10 READABLE UNTIL YOU PUT THAT BLACK POWDER ON IT AND IT
11 STICKS AND YOU CAN SEE IT THEN.

12 A GENERALLY NEEDS TO BE PROCESSED.

13 Q OKAY. AND YOU CAN HAVE A SITUATION WHERE, FOR
14 EXAMPLE, I COULD TOUCH ALL OVER THIS PARTICULAR SURFACE
15 AND THERE MAY NOT BE FINGERPRINTS LEFT JUST BECAUSE I
16 TOUCH IT IN TERMS OF READABLE FINGERPRINTS. RIGHT?

17 A THAT IS CORRECT.

18 Q IF I --- IF I DRAW MY HAND OVER A SURFACE IT'S
19 SMUDGED.

20 A THAT IS CORRECT.

21 Q THAT'S NOT GOING TO GIVE YOU A READABLE PRINT.

22 A CHANCES ARE VERY SLIM.

23 Q RIGHT. IT WOULD BE UNUSUAL FOR A SMEAR TO BE
24 READABLE AS A PRINT.

25 A IT DEPENDS ON A LOT OF THINGS.

JOHN WILLIAMS - CROSS BY MR. LEMEL

219

1 Q RIGHT. IT'S A COMPLICATED --- BUT IN GENERAL IT'S
2 NOT UNUSUAL, FOR EXAMPLE, FOR YOU TO DUST AN AREA THAT MAY
3 HAVE BEEN TOUCHED BUT NOT TO ACTUALLY HAVE A USABLE PRINT.

4 A THAT IS CORRECT.

5 Q OKAY. IT PRETTY MUCH TAKES A GOOD SURFACE TO TAKE
6 IT, LIKE A PIECE OF GLASS.

7 A THAT WOULD BE AN IDEAL SURFACE.

8 Q AND IT WOULD TAKE A FAIRLY ONE-TIME, YOU KNOW, PRINT,
9 A PUSH THAT, YOU KNOW, SOMEBODY TOUCHED AND CAME ACROSS AS
10 OPPOSED TO BEING SMEARED OR SOMEHOW FORCED OR SOMETHING
11 LIKE THAT FOR IT TO LEAVE A GOOD SOLID PRINT LIKE THE ONE
12 YOU FOUND IN THIS CASE.

13 A IT JUST VARIES AS TO WHAT TYPE OF TOUCH YOU HAVE AND
14 THE CONDITION OF THE FINGERS AND WHAT'S ON THE FINGERS.
15 THERE'S SO MANY VARIABILITIES --- IT'S SO VARIABLE AS TO
16 WHAT YOU --- WHAT YOU CAN GET THAT YOU REALLY CAN'T SET IT
17 IN STONE AS TO WHETHER YOU'RE GOING TO GET A FINGERPRINT
18 OR NOT.

19 Q OKAY, BUT IN THIS CASE WHAT YOU DID IS YOU MANAGED TO
20 GET ONE FINGERPRINT OFF THAT BACK GLASS.

21 A YES, SIR, THAT'S CORRECT.

22 Q OKAY. THAT DOESN'T MEAN THAT OTHER PLACES ON THE CAR
23 WERE TOUCHED OR WEREN'T TOUCHED.

24 A THAT IS CORRECT.

25 Q IT JUST MEANS THAT YOU COULDN'T PULL ANY USABLE

JOHN WILLIAMS - RE-DIRECT BY MR. MAINES

220

1 PRINTS OFF OF IT.

2 A THAT'S CORRECT.

3 Q AND LIKE YOU SAID, THERE'S ANY NUMBER OF REASONS WHY
4 YOU MIGHT NOT BE ABLE TO GET A USABLE PRINT OFF A
5 PARTICULAR SURFACE.

6 A THAT'S CORRECT.

7 Q OKAY.

8 MR. LEMEL - BEGGING THE COURT'S INDULGENCE.

9 Q ONCE AN ITEM HAS BEEN HANDLED OR TOUCHED BY ANOTHER
10 PERSON THAT CAN OVERLAY A PRINT. CORRECT?

11 A THAT IS CORRECT.

12 Q OKAY. AND IDEALLY, IN ORDER TO GET THE PRINT YOU
13 DON'T WANT OTHER PEOPLE TOUCHING OR HANDLING IT.

14 A THAT'S CORRECT.

15 Q SO FOR INSTANCE, IF WE WERE TO WANT TO NOW GO AND
16 FINGERPRINT THAT SILVER CHARM, SINCE YOU'VE HANDLED IT,
17 THAT WOULD PROBABLY MAKE IT MORE DIFFICULT TO RETRIEVE A
18 PRINT FROM THAT, WOULDN'T IT?

19 A I WOULD THINK SO.

20 MR. LEMEL - NO FURTHER QUESTIONS, YOUR HONOR.

21 RE-DIRECT EXAMINATION

22 BY MR. MAINES -

23 Q OFFICER WILLIAMS, HOW WERE YOU DIRECTED TO THAT AREA
24 BEHIND THE CHURCH?

25 A I WAS DISPATCHED EITHER BY RADIO OR PHONE.

JOHN WILLIAMS - RE-CROSS BY MR. LEMEL

221

1 Q DO YOU REMEMBER WHAT TIME YOU GOT THERE?

2 A NO, I DO NOT.

3 Q AND WHERE DID YOU PROCESS THAT VEHICLE?

4 A IT WAS AT A WRECKER SERVICE, STAR WRECKER SERVICE.

5 Q SO WAS THAT AT A DIFFERENT LOCATION THAN THE CHURCH?

6 A YES, SIR, IT WAS.

7 Q AND WAS THAT AT A LATER TIME?

8 A YES, SIR.

9 Q AFTER OR BEFORE THE PROCESSING THE SCENE?

10 A IT WAS AT A LATER TIME.

11 Q OKAY. AND AS TO PLASTIC WRAPPING, IS IT EASY OR
12 DIFFICULT TO LIFT LATENT PRINTS FROM A FUNGIBLE OR A MORE
13 AMORPHUS PLASTIC WRAPPER?

14 A THE PLASTIC WRAPPER PULL WOULD BE DIFFICULT BECAUSE
15 OF THE SIZE OF THE SURFACE. THE PLASTIC WRAPPER WOULD BE
16 A DIFFERENT STORY. IT COULD BE PROCESSED.

17 Q IT COULD? AND ---

18 MR. MAINES - THAT'S ALL THE QUESTIONS I HAVE,
19 YOUR HONOR.

20 RE-CROSS EXAMINATION

21 BY MR. LEMEL --

22 Q WAS THERE, IN FACT, IN THIS CASE ANY REQUESTS FOR
23 THAT PLASTIC WRAPPER TO BE PROCESSED?

24 A NO, SIR.

25 THE COURT - ALL RIGHT, YOU CAN STEP DOWN AND BE

1 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU. COULD I
2 SEE COUNSEL UP HERE AT THE BENCH A MINUTE.

3 (BENCH CONFERENCE WAS HELD IN THE PRESENCE OF
4 THE JURY BUT OUT OF THE HEARING OF THE JURY WHICH WAS NOT
5 REPORTED.)

6 THE COURT - MEMBERS OF THE JURY PANEL, WE'RE
7 GOING TO BREAK FOR LUNCH UNTIL 2:00 O'CLOCK. I KNOW THAT
8 SOUNDS LIKE A LONG TIME BUT THERE ARE A COUPLE OF REASONS
9 FOR THAT. ONE IS, THERE'S NO PLACE TO EAT AROUND HERE
10 UNLESS YOU GET IN YOUR CAR AND DRIVE, SO IT DOES TAKE A
11 LITTLE LONGER THAN JUST A TYPICAL HOUR LUNCH. ALSO, WE
12 HAVE SOME MATTERS TO TAKE UP OUTSIDE YOUR PRESENCE. WE'RE
13 GOING TO TAKE A SHORTER LUNCH SO WE CAN GET THAT DONE AND
14 NOT IMPOSE ON YOUR TIME, SO BE BACK AT 2:00 O'CLOCK AND WE
15 WILL START AS PROMPTLY THEREAFTER AS WE CAN. THANK YOU.
16 HAVE A PLEASANT LUNCH.

17 (JURY EXITS THE COURTROOM)

18 THE COURT - WE'LL RECONVENE AT ONE THIRTY AND
19 HOPEFULLY HAVE THE --- BE IN A POSITION TO DO THE JACKSON
20 VS. DENO MATTER.

21 MS. LIPINSKI - YES, YOUR HONOR, I TRIED TO ---
22 TOLD THEM TO TRY TO BE HERE AS CLOSE TO ONE AS THEY COULD.
23 THEY WERE TESTIFYING IN ANOTHER MATTER THIS MORNING, BUT
24 THEY FELT THAT THEY WOULD BE DONE BY ELEVEN AND THAT WOULD
25 BE MORE THAN ENOUGH TRAVEL TIME.

223

1 THE COURT - ALL RIGHT.

2 (LUNCH RECESS)

3 THE COURT - THANK YOU. TAKE YOUR SEATS. ALL
4 RIGHT, ARE WE READY ON THE --- LET'S GET MR. DUNOVANT IN
5 HERE AND THEN WE'LL DO THE JACKSON V. DENO MATTERS.

6 MR. LEMEL - JUDGE, WHILE THEY'RE DELIVERING MR.
7 DUNOVANT, I PREVIOUSLY LET SOME NOTE PADS BACK IN MY
8 OFFICE. MAY I RUN DOWNSTAIRS AND GRAB THOSE.

9 THE COURT - (INDICATING YES)

10 (MR. DUNOVANT ENTERS THE COURTROOM)

11 MS. LIPINSKI - YOUR HONOR, MR. LEMEL AND I
12 DISCUSSED THIS. SOMEHOW THESE TWO PHOTOS THAT WERE NOT
13 MARKED GOT MIXED IN WITH THE OTHER PHOTOS. WE DON'T
14 BELIEVE THAT MR. WILLIAMS SPOKE ABOUT THEM, BECAUSE HE WAS
15 VERY CLEAR IN TALKING ABOUT WHAT LETTER HE WAS LOOKING AT
16 WITH EACH PHOTO. WE --- WITH THE DEFENSE COUNSEL, MR.
17 LEMEL CAN CONFIRM THIS WHEN HE GETS BACK. WE'RE JUST
18 GOING TO PULL THESE OUT AS OPPOSED TO MARKING THEM AND
19 THEN TRYING TO ADMIT THEM.

20 (MR. LEMEL ENTERS THE COURTROOM)

21 THE COURT - STATE READY?

22 MS. LIPINSKI - YES, YOUR HONOR.

23 MR. LEMEL - YES, YOUR HONOR.

24 THE COURT - ALL RIGHT, MR. LEMEL, I WAS --- IT
25 WAS INDICATED TO ME WHILE YOU WERE GONE THERE ARE TWO

1 UNMARKED PICTURES OR UNIDENTIFIED PICTURES THAT HAVE BEEN
2 WITHDRAWN.

3 MR. LEMEL - YES, SIR. THAT'S MY UNDERSTANDING
4 AS WELL FROM TALKING TO THE SOLICITOR.

5 THE COURT - ALL RIGHT, BRING IN THE JURY.

6 MS. LIPINSKI - NO, JACKSON V. DENO. WE DON'T
7 NEED THE ---

8 THE COURT - I'M SORRY. BRING UP THE WITNESS.

9 MS. LIPINSKI - THANK YOU, YOUR HONOR, AND JUST
10 SO YOU UNDERSTAND WHERE WE'RE GOING WITH THIS, TO GIVE YOU
11 A LITTLE BIT OF A BACKGROUND, OBVIOUSLY, THE LICENSE PLATE
12 NUMBER THAT MISTI PROVIDES TO OFFICERS IS TRANSFERRED TO
13 THE NORTH CAROLINA AUTHORITIES. WE HAVE THE OFFICERS HERE
14 FROM THE POLICE DEPARTMENT UP THERE. THEY INITI --- THEY
15 HAPPENED TO BE OUT DRIVING GOING TO MEET THE TWO
16 DETECTIVES FROM YORK COUNTY WHEN THEY SPOT THE FORD
17 TAURUS. THEY INITIATED TRAFFIC STOP AND THEY GET THE
18 DEFENDANT OUT AND THEY ASK HIM HIS NAME. HE INITIALLY
19 GIVES THE NAME OF MARK DUNOVANT. AT THAT POINT THE
20 OFFICERS MIRANDIZED HIM AND INFORMED HIM THAT THEY DO NOT
21 BELIEVE THAT HE IS BEING HONEST, THAT THEY'RE FAMILIAR
22 WITH HIS BROTHER MARK DUNOVANT AND THEY KNOW HIM NOT TO BE
23 THAT. HE THEN SUBSEQUENTLY GIVES UP HIS NAME AS BEING
24 TERRY DUNOVANT. STATE'S GOING TO PROVIDE A JACKSON V.
25 DENO FOR THAT LIMITED PURPOSE JUST FOR THAT COMMENT OUT ON

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

225

1 THE ROADSIDE, SO YOU CAN BE FAMILIAR WITH THAT. THEY THEN
2 TAKE HIM TO THEIR VERSION OF THE LAW ENFORCEMENT CENTER
3 AND TAKE A FULL WRITTEN STATEMENT FROM HIM AND THAT'LL BE
4 THE TRUE SUBSTANTIVE PART OF THE JACKSON V. DENO, BUT
5 YOU'LL HEAR FROM TWO OFFICERS, THE FIRST ONE AND THEN THE
6 SECOND ONE AND I JUST WANTED YOU TO KNOW WHY.

7 THE COURT - ALL RIGHT.

8 MS. LIPINSKI - YOUR HONOR, AT THIS POINT THEN
9 THE STATE WOULD CALL OFFICER MCSWAIN TO THE STAND.

10 KEVIN MCSWAIN, AFTER BEING FIRST DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. LIPINSKI -

14 Q AND, OFFICER, IF YOU COULD GIVE US YOUR NAME AND RANK
15 FOR THE RECORD.

16 A MY NAME'S KEVIN MCSWAIN. I'M A SERGEANT WITH THE
17 GASTONIA POLICE DEPARTMENT.

18 Q AND DID YOU HAVE THE OCCASION TO BE INVOLVED IN THIS
19 INVESTIGATION ON MAY 3RD OF 2007?

20 A I DID.

21 Q AND DID YOU RECEIVE INFORMATION FROM THE YORK COUNTY
22 SHERIFF'S OFFICE REGARDING A POSSIBLE SUSPECT IN A SEXUAL
23 ASSAULT CASE?

24 A I DID. ACTUALLY, SERGEANT WEST WHO WAS MY SUPERVISOR
25 IN CRIMINAL INVESTIGATIONS AT THAT TIME HAD REQUESTED THAT

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

226

1 I GO WITH HIM OUT TO BESSEMER CITY ROAD TO MEET WITH SOME
2 YORK COUNTY INVESTIGATORS REGARDING A SEXUAL ASSAULT, AND
3 WE MET WITH THEM AT THE CORNER OF SHANNON BRADLEY ROAD AND
4 BESSEMER CITY ROAD AND THEY BEGAN TO TELL US A LITTLE BIT
5 ABOUT WHAT WAS GOING ON.

6 Q AND YOU MET UP WITH THEM; YOU GOT SOME PRELIMINARY
7 INFORMATION FROM THEM AND YOU THEN LEFT THAT AREA.
8 CORRECT?

9 A YES, IF I RECALL CORRECTLY, WE WERE HEADED OVER TO
10 THE AREA OF SUNSET AVENUE WHICH WAS NOT TOO FAR FROM WHERE
11 WE WERE AT AND THEY HAD GIVEN US A VEHICLE DESCRIPTION AND
12 A PARTIAL TAG NUMBER AND THEY HAD PULLED OUT AHEAD OF US.
13 WE GOT STOPPED IN TRAFFIC, AND WHENEVER WE CAME TO THE
14 TRAFFIC LIGHT THERE AT BESSEMER CITY ROAD AND SHANNON
15 BRADLEY ROAD A CAR MATCHING THE DESCRIPTION HAPPENS TO BE
16 TURNING ON TO SHANNON BRADLEY ROAD OFF OF BESSEMER CITY
17 ROAD, AND I STARTED LOOKING AT THE TAG NUMBER. SERGEANT
18 WEST TURNS THE CAR AROUND AND WE PROCEEDED TO TRY TO CATCH
19 UP WITH THE VEHICLE WHICH WE DID AND WE CONFIRMED THAT THE
20 TAG NUMBER ON THAT PARTICULAR VEHICLE WAS A GREEN FORD
21 TAURUS WAS VERY SIMILAR TO WHAT WE HAD BEEN GIVEN, AND WE
22 DECIDED TO STOP THE VEHICLE ON CRESCENT LANE WHICH IS
23 RIGHT OFF OF SHANNON BRADLEY.

24 Q AND DO YOU ACTIVATE BLUE LIGHTS?

25 A YES.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

227

1 Q AND INITIATE A KIND OF A NORMAL TRAFFIC STOP AT THAT
2 POINT?

3 A JUST A TRAFFIC STOP, YES.

4 Q AND DO YOU APPROACH THE VEHICLE?

5 A YES.

6 Q AND ARE YOUR GUNS DRAWN OR ANYTHING?

7 A NO, MA'AM.

8 Q AND DO YOU SPEAK WITH THE OCCUPANT WHILE HE'S INSIDE
9 THE CAR OR DO YOU GET HIM OUT OF THE CAR?

10 A HE WAS INITIALLY INSIDE THE CAR AND THEN HE
11 EVENTUALLY GOT OUT OF THE CAR.

12 Q AND WHEN HE'S INSIDE THE CAR, DO YOU ASK HIM ANY
13 QUESTIONS, ANY KIND OF WHO ARE YOU, WHAT YOU DOING?

14 A YES, I WAS ASKING HIM FOR HIS DRIVER'S LICENSE AND
15 ALL AND SEEM LIKE HE SAID HE DIDN'T HAVE ONE.

16 Q HE DID NOT HAVE A DRIVER'S LICENSE.

17 A YES, MA'AM, HE -- HE GAVE ME A NAME OF SOMEONE I'M
18 FAMILIAR WITH.

19 Q WHAT WAS THAT NAME?

20 A MARK DUNOVANT.

21 Q AND DID YOU KNOW HIM TO BE MARK DUNOVANT?

22 A NO, I KNOW MARK DUNOVANT. I KNEW THAT HE WAS NOT
23 MARK DUNOVANT.

24 Q DID YOU KNOW HIM?

25 A I WAS FAMILIAR WITH HIM. YES. I COULDN'T RECALL HIS

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

228

1 FIRST NAME RIGHT OFF, BUT ---

2 Q BUT YOU KNEW HIM NOT TO BE MARK.

3 A YES.

4 Q AND MARK DUNOVANT IS HIS BROTHER OR RELATED TO HIM
5 SOMEHOW?

6 A IT'S HIS BROTHER, YES.

7 Q AND AT THAT POINT DO YOU ASK HIM TO GET OUT OF THE
8 CAR?

9 A I CAN'T REMEMBER IF IT WAS AT THAT POINT I ASKED HIM
10 TO GET OUT OR NOT. UM ---

11 Q SO YOU DO GET HIM OUT OF THE CAR.

12 A YES. YES, IT WAS --- IT WAS RIGHT AFTER THAT. I
13 ASKED HIM TO GET OUT OF THE CAR AND WE DID PAT HIM DOWN
14 FOR A WEAPONS CHECK.

15 Q AND PLACED HIM IN HAND-CUFFS.

16 A YES.

17 Q AND HE HAD SOME DRIVER'S LICENSE VIOLATIONS, BECAUSE
18 HE DIDN'T HAVE A DRIVER'S LICENSE ON HIM. HE WAS
19 OBVIOUSLY COMMITTING THAT ---

20 A THAT'S CORRECT.

21 Q AND YOU TOLD HIM YOU DIDN'T THINK HE WAS MARK
22 DUNOVANT; YOU KNEW WHO THAT WAS. DID YOU MIRANDIZE HIM AT
23 THAT POINT?

24 A I DID. I --- I TOLD HIM THAT I WAS FAMILIAR WITH
25 MARK AND I DIDN'T THINK HE WAS BEING HONEST WITH ME AND I

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

229

1 DID READ HIM MIRANDA RIGHTS WITH A POCKET CARD.

2 Q AND DO YOU HAVE A POCKET CARD WITH YOU TODAY?

3 A I DO.

4 Q AND IF YOU COULD JUST BECAUSE --- JUST SO YOUR
5 MIRANDA IN NORTH CAROLINA AREN'T NECESSARILY ANY DIFFERENT
6 THAN OUR MIRANDA DOWN HERE, IF YOU COULD, TELL THE JUDGE
7 WHAT YOU TOLD HIM THEN.

8 A THE MIRANDA WARNINGS I GAVE TO HIM WERE, YOU HAVE THE
9 RIGHT TO REMAIN SILENT, ANYTHING YOU SAY CAN BE AND MAY BE
10 USED AS EVIDENCE AGAINST YOU IN COURT. YOU HAVE THE RIGHT
11 TO TALK WITH A LAWYER BEFORE QUESTIONING AND TO HAVE A
12 LAWYER WITH YOU WHILE YOU'RE BEING QUESTIONED. IF YOU
13 WANT A LAWYER BEFORE OR DURING QUESTIONING BUT CANNOT
14 AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO
15 REPRESENT YOU AT NO COST BEFORE ANY QUESTIONING.

16 Q AND DO YOU THEN GO ABOUT QUESTIONING HIM ANY FURTHER
17 AT THE POINT OF BEING OUT THERE BY THE CAR?

18 A NO, NOT REALLY. I DIDN'T --- I DIDN'T WANT TO GET
19 INTO ANYTHING WITH THE YORK COUNTY INVESTIGATION OR
20 ANYTHING LIKE THAT.

21 Q WAS HE THEN TRANSPORTED TO YOUR LOCAL LAW ENFORCEMENT
22 OR SHERIFF'S OFFICE?

23 A YES, TO THE CITY POLICE DEPARTMENT IN GASTONIA.

24 Q THE DETECTIVE BUREAU IS THAT SEPARATE OR IS THAT JUST
25 A OFFICE SPACE WITHIN THE ---

KEVIN MCSWAIN - CROSS BY MR. LEMEL

230

1 A IT'S ALL HOUSED IN THE SAME BUILDING.

2 Q AND DID YOU TRANSPORT HIM THERE OR DID SOMEONE ELSE?

3 A I THINK OFFICER HANSEN DID.

4 Q AND DID YOU SPEAK WITH HIM ONCE YOU GET THERE OR IS
5 THAT OFFICER WEST?

6 A NO, THAT'D BE SERGEANT WEST. I DID NOT TALK TO HIM.

7 MS. LIPINSKI - THAT'S ALL WE HAVE OF THIS
8 OFFICER, YOUR HONOR, AT THIS POINT.

9 CROSS EXAMINATION

10 BY MR. LEMEL -

11 Q NOW, OFFICER AS I UNDERSTAND IT, AFTER YOU INITIATED
12 THE TRAFFIC STOP YOU WALKED UP TO THE VEHICLE.

13 A YES, SIR.

14 Q AT SOME POINT IN TIME YOU HAD MR. DUNOVANT TO STEP
15 OUT OF THE VEHICLE.

16 A (INDICATING YES)

17 Q DURING THAT PERIOD OR PROCESS YOU WOULD'VE FRISKED
18 HIM FOR WEAPONS.

19 A YES, SIR.

20 Q AND YOU YOURSELF WOULD'VE BEEN DRESSED IN THE MANNER
21 THAT YOU DRESSED TODAY?

22 A NO, SIR, I --- I WAS A DETECTIVE AT THAT TIME.

23 Q OKAY.

24 A I'D BEEN IN PLAIN CLOTHES, A TIE, POSSIBLY A JACKET.

25 Q WOULD'VE HAD A BADGE ON A BELT, FOR EXAMPLE, OR HOW

KEVIN MCSWAIN - CROSS BY MR. LEMEL

231

1 DO Y'ALL CARRY YOUR BADGES UP THERE?

2 A YES, ON A BELT.

3 Q OKAY. ALONG WITH A GUN?

4 A GUN, RADIO, HAND-CUFFS, EVERYTHING ON THE WAIST LINE.

5 Q OKAY. PRETTY EVIDENT EVEN THOUGH YOU'RE IN PLAIN
6 CLOTHES THAT YOU ARE, IN FACT, A POLICE OFFICER AT THAT
7 POINT IN TIME.

8 A YES, SIR.

9 Q AND YOU'RE LOOKING AT SOME PAPERWORK IN FRONT OF YOU.
10 IS WHAT YOU'RE LOOKING AT THIS REPORT, THE SAME REPORT
11 THAT I HAVE IN MY HANDS?

12 A YES. YES, THAT'S IT.

13 Q OKAY. DID YOU TYPE UP THIS REPORT?

14 A I DID.

15 Q OKAY. AND I WANT --- YOU APPROACHED THE VEHICLE; HE
16 TOLD YOU HIS NAME IS MARK DUNOVANT AND ADMITTED HE DIDN'T
17 HAVE A DRIVER'S LICENSE; YOU GOT OUT OF THE VEHICLE,
18 FRISKED HIM, PUT HIM IN HAND-CUFFS. RIGHT?

19 A (INDICATING YES)

20 Q AND I --- YES OR NO, SO --- FOR THE COURT REPORTER.

21 A YES.

22 Q SORRY. YOU TOLD HIM THAT HE WASN'T --- THAT HE COULD
23 BE CHARGED FOR THE DRIVER'S LICENSE VIOLATIONS BUT THAT HE
24 WASN'T BEING CHARGED AT THAT POINT IN TIME OR --- EXPLAIN
25 THAT TO ME.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

232

1 A I TOLD HIM THAT THERE'S A POSSIBILITY HE COULD BE
2 CHARGED WITH THE DRIVER'S LICENSE VIOLATION, THAT DOESN'T
3 NECESSARILY MEAN THAT HE IS GOING TO BE CHARGED, BUT THERE
4 IS THAT POSSIBILITY HE COULD BE.

5 Q WAS HE UNDER ARREST AT THAT POINT IN TIME?

6 A NO, HE'S BEING DETAINED, AN INVESTIGATIVE DETENTION.

7 Q WAS HE FREE TO GO?

8 A NO, HE WAS NOT FREE TO GO?

9 Q OKAY. SO AT THE POINT IN TIME THAT YOU THEN TAKE HIM
10 FROM THE CAR AND PLACE HIM IN HAND-CUFFS, HE'S UNDER THAT
11 DETENTION, YOU ALSO PUT DOWN THAT AT THAT POINT IN TIME
12 THE YORK COUNTY INVESTIGATORS ARRIVED THERE ON SCENE?

13 A YES, SIR.

14 Q AND YOU YOURSELF ARE NOT PART OF ANY QUESTIONS THAT
15 THEY ASKED AT THAT POINT IN TIME.

16 A NO, SIR, I --- I --- NO, I DIDN'T --- THE QUESTION
17 PROCESS ABOUT ANY OF THEIR INVESTIGATION.

18 Q SO YOU DON'T KNOW WHAT HAPPENED AFTER THAT POINT IN
19 TIME IN TERMS OF INTERROGATION?

20 A NO, SIR.

21 Q AND YOU DON'T KNOW WHAT HAPPENED BACK AT THE POLICE
22 STATION?

23 A NO, SIR, I HAD ANOTHER TASK.

24 MR. LEMEL - OKAY. NO FURTHER QUESTIONS, YOUR
25 HONOR.

233

1 MS. LIPINSKI - AND, YOUR HONOR, IN THAT THEY ARE
2 TWO INDEPENDENT STATEMENTS, THE STATE SUBMITS THAT THE
3 STATEMENT WHERE HE INITIALLY GIVES HIM THE FALSE NAME OF
4 MARK DUNOVANT WAS KNOWINGLY --- HE WAS NOT IN CUSTODY AT
5 THE TIME. THAT'S WHEN THEY APPROACH HIM AND HE'S STILL IN
6 THE CAR. IT'S A TYPICAL BOOKING TYPE QUESTION, WHO ARE
7 YOU, WHAT'S YOUR NAME, GIVE ME YOUR DRIVER'S LICENSE. THE
8 STATE MERELY OFFERED THE OFFICER (A) TO ESTABLISH WHEN
9 THAT STATEMENT WAS MADE AND TO ESTABLISH THAT HE WAS
10 MIRANDIZED OUT THERE AT THE SCENE. HE WOULD'VE BEEN
11 MIRANDIZED LATER, BUT WE WANTED YOU TO HAVE THE EVIDENCE
12 BOTH MIRANDIZING OF THE DEFENDANT, BUT WE WOULD SUBMIT
13 THAT STATEMENT AS BEING PROPERLY PUT BEFORE THE JURY.

14 THE COURT - DEFENSE MOVING TO SUPPRESS IT?

15 MR. LEMEL - YOUR HONOR, I DON'T THINK IT FALLS
16 UNDER MIRANDA, BECAUSE AT THE TIME THAT THE STATE --- THE
17 ONLY STATEMENT WE'RE TALKING ABOUT HERE IS, MY NAME IS
18 MARK DUNOVANT. HE WASN'T AT THAT POINT IN TIME --- I
19 DON'T KNOW --- WELL, FIRST OF ALL, MIRANDA HAD NOT BEEN
20 READ, BUT I ALSO DON'T KNOW THAT IT'S SUBJECT TO A MIRANDA
21 TYPE ANALYSIS AS I THINK THAT IT FALLS UNDERNEATH THAT
22 SORT OF PRE- --- THAT SORT OF BASICALLY VOLUNTARY
23 ENCOUNTER, SO I DON'T THINK THERE'S ANYTHING TO ACTUALLY
24 HAVE A HEARING ON WITH REGARD TO THAT STATEMENT AT THIS
25 POINT IN TIME.

JIMMY WEST - DIRECT BY MR. MAINES

234

1. THE COURT - ALL RIGHT, THERE'S NO MOTION TO
2 SUPPRESS --- IT'LL BE IN EVIDENCE WITHOUT IT. ANY
3 OBJECTION?

4 MS. LIPINSKI - YES, YOUR HONOR. I JUST WANTED,
5 YOU KNOW, TO ESTABLISH THE VOLUNTARINESS THAT HE WAS
6 MIRANDIZED TWICE AND THAT'S WHY WE PUT THIS UP AND ALSO TO
7 CARVE OUT THAT EXCEPTION FOR THAT INITIAL BOOKING
8 QUESTION. THAT'S ALL WE HAVE OF OFFICER ---

9 THE COURT - ALL RIGHT. YOU CAN STEP BACK DOWN.
10 DON'T LEAVE. I UNDERSTAND THAT MIGHT HAVE --- WANT YOU TO
11 GO THROUGH THIS AGAIN. ALL RIGHT, CALL YOUR NEXT WITNESS.

12 MR. MAINES - STATE CALLS SERGEANT WEST.

13 JIMMY WEST, AFTER BEING FIRST DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MR. MAINES -

17 Q SERGEANT WEST, WHY DON'T YOU START OFF WITH GIVING US
18 YOUR FULL NAME.

19 A JIMMY RAY WEST.

20 Q AND ARE YOU EMPLOYED WITH THE GASTONIA LAW
21 ENFORCEMENT AGENCY?

22 A I'M EMPLOYED WITH GASTONIA CITY POLICE DEPARTMENT.

23 Q OKAY. AND ON MAY 3RD OF 2007 WERE YOU PRESENT AT THE
24 INITIAL TRAFFIC STOP OF THE DEFENDANT'S VEHICLE, TERRY
25 DUNOVANT?

JIMMY WEST - DIRECT BY MR. MAINES

235

1 A YES, I WAS.

2 Q AND WHO WAS WITH YOU?

3 A AT THE TIME, DETECTIVE MCSWAIN.

4 Q AND WHEN DETECTIVE MCSWAIN APPROACHED --- DETECTIVE
5 MCSWAIN APPROACHED THE VEHICLE, WHAT WERE YOU DOING?

6 A I WAS TALKING ON THE TELEPHONE TO DETECTIVE TOLSON
7 FROM YORK COUNTY TRYING TO TELL HER WHERE WE WERE AT.

8 Q OKAY. AND AFTER THAT TRAFFIC STOP DID OFFICER --- OR
9 DID THE DETECTIVE PLACE TERRY DUNOVANT UNDER ARREST?

10 A NO, SIR.

11 Q OKAY. DID HE EVENTUALLY PLACE HIM --- OR DID HE PUT
12 HIM IN HAND-CUFFS?

13 A HE WAS PLACED IN HAND-CUFFS ONCE HE WAS TAKEN OUT OF
14 THE CAR. WE LATER DETERMINED THAT HIS NAME WAS TERRY
15 DUNOVANT AND WE CHECKED WARRANTS ON HIM AND WE HAD TWO
16 OUTSTANDING WARRANTS IN GASTONIA ON TERRY DUNOVANT.

17 Q AND WERE YOU PRESENT WHEN YOUR OTHER --- THE FELLOW
18 OFFICER ADVISED HIM OF HIS MIRANDA RIGHTS?

19 A I WAS STANDING THERE. I DON'T REMEMBER WHAT I WAS
20 DOING THAT WAS GOING ON BUT I WAS THERE IN THE IMMEDIATE
21 AREA.

22 Q DID YOU --- WERE YOU IN THE VEHICLE THAT TRANSPORTED
23 TERRY DUNOVANT?

24 A NO, SIR.

25 Q OKAY. DID YOU EVENTUALLY MEET UP WITH DETECTIVES

JIMMY WEST - DIRECT BY MR. MAINES

236

1 FROM --- OR THE INVESTIGATORS FROM YORK COUNTY?

2 A YES, SIR, THE DETECTIVES FROM YORK COUNTY ACTUALLY
3 CAME TO WHERE WE WERE AT, WHERE WE HAD THE CAR STOPPED.
4 ONCE MR. DUNOVANT WAS PLACED IN CUSTODY, PUT IN THE BACK
5 OF A BLACK AND WHITE CAR, TAKEN TO THE POLICE DEPARTMENT,
6 WE ALL LEFT THAT AREA AND WENT TO THE POLICE DEPARTMENT.

7 Q SO WHEN --- AFTER YOU ARRIVE AT THE POLICE DEPARTMENT
8 WERE YOU IN CONTACT OR IN --- NEAR THE VICINITY OF THE
9 DEFENDANT?

10 A YES, I WENT TO THE INTERVIEW ROOM WITH, I THINK, IT'S
11 LIEUTENANT TOLSON FROM YORK COUNTY, BETH TOLSON, AND SAT
12 IN ON THE INTERVIEW WHILE SHE MIRANDIZED MR. DUNOVANT AND
13 WHILE SHE GOT A STATEMENT FROM HIM.

14 Q OKAY. WELL, LET'S GO TO THAT. DO YOU REMEMBER HOW
15 LONG AFTER YOU ARRIVED AT THE POLICE STATION THAT
16 DETECTIVE BETH TOLSON FROM THE YORK COUNTY SHERIFF'S
17 DEPARTMENT INTERVIEWED TERRY DUNOVANT? WAS IT AN EXTREME
18 LENGTH OF PERIOD OF TIME? DO YOU KNOW APPROXIMATELY HOW
19 LONG?

20 A WE STOPPED MR. DUNOVANT AT 10:50 IN THE MORNING AND
21 HE WAS MIRANDIZED BY DETECTIVE TOLSON OR LIEUTENANT TOLSON
22 AT 12:20. SO ABOUT A HOUR AND THIRTY MINUTES.

23 Q SO NO MORE THAN AN HOUR AND A HALF AFTER THE INITIAL
24 TRAFFIC STOP DETECTIVE BETH TOLSON BEGAN HER INTERVIEW?

25 A YES, SIR, AND WE SPENT SOME TIME IN THE ROAD OUT

JIMMY WEST - DIRECT BY MR. MAINES

237

1 THERE, SO THERE WAS --- WE WERE PROBABLY IN THE STREET OUT
2 THERE THIRTY MINUTES.

3 Q OKAY. NOW, WHEN YOU GOT TO THE POLICE STATION AND
4 BETH TOLSON IS INTERVIEWING TERRY DUNOVANT, WERE YOU THERE
5 WERE THE ENTIRE DURATION OF THAT INTERVIEW OR WERE YOU
6 THERE FOR THE BEGINNING OF THE STATEMENT?

7 A YES.

8 Q AND DID YOU OBSERVE THE INITIAL INTERACTION BETWEEN
9 BETH TOLSON AND TERRY DUNOVANT?

10 A I DID.

11 Q AND DID --- AT WHAT POINT DO YOU REMEMBER WHEN BETH
12 TOLSON, IF SHE DID, IN FACT, ADVISE TERRY DUNOVANT OF HIS
13 MIRANDA RIGHTS?

14 A I WAS THERE WHEN SHE READ HIM HIS RIGHTS. INITIALLY
15 HE WAS SOMEWHAT UNCOOPERATIVE WITH HER; HE DIDN'T WANT TO
16 TALK TO HER AND I --- AND I EXPLAINED TO TERRY THAT, YOU
17 KNOW, HE NEVER ASKED FOR A LAWYER; HE NEVER SAID I DON'T
18 WANT TO TALK TO YOU; HE WAS BEING UNCOOPERATIVE. DID NOT
19 WANT TO HAVE ANY INTERACTION WITH HER AT ALL, AND I
20 EXPLAINED TO HIM THAT, YOU KNOW, WHAT SHE'S TRYING TO DO
21 IS READ YOU YOUR RIGHTS SO YOU'LL HAVE A CHANCE TO TELL
22 WHAT HAPPENED. HE EVENTUALLY LISTENED TO HER; SHE READ
23 HIM HIS RIGHTS AND HE SIGNED THE WAIVER.

24 Q DID YOU ACTUALLY SEE TERRY DUNOVANT SIGN THAT WAIVER?

25 A YES, I DID.

JIMMY WEST - DIRECT BY MR. MAINES

238

1 Q IF I SHOWED YOU A COPY OF IT, WOULD YOU RECOGNIZE IT?

2 A I HAVE ONE IN MY HAND, YES, SIR.

3 Q I'M SHOWING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT

4 18, AND COULD YOU TELL THE JUDGE WHAT THAT IS?

5 A THAT'S THE MIRANDA RIGHTS THAT WAS ADVISED OF MR.

6 DUNOVANT IN MY PRESENCE AT THE GASTONIA POLICE DEPARTMENT.

7 Q CAN YOU PLEASE TELL THE JUDGE WHAT BETH TOLSON

8 ADVISED HIM OF?

9 A YES, SHE --- SHE READ THE RIGHTS AND SAYS, UH, YOU

10 HAVE THE RIGHT TO REMAIN SILENT; ANYTHING YOU SAY CAN AND

11 WILL BE USED AGAINST YOU IN A COURT OF LAW. YOU HAVE THE

12 RIGHT TALK TO AN ATTORNEY AND HAVE HIM OR HER PRESENT WITH

13 YOU WHILE YOU'RE BEING QUESTIONED. IF YOU CANNOT AFFORD

14 TO HIRE AN ATTORNEY, ONE WILL BE APPOINTED TO REPRESENT

15 YOU BEFORE ANY QUESTIONING IF YOU WISH. YOU CAN DECIDE AT

16 ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY

17 QUESTIONS OR MAKE ANY STATEMENTS. SAYS, DO YOU UNDERSTAND

18 THE RIGHTS I'VE EXPLAINED TO YOU, AND HE CHECKED YES.

19 Q OKAY. WELL, IS --- DID YOU SEE TERRY DUNOVANT SIGN

20 THAT FORM?

21 A I SAW TERRY DUNOVANT SIGN THIS FORM, YES.

22 Q AND IS THAT HIS SIGNATURE THERE?

23 A NO, SIR.

24 Q RIGHT THERE?

25 A YES, SIR.

JIMMY WEST - DIRECT BY MR. MAINES

239

1 Q AND IT'S DATED MAY 3RD, 2007?

2 A YES, SIR.

3 Q I WANT TO ASK YOU ABOUT SOME OF THE OTHER
4 CIRCUMSTANCES SURROUNDING WHEN MR. DUNOVANT SIGNED THIS
5 PIECE OF PAPER. DID HE INDICATE THAT HE UNDERSTOOD THIS?

6 A YES, SIR.

7 Q DID HE APPEAR TO HAVE THE ABILITY TO UNDERSTAND WHAT
8 WAS HAPPENING?

9 A YES, SIR.

10 Q DID YOU, YOURSELF OR ANY OTHER OFFICER INCLUDING BETH
11 TOLSON THREATEN HIM IN ANY WAY?

12 A NO, SIR.

13 Q DID ANYONE PRESENT PROMISE HIM ANYTHING FOR MAKING
14 THIS STATEMENT?

15 A NO, SIR.

16 Q NOW, DID YOU HAND HIM A PIECE OF PAPER TO MAKE A
17 WRITTEN STATEMENT OR DID YOU --- OR DID YOU ASK HIM --- OR
18 DID BETH TOLSON ASK HIM QUESTIONS ---

19 A BETH TOLSON ASKED HIM QUESTIONS.

20 Q OKAY. AND WERE YOU PRESENT DURING THE ENTIRE TIME
21 SHE WAS ASKING THESE QUESTIONS?

22 A YES, SIR.

23 Q DID ANYONE HAVE THEIR GUNS OUT AT ANY POINT DURING
24 THIS?

25 A NO, SIR.

JIMMY WEST - DIRECT BY MR. MAINES

240

1 Q I'M HANDING YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
2 17. LET ME STAPLE THEM TOGETHER. I'M SHOWING YOU STATE'S
3 EXHIBIT 17. DID YOU OBSERVE BETH TOLSON WRITE DOWN TERRY
4 DUNOVANT'S RESPONSES TO HER QUESTIONS?

5 A YES, I DID.

6 Q AND IS THAT A ACCURATE TRANSCRIPT OF WHAT MR.
7 DUNOVANT'S RESPONSES WERE TO INVESTIGATOR BETH TOLSON'S
8 QUESTIONS?

9 A YES, SIR.

10 Q CAN YOU PLEASE TELL US WHAT IT SAYS?

11 A THE HEADER IS, A VOLUNTARY STATEMENT; IT'S GOT TERRY
12 DUNOVAN'S NAME ON IT, REPORT OF ASSAULT ON 5/3 OF '07.
13 THE FIRST WORD IN THE LETTER (A) IS YES. IT SAYS AROUND
14 2:30, 3:00 O'CLOCK THIS A.M. I WENT TO THE GAS STATION TO
15 GET GAS. I WENT TO THE GAS STATION BESIDE THE BOJANGLES
16 ON BESSEMER CITY ROAD; A YOUNG LADY WAS STANDING OUTSIDE
17 WHEN I CAME OUT; SHE ASKED ME FOR A RIDE AND ASKED ME IF
18 I WANTED A DATE; SHE ASKED --- SHE ASKED HIM FOR CRACK
19 ROCK. I BOUGHT SOME CRACK EARLIER AND HAD SOME WITH ME.
20 SHE LOOKED LIKE SHE HAD BEEN IN A --- HAD BEEN IN A FIGHT.
21 SHE HAD SCRATCHES ON HER ARMS, SCRATCHES ON HER FACE AND
22 A KNOT ON HER HEAD. SHE SAID SHE WAS A PROSTITUTE AND
23 TOLD ME SHE HAD BEEN AT THE MICRO HOTEL BEHIND BOJANGLES
24 WHILE A FRIEND --- WHILE A FRIEND-GIRL AND SOME DUDES
25 SMOKED CRACK AND TURNED TRICKS. SHE SAID THAT SHE HAD

JIMMY WEST - DIRECT BY MR. MAINES

241

1 BEEN --- HAD BEEN GIVING ORAL SEX. SHE DIRECTED ME TO A
2 FIELD NEAR A CHURCH OFF OF HIGHWAY 321; WE SMOKED ---
3 SMOKED THE CRACK AND SMOKED FOUR ROCKS, FOUR TWENTY-DOLLAR
4 ROCKS OUT OF HER GLASS PIPE. SHE SEEMED TO BE ON
5 SOMETHING ELSE. WE GOT OUT OF THE CAR AND SHE GAVE ME
6 ORAL SEX. WE HAD SEX. SHE HAD HER ELBOWS ON THE DRIVER'S
7 SIDE OF THE HOOD ON THAT SIDE. I DID TRADE DRUGS AND
8 MONEY FOR SEX. I HAD ON THE SAME PANTS THAT I HAD ON ---
9 THAT I HAVE ON NOW. I HAD ON A WHITE WIFE-BEATER T-SHIRT.
10 SHE SAID THAT SHE USUALLY GOT MORE THAN TWENTY DOLLARS FOR
11 A TRICK. I GAVE HER TWENTY DOLLARS. AFTER WE FINISHED,
12 I DROPPED HER OFF AT THE HOT SPOT. I THINK SHE GOT MAD
13 BECAUSE I DIDN'T GIVE HER ANY MORE MONEY OR DOPE. WE WERE
14 BOTH UNDER THE INFLUENCE OF CRACK COCAINE. I GOT INTO A
15 SCUFFLE WITH SOMEONE LAST NIGHT A LITTLE AFTER 12:00
16 O'CLOCK. HE GYPED ME ON SOME WEIGHT ON A CRACK --- ON A
17 CRACK PURCHASE. I DON'T KNOW HIS NAME. ALL I KNOW HIM BY
18 IS BONE. SHE SAID HER NAME WAS MISTI AND SAID THAT ---
19 AND SAID THEY CALL HER SOMETHING ELSE ALSO. SHE TOLD ME
20 SHE WAS OUTSIDE OF THE STORE PROSTITUTING, THAT'S THE
21 REASON SHE WAS THERE. I DID NOT FORCE HER IN ANY KIND OF
22 WAY. SHE WALKED OVER --- SHE WALKED ON HER OWN OVER TO MY
23 CAR. SHE APPROACHED ME. I DIDN'T HARM HER IN ANY KIND OF
24 WAY. SHE GOT INTO MY CAR ON HER OWN --- ON HER OWN FREE
25 WILL. SHE WANTED TO GET HIGH AND MAKE SOME MONEY. I DO

JIMMY WEST - CROSS BY MR. LEMEL

242

1 NOT HAVE MY PENIS PIERCED. AND THAT'S THE END OF THE
2 STATEMENT AND IT'S MARKED 1:20 P.M. ON THE 3RD DAY OF MAY,
3 2007 AND IT'S SIGNED TERRY DUNOVANT.

4 Q OKAY. I WANT TO GO BACK JUST FOR A SECOND. HAS
5 EXHIBIT 18, STATE'S EXHIBIT 18, DOES IT INDICATE WHETHER
6 OR NOT THE DEFENDANT CAN OR CANNOT READ?

7 A SAYS EDUCATIONAL LEVEL TENTH GRADE AND IT SAYS READ,
8 YES, OR NO, AND HE'S GOT CIRCLED YES, AND IT'S GOT WRITE,
9 YES OR NO AND IT'S GOT CIRCLED YES.

10 Q AND DID HE SIGN THAT PORTION IN ADDITION TO THE
11 PORTION DEALING WITH HIS SPECIFIC MIRANDA RIGHTS?

12 A HIS NAME IS WRITTEN ON HERE. I DON'T THINK THAT'S
13 HIS SIGNATURE. I THINK IT WAS JUST HAND-WRITTEN BY BETH
14 TOLSON.

15 Q OH, OKAY.

16 MR. MAINES - PLEASE ANSWER ANY QUESTIONS MR.
17 LEMEL HAS.

18 CROSS EXAMINATION

19 BY MR. LEMEL -

20 Q SO THE INTERVIEW WITH MR. DUNOVANT TOOK PLACE IN A
21 INTERVIEW ROOM AT THE POLICE DEPARTMENT FOR LACK OF A
22 BETTER WORD?

23 A YES, SIR.

24 Q IS THAT ACCURATE SAYING POLICE DEPARTMENT ---

25 A YES, SIR, WE HAVE FOUR INTERVIEW ROOMS IN DETECTIVE

JIMMY WEST - CROSS BY MR. LEMEL

243

1 BUREAU AND HE WAS IN INTERVIEW ROOM NUMBER 1.

2 Q AND THESE ARE SMALL ROOMS?

3 A FAIRLY SMALL, PROBABLY TWELVE BY TWELVE.

4 Q OKAY. AND IN THIS PARTICULAR SITUATION IT WOULD'VE
5 BEEN HIM IN THERE?

6 A YES, SIR, AND TWO INVESTIGATORS.

7 Q AND TWO INVESTIGATORS, YOU AND DETECTIVE TOLSON.

8 A YES, SIR.

9 Q AND AT THAT POINT IN TIME BOTH OF Y'ALL WOULD'VE BEEN
10 ARMED.

11 A YES, SIR.

12 Q YOU WOULD'VE HAD YOUR PISTOLS ON YOU.

13 A YES, SIR.

14 Q ALONG WITH ALL THE NORMAL ACCOUTREMENTS OF BEING A
15 POLICE OFFICER.

16 A YES, SIR.

17 Q AND WOULD'VE BEEN BACK IN THE ROOM ASKING HIM
18 QUESTIONS.

19 A YES, SIR.

20 Q NOW, INITIALLY YOU SAID THAT HE WASN'T COOPERATIVE
21 WITH DETECTIVE TOLSON?

22 A YES, SIR.

23 Q WHAT EXACTLY DO YOU MEAN BY THAT?

24 A I DON'T KNOW IF HE JUST DIDN'T LIKE HER OR WHAT; BUT
25 HE DIDN'T WANT TO HAVE A LOT OF INTERACTION WITH HER. I

JIMMY WEST - CROSS BY MR. LEMEL

244

1 HAD NO PROBLEM WITH HIM. HE --- HE ACTUALLY TALKED TO ME
2 IN A NORMAL TONE, BUT HE FOR WHATEVER REASON DIDN'T SEEM
3 TO WANT TO TALK TO DETECTIVE TOLSON.

4 Q AND SO WHAT YOU TOLD HIM, YOU APPROACHED HIM AND SAID
5 --- YOU HAD INDICATED YOU SAID SOMETHING TO HIM. WHAT
6 EXACTLY WAS IT THAT YOU SAID TO HIM IN ORDER TO ENCOURAGE
7 HIM TO COOPERATE WITH HER?

8 A I BASICALLY TOLD HIM, YOU KNOW, SHE'S TRYING TO READ
9 YOU YOUR RIGHTS. SHE'S NOT --- YOU KNOW, YOU ---
10 BASICALLY WHAT I TOLD HIM IS YOU DON'T WANT TO GO TO COURT
11 WITH SOMEONE'S STORY, YOUR FUTURE HANGING ON SOMEONE
12 ELSE'S STORY. YOU WANT TO TELL YOUR SIDE OF THE STORY ---

13 Q OKAY.

14 A --- AND ---

15 Q AND THAT'S WHEN YOU TOLD HIM THAT WAS HIS CHANCE TO
16 TELL HIS SIDE OF THE STORY.

17 A PRETTY MUCH.

18 Q OKAY. NOW, HIS SIDE OF THE STORY ABOUT WHAT?

19 A ABOUT THIS YOUNG LADY THAT WAS SEXUALLY ASSAULTED AND
20 BEAT UP.

21 Q AND WAS HE TOLD THAT'S WHAT HE WAS BEING ASKED ABOUT?
22 HE WASN'T JUST ASKED TO TELL US ABOUT ANYTHING THAT
23 HAPPENED TO YOU IN THE LAST DAY, WAS HE?

24 A HONESTLY I DON'T REMEMBER THE EXACT TERMINOLOGY OF
25 WHAT DETECTIVE TOLSON TOLD HIM. SHE EXPLAINED THAT; IT

JIMMY WEST - CROSS BY MR. LEMEL

245

1 WAS NO MY CASE.

2 Q OKAY, BUT --- BUT EVERYBODY IN THAT ROOM, THAT LITTLE
3 TWELVE BY TWELVE ROOM, KNEW THAT WHAT WAS BEING DISCUSSED
4 WAS AN ALLEGED SEXUAL ASSAULT THAT HAD OCCURRED BASICALLY
5 EARLIER THAT DAY.

6 A I'M ASSUMING HE KNEW; I KNEW ---

7 Q YOU KNEW.

8 A --- BECAUSE OF WHAT SHE TOLD ME.

9 Q OKAY. AND YOU WERE THERE WHEN SHE WAS ASKING THESE
10 QUESTIONS AND SHE WAS TRYING TO GO OVER THIS WITH YOU.

11 A YES, SIR.

12 Q SO AGAIN, YOU WOULD BE IN A POSITION TO KNOW IF
13 THAT'S WHAT WAS --- HAD BEEN SAID TO HIM.

14 A YES, SIR.

15 Q OKAY.. AND SO TO CLARIFY, THAT'S HOW HE KNEW WHAT HIS
16 SIDE OF THE STORY WAS SUPPOSED TO BE ABOUT.

17 A I WOULD ASSUME, YES.

18 Q OKAY. ALL RIGHT.. WERE YOU THERE THROUGHOUT THE
19 PROCESS OR DID YOU LEAVE AT SOME POINT? IT APPEARS LIKE
20 YOU INDICATED DIFFERENT THINGS AT DIFFERENT POINTS.

21 A I THINK AT ONE POINT I DID GET UP AND WALK OUT, BUT
22 I THINK IT WAS AFTER THE INTERVIEW WAS DONE. I THINK SHE
23 WAS WRITING THE STATEMENT OUT.

24 Q OKAY.

25 A I DON'T THINK I STAYED IN THERE THE ENTIRE TIME.

JIMMY WEST - CROSS BY MR. LEMEL

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1 Q SO HE WAS SAYING THINGS. WAS SHE TAKING NOTES OR WAS
2 SHE WRITING ON THE FORM THAT YOU HAD IN FRONT OF YOU JUST
3 A SECOND AGO THAT YOU READ OFF?

4 A I THINK SHE WAS WRITING ON THAT FORM, BUT ---

5 Q OKAY.

6 A --- I --- I COULDN'T SWEAR TO THAT.

7 Q WAS SHE WRITING IT AS HE WAS SAYING IT?

8 A NO, I THINK SHE TALKED TO HIM FIRST AND THEN WENT
9 BACK AND WROTE THE STATEMENT OUT.

10 Q OKAY. AND THAT'S WHEN YOU LEFT.

11 A YES, SIR.

12 Q DID YOU COME BACK IN TO SEE HIM SIGN THAT OR ANYTHING
13 ELSE?

14 A I DID COME BACK IN THE ROOM, YES, SIR.

15 Q DID HE ACTUALLY SIGN OFF ON THAT DOCUMENT?

16 A I DON'T REMEMBER OFF THE TOP OF MY HEAD TO BE HONEST
17 WITH YOU.

18 Q DO YOU HAVE A COPY OF IT ---

19 A I DO. YES, IT IS --- IT IS SIGNED.

20 Q OKAY. WERE YOU PRESENT WHEN HE SIGNED THAT?

21 A I WAS PRESENT WHEN HE SIGNED THIS.

22 Q OKAY. AND THAT WAS AFTER SHE FILLED IT OUT?

23 A YES.

24 MR. LEMEL - NO FURTHER QUESTIONS.

25 THE COURT - STATE?

247

1 MR. MAINES - NOTHING FURTHER AT THIS POINT, YOUR
2 HONOR.

3 THE COURT - ALL RIGHT, YOU CAN STEP DOWN. THANK
4 YOU.

5 MR. WEST - THANK YOU, JUDGE.

6 MS. LIPINSKI - YOUR HONOR, WE JUST HAVE THESE
7 OFFICERS HERE TODAY. OBVIOUSLY, THEIR SCHEDULE IS
8 DIFFERENT THAN LIEUTENANT TOLSON WHO WILL BE HERE THURSDAY
9 MORNING AND WILL BE CALLED BY THE STATE. I WANTED TO
10 CLARIFY THAT SO THAT YOU KNOW IT, BUT THE STATE FEELS THAT
11 THE STATEMENT WAS KNOWINGLY AND VOLUNTARILY MADE. HE WAS
12 MIRANDIZED TWICE. HE ENGAGED IN A VOLUNTARY ENCOUNTER.
13 THE OFFICERS TESTIFIED HE WAS NEVER THREATENED IN ANY WAY,
14 PROMISED ANYTHING IN EXCHANGE FOR HIS TESTIMONY HERE TODAY
15 --- I'M SORRY --- IN EXCHANGE FOR HIM PROVIDING THAT
16 WRITTEN STATEMENT TO LIEUTENANT BETH TOLSON, THAT HE
17 SIGNED IT AT THE END AND FOR THAT REASON THE STATE FEELS
18 THAT THE STATEMENT IS PROPERLY PUT BEFORE THE JURY.

19 MR. LEMBL - YOUR HONOR, I JUST HAVE TWO MATTERS.
20 WITH REGARD TO THE MATTER OF THE JACKSON V. DENO, WE DO
21 MAKE THE MOTION, PRE-TRIAL MOTIONS, JUST HAVE THE COURT
22 RULE ON THAT ON THE RECORD IN THE COURT'S DISCRETION. THE
23 ADDITIONAL MOTION IN LIMINE I'D LIKE TO ADD AT THIS POINT
24 IN TIME HAS TO DO WITH TESTIMONY WE JUST HEARD FROM
25 SERGEANT WEST WHEN HE REFERRED TO TWO OUTSTANDING WARRANTS

1 AT --- THAT WERE SOMEHOW PENDING IN NORTH CAROLINA. I
2 WOULD ASSUME ---

3 MS. LIPINSKI - WE'RE NOT GOING THERE. THAT WAS
4 JUST FOR THE PURPOSE OF THE JACKSON V. DENO.

5 MR. LEMEL - AND I JUST WANT TO MAKE SURE THAT WE
6 HAVE A CLEAR UNDERSTANDING THAT IN FRONT OF THE JURY THAT
7 THERE WILL BE NO REFERENCE TO OTHER OUTSTANDING WARRANTS.

8 MS. LIPINSKI - THAT'S CORRECT, YOUR HONOR, AND
9 ALSO WHEN I INITIALLY HAD THIS PRE-TRIAL WITH OFFICER WEST
10 AND MCSWAIN IN JUST THE WHOLE HOW DID YOU KNOW HE WASN'T
11 MARK DUNOVANT, OBVIOUSLY THEIR KNOWLEDGE IS BASED ON THEIR
12 PRIOR CRIMINAL INTERACTION WITH THEM AND I TOLD THEM TO
13 LIMIT THEIR TESTIMONY TO JUST THE FACT THAT THEY WERE
14 FAMILIAR WITH MARK DUNOVANT AND KNEW IT NOT TO BE HIM AND
15 SOMEWHAT WERE ACQUAINTED WITH TERRY DUNOVANT BUT DIDN'T
16 KNOW HIM BY NAME AS WELL. AND OBVIOUSLY WE JUST PUT THE
17 WARRANTS UP THERE SO YOU WOULD UNDERSTAND WHY HE WAS TAKEN
18 INTO CUSTODY AT THE POINT THAT HE WAS, BUT THE STATE IS
19 NOT GOING TO ELICIT THAT TESTIMONY FROM THE JACKSON V.
20 DENO. IN THE PRESENCE OF THE COURT I'LL INSTRUCT OFFICERS
21 MCSWAIN AND WEST NOT TO DO THAT IN THE PRESENCE OF THE
22 JURY.

23 THE COURT - ALL RIGHT, WELL, I'M GOING TO ALLOW
24 THE STATEMENT. I FIND BASED ON THE PREPONDERANCE OF THE
25 EVIDENCE THAT MR. DUNOVANT WAS TWICE MIRANDIZED PRIOR TO

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1 GIVING THE STATEMENT AT ISSUE. THE SECOND ONE IS A LITTLE
2 DIFFERENT FROM THE FIRST. OFFICER MCSWAIN ADVISED HIM HE
3 HAD THE RIGHT TO REMAIN SILENT, THAT ANYTHING HE SAID
4 COULD BE USED AGAINST IN A COURT OF LAW, THAT HE HAD THE
5 RIGHT TO TALK WITH AN ATTORNEY AND HAVE HIM PRESENT OR HER
6 PRESENT WHEN HE WAS BEING QUESTIONED AND THAT IF HE COULD
7 NOT AFFORD AN ATTORNEY HE COULD HAVE ONE APPOINTED TO
8 REPRESENT HIM IF HE WISHED. I FIND THAT HE, HE BEING THE
9 DEFENDANT, MR. DUNOVANT, SIGNED WAIVING --- WELL, I'M
10 SORRY --- HE DIDN'T SIGN AT THE SCENE, BUT HE WAS GIVEN
11 THOSE WARNINGS, MIRANDA WARNINGS WHICH ALSO INCLUDE THOSE
12 IMPOSED BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE
13 UNITED STATES. THERE'S NO EVIDENCE AT THE SCENE OF THE
14 STOP OF ANY COERCION, THREAT, PROMISE. WHILE THERE HAS
15 BEEN TESTIMONY ABOUT CRACK USE, THERE'S NO INDICATION THAT
16 THERE WAS ANY INTOXICATION OR ANY OTHER INCAPACITY AT
17 EITHER TIME. I'M MAKING THESE FINDINGS BASED ON THE
18 PREPONDERANCE OF THE EVIDENCE. I STILL FIND THAT IT IS A
19 JURY QUESTION AS TO THE VOLUNTARINESS OF THE STATEMENT AND
20 THE WEIGHT, CREDIBILITY AND EXTENT TO WHICH THEY USED IT.
21 I FIND THAT THE --- THAT OFFICER WEST GAVE HIM THOSE SAME
22 MIRANDA WARNINGS WITH ONE ADDITION. OFFICER WEST
23 INDICATED THAT HE COULD STOP THE QUESTIONING AT ANY TIME.
24 THAT MIGHT'VE BEEN IMPLICIT IN WHAT OFFICER MCSWAIN TOLD
25 HIM, BUT OFFICER WEST TOLD HIM THAT SPECIFICALLY. OFFICER

1 WEST ADDITIONALLY CONFIRMED AT THE TIME --- WELL, NOT
2 CONFIRMED, BUT ALSO AT THE SECOND TIME THE --- THERE WAS
3 NO EVIDENCE OF ANY COERCION, THREAT, PROMISE,
4 INTOXICATION. THERE WAS NO DISPLAY OF WEAPONS, ALTHOUGH
5 THERE WERE WEAPONS PRESENT, I GUESS TECHNICALLY A DISPLAY
6 OF WEAPONS IS --- THEY'RE EITHER THERE OR THEY'RE NOT, BUT
7 THERE WAS NO INDICATION THAT WEAPONS WERE DRAWN OR TAKEN,
8 UNHOLSTERED OR ANYTHING LIKE THAT. NO THREAT, NO PROMISE.
9 HE HAS INDICATED TO HAVE HAD THE ABILITY TO UNDERSTAND.
10 I FIND THAT THE STATEMENTS GIVEN, OR PARTICULARLY THE ONE
11 GIVEN TO BETH TOLSON, AT LEAST THE TESTIMONY OF OFFICER
12 WEST, THAT MR. DUNOVANT HAD BEEN ADVISED OF HIS RIGHTS
13 UNDER THE FIFTH AMENDMENT AND MIRANDA, THAT HE FREELY,
14 KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY WAIVED THESE
15 RIGHTS, GAVE HIS STATEMENT TO THEM VOLUNTARILY, SO I'LL
16 ALLOW IT INTO EVIDENCE. ALL RIGHT, BEFORE WE GET THE JURY
17 IN, I'VE GOT A MINOR SETTLEMENT TO TAKE UP, SO WE'LL TAKE
18 THAT UP.

19 MS. LIPINSKI - THANK YOU, YOUR HONOR.

20 (RECESS TAKEN)

21 THE COURT - THANK YOU. TAKE YOUR SEATS. LET'S
22 GET MR. DUNOVANT IN.

23 (MR. DUNOVANT ENTERS THE COURTROOM)

24 THE COURT - STATE READY?

25 MS. LIPINSKI - YES, YOUR HONOR.

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 THE COURT - DEFENSE READY?

2 MR. LEMEL - YES, SIR.

3 THE COURT - ALL RIGHT, BRING IN THE JURY.

4 (JURY ENTERS THE COURTROOM)

5 THE COURT - TELL ME AGAIN --- YOU DON'T WANT TO
6 START UNTIL WHAT TIME TOMORROW?

7 MS. LIPINSKI - PROBABLY 2:00 O'CLOCK.

8 THE COURT - I'M SURE WHEN Y'ALL LOOK AT THE
9 CLOCK YOU THINK I MISSED THAT CLASS IN KINDERGARTEN WHEN
10 THEY TAUGHT YOU TO TELL TIME. I REALLY DIDN'T. WE HAD
11 SOME MATTERS I THINK I TOLD YOU TO TAKE UP OUTSIDE OF YOUR
12 PRESENCE AND IT TOOK A LONGER THAN I HAD ANTICIPATED, BUT
13 WE'RE NOW IN A POSITION TO MOVE FORWARD. CALL YOUR NEXT
14 WITNESS, PLEASE.

15 MS. LIPINSKI - MAY IT PLEASE THE COURT, YOUR
16 HONOR. THE STATE CALLS LORI RICHARDS TO THE STAND.

17 LORI RICHARDS, AFTER BEING FIRST DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. LIPINSKI -

21 Q IF YOU COULD, PLEASE, STATE YOUR FULL NAME FOR THE
22 RECORD.

23 A LORI ARMSTRONG RICHARDS.

24 Q AND I SEE YOU APPEAR TO BE IN SCRUBS TODAY. YOU ARE
25 A NURSE.

LORI RICHARDS - DIRECT BY MS. LIPINSKI

252

1 A YES, I AM A REGISTERED NURSE.

2 Q AND WITH WHOM ARE YOU EMPLOYED?

3 A THE YORK COUNTY SHERIFF'S OFFICE.

4 Q AND WHAT DO YOU DO AS A NURSE FOR THE YORK COUNTY
5 SHERIFF'S OFFICE?

6 A I AM THE SEXUAL ASSAULT NURSE COORDINATOR.

7 Q AND WHAT DOES THAT MEAN?

8 A WE DO ALL THE CASES, HANDLING SEXUAL ASSAULTS OR RAPE
9 KITS THAT COME IN THROUGH THE YORK COUNTY, ROCK HILL AREA.

10 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

11 A ALMOST FIVE YEARS.

12 Q AND PRIOR TO THAT DID YOU WORK ACTIVELY AS A NURSE IN
13 A DOCTOR'S OFFICE OR A HOSPITAL?

14 A I'VE WORKED IN THE HOSPITAL SETTING BEFORE THIS.

15 Q AND HOW LONG HAVE YOU BEEN A NURSE?

16 A SINCE 2002.

17 Q AND IN ORDER TO BECOME WHAT'S CALLED --- WE'VE HEARD
18 THE TERM SANE NURSE. WHAT IS --- WHAT DOES THAT ACRONYM
19 STAND FOR?

20 A SANE STANDS FOR SEXUAL ASSAULT NURSE EXAMINER. IN
21 ORDER TO DO THAT YOU HAVE TO BE A REGISTERED NURSE FIRST
22 AND THEN WE HAVE TO TAKE A FORTY HOUR CLASS AND THEN WE DO
23 VERY EXTENSIVE CLINICALS THAT COMPRISE OF AT LEAST FORTY
24 VAGINAL EXAMS WITH A MEDICAL DOCTOR. WE HAVE TO DO SIX
25 SEXUAL ASSAULT EXAMS WITH A PRECEPTOR. WE HAVE TO COME TO

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 COURT FOR EIGHT HOURS AND OBSERVE A TRIAL SUCH AS THIS.
2 WE HAVE TO DO RIDE-ALONGS WITH THE POLICE DEPARTMENT TO
3 MAKE SURE THAT WE UNDERSTAND THE PROCESS.

4 Q AND DO YOU HAVE ANY CONTINUING OR ON-GOING EDUCATION
5 TO KEEP YOU UP TO DATE IN TERMS OF ANY CHANGES IN
6 PROTOCOLS OR OTHER PROCEDURES?

7 A YES, WE HAVE TO HAVE TWENTY TO THIRTY HOURS EACH YEAR
8 OF EDUCATION SPECIFICALLY DEALING WITH SEXUAL ASSAULT
9 DOMESTIC VIOLENCE THAT WE HAVE TO TURN IN TO THE BOARD OF
10 NURSING.

11 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WE WOULD
12 PROFFER LORI RICHARDS AS AN EXPERT AS A SANE EXAMINER OR
13 SEXUAL ASSAULT NURSE EXAMINER?

14 THE COURT - ANY VOIR DIRE?

15 MR. LEMEL - NO, SIR.

16 THE COURT - ANY OBJECTION?

17 MR. LEMEL - NO, SIR.

18 THE COURT - I FIND SHE'S QUALIFIED.

19 MS. RICHARDS - THANK YOU.

20 Q AND WHERE DO YOU NORMALLY CONDUCT THESE SANE
21 EXAMINATIONS?

22 A AT RIVERVIEW MEDICAL CENTER.

23 Q AND WHY DID YOU ALL PICK THEM? DO YOU HAVE A
24 CONTRACT WITH THEM? IS IT LOCATED IN SOME PARTICULAR WAY?

25 A WE DON'T HAVE A CONTRACT WITH THEM. THEY WERE 'VERY

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 GENEROUS IN ALLOWING TO GIVE US A SPECIALIZED ROOM THAT'S
2 IN THE BACK OF THE BUILDING FOR THE VICTIMS TO COME IN AND
3 NOT HAVE TO BE SEEN THROUGH THE WAITING ROOM, AND I ALSO
4 HAVE A SECOND OFFICE THERE.

5 Q AND HAVE YOU EVER CONDUCTED AN EXAMINATION AT
6 PIEDMONT MEDICAL CENTER?

7 A YES, I HAVE.

8 Q AND WHY WOULD YOU CONDUCT AN EXAMINATION THERE VERSUS
9 ONE AT RIVERVIEW MEDICAL CENTER?

10 A NORMALLY WHEN WE SEE A VICTIM AT PIEDMONT THEY ARE
11 WHAT WE CALL NON-MEDICALLY CLEARED, WHICH MEANS THEY ARE
12 IN NO CONDITION TO BE ABLE TO BE DRIVEN TO RIVERWOOD
13 (SIC). THEY HAVE TOO MANY EXTENSIVE INJURIES FOR US TO
14 TRANSFER THEM.

15 Q AND IN THAT --- IN THIS PARTICULAR CASE, IS WHAT WHY
16 MISTI HILL WAS EXAMINED AT PIEDMONT MEDICAL CENTER?

17 A YES, IT WAS.

18 Q AND DID YOU PERSONALLY CONDUCT THE EXAMINATION?

19 A I DID NOT PERSONALLY DO IT. AT THAT TIME I WAS NOT
20 ALLOWED BY PIEDMONT SO I WAS THERE THE ENTIRE TIME AND
21 HELPED INSTRUCT ANOTHER REGISTERED NURSE TO DO THE EXAM.

22 Q AND WHEN YOU MEAN ALLOWED, YOU DIDN'T HAVE
23 PRIVILEGES?

24 A CORRECT. WE DO NOW AND --- BUT AT THAT POINT WE DID
25 NOT.

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 Q AND WAS THAT JUST SOME PROCESS YOU HAD TO GO THROUGH
2 IN ORDER TO ESTABLISH THAT RELATIONSHIP WITH PIEDMONT?

3 A YES, WE HAD TO GO THROUGH EXTENSIVE BACKGROUND CHECKS
4 OR EMPLOYMENT HISTORY; IT TOOK ABOUT SIX MONTHS TO BE ABLE
5 TO BE CREDENTIALLED BY PIEDMONT TO BE ABLE TO GO IN THERE.

6 Q AND WAS THAT DONE IN 2007? HAD YOU EVER HAD ANY
7 CREDENTIALLED PEOPLE PRIOR TO THAT YEAR?

8 A NO, WE HAD NOT.

9 Q SO YOU --- THAT WAS A PROCESS YOU WERE WORKING ON AT
10 ---

11 A YES.

12 Q IF YOU COULD, JUST BRIEFLY DESCRIBE TO THE JURY WHAT
13 IS A SANE EXAMINATION. WHAT ARE YOU LOOKING FOR? WHAT IS
14 THE PROCEDURE THAT YOU GO BY?

15 A A SANE EXAM NORMALLY TAKES ANYWHERE FROM TWO TO FOUR
16 HOURS. WE HAVE THE VICTIM COME IN. WE HAVE THEM REMOVE
17 ALL THEIR CLOTHING WHICH WE SAVE. WE LOOK OVER THEIR
18 ENTIRE BODY. WE PULL HEAD HAIRS; WE PULL PUBIC HAIRS. WE
19 LOOK OVER THEIR BODY WITH A BLACK LIGHT TO LOOK FOR ANY
20 KIND OF SEMEN OR BLOOD OR UNIDENTIFIABLE SERUM THAT WE CAN
21 GET. WE THEN DO A VAGINAL EXAM WHICH ENTAILS USING A
22 SPECULUM AND COLLECTING ANY KIND OF SPERM OR FLUIDS INSIDE
23 THE VAGINAL CANAL.

24 Q AND EVEN IF YOU CAN'T VISUALIZE THAT SPERM IN THE
25 VAGINAL CANAL, DO YOU HAVE THE OCCASION WHERE YOU DO

LORI RICHARDS - DIRECT BY MS. LIPINSKI

256

1 VAGINAL SWABS NONETHELESS?

2 A OH, ABSOLUTELY. WE TRY TO FIND ANYTHING WE CAN.

3 Q AND SO FOR THE PURPOSE OF THIS EXAM IT'S NOT A
4 MEDICAL EXAM. IT'S A PURELY FORENSIC EXAM. WOULD THAT BE
5 FAIR TO SAY?

6 A THAT'S CORRECT, YES.

7 Q AND WE'VE ALSO HEARD THE TERM SEXUAL ASSAULT KIT.

8 A YES.

9 Q WHAT IS THAT AND WHAT DOES IT ENTAIL?

10 A A LOT OF PEOPLE CALL THEM A RAPE KIT, BUT WE CALL
11 THEM SEXUAL ASSAULT KITS. IN THEM WE HAVE SWABS TO DO
12 ORAL SWABS, VAGINAL SWABS, ANAL SWABS. WE HAVE ALL THE
13 ENVELOPES FOR ALL THE HEAD HAIRS WE PULL. WE --- TRYING
14 TO THINK --- HAD THE BAGS FOR CLOTHING COLLECTION AND,
15 LIKE I SAID, IT TAKES ABOUT TWO TO FOUR HOURS TO COLLECT
16 ALL THIS EVIDENCE.

17 MS. LIPINSKI - YOUR HONOR, CAN I APPROACH THE
18 WITNESS?

19 THE COURT - (INDICTING YES)

20 Q LET'S START WITH THIS BIG BAG. I KNOW YOU PROBABLY
21 DIDN'T HANDLE IT SPECIFICALLY, BUT WHEN YOU TALK ABOUT A
22 SEXUAL ASSAULT KIT, IS THIS ONE OF THOSE BAGS FOR CLOTHING
23 THAT MIGHT BE CONTAINED IN THE KIT ITSELF?

24 A YES, THAT COMES IN THE KIT.

25 Q AND LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED AS

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 STATE'S EXHIBIT NUMBER 1 FOR I.D. AND ASK YOU IF YOU COULD
2 JUST GO THROUGH THAT. ARE THOSE THE INDIVIDUAL ENVELOPES
3 ALSO CONTAINED IN THE KIT FOR THOSE TYPE OF SWABBING AND
4 HAIR COLLECTION THAT YOU DESCRIBED?

5 A YES, THEY ARE.

6 Q AND CONSISTENT WITH THAT THERE'S ALSO NORMALLY A
7 BLOOD DRAW DONE ON THE VICTIM.

8 A THAT'S CORRECT. THE HOSPITAL SINCE SHE WAS AT
9 PIEDMONT WOULD'VE HAD TO DRAW HER BLOOD, BUT NORMALLY IF
10 THEY COME TO RIVERVIEW WE DO DRAW THEIR BLOOD.

11 Q AND YOU HAVE IN YOUR HAND THE REPORT OF NURSE
12 CARRINGER THAT SHE WAS GOING THROUGH THAT. IS THIS
13 PROTOCOL, THIS QUESTIONNAIRE, IS THAT PART OF THE KIT AS
14 WELL, OR IS THAT SOMETHING THAT YOU PROVIDED TO HER OR
15 WHERE DID THAT COME FROM?

16 A THAT IS SOMETHING THAT WE WOULD HAVE PROVIDED. WE
17 NOW HAVE A COMPUTER PROGRAM THAT IS A LOT LONGER, MORE
18 INTENSE THAN THIS, BUT IT BASICALLY GIVES THE SAME
19 INFORMATION THAT WE LOOK FOR EVERY SEXUAL ASSAULT KIT.

20 Q AND DID YOU WALK NURSE CARRINGER THROUGH ASKING THESE
21 QUESTIONS OF MISTI HILL?

22 A YES, I DID.

23 Q AND ARE YOU AWARE OF WHETHER OR NOT SHE HAD ANY
24 SPECIAL SANE TRAINING PRIOR TO THIS?

25 A I DO NOT THINK SHE DID. I THINK AS LONG AS SHE WAS

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 A REGISTERED NURSE SHE IS ABSOLUTELY CAPABLE OF DOING THE
2 KIT.

3 Q IT'S JUST A SPECIAL PROTOCOL OF EVIDENCE COLLECTION
4 WHICH SHE MIGHT NOT BE FAMILIAR WITH.

5 A THAT'S CORRECT.

6 Q AND ALSO AS A PART OF THAT, THAT SAME NURSE EXAMINER
7 TRAINING, ARE YOU ALSO TRAINED TO LOOK FOR INJURIES THAT
8 MAY OR MAY NOT BE CONSISTENT WITH SEXUAL TRAUMA?

9 A YES, WE DO. I GO TO SEVERAL CLASSES A YEAR ON
10 BRUISING, TEARING, SPECIFIC THINGS THAT MAYBE SOMEONE NOT
11 FAMILIAR WITH THAT WOULD NOT KNOW WHAT TO LOOK FOR.

12 Q AND WERE YOU PART OF OR DID YOU EVER SEE THE PHYSICAL
13 EXAM OF MISTI HILL IN THIS CASE?

14 A YES, I DID.

15 Q AND IF YOU COULD TURN TO PAGE 4 OF NURSE CARRINGER'S
16 REPORT, I JUST HAVE SOME QUESTIONS. WERE YOU ABLE TO
17 ACTUALLY VISUALIZE THESE INJURIES YOURSELF AS WELL?

18 A YES, I DID.

19 Q BUT THE NOTES HERE ARE FROM NURSE CARRINGER.

20 A THAT'S CORRECT.

21 Q AND NURSE CARRINGER TESTIFIED ABOUT THE REDNESS TO
22 THE POSTERIOR FOURCHETTE?

23 A YES.

24 Q WHAT DOES THAT MEAN?

25 A THE POSTERIOR FOURCHETTE IS THE AREA RIGHT BELOW THE

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 VAGINAL OPENING. THIS IS WHERE WE SPECIFICALLY LOOK FOR
2 INJURIES OF SEXUAL ASSAULT. THIS IS WHERE WE MAINLY SEE
3 THE TEARING AND THE BRUISING AND THE BLEEDING.

4 Q AND DID YOU SEE TEARING, BRUISING, BLEEDING OR
5 REDNESS? WHAT IS INDICATED?

6 A WE DID SEE REDNESS TO THAT AREA, YES.

7 Q AND IS THERE ANY SIGNIFICANCE TO THE LACK OF
8 BRUISING, TEARING, THOSE TYPE THINGS? THE FACT OF THEM
9 NOT THERE DOES THAT MEAN CONCLUSIVELY THAT A SEXUAL
10 ASSAULT DID OR DID NOT OCCUR?

11 A NO, I HAVE DONE MANY EXAMS THAT HAVE HAD NO EVIDENCE
12 BECAUSE OUR BODIES REACT IN DIFFERENT WAYS, AND YOU CAN
13 ABSOLUTELY HAVE A SEXUAL ASSAULT AND NOT FIND ANY
14 INJURIES.

15 Q AND WHEN WE TALK OF INJURIES, WE'RE TALKING ABOUT
16 THIS VAGINAL AREA INJURY, THAT PELVIC AREA SPECIFICALLY.

17 A THAT'S CORRECT, YES.

18 Q AND DOES THE PHYSICIAN OF THE SEXUAL ASSAULT IN ANY
19 WAY IMPACT WHAT TYPE INJURIES YOU MAY OR MAY NOT SEE?

20 A ABSOLUTELY. WE LOOK --- WE USE THE FACE OF A CLOCK
21 FROM TWELVE --- AROUND TO TWELVE, AND IT DEPENDS ON WHAT
22 POSITION IT HAPPENED IN IS WHERE WE'RE LOOKING FOR THE
23 INJURIES AT THAT TIME ON THAT CLOCK.

24 Q SHE HAD INJURIES TO THE SIX O'CLOCK AREA, OR WHAT
25 AREA DID SHE HAVE ---

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 A THE ONE TO THREE O'CLOCK, SO IF YOU LOOK AT A CLOCK,
2 IT WOULD BE AT THE TOP DOWN TO THREE O'CLOCK, THE RIGHT
3 UPPER AREA OF THE CERVIX.

4 Q AND WHAT IS THE SIGNIFICANCE OF THE INJURIES TO THE
5 POSTERIOR FOURCHETTE AREA VERSUS THE REDNESS AND AT THE
6 CERVICAL AREA?

7 A NORMALLY WHEN WE SEE REDNESS TO THE CERVICAL AREA,
8 THE CERVIX IS AT THE VERY END OF THE VAGINAL OPENING
9 INSIDE, AND WHEN I SEE BRUISING OR REDNESS TO THE CERVIX,
10 THAT MEANS --- WHAT WE'RE LOOKING FOR IS WHEN THE PENIS
11 GOES IN THAT IT IS HITTING THE BACK SO DRAMATICALLY THAT
12 IT IS CAUSING REDNESS WITH SUCH FORCE AND THAT IS WHAT WE
13 WOULD NOTE BY LOOKING AT A SEXUAL ASSAULT VICTIM.

14 Q BUT AGAIN, THESE INJURIES COULD COME FROM CONSENSUAL
15 OR NON-CONSENSUAL SEX.

16 A YES.

17 Q AND DID YOU ALSO NOTE, THOUGH, THE INJURIES TO HER --
18 - OUTSIDE OF THAT PELVIC AREA, THE INJURIES TO HER BACK
19 AND HER ARMS AND HER NECK?

20 A YES, I DID.

21 Q AND ---

22 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
23 YOUR HONOR.

24 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S (A)
25 THROUGH (V) AND ASK YOU IF THESE ARE THE TYPE OF PICTURES

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 THAT YOU WOULD NORMALLY TAKE AS PART OF THAT EXAMINATION
2 TO DOCUMENT ANY EXTERNAL INJURIES THAT YOU MIGHT SEE ON
3 THE VICTIM?

4 A YES, THOSE ARE TYPICAL OF WHAT WE NORMALLY LOOK FOR.

5 Q AND PART OF YOUR DOING THE EXAMINATION IS TO ACTUALLY
6 --- IF NOT --- NOT YOU SPECIFICALLY BUT SOMEONE FROM
7 FORENSICS TO TAKE PHOTOS OF THOSE INJURIES.

8 A ABSOLUTELY, YES.

9 Q THANK YOU. AND IN TERMS OF THE VAGINAL EXAM,
10 SPECIFICALLY IN THIS CASE, DID YOU USE ANY TYPE OF DYES OR
11 THE BLACK LIGHT THAT YOU MENTIONED BEFORE IN EXAMINING
12 MISTI HILL?

13 A NO, WE DID NOT. WE DID NOT HAVE THAT AVAILABLE AT
14 PIEDMONT AT THAT TIME.

15 Q BECAUSE YOU WERE THERE AT THE HOSPITAL YOU COULDN'T
16 BRING IN THINGS FROM THE OUTSIDE IN ORDER TO BE ---

17 A CORRECT, YES.

18 Q AND WHAT IS THE PURPOSE OF USING THOSE DYES AND THOSE
19 LIGHTS INSTEAD OF JUST A PLAIN VISUAL EXAMINATION?

20 A WHEN WE DO A VAGINAL EXAM, WHAT WE USE, WE TAKE
21 PICTURES BEFORE AND THEN WE HAVE TOLUIDINE DYE WHICH IS A
22 BLUE DYE WHICH I WILL SWAB ON THE OUTSIDE OF THE VAGINAL
23 AREA IN THE POSTERIOR FOURCHETTE. NOW, WHEN I SQUIRT A
24 LITTLE BIT OF WATER, DRY THAT OFF, THAT MAKES ANY KIND OF
25 SHEARING OR TEARING OF THE SKIN TO BE SEEN WHERE

LORI RICHARDS - DIRECT BY MS. LIPINSKI

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1 BEFOREHAND I MAY NOT HAVE BEEN ABLE TO SEE IT, AND THE
2 BLACK LIGHT, SEMEN WILL FLUORESCCE UNDER A BLACK LIGHT AND
3 MAYBE I CAN'T SEE IT WITH THE NAKED EYE BUT IF I TURN ALL
4 THE LIGHTS OUT AND DO THE BLACK LIGHT I'M ABLE TO SEE IT
5 AND SWAB IT.

6 Q BUT IN THIS PARTICULAR CASE, DUE TO YOUR LACK OF
7 PRIVILEGES, YOU WEREN'T ABLE TO CONDUCT THAT ADDITIONAL
8 LEVEL OF THE EXAM.

9 A THAT'S CORRECT.

10 Q AND DO YOU REMEMBER MISTI HILL SPECIFICALLY?

11 A YES, I DO.

12 Q AND DO YOU REMEMBER ANYTHING SPECIFICALLY ABOUT HER
13 DEMEANOR OR HER APPEARANCE AS YOU SPOKE WITH HER DURING
14 THE EXAM?

15 A I REMEMBER WHAT STICKS OUT IS SHE WAS IN A LOT OF
16 PAIN. I BELIEVE SHE HAD SOME BROKEN RIBS. I THINK SHE
17 HAD SOME EARDRUM INJURIES, AND I SPECIFICALLY REMEMBER
18 LOOKING BEHIND HER EAR WHICH I DO AS A FORENSIC NURSE
19 BECAUSE A LOT OF TIMES YOU'LL GET A LOT OF BRUISING WHEN
20 YOU HAVE BEEN HIT IN THE FRONT OF THE FACE, AND SHE DID
21 HAVE BRUISING BEHIND HER EAR.

22 Q AND DO YOU REMEMBER HER TO BE --- TO APPEAR TO HAVE
23 ANY DIFFICULTY COMMUNICATING WITH YOU?

24 A NO, NOT --- I DON'T. I KNOW SHE WAS ON --- IN PAIN,
25 AND I KNOW THEY HAD GIVEN HER SOME PAIN MEDICINE, BUT SHE

LORI RICHARDS - CROSS BY MR. LEMEL

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1 WAS ABLE TO COMMUNICATE WITH ME.

2 Q DO YOU REMEMBER HER BEING UNDER THE INFLUENCE OF ANY
3 SUBSTANCES OR APPEARING TO BE UNDER THE INFLUENCE OF ANY
4 SUBSTANCES?

5 A SHE DID NOT APPEAR TO ME AT THAT TIME, NO. SHE ---
6 SHE SEEMED VERY COHERENT.

7 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
8 YOUR HONOR. THAT'S ALL WE HAVE OF NURSE CARRINGER (SIC).
9 CROSS EXAMINATION

10 BY MR. LEMEL -

11 Q MS. RICHARDS. CORRECT?

12 A YES. YES.

13 Q GOOD AFTERNOON, MS. RICHARDS. NOW, YOU ARE A NURSE.

14 A THAT'S CORRECT.

15 Q AND YOU CURRENTLY OCCUPY THE POSITION AS THE SEXUAL
16 ASSAULT NURSE EXAMINER COORDINATOR FOR YORK COUNTY.

17 A THAT'S CORRECT.

18 Q THAT'S THE POSITION THAT WAS PREVIOUSLY HELD BY
19 SABRINA GAST?

20 A THAT'S CORRECT. YES.

21 Q AND WERE YOU TRAINED UNDER HER?

22 A YES, I WAS.

23 Q OKAY. SO YOU TOOK OVER THAT POSITION WHEN SHE MOVED
24 ON TO THE CORONER'S OFFICE.

25 A YES.

LORI RICHARDS - CROSS BY MR. LEMEL

264

1 Q OKAY. YOU ARE EMPLOYED BY THE YORK COUNTY SHERIFF'S
2 OFFICE.

3 A THAT'S CORRECT.

4 Q THEY PAY YOUR SALARY.

5 A ESSENTIALLY, I AM UNDER A GRANT AND THE GRANT PAYS MY
6 SALARY.

7 Q OKAY, BUT --- BUT YOU'RE AN EMPLOYEE OF THE COUNTY
8 UNDER THAT GRANT.

9 A YES, THAT'S CORRECT.

10 Q OKAY. NO QUESTION WHERE --- WHILE YOU'RE EARNING
11 YOUR MONEY IS THE WORK YOU DO FOR THE SHERIFF'S OFFICE.

12 A YES, THAT'S CORRECT.

13 Q ALL RIGHT. YOU HAVE RECEIVED SOME TRAINING ---

14 A YES.

15 Q --- TO RESPOND IN SITUATIONS WHERE INDIVIDUALS ALLEGE
16 THEY ARE VICTIMS OF CRIMES.

17 A YES.

18 Q AND YOU'RE ON-CALL ---

19 A YES.

20 Q --- SUBJECT TO THE NEEDS OF LAW ENFORCEMENT.

21 A CORRECT.

22 Q YOU JUST DON'T GO OUT WILLY-NILLY. YOU GO OUT
23 BECAUSE YOU ARE SUMMONED OUT BY SOMEBODY ELSE.

24 A THAT'S CORRECT, YES.

25 Q AND YOU WORK CLOSELY WITH THEM, AS YOU SAID.

LORI RICHARDS - CROSS BY MR. LEMEL

265

1 A YES.

2 Q YOU GO ALONG WITH RIDE-ALONGS WITH THEM AS PART OF
3 YOUR TRAINING.

4 A YES.

5 Q CONSULT WITH OFFICERS WHO DO THESE SORTS OF CASES.

6 A YES.

7 Q OKAY. YOU'RE CALLED OUT WHEN ONE OF THOSE OFFICERS
8 DECIDES HE NEEDS OR SHE NEEDS YOUR HELP.

9 A IT'S A STANDARD PROTOCOL. IF THERE'S A SEXUAL
10 ASSAULT. THE OFFICER DOES NOT CALL US. NORMALLY IT IS
11 EITHER DISPATCH OR THE HOSPITAL OR RIVERVIEW.

12 Q OKAY. SOMEBODY HAS INDICATED THAT THEY NEED YOUR
13 SERVICES IN OTHER WORDS.

14 A CORRECT, YES.

15 Q OKAY. AND WHEN YOU GET THAT CALL, SOMEBODY ELSE HAS
16 ALREADY DECIDED THAT SOMETHING HAS HAPPENED. YOU'RE
17 CALLED OUT TO CONFIRM WHAT THEY THINK HAS HAPPENED.

18 A YES.

19 Q THAT'S BASICALLY YOUR PURPOSE.

20 A YES.

21 Q AND YOU GO OUT KNOWING THAT.

22 A YES.

23 Q OKAY. NOW, IN YOUR TRAINING YOU'RE TAUGHT TO LOOK
24 FOR CERTAIN THINGS.

25 A YES.

LORI RICHARDS - CROSS BY MR. LEMEL

266

- 1 Q AND TAUGHT TO ASK CERTAIN QUESTIONS.
- 2 A YES.
- 3 Q BOTH FROM ALLEGED VICTIMS ---
- 4 A YES.
- 5 Q ---- AND IF YOU ENCOUNTER THEM, ALLEGED ASSAILANTS.
- 6 A I NORMALLY DO NOT TALK TO AN ASSAILANT.
- 7 Q I UNDERSTAND THAT, BUT THERE MAY BE SITUATIONS WHERE
- 8 YOU MAY BE CALLED UPON TO TAKE SAMPLES FROM AN ASSAILANT,
- 9 HAIR SAMPLES, THINGS OF THAT NATURE?
- 10 A THAT'S CORRECT.
- 11 Q OKAY. SO YOU WERE ALSO TAUGHT HOW TO DEAL WITH THEM
- 12 POTENTIALLY.
- 13 A YES.
- 14 Q OKAY. EVEN IF YOU DON'T DO IT A WHOLE LOT.
- 15 A YES.
- 16 Q OKAY. THESE PARTICULAR TECHNIQUES ARE CALLED
- 17 PROTOCOLS.
- 18 A YES.
- 19 Q AND A PROTOCOL IS JUST A WAY OF DOING SOMETHING.
- 20 A CORRECT.
- 21 Q A SET OF INSTRUCTIONS AND GUIDELINES TO GO BY.
- 22 A YES.
- 23 Q AND IT IS IMPORTANT IN THESE SITUATIONS TO FOLLOW
- 24 PROTOCOLS.
- 25 A YES.

LORI RICHARDS - CROSS BY MR. LEMEL

267

1 Q BECAUSE PROTOCOLS ARE SET UP TO MINIMIZE MISTAKES ---

2 A THAT'S CORRECT.

3 Q --- AND TO FIND ALL OF THE AVAILABLE EVIDENCE.

4 A YES.

5 Q AND IF A PROTOCOL IS NOT FOLLOWED, THEN YOU RUN SOME
6 SORT OF RISK OF MISSING SOMETHING IN A CASE.

7 A CORRECT.

8 Q BECAUSE MISTAKES CAN HAPPEN.

9 A YES.

10 Q YOU CAN HAVE MISDIAGNOSIS.

11 A YES.

12 Q YOU CAN HAVE MIS-IDENTIFICATIONS.

13 A YES.

14 Q THINGS CAN BE MISSED.

15 A YES.

16 Q THINGS CAN BE IMPROPERLY EXAMINED.

17 A YES.

18 Q SO THE IDEA OF FOLLOWING THE PROTOCOL IS TO MINIMIZE
19 THE CHANCES OF THOSE THINGS HAPPENING.

20 A CORRECT.

21 Q NOW, IN THIS PARTICULAR CASE YOU YOURSELF WERE NOT
22 ACTUALLY CONDUCTING THE EXAMINATION.

23 A THAT'S CORRECT.

24 Q BUT YOU WERE INTENDING THAT THESE PROTOCOLS STILL BE
25 FOLLOWED.

LORI RICHARDS - CROSS BY MR. LEMEL

268

1 A YES.

2 Q AND IN ORDER TO DO THAT YOU WERE COOPERATING WITH MS.
3 CARRINGER, THE NURSE WHO WAS ACTUALLY PERFORMING THE
4 EXAMINATION?

5 A COULD YOU REPHRASE THAT?

6 Q SURE. IN ORDER TO MAKE SURE THE PROTOCOL WAS BEING
7 FOLLOWED, YOU WERE WORKING WITH NURSE CARRINGER?

8 A YES.

9 Q AND SHE WAS THE ONE WHO WAS ACTUALLY PERFORMING THE
10 EXAMINATION ---

11 A YES.

12 Q --- AT PIEDMONT MEDICAL CENTER. BECAUSE YOU YOURSELF
13 WERE NOT PERFORMING THE ACTUAL EXAMINATION, YOU WERE
14 PAYING CLOSE ATTENTION TO WHAT SHE WAS DOING. RIGHT?

15 A CORRECT.

16 Q TO MAKE SURE THAT SHE WAS FOLLOWING THE PROTOCOLS ---

17 A YES.

18 Q --- BECAUSE SHE DID NOT HAVE THE SAME TRAINING YOU
19 HAD.

20 A THAT'S CORRECT. YES.

21 Q AND SHE WAS PAYING ATTENTION TO YOU.

22 A YES.

23 Q OKAY, THIS WAS BOTH OF YOU COOPERATING TO GET THIS
24 JOB DONE.

25 A YES.

LORI RICHARDS - CROSS BY MR. LEMEL

269

1 Q OKAY. AS PART OF THE PROCESS, YOU INDICATED THAT YOU
2 LOOK OVER SOMEONE'S ENTIRE BODY.

3 A YES.

4 Q AND I BELIEVE THAT BASICALLY YOUR COMMENT THERE WAS
5 YOU FIND ANYTHING YOU CAN.

6 A YES.

7 Q ANYTHING ON THE OUTSIDE OF THE BODY WITH REGARD TO
8 BRUISING, INJURY, ANYTHING OF THAT NATURE.

9 A YES.

10 Q AND YOU IN THIS PARTICULAR SITUATION HAD ONLY SEEN
11 MS. HILL THAT DAY.

12 A CORRECT.

13 Q HAVE NEVER SEEN HER SINCE?

14 A NO.

15 Q HAD NEVER SEEN HER BEFORE.

16 A NO.

17 Q YOU IDENTIFIED ANY NUMBER OF BRUISES ON HER BODY.

18 A YES.

19 Q BUT YOU WERE NOT PRESENT WHEN ANY OF THOSE BRUISES
20 WERE RECEIVED.

21 A NO.

22 Q AND SO YOU CANNOT SAY HOW THEY WERE RECEIVED ---

23 A CORRECT.

24 Q --- OR EXACTLY WHEN THEY WERE RECEIVED.

25 A THAT'S CORRECT.

LORI RICHARDS - CROSS BY MR. LEMEL

270

1 Q OKAY. YOU ALSO AS PART OF THIS PROCESS ARE ASKING
2 HER QUESTIONS.

3 A YES.

4 Q YOU HAVE HER GIVE A STATEMENT ABOUT WHAT SHE ALLEGE
5 HAPPENED IN THAT PARTICULAR SITUATION.

6 A YES.

7 Q NOW, YOU YOURSELF DIDN'T TAKE ANY NOTES BECAUSE YOU
8 WEREN'T ACTUALLY PERFORMING THE EXAM. IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q BUT YOU WERE WATCHING AS NURSE CARRINGER PERFORMED
11 THAT PROCESS.

12 A YES.

13 Q YOU WERE WATCHING AS SHE FILLED OUT THE FORM.

14 A YES.

15 Q AND MAKING SURE SHE FILLED IT OUT PROPERLY.

16 A YES.

17 Q SHE WOULD'VE ONLY --- IF A PATIENT HAD SAID ONE THING
18 AND NURSE CARRINGER IN THE COURSE OF FILLING OUT THE FORM
19 PUT SOMETHING TOTALLY DIFFERENT DOWN, WOULD YOU HAVE BEEN
20 ALERT TO WHAT --- TO MAKE SURE THAT DIDN'T HAPPEN?

21 A YES.

22 Q SHE ONLY PUT DOWN, TO YOUR RECOLLECTION, WHAT MS.
23 HILL ACTUALLY TOLD HER ABOUT THAT INCIDENT.

24 A CORRECT.

25 Q OKAY. THE GYNECOLOGICAL EXAM ITSELF IS PROBABLY THE

LORI RICHARDS - CROSS BY MR. LEMEL

271

1 MOST DETAIL ORIENTED PART OF YOUR PROCESS. CORRECT?

2 A YES. YES.

3 Q AND YOU HAVE A SEPARATE PROTOCOL FOR THAT.

4 A NOT SEPARATE. IT'S INCLUDED IN EVERYTHING.

5 Q A DETAILED PROTOCOL FOR THAT MATTER.

6 A YES.

7 Q OKAY. PART OF THAT PROTOCOL I'VE REFERRED TO AS

8 BRATS. ARE YOU FAMILIAR WITH THAT TERM?

9 A YES.

10 Q AND BRATS STANDS FOR BRUISING ---

11 A YES.

12 Q --- REDNESS ---

13 A YES.

14 Q --- ABRASIONS ---

15 A YES.

16 Q --- TEARING ---

17 A YES.

18 Q --- SWELLING.

19 A YES.

20 Q AND THOSE FIVE THINGS ARE THROUGH YOUR TRAINING AS A

21 SEXUAL ASSAULT NURSE EXAMINER THE FIVE INDICATORS FOR LACK

22 OF A BETTER WORD THAT YOU ARE LOOKING FOR WHEN YOU'RE

23 CONDUCTING A GYNECOLOGICAL EXAM. CORRECT?

24 A WE DO NOT USE THAT ANYMORE.

25 Q OKAY. YOU DON'T USE THAT NOW. BACK IN 2007 WERE YOU

LORI RICHARDS - CROSS BY MR. LEMEL

272

1 USING THAT?

2 A NO.

3 Q OKAY. BUT YOU'RE FAMILIAR WITH THAT PROCESS.

4 A YES, I AM FAMILIAR WITH THAT.

5 Q OKAY. WOULD YOU AGREE WITH ME THAT THOSE FIVE
6 THINGS, BRUISING, REDNESS, ABRASIONS, TEARING, SWELLING
7 ARE SIGNIFICANT THINGS THAT YOU LOOK FOR IN CONDUCTING
8 THAT GYNECOLOGICAL EXAM?

9 A YES.

10 Q IS THERE ANOTHER PROTOCOL THAT HAS ADDED OR CHANGED
11 THAT OR YOU SIMPLY DON'T USE THAT --- THAT TERMINOLOGY?

12 A WE SIMPLY DON'T USE THAT. WE JUST LOOK AND VISUALIZE
13 WHAT WE SEE AND DOCUMENT WHAT WE SEE.

14 Q OKAY. NOW, IN YOUR EXPERIENCE AS A SEXUAL ASSAULT
15 NURSE YOU SAY THAT IN SOME CASES THERE'S NO PHYSICAL
16 EVIDENCE AT ALL WHEN SOMEBODY ALLEGES THAT THERE'S A
17 SEXUAL ASSAULT.

18 A THAT'S CORRECT.

19 Q BUT THE PRESENCE OF BRUISING, FOR EXAMPLE, WOULD BE
20 AN INDICATOR OF A SEXUAL ASSAULT.

21 A IT COULD BE.

22 Q SURE. AND IT WOULD --- IF THERE WAS BRUISING THAT
23 WOULD MAKE IT MORE LIKELY THAN NOT THAT A SEXUAL ASSAULT
24 HAD OCCURRED WHEN WE'RE TALKING ABOUT THE GENITALIA OF AN
25 INDIVIDUAL, OF A FEMALE IN THIS CASE.

LORI RICHARDS - CROSS BY MR. LEMEL

273

- 1 A IT COULD BE, YES.
- 2 Q OKAY.. AN ABRASION, FOR EXAMPLE.
- 3 A OKAY.
- 4 Q AN ABRASION IS BASICALLY A SCRAPE IN THE SKIN?
- 5 A YES.
- 6 Q IT'S BY SOME PROCESS WHERE THE FIRST COUPLE OF LAYERS
- 7 OF SKIN ARE SOMEHOW TAKEN OFF.
- 8 A YES.
- 9 Q AND THAT MAY RESULT IN BLEEDING OR NOT.
- 10 A YES.
- 11 Q THAT IS ONE OF THOSE SITUATIONS THAT THE --- THE BLUE
- 12 UPTAKE DYE, THE TOLUIDINE DYE IS USED FOR. CORRECT?
- 13 A THAT'S CORRECT, YES.
- 14 Q THE REASON WHY IS THAT THAT BLUE TOLUIDINE DYE IS ---
- 15 AND I --- IS IT TOLUIDINE? AM I PRONOUNCING THAT
- 16 CORRECTLY?
- 17 A EVERYBODY SAYS IT A LITTLE DIFFERENT. I CALL IT
- 18 TOLUIA (SIC) DYE, BUT I'M ---
- 19 Q TOLUIA (SIC) DYE.
- 20 A --- SOUTHERN.
- 21 Q I'M GOING TO CALL IT THE BLUE DYE.
- 22 A OKAY.
- 23 Q OKAY. THE REASON FOR THAT IS THAT BLUE DYE REACTS
- 24 DIFFERENTLY WITH DIFFERENT LAYERS OF THE SKIN CELLS.
- 25 CORRECT?

LORI RICHARDS - CROSS BY MR. LEMEL

274

1 A AS LONG AS ONE LAYER IS GONE IT'S GOING TO REACT.

2 Q RIGHT. IN OTHER WORDS, SKIN IS IN LAYERS. THERE ARE
3 CELLS OF A CERTAIN TYPE ON THE VERY SURFACE THAT ARE
4 PRESENT NORMALLY.

5 A YES.

6 Q AND AS YOU SCRAPE THOSE AWAY YOU EXPOSE OTHER LAYERS.

7 A YES.

8 Q AND WHEN WE SAY THE UPTAKE, WHAT THAT MEANS IS THAT
9 THE BLUE DYE HAS IMPACTED SOME CELLS THAT ARE NOT NORMALLY
10 ON THE SURFACE.

11 A CORRECT.

12 Q AND THERE IS A REACTION TO THAT.

13 A CORRECT.

14 Q THE DYE IS LITERALLY TAKEN INTO THOSE CELLS.

15 A YES.

16 Q SO THAT LETS YOU SEE ABRASIONS THAT MAY OTHERWISE NOT
17 BE VISIBLE TO THE NAKED EYE.

18 A CORRECT.

19 Q TEARING. THAT IS ANOTHER THING THAN CAN OCCUR DURING
20 THE COURSE OF A SEXUAL ASSAULT.

21 A YES.

22 Q AND IT IS ONE THING THAT IF IT WAS PRESENT YOU WOULD
23 CERTAINLY NOTE AS BEING PRESENT.

24 A YES. YES.

25 Q AND SWELLING AS WELL.

LORI RICHARDS - CROSS BY MR. LEMEL

275

1 A YES.

2 Q IN THIS CASE YOU YOURSELF VISUALLY ASSISTED WITH THE
3 GYNECOLOGICAL EXAM.

4 A YES.

5 Q HELPED WITH THAT INSPECTION TO THE BEST OF YOUR
6 ABILITY THERE AT PIEDMONT MEDICAL CENTER.

7 A YES.

8 Q AND EVEN THOUGH YOU DIDN'T TAKE DOCUMENTATION, IF YOU
9 HAD NOTED ANYTHING YOU WOULD'VE MADE SURE THAT THAT
10 WOULD'VE COME TO THE ATTENTION OF NURSE CARRINGTON (SIC)
11 WHO WAS ACTUALLY THE PERSON THERE.

12 A YES.

13 Q YOU'RE BASICALLY LOOKING OVER HER SHOULDER MAKING
14 SURE SHE'S GETTING EVERYTHING.

15 A YES.

16 Q AND THE ONLY THING THAT WAS NOTED IN THIS PARTICULAR
17 SITUATION WAS THE FACT THERE WAS REDNESS IN THE POSTERIOR
18 FOURCHETTE.

19 A YES.

20 Q AND REDNESS IN THE AREA OF THE CERVIX.

21 A YES, ON THE CERVIX.

22 Q ON THE CERVIX ITSELF.

23 A YES.

24 Q BOTH WHICH AS YOU INDICATED CAN BE INDICATORS OF
25 CONSENSUAL SEX.

LORI RICHARDS - CROSS BY MR. LEMEL

276

1 A YES.

2 Q THERE'S NOTHING INHERENT ABOUT A COUPLE SPOTS OF
3 REDNESS AND SAY THIS IS NON-CONSENSUAL.

4 A SURE.

5 Q OKAY. AND IN THAT SITUATION THOSE WERE THE ONLY TWO
6 SPOTS THAT WERE NOTED ---

7 A YES.

8 Q --- INTERNALLY DURING THE GYNECOLOGICAL EXAM.

9 A YES.

10 Q DESPITE THE FACT THAT A NUMBER OF AREAS ALSO WOULD'VE
11 BEEN EXAMINED OUTSIDE OF JUST THOSE TWO.

12 A YES.

13 Q THERE WOULD'VE BEEN AN EXAMINATION OF THE MONS PUBIS
14 FOR EXAMPLE ---

15 A YES.

16 Q --- TO SEE IF THERE WAS INJURY. AND NO INJURY WAS
17 SEEN THERE.

18 A NO, NOT TO MY KNOWLEDGE.

19 Q OKAY. THERE WOULD'VE BEEN EXAMINATION OF THE AREA
20 AROUND THE CLITORIS.

21 A YES.

22 Q AND, AGAIN, THERE WAS NO INJURY FOUND THERE.

23 A NO.

24 Q THERE WOULD'VE BEEN AN EXAMINATION AROUND THE
25 URETHRAL MYALIS (SIC). CORRECT?

LORI RICHARDS - CROSS BY MR. LEMEL

277

- 1 A YES.
- 2 Q AND, AGAIN, NO INJURY WOULD'VE BEEN FOUND THERE.
- 3 A NO.
- 4 Q AROUND THE HYMEN?
- 5 A YES.
- 6 Q AND NO INJURY WAS FOUND THERE.
- 7 A YES.
- 8 Q THE PERINEUM?
- 9 A YES.
- 10 Q NO INJURY WAS FOUND THERE.
- 11 A NO.
- 12 Q THE BUTTOCKS?
- 13 A YES.
- 14 Q AND NO INJURY WAS FOUND THERE.
- 15 A NO.
- 16 A AND THE ANUS ITSELF.
- 17 A NO. I MEAN WE NORMALLY CHECK THAT, BUT NO.
- 18 Q AND THERE WAS NO INJURY IN THAT SITE EITHER.
- 19 A NO.
- 20 A NOW, YOU ALSO HAVE CERTAIN OTHER OPTIONS. YOU DID
- 21 NOT HAVE THE ABILITY TO BRING IN THE BLUE UPTAKE DYE.
- 22 A THAT'S CORRECT.
- 23 Q OKAY. COULD --- HAD YOU SEEN A SITUATION WHERE YOU
- 24 THOUGHT THAT WAS NECESSARY, COULD YOU HAVE BROUGHT IT TO
- 25 THE ATTENTION OF NURSE CARRINGTON (SIC), CARRINGER, EXCUSE

LORI RICHARDS - CROSS BY MR. LEMEL

278

1 ME?

2 A NO, BECAUSE PIEDMONT WOULD NOT HAVE THAT.

3 Q OKAY. YOU DON'T KNOW WHETHER SHE COULD'VE SUMMONED
4 THE DOCTOR IN TO HELP HER WITH THAT?

5 A NO, BECAUSE THAT'S SOMETHING WE HAVE TO ORDER FROM
6 THE LAB AND THAT'S NOT NORMALLY CARRIED.

7 Q OKAY. DID YOU ALSO HAVE THE ABILITY TO TAKE OTHER
8 SAMPLES FROM HER?

9 A CLARIFY, UM ---

10 Q SURE. FINGERNAIL SCRAPINGS, FOR EXAMPLE.

11 A YES.

12 Q DID YOU TAKE ANY IN THIS PARTICULAR CASE OR WERE ANY
13 TAKEN IN THIS CASE?

14 A I DON'T RECALL.

15 Q OKAY. IS THAT SOMETHING THAT WOULD NORMALLY BE NOTED
16 IN THIS REPORT IF IT WAS TAKEN?

17 A NOT NECESSARILY, BECAUSE I DID NOT SEE A PLACE FOR
18 THAT.

19 Q OKAY. BASED UPON YOUR EXAMINATION, THE CONCLUSION OF
20 WHICH WAS TWO SITES OF REDNESS ---

21 A YES.

22 Q --- AMONGST ALL THE POSSIBILITIES, ---

23 A YES.

24 Q --- WITHOUT ANY OF THOSE OTHER THINGS, CAN YOU SAY
25 WHETHER A SEXUAL ASSAULT OCCURRED?

LORI RICHARDS - CROSS BY MR. LEMEL

279

1 A THAT'S A HARD QUESTION TO ANSWER BECAUSE I MEAN ---
2 I CAN GIVE MY PROFESSIONAL OPINION OR MY OPINION, BUT
3 THAT'S NOT WHAT I'M HERE FOR. THAT'S FOR THE JURY TO
4 DECIDE, AND, YOU KNOW, THERE IS A POSSIBILITY, YES. .

5 Q IT'S JUST A POSSIBILITY.

6 A YES.

7 Q OKAY. AND THAT'S A POSSIBILITY WITHOUT ANY BRUISING.

8 A YES.

9 Q WITHOUT ANY TEARING.

10 A YES.

11 Q WITHOUT ANY ABRASIONS.

12 A YES.

13 Q WITHOUT ANY SWELLING.

14 A YES.

15 Q BUT HAD THERE BEEN BRUISING, ABRASIONS, SWELLING,
16 TEARS, THAT WOULD'VE BEEN MORE EVIDENCE THAT WOULD TEND TO
17 PROVE THAT A SEXUAL ASSAULT OCCURRED.

18 A IT MIGHT HAVE BEEN MORE EVIDENCE BUT I DON'T THINK IT
19 WOULD SWAY MY DECISION EITHER WAY.

20 Q AND THAT'S NOT WHAT I'M ASKING YOU.

21 A RIGHT.

22 Q I'M ASKING YOU, THAT WOULD'VE BEEN MORE EVIDENCE.

23 A WELL, SURE, THAT WOULD'VE BEEN MORE EVIDENCE TO
24 COLLECT.

25 Q NONE OF WHICH YOU HAVE IN THIS PARTICULAR CASE.

LORI RICHARDS - RE-DIRECT BY MS. LIPINSKI

280

1 A THAT'S CORRECT.

2 MR. LEMEL - NOTHING FURTHER, YOUR HONOR

3 RE-DIRECT EXAMINATION

4 BY MS. LIPINSKI -

5 Q IS THE BRUISING THAT MR. LEMEL ASKED YOU ABOUT, IS
6 THAT ALWAYS READILY DETECTIBLE WHEN YOU DO A SEXUAL
7 ASSAULT EXAMINATION IN CLOSE PROXIMITY TO THE ASSAULT
8 ITSELF?

9 A NO, NOT ALWAYS, NO.

10 Q AND WHAT WOULD IT NOT BE?

11 A WELL, HE MENTIONED LIKE THE MONS PUBIS WHICH IS THE
12 VERY TOP WHICH WOULD BE COVERED WITH PUBIC HAIR, SO, (A)
13 WE WOULD NOT ALWAYS SEE THAT AND NORMALLY WE DON'T SEE
14 THAT IN SEXUAL ASSAULTS. THAT'S NOT WHAT WE'RE LOOKING
15 FOR.

16 Q AND WHY DON'T YOU NORMALLY SEE THAT IN SEXUAL
17 ASSAULTS?

18 A BECAUSE NORMALLY A SEXUAL ASSAULT IS WHEN THE PENIS
19 GOES IN THE VAGINA OR THE ANAL AREA AND THAT'S ON TOP OF
20 THE VAGINAL AREA, SO NORMALLY WE DON'T SEE ANY TYPE OF
21 BRUISING. IT'S VERY WELL PADDED.

22 Q AND HE ALSO ASKED YOU ABOUT THESE ABRASIONS AND
23 TEARS. ARE THEY NECESSARILY VISIBLE TO THE NAKED EYE?

24 A NO, NOT ALWAYS.

25 Q AND THAT'S WHY YOU USE THE BLUE DYE.

LORI RICHARDS - RE-DIRECT BY MS. LIPINSKI

281

1 A THAT'S CORRECT.

2 Q SO IS IT POSSIBLE THAT MISTI HILL HAD THESE ABRASIONS
3 AND TEARS, YOU JUST WEREN'T ABLE TO VISUALIZE THEM BECAUSE
4 YOU WEREN'T ABLE TO USE THAT DYE?

5 A ABSOLUTELY.

6 Q AND IN TERMS OF --- IF YOU COULD, TURN TO PAGE 2 OF
7 THE SANE NURSE'S REPORT. MR. LEMEL ASKED YOU A QUESTION
8 ABOUT WHETHER OR NOT THERE WAS ANY INJURY TO THE HYMEN.
9 NURSE CARRINGER DOES HAVE SOMETHING WRITTEN WHERE THAT
10 SPECIFIC IS LOCATED. WHAT DOES SHE HAVE THERE?

11 A REDNESS TO POSTERIOR FOURCHETTE.

12 Q NOW, IS THAT POSTERIOR FOURCHETTE, IS THAT THE HYMEN
13 AREA?

14 A NO, THE --- THE HYMEN IS AT THE OPENING OF THE
15 VAGINAL AREA.

16 Q AND DO YOU KNOW WHY SHE WOULD'VE WRITTEN IT THERE
17 VERSUS ANYWHERE ELSE?

18 A PROBABLY BECAUSE THERE WAS NOT A SPECIFIC AREA FOR
19 POSTERIOR FOURCHETTE AND THE HYMEN WE NORMALLY DON'T SEE
20 ANY INJURY. IT'S VERY, VERY FLEXIBLE LIKE A SCRUNCHIE
21 AND, YOU KNOW, IT OPENS AND THEN IT GOES BACK AND CLOSES,
22 SO IT ACCOMMODATES ANY SIZE OF PENIS VERY WELL.

23 Q BUT IN THIS PARTICULAR --- SO THAT'S NOT --- SHE
24 DIDN'T HAVE INJURIES TO HER HYMEN. THAT WAS JUST WRITTEN
25 THERE FOR LACK OF A BETTER SPACE.

LORI RICHARDS - RE-DIRECT BY MS. LIPINSKI

282.

- 1 A THAT'S CORRECT.
- 2 Q PERHAPS BECAUSE NURSE CARRINGER'S UNFAMILIARITY WITH
- 3 THE REPORT.
- 4 A YES.
- 5 Q AND MR. LEMEL ASKED YOU --- INITIALLY HE ASKED YOU IF
- 6 YOU TOOK A STATEMENT FROM MISTI HILL. DID YOU ACTUALLY
- 7 TAKE A WRITTEN STATEMENT FROM MISTI HILL?
- 8 A NO, I DID NOT.
- 9 Q DO YOU KNOW IF NURSE CARRINGER EVER DID?
- 10 A YES, BECAUSE SHE DOCUMENTED IT ON THIS REPORT.
- 11 Q THE SUMMARY.
- 12 A THE SUMMARY, YES, OF THE EXAM.
- 13 Q BUT NOBODY EVER GAVE MISTI HILL A PAD AND PAPER AND
- 14 SAID WRITE DOWN EVERYTHING THAT HAPPENED TO YOU?
- 15 A OH, NO. NO.
- 16 Q BLOW-BY-BLOW DETAIL, TELL ME ---
- 17 A NO.
- 18 Q SO WHEN YOU CHARACTERIZE IT AS THAT, IT WAS EXACTLY
- 19 THAT, A BRIEF SUMMARY OF WHAT --- HOW --- SO YOU WOULD
- 20 KNOW WHAT AREAS TO LOOK AT.
- 21 A THAT'S CORRECT.
- 22 Q AND MR. LEMEL ASKED YOU SOME QUESTIONS. YOUR MONEY
- 23 COMES FROM A GRANT; YOU'RE PAID BY THE YORK COUNTY
- 24 SHERIFF'S OFFICE. DO YOU EVER HAVE THE OCCASION TO
- 25 EXAMINE CASES FROM ROCK HILL POLICE DEPARTMENT?

LORI RICHARDS - RE-DIRECT BY MS. LIPINSKI

283

1 A ABSOLUTELY.

2 Q OR ANY OF THE OTHER SURROUNDING MUNICIPALITIES THAT
3 MAY OR MAY NOT HAVE A SANE NURSE AS WELL.

4 A OH, YES, WE DO CLOVER, TEGA CAY, FORT MILL, ANY ---
5 ANY OF THAT AREA.

6 Q AND THE GRANT DOESN'T HAVE SOME TYPE OF QUOTA THAT
7 YOU HAVE TO HAVE SO MANY SEXUAL ASSAULTS A YEAR BEFORE YOU
8 GET PAID OR ANYTHING, DO THEY?

9 A OH, NO. NO.

10 Q DOES YOUR MONEY IN ANY WAY AFFECT YOUR JUDGMENT IN
11 THIS PARTICULAR CASE OR WHAT YOU OBSERVED ABOUT MISTI
12 HILL?

13 A NO..

14 Q HAVE YOU EVER EXAMINED A INDIVIDUAL WHERE YOU FOUND
15 NO SIGNS OF SEXUAL ASSAULT AND YOU REPORTED THAT TO THE
16 OFFICERS, AS WELL?

17 A YES.

18 Q AND MR. LEMEL ASKED YOU --- THE REDNESS THAT YOU SEE
19 IN THESE TWO AREAS ON MISTI HILL COULD COME FROM
20 CONSENSUAL SEX; IT COULD COME FROM NON-CONSENSUAL SEX. IF
21 YOU COULD, EXPLAIN TO THE JURY WHY THOSE TWO POSSIBILITIES
22 EXISTS.

23 A WELL, WHEN YOU HAVE REDNESS TO THE POSTERIOR
24 FOURCHETTE, THAT IS AT THE OPENING OF THE VAGINAL AREA
25 WHERE NORMALLY WE SEE IT WHERE THERE'S MORE FORCE, BECAUSE

LORI RICHARDS - RE-DIRECT BY MS. LIPINSKI

284

1 WHEN SOMEONE'S BEING SEXUALLY ASSAULTED IT'S MORE OF A
2 HAPHAZARD KIND OF ENTRY VERSUS A LOVING RELATIONSHIP, AND
3 AGAIN, THE CERVIX NORMALLY IT TAKES A LOT MORE FORCE FOR
4 THE PENIS TO HIT THE BACK OF THE CERVIX IN ORDER TO MAKE
5 IT RED OR BRUISED VERSUS REGULAR CONSENSUAL SEX. IF
6 SOMEBODY SAYS, OH, THAT'S HURTING ME, THEY STOP.

7 Q AND WHY IS IT THAT YOU CAN HAVE A SEXUAL ASSAULT
8 WHERE YOU WOULD SEE NO INJURIES? HOW COULD THAT BE?

9 A WE HAVE LADIES, WHICH WE DO MEN ALSO, IF THEY HAVE
10 BEEN DRUGGED, IF THEY HAD BEEN DRINKING, IF THEY ARE
11 THREATENED WITH THEIR LIVES, SOMETIMES THEY THINK TO
12 SURVIVE I HAVE TO RELAX AND LET THIS HAPPEN AND AT THAT
13 POINT THERE'S FORCE BUT THEY'RE ALLOWING THAT TO HAPPEN
14 AND THERE'S --- THERE'S NOT ENOUGH FORCE TO TEAR OR
15 BRUISE.

16 Q AND DOES THE POSITION OF THE SEXUAL INTERCOURSE
17 NECESSARILY IMPACT WHERE YOU LOOK FOR INJURIES?

18 A YES.

19 Q AND SO IF SOMEONE HAD VAGINAL INTERCOURSE WHERE THE
20 MALE WAS BEHIND THE FEMALE ---

21 A YES.

22 Q --- BENT OVER, WHAT PARTICULAR INJURIES ARE YOU
23 LOOKING FOR? IS IT LESS LIKELY TO LEAVE INJURIES? WHAT
24 IS SPECIFIC ABOUT THAT POSITION, IF ANYTHING?

25 A IT WOULD BE PROBABLY A LOT MORE BECAUSE IF THEY ARE

LORI RICHARDS - RE-CROSS BY MR. LEMEL

285

1 ENTERING FROM BEHIND, THERE AGAIN THEY'RE HITTING THAT
2 POSTERIOR FOURCHETTE AS THEY'RE FORCING IT UP INTO THE
3 VAGINAL AREA AND THAT'S GOING TO BE A GREATER DEGREE OF
4 TEARING OR BRUISING VERSUS IF THEY'RE ON TOP AND CAN GO IN
5 THE VAGINAL AREA.

6 Q AND MR. LEMEL INDICATED, WELL, SHE ONLY HAS INJURIES
7 IN THESE TWO AREAS AND DOES THAT, THE LIMIT OF THOSE TWO
8 AREAS IMPACT YOUR DECISION? DOES IT IN ANY WAY?

9 A NO.

10 Q AND ARE YOU ALSO TRAINED TO CONSIDER NOT ONLY THE
11 VAGINAL INJURIES BUT THE INJURIES TO THE REST OF HER BODY?

12 A OH, ABSOLUTELY. I TAKE EVERYTHING INTO ACCOUNT.

13 Q AND SO THE SCRATCHES ON HER BACK, THE BRUISING, THOSE
14 TYPES THINGS, ARE ALSO SIGNIFICANT IN YOUR EVALUATION.

15 A ABSOLUTELY, YES.

16 Q AND THAT'S WHY YOUR EXAMINATION INCLUDES THE WHOLE
17 BODY AND IS NOT JUST LIMITED.

18 A THAT'S CORRECT.

19 MS. LIPINSKI - WE HAVE NOTHING FURTHER.

20 RE-CROSS EXAMINATION

21 BY MR. LEMEL -

22 Q MS. HERVEY ASKED YOU IS IT POSSIBLE THAT THERE WERE
23 ABRASIONS AND TEARS THERE THAT YOU SIMPLY COULDN'T SEE AND
24 THAT'S WHY NONE WERE RECORDED. DO YOU REMEMBER THAT?

25 A YES.

LORI RICHARDS - RE-CROSS BY MR. LEMEL

286

1 Q AND IS IT JUST AS POSSIBLE THAT THERE SIMPLY WERE NO
2 ABRASIONS AND TEARS THERE TO SEE?

3 A YES.

4 Q OKAY. SHE ASKED YOU ABOUT A WRITTEN STATEMENT.
5 OBVIOUSLY, YOU DIDN'T ASK MS. HILL TO WRITE SOMETHING OUT
6 FOR YOU.

7 A THAT'S CORRECT.

8 Q BUT YOU OR SHE WAS ASKED TO TELL THE TWO NURSES, YOU
9 AND NURSE CARRINGER, WHAT HAPPENED.

10 A YES.

11 Q AND THAT WAS DOCUMENTED DURING THAT PROCESS, DURING
12 THE PROCESS OF THE EXAMINATION.

13 A UM, YES.

14 Q AND IT WAS WRITTEN OUT BY NURSE CARRINGER ---

15 A YES.

16 Q --- UNDER YOUR SUPERVISION.

17 A YES.

18 Q AND AGAIN I THINK WE ASKED THIS. WHAT WAS WRITTEN
19 DOWN WAS WHAT MS. HILL SAID AT THAT TIME. Y'ALL DIDN'T
20 MAKE STUFF UP TO PUT IN THERE, DID YOU?

21 A OH, NO. NO. I WAS JUST THINKING ON THE NORMAL
22 EXAMINATION WE WILL INTERVIEW THE VICTIM AND THEN GO BACK
23 AND WRITE, LIKE SHE SAID, A SUMMARY AND GET --- THAT'S A
24 LOT EASIER THAN WORD FOR WORD.

25 Q RIGHT. AND NOT ASKING FOR IT TO BE WORD FOR WORD,

LORI RICHARDS - RE-CROSS BY MR. LEMEL

287

1 BUT THE SUMMARY WOULD'VE BEEN ACCURATE IN TERMS OF THE
2 BEHAVIORS, WHAT WAS ALLEGED TO HAVE HAPPENED AND THINGS OF
3 THAT NATURE.

4 A YES.

5 Q IN TERMS OF WHERE, FOR EXAMPLE, THE PENETRATION
6 HAPPENED.

7 A YES.

8 Q OKAY. YOU INDICATED THAT YOUR BASELINE OF
9 INTERCOURSE, FOR LACK OF A BETTER WORD, IS IN A SORT OF
10 LOVING RELATIONSHIP. RIGHT?

11 A YES.

12 Q THE SORT OF THINGS THAT YOU MIGHT SEE IN AN SITUATION
13 WHERE YOU HAD TWO CONSENTING ADULTS WHO HAD SOME SORT OF
14 ON-GOING DESIRE TO BE TOGETHER. RIGHT?

15 A YES.

16 Q NOW, HAVE YOU EVER CONDUCTED AN EXAMINATION OF A
17 PROSTITUTE?

18 A YES.

19 Q OKAY. AND A SITUATION WHERE A PROSTITUTE IS ENGAGED
20 WITH SEX IS NOT A SITUATION OF LOVING ---

21 MS. LIPINSKI - I'M GOING TO OBJECT. I THINK
22 THIS GOES BEYOND THE SCOPE OF RE-DIRECT AND RE-CROSS.
23 HE'S GOING INTO A WHOLE NEW AREA HE SHOULD'VE COVERED
24 THEN.

25 MR. LEMEL - SHE ASKED ---

LORI RICHARDS - RE-CROSS BY MR. LEMEL

288

1 THE COURT - I OVERRULE THE OBJECTION. GO AHEAD.

2 MR. LEMEL - OKAY.

3 Q AGAIN, IN A SITUATION WHERE A PROSTITUTE IS ENGAGED
4 IN A SEXUAL RELATIONSHIP IS MUCH DIFFERENT FROM THAT SAME
5 LOVING RELATIONSHIP THAT YOU REFERRED TO DURING THE RE-
6 DIRECT BY MS. HERVEY, ISN'T IT?

7 A IS --- CAN YOU KIND OF CLARIFY THAT?

8 Q SURE. PROSTITUTES DON'T HAVE SEX FOR LOVE, DO THEY?

9 A I CAN'T ANSWER THAT. I MEAN --- I DON'T KNOW. I
10 MEAN THEY CERTAINLY WOULD BE ACCEPTING THE SEX ---

11 Q I'M NOT ASKING ABOUT CONSENT.

12 A YES.

13 Q THEY DO IT FOR A TOTALLY DIFFERENT REASON THOUGH,
14 DON'T THEY?

15 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT.

16 THIS GOES BEYOND THE SCOPE OF HER EXPERTISE. I'M NOT SURE
17 SHE HAS EXPERTISE IN PROSTITUTES.

18 THE COURT - I AGREE. I THINK SHE'S --- I AGREE.

19 I SUSTAIN THE OBJECTION ON THAT.

20 Q BUT YOU HAVE CONDUCTED EXAMINATIONS OF PROSTITUTES.

21 A YES.

22 Q AND DO YOU TREAT PROSTITUTES THE EXACT SAME WAY AS
23 EVERYBODY ELSE IN TERMS OF THAT EXAMINATION?

24 A ABSOLUTELY.

25 Q DO YOU EVEN TAKE INTO ACCOUNT THE FACT THAT SOMEBODY

JERRY HOFFMAN - DIRECT BY MS. LIPINSKI

289

1 MAY BE A PROSTITUTE WHEN CONDUCTING AN INVESTIGATION?

2 A NO. I TREAT EVERYONE THE SAME.

3 MR. LEMEL - NO FURTHER QUESTIONS.

4 THE COURT - ALL RIGHT, YOU CAN STEP DOWN. THANK
5 YOU. WE APPRECIATE YOUR TIME.

6 MS. RICHARDS - THANK YOU.

7 THE COURT - CALL YOUR NEXT WITNESS.

8 MS. LIPINSKI - THANK YOU, YOUR HONOR. IF I
9 COULD STEP IN THE HALL AND JUST SEE WHO'S HERE.

10 (MS. LIPINSKI EXITS THE COURTROOM)

11 (MS. LIPINSKI ENTERS THE COURTROOM)

12 MS. LIPINSKI - THE STATE CALLS JERRY HOFFMAN TO
13 THE STAND, PLEASE.

14 JERRY HOFFMAN. AFTER BEING FIRST DULY SWORN.
15 TESTIFIES AS FOLLOWS -

16 DIRECT EXAMINATION

17 BY MS. LIPINSKI -

18 Q IF YOU COULD, PLEASE, STATE YOUR NAME FOR THE RECORD.

19 A JERRY HOFFMAN.

20 Q AND WITH WHOM ARE YOU EMPLOYED?

21 A I'M SORRY?

22 Q WITH WHOM ARE YOU EMPLOYED?

23 A YORK COUNTY SHERIFF'S OFFICE.

24 Q IN WHAT CAPACITY?

25 A I'M THE CAPTAIN OVER THE CRIMINAL INVESTIGATIVE

JERRY HOFFMAN - DIRECT BY MS. LIPINSKI

290

1 DIVISION.

2 Q DID YOU PARTICIPATE IN ANY WAY IN THE SUBSTANTIAL
3 INVESTIGATION OF THIS MATTER?

4 A YES, I DID.

5 Q AND WERE YOU INTERVIEWING WITNESSES AND THAT TYPE
6 THING?

7 A NO, I DID NOT INTERVIEW ANY WITNESSES IN THIS CASE I
8 DON'T BELIEVE. I DID --- AS FAR AS --- I TALKED TO A
9 MANAGER OF A STORE. HE WASN'T REALLY A WITNESS TO THIS
10 INCIDENT, BUT I TALKED TO HIM IN ORDER TO GET SOME
11 SURVEILLANCE VIDEO.

12 Q. THAT FOR THE MOST PART IN YOUR SUPERVISORY CAPACITY
13 WAS YOUR LIMITED INVOLVEMENT IN THIS CASE.

14 A THAT'S CORRECT.

15 Q ALL RIGHT. LET ME SHOW YOU WHAT'S BEEN MARKED AS
16 STATE'S EXHIBIT NUMBER 16 AND ASK YOU IF THAT'S THE VIDEO
17 YOU GOT FROM THE MANAGER?

18 A YES, IT IS.

19 Q AND DOES IT HAVE YOUR INITIALS ON IT?

20 A IT DOES NOT HAVE MY INITIALS BUT IT HAS DEFINITELY MY
21 HAND-WRITING, WHO I GOT IT FROM AND THE DATE AND TIME THAT
22 I RECEIVED IT.

23 Q AND WHAT DID YOU DO WITH THIS VIDEO?

24 A ONCE I RECEIVED IT AND DOCUMENTED THAT, I PASSED IT
25 ON TO DETECTIVE BOMAR I BELIEVE FOR HIM TO CONTINUE WITH

JERRY HOFFMAN - CROSS BY MS. JOHNSON

291

1 THE INVESTIGATION.

2 MS. LIPINSKI - THOSE ARE ALL THE QUESTIONS WE
3 HAVE OF CAPTAIN HOFFMAN, YOUR HONOR.

4 CROSS EXAMINATION

5 BY MS. JOHNSON -

6 Q CAPTAIN HOFFMAN, I JUST HAVE A FEW QUICK QUESTIONS
7 FOR YOU. NOW, YOU RECEIVED THIS VIDEO FROM THE GRAB AND
8 GO. CORRECT?

9 A I RECEIVED IT FROM THE MANAGER. I'M NOT --- I DON'T
10 RECALL THE NAME OF THE STORE RIGHT OFF HAND, BUT I DO HAVE
11 HIS NAME DOCUMENTED.

12 Q AND AS FAR AS YOU KNOW, THIS VIDEO SOMEBOW CHRONICLES
13 THE INCIDENT IN QUESTION. RIGHT?

14 A NO, I DON'T THINK IT --- I MEAN IT WAS --- THE VIDEO
15 SHOWED FROM MY RECOLLECTION THE VICTIM AT THE STORE WHERE
16 SHE WAS PICKED UP AT.

17 Q OKAY. SO WE KNOW THAT THE VIDEO DOES SHOW SOMETHING
18 THAT'S INVOLVED IN THIS CASE. CORRECT?

19 A IT --- YES, I BELIEVE IT SHOWS THE BEGINNING OF THIS
20 CASE.

21 Q AND --- NOW, YOU --- YOU SAID YOU RECEIVED THE VIDEO
22 FROM THE MANAGER OF THE STORE?

23 A FROM THE MANAGER OR THE STORE OWNER. I ACTUALLY
24 BELIEVE IT WAS PROBABLY THE OWNER OF THE CONVENIENCE STORE
25 IN GASTON COUNTY, NORTH CAROLINA.

JERRY HOFFMAN - CROSS BY MS. JOHNSON

292

1 Q AND DO YOU REMEMBER WHETHER YOU RECEIVED THE VIDEO
2 THE SAME DAY THAT THE INCIDENT OCCURRED?

3 A IF YOU ALLOW ME TO LOOK AT THE VIDEO AGAIN TO SEE THE
4 DATE I CAN TELL YOU THAT.

5 Q ABSOLUTELY.

6 MS. JOHNSON - YOUR HONOR, MAY I APPROACH?

7 THE COURT - (INDICATING YES)

8 A YES, IF THE DATE OF THE INCIDENT WAS MAY 3RD, 2007,
9 I RECEIVED THE VIDEO THAT DAY AT 3:00 P.M.

10 Q ALL RIGHT. ULTIMATELY, AS FAR AS YOU KNOW, YOU WERE
11 THE FIRST POLICE OFFICER TO VIEW THIS VIDEO, AS FAR AS YOU
12 KNOW. CORRECT?

13 A AS FAR AS I KNOW, THAT'S CORRECT.

14 Q ALL RIGHT. AND SO YOU WERE THE ONE WHO DID THE
15 INITIAL COLLECTION OF THE VIDEO AND TURNING OVER?

16 A THAT'S CORRECT. I HAD TO HAVE THE OWNER OF THE STORE
17 OR THE MANAGER MAKE THE VIDEO FROM HIS SYSTEM AND PROVIDE
18 IT TO US ON A DISK.

19 Q AND HE DID THAT WHILE YOU WERE THERE?

20 A YES.

21 MS. JOHNSON - ALL RIGHT, WE HAVE NO FURTHER
22 QUESTIONS.

23 MS. LIPINSKI - THAT'S ALL WE HAVE OF CAPTAIN
24 HOFFMAN, YOUR HONOR. WE'D ASK FOR HIM TO BE EXCUSED.

25 THE COURT - YOU CAN BE EXCUSED. WE APPRECIATE

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

293

1 YOUR TIME.

2 MR. HOFFMAN - THANK YOU, SIR.

3 THE COURT - CALL YOUR NEXT WITNESS.

4 MS. LIPINSKI - THE STATE CALLS SERGEANT MCSWAIN,

5 YOUR HONOR.

6 KEVIN MCSWAIN. AFTER BRING FIRST DULY SWORN.

7 TESTIFIES AS FOLLOWS -

8 DIRECT EXAMINATION

9 BY MS. LIPINSKI -

10 Q SERGEANT MCSWAIN, WITH WHOM ARE YOU EMPLOYED?

11 A GASTONIA POLICE DEPARTMENT.

12 Q AND IN WHAT CAPACITY? ARE YOU A SERGEANT OR ARE YOU
13 PROMOTED SINCE THEN?

14 A YES, I'M A PATROL SERGEANT NOW ON NIGHT SHIFT.

15 Q AND BACK IN MAY OF 2007 WHAT CAPACITY WERE YOU
16 EMPLOYED WITH THEN?

17 A AT THAT TIME I WAS DETECTIVE IN THE CRIMINAL
18 INVESTIGATIONS DIVISION.

19 Q HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT
20 APPROXIMATELY?

21 A GOING ON NINETEEN YEARS NOW, OVER EIGHTEEN.

22 Q AND HAS IT BEEN --- THAT ENTIRE TENURE BEEN IN THE
23 GASTONIA AREA?

24 A YES, IN GASTON COUNTY. I WORKED FOR CHERRYVILLE
25 POLICE DEPARTMENT FOR ABOUT SIX YEARS.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

294

1 Q SO PERHAPS SOME OTHER MUNICIPALITY BUT FOR THE MOST
2 PART THAT'S BEEN THE AREA. YOU WEREN'T FOR CHAR-MECK OR
3 ANYTHING LIKE THAT?

4 A NO, MA'AM. IT'S ALL IN GASTON COUNTY.

5 Q DID YOU GROW UP THERE?

6 A I DID.

7 Q QUITE FAMILIAR WITH THE AREA.

8 A I AM.

9 Q AND DID YOU HAVE THE OCCASION TO BE INVOLVED IN THE
10 INVESTIGATION OF TERRY DUNOVANT?

11 A I DID.

12 Q AND HOW DID YOU --- WAS IT A CRIME THAT OCCURRED
13 NECESSARILY WITHIN YOUR JURISDICTION?

14 A NO, IT WAS NOT.

15 Q CRIME THAT PERHAPS STARTED THERE BUT ULTIMATELY
16 CULMINATED DOWN HERE IN SOUTH CAROLINA.

17 A THAT'S CORRECT.

18 Q AND HOW DID YOU COME TO LEARN OF THE CRIME THAT
19 ALLEGEDLY OCCURRED?

20 A SERGEANT WEST WAS MY SUPERVISOR BACK AT THIS TIME AND
21 HE INFORMED ME THAT YORK COUNTY WAS INVESTIGATING AN
22 ASSAULT, A SEXUAL ASSAULT, AND WANTED ME TO RIDE OUT WITH
23 HIM TO THE AREA OF BESSEMER CITY ROAD AND SHANNON BRADLEY
24 ROAD TO MEET WITH SOME YORK COUNTY INVESTIGATORS TO SEE
25 WHAT ASSISTANCE THEY NEEDED.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

295

1 Q AND WHY DID YOU MEET THEM THERE AS OPPOSED TO AT YOUR
2 OFFICE OR THEIR OFFICE?

3 A I BELIEVE THE REASON WAS THAT YORK COUNTY THOUGHT THE
4 POSSIBLE SUSPECT COULD BE SOMEWHERE NEAR THAT AREA OF
5 TOWN. I DIDN'T TALK TO THEM SO I DON'T --- I DON'T KNOW.

6 Q YOU DIDN'T PICK THE LOCATION.

7 A NO, I JUST --- I RODE WITH THEM.

8 Q YOU WAS JUST RIDING ALONG THAT DAY.

9 A (INDICATING YES)

10 Q ALL RIGHT. AND BUT NOTHING HAPPENED PER SE AT THE
11 CITGO RIGHT THERE AT THE CORNER OF BESSEMER CITY ROAD AND
12 SHARON (SIC) ROAD OR WHATEVER?

13 A NO, OTHER THAN MEETING WITH YORK COUNTY INVESTIGATORS
14 AND THEY GAVE US A LITTLE INFORMATION ABOUT WHY THEY WERE
15 IN GASTONIA.

16 Q ARE YOU FAMILIAR WITH THE GRAB AND GO THAT'S OUT IN
17 BESSEMER CITY?

18 A YES, THE BP STATION.

19 Q FAMILIAR WITH THAT GAS STATION?

20 A YES.

21 Q AND THAT'S OBVIOUSLY WITHIN YOUR JURISDICTION.

22 A YES, IT IS.

23 Q AND WHEN --- WHAT IS THAT AREA? IS IT NEAR I-85? IS
24 IT ---

25 A IT'S VERY CLOSE TO I-85. IT'S --- THAT AREA OF TOWN

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

296

1 IS INDUSTRIAL. IT'S A LOT OF INDUSTRIAL BUSINESSES.
2 THERE'S A BUSINESS PARK NEAR THERE.

3 Q AND WHEN YOU MEET UP WITH INVESTIGATOR TOLSON AND
4 BOMAR AT THE CITGO, YOU DON'T RETRIEVE ANY SURVEILLANCE
5 VIDEO OR ANYTHING LIKE THAT RIGHT THERE AT THE CITGO,
6 OBVIOUSLY, BECAUSE THAT'S NOT WHERE ANYTHING HAPPENED.

7 A NO, MA'AM, WE DIDN'T.

8 Q YOU JUST GOT THE INFORMATION FROM THEM?

9 A (INDICATING YES)

10 Q AND WHAT INFORMATION DID THEY TELL YOU?

11 A BASICALLY THAT THEY WERE INVESTIGATING A SEXUAL
12 ASSAULT OF A LADY THAT OCCURRED IN BOLING GREEN I THINK AT
13 A CEMETERY, AT A CHURCH AND THE LADY HAD CALLED 9-1-1 FROM
14 A CONVENIENCE STORE NEARBY, I THINK IS WHAT THEY SAID AND
15 ---

16 Q WHAT DID THEY WANT YOU TO DO?

17 A HELP LOCATE A POSSIBLE SUSPECT.

18 Q AND WHAT DID THEY GIVE YOU IN TERMS OF DESCRIPTION OF
19 THE SUSPECT?

20 A THEY GAVE ME A DESCRIPTION OF A CAR, A CAR AND A TAG
21 NUMBER THEY THOUGHT TO BE A PARTIAL TAG NUMBER.

22 Q AND WHAT WAS THE TAG NUMBER THEY PROVIDED?

23 A IT WAS 4.

24 Q AND HOW MANY NUMBERS AND LETTERS DOES A NORTH
25 CAROLINA PLATE HAVE IN IT?

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

297

1 A TYPICALLY THERE'S THREE LETTERS AND FOUR NUMBERS ON
2 NORTH CAROLINA PLATES.

3 Q SO IF THAT WAS INDEED A NORTH CAROLINA PLATE, THEN
4 IT'S MISSING AT LEAST ONE NUMBER OR LETTER.

5 A WELL, SOME OF THE OLDER PLATES FROM YEARS BACK HAD
6 THREE BUT WE WERE GOING ON THE ASSUMPTION THAT IT POSSIBLY
7 COULD BE AN INCOMPLETE TAG.

8 Q AND DID THEY GIVE YOU ANYTHING IN TERMS OF
9 DESCRIPTION OF ANY OF HIS CLOTHING?

10 A SAID HE WAS WEARING A PAIR OF BROWN BOOTS.

11 Q AND DO YOU HAVE THE OCCASION TO LEAVE THAT
12 CONVENIENCE STORE OR DO YOU STAY THERE AND ESTABLISH SOME
13 TYPE OF SURVEILLANCE?

14 A NO, WHAT HAPPENED, WE WERE --- THEY NAMED AN AREA
15 NEAR THERE, SUNSET AVENUE, THAT POSSIBLY THIS CAR --- THEY
16 --- I THINK OUR IDEA WAS TO GO DOWN TO SUNSET AVENUE TO
17 SEE IF WE COULD LOCATE THAT CAR, AND IT WAS ONLY UP THE
18 STREET JUST A SHORT WAYS AND THEY PULLED OUT AHEAD OF US.
19 THERE'S A TRAFFIC LIGHT THERE AND THERE WAS ANOTHER PATROL
20 OFFICER THAT CAME BY THAT WAS GOING --- HAVE A MARK UNIT
21 ASSIST. THEY GOT OUT AHEAD OF US. TRAFFIC PREVENTED US
22 FROM PULLING OUT AND SO BY THE TIME WE GOT OUT TO THE
23 LIGHT, THEY WERE ON UP THE ROAD AHEAD OF US, AND WHILE WE
24 WERE SITTING THERE WAITING ON TRAFFIC I NOTICED A GREEN
25 FORD TAURUS TURNING LEFT ONTO SHANNON BRADLEY ROAD AND I

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

298

1 GOT TO LOOKING AT IT AND WAS TRYING TO READ THE TAG AS IT
2 WENT BY. I COULDN'T REMEMBER THE TAG THAT THE YORK COUNTY
3 INVESTIGATORS HAD TOLD US AND I WAS ASKING SERGEANT WEST,
4 SEE WHAT THAT TAG NUMBER WAS BECAUSE I THINK THAT MIGHT BE
5 IT, AND WE TURNED AROUND AND BEGAN TO FOLLOW IT. AS ---
6 I THINK HE CALLED LIEUTENANT TOLSON AND WAS GETTING THE
7 CONFIRMATION ON THAT TAG NUMBER AND IT COME BACK --- THE
8 TAG THAT WAS ON THE CAR WAS 4. THEY'D GIVEN US
9 , SO WE DECIDED TO GO AHEAD AND STOP THE VEHICLE
10 RIGHT OFF OF CRESCENT LANE WHICH IS OFF OF SHANNON BRADLEY
11 ROAD.

12 Q AND ARE YOU IN A MARKED PATROL CAR OR UNMARKED PATROL
13 CAR?

14 A WE WERE IN A UNMARKED FORD CROWN VICTORIA.

15 Q AND --- BUT DOES IT HAVE BLUE-LIGHTS?

16 A IT DOES HAVE BLUE-LIGHTS ON IT.

17 Q AND IS THAT HOW YOU INITIATED THE TRAFFIC STOP BY
18 ACTIVATING THE BLUE-LIGHTS?

19 A YES, SERGEANT WEST WAS DRIVING AND INITIATED THE
20 STOP.

21 Q AND DID THE VEHICLE STOP?

22 A YES, IT DID.

23 Q AND HOW MANY PEOPLE WERE IN THE CAR WHEN YOU STOPPED
24 IT?

25 A JUST ONE PERSON.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

299

1 Q AND DID YOU APPROACH THE CAR OR DID OFFICER WEST OR
2 DID YOU BOTH APPROACH THE CAR?

3 A I THINK WE BOTH DID. I KNOW I DID AND THEN --- I
4 THINK HE WAS STILL ON THE PHONE WITH LIEUTENANT TOLSON.

5 Q AND WHEN YOU APPROACHED THE CAR, DO YOU SPEAK WITH
6 THE DRIVER? DO YOU ASK HIM FOR HIS NAME AND LICENSE?

7 A YES.

8 Q AND WHAT NAME DOES THE DRIVER GIVE YOU?

9 A HE GAVE ME HIS NAME OF MARK DUNOVANT.

10 Q AND DID HE GIVE YOU A LICENSE?

11 A NO, HE DIDN'T. HE SAID HE DIDN'T HAVE ONE.

12 Q AND AT THAT POINT DID YOU LEAVE HIM IN THE CAR OR DID
13 YOU ASK HIM TO GET OUT OF THE CAR?

14 A WELL, AT THAT POINT I --- I'M --- I'M FAMILIAR WITH
15 MARK DUNOVANT. I KNEW THAT HE WAS NOT MARK DUNOVANT AND
16 I DID HAVE HIM GET OUT OF THE CAR AND I PATTED HIM DOWN
17 FOR WEAPONS.

18 Q DID YOU FIND ANY WEAPONS ON HIM?

19 A NO.

20 Q AND THEN WHAT DID YOU DO?

21 A AT THAT POINT PLACED HIM IN HAND-CUFFS AND I
22 EXPLAINED TO HIM HOW HE COULD BE CHARGED WITH A DRIVING
23 VIOLATION, A LICENSE VIOLATION. THAT DOESN'T NECESSARILY
24 MEAN THAT HE'S GOING TO BE, BUT THERE IS A POSSIBILITY HE
25 COULD BE.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

300

1 Q YOU EVER HAVE THE OCCASION TO PULL SOMEONE OVER WHO
2 DIDN'T HAVE THEIR LICENSE ON THEM BUT IF YOU WERE ABLE TO
3 CONFIRM IT WITH DISPATCH YOU WOULDN'T AT THAT TIME CHARGE
4 THEM WITH A VIOLATION?

5 A YES, THAT'S CORRECT. ALSO THAT, YOU KNOW, I HAD A
6 PRELIMINARY INVESTIGATION GOING ON WITH WHETHER HE WAS
7 PROVIDING CORRECT INFORMATION ABOUT HIS TRUE IDENTITY TOO.

8 Q AND AT THAT POINT ONCE YOU GET HIM OUT OF THE CAR AND
9 YOU ADVISE HIM THAT YOU DON'T THINK HE'S MARK DUNOVANT AND
10 YOU'RE FAMILIAR WITH HIM, DO YOU DO ANYTHING IN TERMS OF
11 READING HIM HIS MIRANDA RIGHTS BEFORE YOU QUESTION HIM
12 FURTHER?

13 A I DID. I --- I READ HIM HIS MIRANDA RIGHTS OFF A
14 POCKET CARD I CARRY.

15 Q AND DID YOU ASK HIM IF HE UNDERSTOOD THOSE RIGHTS?

16 A YES.

17 Q AND DID HE ---

18 A HE SAID YES.

19 Q AND YOU SAID A POCKET CARD. DO YOU HAVE THAT POCKET
20 CARD WITH YOU HERE TODAY?

21 A I DO.

22 Q AND COULD YOU READ IT TO THE JURY AS THE RIGHTS YOU
23 READ HIM ON THAT PARTICULAR DAY?

24 A YES, MA'AM. THE RIGHTS I READ HIM ARE, YOU HAVE THE
25 RIGHT TO REMAIN SILENT; ANYTHING YOU SAY CAN BE AND MAY BE

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

301

1 USED AS EVIDENCE AGAINST YOU IN COURT; YOU HAVE THE RIGHT
2 TO TALK WITH A LAWYER BEFORE QUESTIONING AND TO HAVE A
3 LAWYER WITH YOU WHILE YOU'RE BEING QUESTIONED. IF YOU
4 WANT A LAWYER BEFORE OR DURING QUESTIONING BUT CANNOT
5 AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO
6 REPRESENT YOU AT NO COST BEFORE ANY QUESTIONING.

7 Q DID YOU ASK HIM IF HE UNDERSTOOD THOSE RIGHTS?

8 A YES, I DID.

9 Q AND DID HE INDICATE HE DID?

10 A HE INDICATED YES.

11 Q AND AT THAT POINT DID THE YORK COUNTY INVESTIGATORS
12 ARRIVE ON THE SCENE OR AT SOME POINT IN THE PROXIMITY OF
13 THEN?

14 A SOMETIME SHORTLY THEREAFTER YORK COUNTY ARRIVED.

15 Q AND DO YOU HAVE EVER --- WHILE YOU'RE OUT THERE AT
16 THE CAR DO YOU LEARN OF HIS REAL NAME?

17 A YES, HE EVENTUALLY TOLD US THAT HIS NAME IS TERRY
18 DUNOVANT.

19 Q AND DO YOU THEN TAKE HIM BACK TO YOUR POLICE
20 DEPARTMENT FOR FURTHER QUESTIONING OR SOMEONE ELSE ---

21 A ANOTHER OFFICER DID, YES.

22 Q NOT YOU PERSONALLY TRANSPORTING HIM BUT SOMEONE WITH
23 THE POLICE DEPARTMENT DID AS WELL.

24 A THAT'S CORRECT. ANOTHER GASTONIA POLICE OFFICER
25 TRANSPORTED HIM TO OUR POLICE AGENCY.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

302

1 Q YOU STATED THAT YOU'RE FAMILIAR WITH THE AREA OF
2 GASTONIA. I'M GOING TO SHOW YOU WHAT'S BEEN PREVIOUSLY
3 BEEN MARKED AS STATE'S EXHIBIT AND ASK YOU TO LOOK AT THIS
4 AERIAL PHOTO AND ASK YOU THAT IF FOR THE MOST PART IT
5 DEPICTS THE GASTON --- GASTONIA AREA?

6 MS. LIPINSKI - AND YOUR HONOR, JUST FOR THE
7 RECORD THIS IS STATE'S EXHIBIT NUMBER 20 MARKED FOR I.D.
8 AT THIS TIME. I'VE SHOWN IT TO MR. LEMEL.

9 Q ARE YOU FAMILIAR WITH THIS ADDRESS MARKED ON THE
10 AERIAL PHOTO OF 1721 BESSEMER CITY ROAD OR AT LEAST THAT
11 AREA NORTH OF --- I BELIEVE THIS 85. DOES THAT LOOK
12 CORRECT TO YOU?

13 A IT LOOKS RIGHT. AND THIS WILL BE HIGHWAY 321.

14 Q MARKED IN RED HERE HEADING FOR THE MOST PART NORTH TO
15 SOUTH OF THE MAP?

16 A YES, MA'AM.

17 Q AND ARE YOU FAMILIAR WITH WHAT WOULD BE THIS MAIN
18 ROAD MARKED IN RED AS WELL TRAVELLING FROM EAST TO WEST ON
19 THE MAP?

20 A IS THAT HIGHWAY 74?

21 Q YOU'RE MORE FAMILIAR WITH THE AREA. IF YOU NEED TO
22 LOOK AT IT FURTHER. IS THERE A MAIN ROAD THAT RUNS MORE
23 PARALLEL TO HIGHWAY 85 IN THAT AREA?

24 A HIGHWAY 74.

25 Q OKAY. AND IS THIS AREA, THIS BESSEMER CITY ROAD, IS

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

303

1 THAT WHERE THAT GRAB AND GO THAT WE TALKED ABOUT IS?

2 A YES, IT'S AT THE --- RIGHT NEAR SHANNON BRADLEY ROAD
3 OFF BESSEMER CITY.

4 Q AND WHERE --- YOU TALKED ABOUT SHANNON BRADLEY ROAD.
5 IF YOU COULD INDICATE WHERE THAT IS ON THIS MAP. IF YOU
6 NEED TO ROLL UP THE BOTTOM WE CAN DO THAT. IF YOU CAN.

7 A SHANNON BRADLEY'S GOING TO BE NORTH OF 85 JUST A
8 SHORT PIECE, AND IT CROSSES BACK OVER 85 AS IT GOES BACK
9 TOWARD 74, LIKE RIGHT IN HERE.

10 Q RIGHT IN THERE?

11 A (INDICATING YES)

12 Q THAT MAJOR ROAD THAT WE SEE RUNNING BETWEEN THE GREEN
13 AND THE RED LINE CLOSE TO THE EDGE OF MAP.

14 A YES.

15 Q AND DOES THIS AERIAL PHOTO ---

16 THE COURT - MAKE SURE YOU KEEP YOUR VOICE UP SO
17 THE JURY CAN HEAR YOU.

18 MS. LIPINSKI - THANK YOU, YOUR HONOR.

19 Q DOES THIS AERIAL PHOTO ACCURATELY DEPICT THIS AREA OF
20 GASTONIA?

21 A YES, IT DOES.

22 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WE WOULD
23 MOVE STATE'S EXHIBIT NUMBER 20 INTO EVIDENCE.

24 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

25 THE COURT - IN WITHOUT OBJECTION.

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

304

1 (DOCUMENT MARKED INTO EVIDENCE AS STATE'S
2 EXHIBIT NUMBER 20.)

3 Q AND THIS 321, THIS RED LINE THAT YOU MARKED, IF YOU
4 COULD INDICATE, THAT'S THIS RED LINE HERE MOVING IN THIS
5 DIRECTION OF THE AERIAL PHOTO?

6 A IT IS.

7 Q AND DOES THAT --- IF IT CONTINUES DOWN, IT ACTUALLY
8 CROSSES --- HOLD THAT FOR ME FOR A MINUTE ---- THAT
9 ACTUALLY CROSSES THIS, THE STATE LINE OF NORTH CAROLINA,
10 SOUTH CAROLINA AND TRAVELLING INTO THAT BOLING GREEN AREA
11 YOU TALKED ABOUT EARLIER?

12 A IT DOES, YES.

13 Q DO YOU PARTICIPATE IN THE TOWING OF THE VEHICLE? DO
14 YOU ARRANGE FOR THAT?

15 A UM, LET ME CHECK ---

16 Q OR DO YOU MEET THE FORENSIC OFFICER OUT AT THE
17 WRECKER SERVICE?

18 A I --- I CAN'T RECALL IF I'M THE ONE THAT ACTUALLY
19 CALLED FOR THE WRECKER OR SERGEANT WEST, BUT WE --- WE DID
20 HAVE ONE COME OUT AND TOW IT.

21 Q AND DID YOU HAVE THE OCCASION TO GET A SEARCH WARRANT
22 FOR THE VEHICLE?

23 A YES.

24 Q AND DO YOU MEET THE FORENSICS OFFICERS OUT THERE
25 WHERE THE VEHICLE HAS BEEN TOWED SO THEY CAN SEARCH AND

KEVIN MCSWAIN - DIRECT BY MS. LIPINSKI

305

1 INVENTORY THE CAR?

2 A YES. IT WAS TOWED TO STAR WRECKER.

3 Q AND IS THAT THERE IN NORTH CAROLINA?

4 A YES, IT'S ON HANOVER STREET IN GASTONIA.

5 Q AND DO YOU ALSO EXECUTE A SEARCH WARRANT TO COLLECT
6 EVIDENCE FROM TERRY DUNOVANT SPECIFICALLY?

7 A YES, MA'AM.

8 Q AND WHAT IS THAT SEARCH WARRANT FOR? IS THAT FOR
9 CLOTHING OR A SAMPLE OF SOME KIND?

10 A YES, IT WOULD'VE BEEN FOR THINGS SUCH AS HAIRS, HUMAN
11 HAIRS, BODY HAIRS AND SALIVA SAMPLES, THINGS SUCH AS THAT.

12 Q AND DO YOU ACTUALLY SECURE THOSE SAMPLES YOURSELF OR
13 DID YOU JUST STOP AT GETTING THE SEARCH WARRANT FOR IT?

14 A NO, OUR MEMBERS FROM OUR CRIME SCENE INVESTIGATION
15 ARE THE ONES THAT COLLECT THAT. I DON'T DO THAT
16 PERSONALLY.

17 Q AND WOULD THAT HAVE BEEN PLACED INTO PROPERTY AND
18 EVIDENCE IN GASTONIA, OR WAS THAT TURNED OVER TO THE YORK
19 COUNTY SHERIFF'S OFFICE?

20 A IT WAS ACTUALLY TURNED OVER TO YORK COUNTY FROM OUR
21 CRIME SCENE INVESTIGATORS.

22 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT,
23 YOUR HONOR.

24 Q TERRY DUNOVANT THAT YOU STOPPED ON THIS PARTICULAR
25 DAY, DO YOU RECOGNIZE HIM HERE IN THE COURTROOM?

KEVIN MCSWAIN - CROSS BY MR. LEMEL

306

1 A YES, I DO.

2 Q AND IF YOU COULD, POINT HIM OUT FOR ME.

3 A HE'S SITTING AT THE DEFENSE TABLE BETWEEN THE --- IN
4 THE CENTER THERE.

5 Q IN THE CENTER. NEXT TO MR. LEMEL THE DEFENSE
6 ATTORNEY?

7 A YES.

8 Q AND JUST SPECIFICALLY HE'S WEARING A SUIT JACKET.
9 DOES HE HAVE A TIE ON OR ANYTHING?

10 A HE'S WEARING A SUIT JACKET AND TIE WITH A WHITE
11 SHIRT.

12 MS. LIPINSKI - THANK YOU. NOTHING FURTHER, YOUR
13 HONOR.

14 CROSS EXAMINATION

15 BY MR. LEMEL -

16 Q SERGEANT MCSWAIN, AT THE TIME THIS HAPPENED YOU WERE
17 WORKING THE INVESTIGATIVE DIVISION OF THE GASTONIA POLICE
18 DEPARTMENT?

19 A YES, SIR.

20 Q UNLIKE NOW YOU'RE IN, I GUESS, PATROL DIVISION?

21 A YES, SIR.

22 Q OKAY. AND AS PART OF YOUR DUTIES THERE, YOU PREPARED
23 A THREE-PAGE DOCUMENT. CORRECT?

24 A YES, SIR, I DID.

25 Q AND WHEN I SAY AS PART OF YOUR DUTIES, AS IT RELATES

KEVIN MCSWAIN - CROSS BY MR. LEMEL

307

1 TO THIS CASE.

2 A YES, SIR.

3 Q THAT YOU'VE BEEN REFERRING TO THROUGHOUT THIS CASE.

4 A YES, SIR.

5 Q BECAUSE THIS HAPPENED A GOOD TWO YEARS AGO AT THIS
6 POINT IN TIME.

7 A THAT'S CORRECT.

8 Q AND YOU WEREN'T DIRECTLY INVOLVED IN YOUR CASE, THIS
9 CASE, IN TERMS OF SORT OF BEING YOUR CASE, I GUESS WOULD
10 BE THE RIGHT WAY TO PUT IT.

11 A I WAS LENDING ASSISTANCE.

12 Q AND AS SUCH THOSE NOTES WERE FAIRLY IMPORTANT.

13 A YES, SIR.

14 Q AND YOU TYPED THOSE NOTES UP VERY CLOSE TO THE TIME
15 YOU ACTUALLY WERE INVOLVED IN ASSISTING THIS?

16 A YES, SIR, I DID. I --- I'M THINKING I TYPED THEM UP
17 THAT SAME EVENING, BUT I'M NOT ABSOLUTELY CERTAIN OF THAT.

18 Q WELL, THERE'S A FACTS DATE AT THE TOP OF MINE. DO
19 YOU HAVE IT AT THE TOP OF YOURS BY ANY CHANCE? DO YOU
20 HAVE A COMPLETION DATE ON THERE?

21 A (NO RESPONSE)

22 Q SHOW YOU WHAT'S BEEN HANDED TO ME. DO YOU KNOW WAS
23 IT, IN FACT, FAXED DOWN TO THE YORK COUNTY SHERIFF'S
24 DEPARTMENT FROM YOUR OFFICE?

25 A YES.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

308

1 Q AND THERE'S A DATE OF WHEN THAT WAS DONE?

2 A YES, THE DATE IS MAY 4TH AT 10:11 A.M.

3 Q OKAY. SO IF YOU STARTED THIS WHOLE PROCESS AT ABOUT

4 10:00 A.M., WITHIN TWENTY-FOUR HOURS YOU WERE FAXING A ---

5 A REPORT THAT YOU PREPARED WAS FAXED DOWN THERE.

6 A THAT'S CORRECT.

7 Q SO PRETTY QUICKLY AFTERWARDS YOU WERE PRODUCING THIS.

8 A YES, SIR.

9 Q AGAIN, COULD'VE BEEN THAT VERY SAME NIGHT.

10 A I CAN'T SWEAR TO THAT. I DON'T REMEMBER IF I STAYED

11 AND TYPED IT THEN OR GOT ON IT AS SOON AS I CAME BACK TO

12 WORK THE NEXT MORNING.

13 Q BUT REGARDLESS, WITHIN TWENTY-FOUR HOURS CERTAINLY.

14 A YES, SIR.

15 Q OKAY. AND AS PART OF THAT YOU BASICALLY DEVELOPED A

16 TIME-LINE FOR LACK OF A BETTER WAY TO STATE IT.

17 A (INDICATING YES)

18 Q IS THAT A YES?

19 A YES, SIR, AS FAR AS WHAT ---

20 Q AS FAR AS WHAT YOU DID ---

21 A --- WHAT, WHEN.

22 Q YES.

23 A YES, SIR.

24 Q AND TOOK FAIRLY DETAILED NOTES OF THE TIMES YOU

25 STARTED AND THE TIME INDIVIDUAL THINGS HAPPENED.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

309

- 1 A YES, SIR.
- 2 Q UM, BASICALLY YOU WERE DOING THIS BOTH TO DOCUMENT
3 FOR YOU. RIGHT?
- 4 A YES, SIR.
- 5 Q AND ALSO FOR YORK COUNTY SHERIFF'S DEPARTMENT SO THEY
6 COULD HAVE YOUR VERSION OF WHAT HAPPENED.
- 7 A RIGHT.
- 8 Q OKAY. AND ALL THIS STARTED --- YOUR FIRST CONTACT,
9 AS I UNDERSTAND IT FROM YOUR REPORT, STARTED AT 10:50 ON
10 THE MORNING OF THE 3RD.
- 11 A THAT'S CORRECT. THAT'S THE TIME I HAVE INDICATED.
- 12 Q OKAY. SO IF WE SET --- AND YOU DON'T --- JUST SORT
13 OF TAKE MY WORD FOR IT --- IF WE SET THE TIME THAT MS.
14 HILL GOT TO THE HOSPITAL, FOR EXAMPLE, AT 8:00 O'CLOCK IN
15 THE MORNING, THIS WOULD'VE BEEN SLIGHTLY LESS THAN THREE
16 HOURS FROM THAT POINT IN TIME IS WHEN YOU FIRST MET WITH
17 THE SHERIFF OFFICERS. 8:00 O'CLOCK TO 10:50.
- 18 A IF THAT'S THE CASE, YES, SIR.
- 19 Q AND I'M ASKING YOU TO TAKE MY WORD FOR IT.
- 20 A I DO.
- 21 Q UNDERSTAND THAT. AND SO BASICALLY EVERYTHING
22 HAPPENED RELATIVELY QUICKLY AFTER THAT, AFTER THAT INITIAL
23 MEETING. RIGHT?
- 24 A YES, SIR.
- 25 Q IT WAS, AS YOU INDICATE HERE, JUST ABOUT FIFTEEN

KEVIN MCSWAIN - CROSS BY MR. LEMEL

310

1 MINUTES LATER THAT YOU FIRST CAUGHT SIGHT OF THAT TAURUS
2 AND SAID, HEY, THAT MAY BE THE CAR THAT WE'RE LOOKING FOR
3 IN THIS CASE.

4 A YES, SIR.

5 Q TURNED AROUND ON THAT CAR.

6 A (INDICATING YES)

7 Q RIGHT?

8 A THAT'S CORRECT.

9 Q ACTIVATED THE BLUE-LIGHTS IN YOUR DETECTIVE VEHICLE.

10 A YES, SIR.

11 Q WHICH IS AN UNMARKED CROWN VICTORIA.

12 A IT WAS AT THE TIME.

13 Q TO THE EXTENT THAT THOSE CROWN VICTORIA'S ARE
14 ACTUALLY UNMARKED.

15 A YES, SIR.

16 Q NOT A WHOLE LOT OF DOUBT AS YOU'RE DRIVING DOWN THE
17 STREET WHEN YOU SEE ONE OF THOSE CARS THAT IT'S A
18 DETECTIVE CAR, IS THERE?

19 A PROBABLY NOT.

20 Q RIGHT. AND YOU'VE GOT LIKE BLUE LIGHTS THAT COME ON
21 AND THINGS OF THAT NATURE.

22 A RIGHT. THEY'RE ALL INSIDE THE VEHICLE AND OVER THE
23 VISOR.

24 Q RIGHT. WHEN YOU ACTIVATED THOSE BLUE-LIGHTS YOU
25 INDICATED THE TAURUS STOPPED.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

311

- 1 A IT DID.
- 2 Q DIDN'T TRY TO RUN FROM YOU.
- 3 A NO, SIR.
- 4 Q EVADE IN ANYWAY.
- 5 A NO, SIR.
- 6 Q SPEED UP.
- 7 A IT STOPPED RIGHT THERE ON THE ROAD THAT IT WAS
- 8 TRAVELLING ON.
- 9 Q WHICH IS WHAT HE'S SUPPOSED TO DO IN THAT SCENARIO.
- 10 A YES, SIR.
- 11 Q OKAY. AND YOU WALKED UP, SAW THE DRIVER.
- 12 A YES, SIR.
- 13 Q DRIVER DIDN'T TRY TO GET OUT AND RUN OR ANYTHING LIKE
- 14 THAT.
- 15 A NO, HE DID NOT.
- 16 Q AND YOU ASKED HIM HIS NAME.
- 17 A YES, SIR, I DID.
- 18 Q AND AT THAT POINT IN TIME HE TOLD YOU IT WAS MARK
- 19 DUNOVANT ---
- 20 A YES, SIR.
- 21 Q --- AS OPPOSED TO SAYING HE WAS TERRY.
- 22 A THAT'S CORRECT.
- 23 Q NOW, IN YOUR ALMOST NINETEEN YEARS OF EXPERIENCE AS
- 24 A LAW ENFORCEMENT OFFICER, YOU'VE ENCOUNTERED SITUATIONS
- 25 WHERE PEOPLE HAVE NOT GIVEN YOU THEIR PROPER NAME BEFORE.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

312

1 CORRECT?

2 A THAT'S CORRECT.

3 Q AND IN SITUATIONS WHERE, FOR EXAMPLE, SOMEBODY
4 DOESN'T HAVE A DRIVER'S LICENSE, THEY MAY OFTEN GIVE A
5 FAMILY MEMBER'S NAME TO TRY TO HIDE THE FACT THAT THEY ---
6 THEIR DRIVING PRIVILEGES ARE REVOKED..

7 A THAT'S HAPPENED BEFORE, YES.

8 Q AND THAT'S NOT EVEN UNCOMMON, IS IT?

9 A IT'S NOT TOO UNCOMMON, NO.

10 Q OKAY. ALL RIGHT. YOU BASICALLY TOOK POSSESSION OF
11 HIM THEN VERY CLOSE TO THIS --- AS IS THE TIME STANCE
12 THAT YOU'VE GOT ON THERE IS 11:06. RIGHT?

13 A YES, SIR.

14 Q SO FROM THAT POINT FORWARD, Y'ALL HAD POSSESSION OF
15 MR. DUNOVANT, OF TERRY.

16 A YES, SIR, HE WAS BEING DETAINED AT THAT POINT.

17 Q AND YOU ALSO HAD POSSESSION OF HIS VEHICLE.

18 A THAT'S CORRECT.

19 Q AND AGAIN IF WE'RE TO RELATE THIS BACK TO 8:00
20 O'CLOCK, WE'RE JUST RIGHT AT THREE HOURS AT THIS POINT IN
21 TIME.

22 A YES, SIR.

23 Q OKAY. AND AT SOME POINT IN TIME WHILE YOU'RE THERE
24 DETAINING HIM AS PART OF THIS INVESTIGATION LOOKING INTO
25 THINGS, THE YORK COUNTY OFFICERS ARRIVE.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

313

1 A THAT'S CORRECT.

2 Q AND THEY START TALKING WITH HIM ABOUT WHAT THEY'RE
3 LOOKING FOR HIM FOR.

4 A YES, SIR.

5 Q NOW, YOU WEREN'T A BIG PART OF THAT CONVERSATION.

6 A NO, I WAS NOT.

7 Q OKAY. SOMEBODY ELSE TOOK HIM BACK TO THE GASTON
8 POLICE DEPARTMENT.

9 A YES, A PATROL OFFICER HANSEN TRANSPORTED HIM FROM THE
10 LOCATION OF THE TRAFFIC STOP TO OUR POLICE DEPARTMENT.

11 Q OKAY. YOU WEREN'T INVOLVED WITH THAT.

12 A NO, SIR.

13 Q AND YOU WEREN'T INVOLVED WITH THE QUESTIONING THAT
14 HAPPENED AT THE POLICE DEPARTMENT.

15 A NO, SIR, I WAS NOT.

16 Q YOU WERE SORT OF MORE ADMINISTRATIVELY TAKING CARE OF
17 SOME THINGS.

18 A I WAS HANDLING OTHER TASKS THAT NEEDED TO BE
19 ADDRESSED.

20 Q KEEPING AN EYE ON THE CAR.

21 A THAT'S CORRECT.

22 Q MAKING SURE THAT THE CAR WASN'T TAMPERED WITH OR
23 ANYTHING OF THAT NATURE.

24 A WE UH --- ACTUALLY MY --- MY TASK WAS TO DO THE
25 SEARCH WARRANT FOR THE CAR.

KEVIN MCSWAIN - CROSS BY MR. LEMEL

314

1 Q OKAY, THAT WAS ONE OF THE --- NEXT THING I WAS GOING
2 TO GET TO.

3 A OKAY.

4 Q AND ALSO GET THE SEARCH WARRANT FOR THE CAR.

5 A YES, SIR.

6 Q WHICH EVENTUALLY THE CAR WAS SEARCHED.

7 A YES.

8 Q OKAY. DID YOU ACTUALLY PARTICIPATE IN THAT SEARCH?

9 A I DID, YES.

10 Q OKAY. AT THE TIME OF THE SEARCH YOU WERE ABLE TO GO
11 THROUGH THE ENTIRE INTERIOR OF THE CAR.

12 A YES.

13 Q DID YOU FIND ANYTHING ILLEGAL INSIDE THE CAR?

14 A NOT THAT I RECALL.

15 Q OKAY. FIND A PURSE INSIDE THE CAR.

16 A I DON'T RECALL ANYTHING LIKE THAT.

17 Q NOW, CERTAINLY IF YOU HAD FOUND SOMETHING LIKE THAT
18 YOU PROBABLY WOULD'VE NOTED THIS IN THIS THREE-PAGE REPORT
19 THAT YOU DID.

20 A YES, I WOULD --- I WOULD THINK SO.

21 Q OKAY. AS WELL AS THE INTERIOR OF THE CAR, DID YOU
22 NOTE ANY DISRUPTION OF THE INTERIOR?

23 A I DON'T RECALL ANYTHING LIKE THAT. DO YOU MEAN LIKE
24 TORN INTERIOR OR SOMETHING?

25 Q SURE. EXACT --- TEARS IN THE FABRIC FOR EXAMPLE?

KEVIN MCSWAIN - CROSS BY MR. LEMEL

315

1 A I DON'T RECALL ANYTHING LIKE THAT IN THE CAR.

2 Q AND AGAIN, AS CONDUCTING THE SEARCH WARRANT IN THIS
3 SITUATION, IF YOU HAD SEEN SOMETHING THAT YOU THOUGHT WAS
4 RELEVANT, YOU CERTAINLY WOULD'VE DOCUMENTED IT IN THIS
5 THREE-PAGE REPORT THAT YOU DID.

6 A I WOULD THINK SO IF I THOUGHT IT WAS RELATING TO THE
7 CRIME THAT WAS UNDER INVESTIGATION.

8 Q SURE. BECAUSE AGAIN, IT MAY BE A WHILE BEFORE YOU
9 HAVE TO TESTIFY ON THIS ---

10 A THAT'S CORRECT.

11 Q --- AND THAT'S WHAT YOU'RE GOING TO HAVE YOUR NOTES
12 FOR. OKAY. AT THE TIME YOU'D GONE THROUGH GETTING THE
13 SEARCH WARRANTS AND CONDUCTING THE SEARCHES, YOU HAD SOME
14 CONTACT WITH TERRY LATER ON THAT DAY. CORRECT?

15 A THAT'S CORRECT.

16 Q RIGHT AFTER 3:00 O'CLOCK IN THE AFTERNOON.

17 A YES, SIR, IT WAS SHORTLY AFTER 3:00 P.M.

18 Q SPECIFICALLY AFTER 3:00 --- SPECIFICALLY THE TIME YOU
19 HAVE DOWN HERE IS 3:06.

20 A THAT'S CORRECT.

21 Q BY THE TIME YOU HAD THAT CONTACT AGAIN WITH TERRY,
22 YORK COUNTY HAD ALREADY FAXED TO YOU GUYS ARREST WARRANTS
23 FOR HIM FOR CRIMINAL SEXUAL CONDUCT.

24 A I DON'T --- I DON'T REMEMBER IF THEY HAD ALREADY SENT
25 THE FAX OR NOT. I KNOW THERE WAS THE POSSIBILITY OF THAT

KEVIN MCSWAIN - CROSS BY MR. LEMEL

316

1 PROCESS TAKING PLACE, BUT I DON'T KNOW IF WE HAD RECEIVED
2 THEM AT THAT POINT.

3 Q OKAY.

4 A I CAN'T REMEMBER.

5 Q WELL, THE NEXT TIME YOU'VE GOT DOWN THERE IS 1600
6 HOURS, WHICH IS 4:00 O'CLOCK YOU'RE DOING SOMETHING ELSE
7 IN TERMS OF ARRESTING MR. DUNOVANT. CORRECT?

8 A THAT'S CORRECT.

9 Q OKAY. SO SOME TIME BETWEEN 3:06 AND 4:00 O'CLOCK
10 THAT WARRANT WAS RECEIVED ---

11 A THAT'S CORRECT.

12 Q --- BY YOU.

13 A YES.

14 Q SO SOME TIME CLOSE TO THAT --- WITHIN THAT FIFTY-FOUR
15 MINUTE PERIOD YOU ALREADY HAD A WARRANT IN HAND FROM ---

16 A I WOULD HAVE TO SAY WITHIN THE HOUR WE HAD IT, YES.

17 Q --- FROM YORK COUNTY SHERIFF'S DEPARTMENT.

18 A THAT'S CORRECT.

19 Q AND THAT WAS BETWEEN 3:00 AND 4:00 ---

20 A YES, SIR.

21 Q --- OF MAY 3RD, SAME DAY.

22 A SAME DAY.

23 MR. LEMEL - I HAVE NO FURTHER QUESTIONS, YOUR
24 HONOR.

25 MS. LIPINSKI - WE HAVE NOTHING FURTHER OF THIS

317

1 WITNESS, YOUR HONOR.

2 THE COURT - ALL RIGHT, YOU CAN STEP DOWN AND BE
3 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU. CALL YOUR
4 NEXT WITNESS.

5 MS. LIPINSKI - THE STATE CALLS SERGEANT WEST,
6 YOUR HONOR. (PAUSE) YOUR HONOR, CAN WE APPROACH BRIEFLY
7 BEFORE I CALL ---

8 THE COURT - YES, MA'AM.

9 (BENCH CONFERENCE WAS HELD IN THE PRESENCE OF
10 THE JURY BUT OUT OF THE HEARING OF THE JURY WHICH WAS NOT
11 REPORTED.)

12 THE COURT - WE'LL TAKE ABOUT A TEN MINUTE BREAK,
13 TAKE OUR AFTERNOON BREAK.

14 (JURY EXITS THE COURTROOM)

15 (RECESS TAKEN)

16 THE COURT - THANK YOU. TAKE YOUR SEATS.
17 STATE READY? YOU READY?

18 MS. LIPINSKI - I AM, YOUR HONOR.

19 MR. LEMEL - YES, SIR, YOUR HONOR.

20 THE COURT - BRING IN THE JURY.

21 (JURY RETURNS TO THE COURTROOM)

22 THE COURT - NEXT WITNESS.

23 MS. LIPINSKI - THANK YOU, YOUR HONOR. THE STATE
24 CALLS SERGEANT WEST.

25 JIMMY WEST, AFTER BEING FIRST DULY SWORN.

JIMMY WEST - DIRECT BY MS. LIPINSKI

318

1 TESTIFIES AS FOLLOWS -

2 DIRECT EXAMINATION

3 BY MS. LIPINSKI -

4 Q YOU ARE SERGEANT WEST. IS THAT YOUR CURRENT RANK?

5 A YES, MA'AM.

6 Q AND WHAT IS YOUR FULL NAME FOR THE RECORD?

7 A JIMMY RAY WEST.

8 Q AND WITH WHOM ARE YOU CURRENTLY EMPLOYED?

9 A THE GASTONIA CITY POLICE DEPARTMENT.

10 Q AND IN WHAT CAPACITY?

11 A I'M A SERGEANT IN THE VIOLENT CRIMES UNIT.

12 Q COULD I ASK YOU TO LEAN A LITTLE BIT IN THE DIRECTION
13 OF THAT MICROPHONE ---

14 A OH, I'M SORRY.

15 Q --- AND JUST SPEAK UP A LITTLE BIT. THAT CHAIR
16 DOESN'T MOVE. WHEN THEY DESIGNED THE COURTHOUSE, WE WERE
17 AFRAID SOMEBODY WAS GOING TO HAVE TO STEAL IT, ---

18 A SURE.

19 Q --- YOU'RE GOING TO HAVE TO LEAN. BUT I JUST WANT TO
20 MAKE SURE THAT THESE LAST JURORS CAN HEAR YOU.

21 A SURE.

22 Q YOU'RE A SERGEANT WITH THE GASTONIA POLICE
23 DEPARTMENT?

24 A YES, MA'AM.

25 Q AND IS THAT THE CITY OF GASTONIA OR THE COUNTY?

JIMMY WEST - DIRECT BY MS. LIPINSKI

319

1 A THAT'S THE CITY OF GASTONIA.

2 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

3 A I'M ON MY TWENTY-EIGHTH YEAR.

4 Q AND IN WHAT CAPACITY ARE YOU A SERGEANT? WHAT ARE
5 YOU OVER? WHAT IS YOUR SUPERVISORY POSITION?

6 A I AM CURRENTLY ASSIGNED TO THE DETECTIVE DIVISION.
7 I'M IN CHARGE OF THE VIOLENT CRIMES UNIT.

8 Q AND JUST BRIEFLY WHAT IS YOUR DAY-TO-DAY DUTIES AND
9 RESPONSIBILITIES?

10 A OBVIOUSLY THEY VARY. I'M RESPONSIBLE FOR ASSIGNING
11 CASES, APPROVING CASES, ASSISTING THE DETECTIVES IN
12 VARIOUS ROLES. IF WE HAVE A HOMICIDE, I COME OUT TO ALL
13 HOMICIDES, RESPOND TO ARMED ROBBERIES, RAPES, THINGS OF
14 THAT NATURE.

15 Q AND ON MAY 3RD OF 2007 DID YOU HAVE THE OCCASION TO
16 BE INVOLVED IN THE INVESTIGATION OF AN ALLEGED RAPE?

17 A YES, MA'AM, I DID.

18 Q AND WAS THAT A RAPE THAT OCCURRED IN GASTONIA?

19 A NO, MA'AM IT WAS NOT --- IN YORK --- OCCURRED IN YORK
20 COUNTY, SOUTH CAROLINA.

21 Q AND ALSO PART OF SOME OF YOUR DUTIES AND
22 RESPONSIBILITIES, DO YOU ASSIST KIND OF OUTLYING OR NEARBY
23 AGENCIES IN INVESTIGATIONS THAT MAY CROSS COUNTY OR STATE
24 LINES?

25 A YES, MA'AM.

JIMMY WEST - DIRECT BY MS. LIPINSKI

320

1 Q AND IS THAT HOW YOU BECAME INVOLVED IN THIS
2 PARTICULAR CASE?

3 A IT IS.

4 Q AND DO YOU REMEMBER BY WHOM YOU WERE CONTACTED WITH
5 THE YORK COUNTY SHERIFF'S OFFICE?

6 A I DON'T. I JUST KNOW WE RECEIVED A PHONE CALL FROM
7 YORK COUNTY AND I DON'T KNOW WHO.

8 Q DO YOU RECALL EVER MEETING THEM OUT AT A CITGO
9 SOMEWHERE?

10 A YES, MA'AM. WE MET --- MYSELF AND DETECTIVE MCSWAIN
11 WHO TESTIFIED EARLIER, MET WITH THREE DETECTIVES FROM YORK
12 COUNTY. I KNOW DETECTIVE BOMAS (SIC) WAS THERE, BETH
13 TOLSON, I THINK A LIEUTENANT WAS THERE.

14 Q AND WHEN YOU MEET AT THAT CITGO IS THAT JUST A
15 CONVENIENT LOCATION THAT YOU ALL AGREE TO MEET AT?

16 A THEY WERE LOOKING FOR SOMEONE THAT APPARENTLY WAS ON
17 THE BESSEMER CITY CORRIDOR AREA WHICH IS ON BESSEMER CITY
18 ROAD WHERE THE CITGO LOCATION WAS LOCATED, SO ONCE WE HAD
19 A TELEPHONE CONVERSATION, WE MET AT THE CITGO THERE AT
20 BESSEMER CITY ROAD AND SHANNON BRADLEY ROAD.

21 Q AND IS THAT KIND OF A MAJOR INTERSECTION WITHIN
22 GASTONIA?

23 A IT'S A HIGHLY TRAVELLED THOROUGH-PATH THROUGH
24 GASTONIA, YES.

25 Q AND WHAT IS ON BESSEMER CITY ROAD IN THAT AREA

JIMMY WEST - DIRECT BY MS. LIPINSKI

. 321

1 APPROXIMATELY?

2 A YOU HAVE A BOJANGLES; YOU HAVE A LOT OF BUSINESSES,
3 VERY FEW RESIDENTIAL AREAS OR HOUSING RIGHT ON BESSEMER
4 CITY ROAD, BUT ON SHANNON BRADLEY IS A NEIGHBORHOOD, SO
5 YOU HAVE A VARIETY OF BUSINESS AND HOUSING RIGHT THERE IN
6 THE AREA.

7 Q SO BOTH RESIDENTIAL AND COMMERCIAL BUILDINGS IN THE
8 AREA.

9 A YES, MA'AM.

10 Q AND WHEN YOU MEET WITH LIEUTENANT OR THEN ---
11 LIEUTENANT TOLSON AND DETECTIVE BOMAR, DID THEY PROVIDE
12 YOU WITH INFORMATION THAT THEY'D RECEIVED AS PART OF THIS
13 INVESTIGATION SO FAR?

14 A YES, MA'AM, THEY TOLD US THEY WERE LOOKING FOR A ---
15 A BLACK MALE IN A GREEN FORD TAURUS AND ACTUALLY HAD A TAX
16 NUMBER, A PARTIAL TAG NUMBER. THEY WERE OFF BY ONE NUMBER
17 AS IT TURNED OUT TO BE, AND THEY GAVE US THAT TAG NUMBER.
18 THEY WERE LOOKING MORE SPECIFICALLY IN THE SUNSET AREA OF
19 BESSEMER CITY ROAD WHICH IS JUST A COUPLE OF BLOCKS DOWN.

20 Q AND WHAT IS THE SUNSET AREA?

21 A IT'S ACTUALLY ANOTHER ROAD THAT TURNS OFF OF BESSEMER
22 CITY ROAD. THERE'S A CONVENIENCE STORE THERE ON THE
23 CORNER AND IT GOES DOWN --- IT'S A DEAD-END ROAD BUT IT
24 GOES DOWN TO SOME APARTMENTS AND SOME HOUSES DOWN IN
25 THERE.

JIMMY WEST - DIRECT BY MS. LIPINSKI

322

1 Q AND ARE YOU FAMILIAR WITH THE GRAB AND GO OR THE BP
2 STATION THEN?

3 A THE BP STATION IS --- LET ME MAKE SURE I'VE GOT MY
4 BEARINGS RIGHT. THE BP STATION IS ACTUALLY RIGHT ACROSS
5 THE ROAD FROM WHERE WE ACTUALLY MET THE DETECTIVES AT.
6 IT'S ON BESSEMER CITY ROAD AS WELL. THERE'S A HOTEL
7 BEHIND IT AND A BOJANGLES ON ONE SIDE OF IT.

8 Q AND WHEN YOU MEET UP AT THE CITGO THERE, DO YOU THEN
9 LEAVE THAT AREA?

10 A WE WERE GOING TO LEAVE THERE AND GO DOWN TO THE
11 SUNSET --- SUNSET --- SUNSET STREET OR SUNSET AVENUE. THE
12 DETECTIVES FROM YORK COUNTY ACTUALLY PULLED OUT BEFORE WE
13 DID. DETECTIVE MCSWAIN WAS WITH ME. WE PULLED OUT IN MY
14 CAR AND AS WE WERE SITTING AT THE INTERSECTION, DETECTIVE
15 MCSWAIN NOTICED A GREEN FORD TAURUS WITH A BLACK MALE IN
16 IT SITTING AT THE RED-LIGHT FIXING TO MAKE A LEFT-HAND
17 TURN WHICH WOULD'VE COME PAST US. AS THAT CAR MADE THAT
18 TURN, WE TURNED AROUND AND FOLLOWED IT OR GOT BEHIND IT,
19 AND I CALLED DETECTIVE TOLSON OR LIEUTENANT TOLSON ON THE
20 PHONE TO CONFIRM THE TAG NUMBER. SHE GAVE US THAT EXACT
21 TAG NUMBER WITH THE EXCEPTION THAT THIS TAG NUMBER HAD ONE
22 MORE NUMBER WITH IT, AND THEY TOLD US PRIOR TO US SEEING
23 THAT CAR THAT THAT WAS NOT A COMPLETE TAG. IT WAS OFF BY
24 ONE NUMBER. SO THAT WAS --- THAT WAS THE CAR THEY WERE
25 LOOKING FOR.

JIMMY WEST - DIRECT BY MS. LIPINSKI

323

1 Q AND THEN YOU INITIATED THE TRAFFIC STOP.

2 A YES, MA'AM. THAT CAR TURNED, I THINK, ON CRESCENT
3 LANE, IF I'M NOT MISTAKEN, AND I STOPPED THE CAR. I WAS
4 ON THE PHONE TALKING TO LIEUTENANT TOLSON TELLING HER
5 WHERE WE WERE AT AND DETECTIVE MCSWAIN GOT OUT AND
6 APPROACHED THE DRIVER'S SIDE OF THE GREEN TAURUS.

7 Q AND DID EITHER YOU OR DETECTIVE MCSWAIN SPEAK WITH
8 MR. DUNOVANT?

9 A YES, MA'AM, DETECTIVE MCSWAIN WAS TALKING TO HIM WHEN
10 I GOT OUT OF THE CAR.

11 Q AND DID YOU HEAR HIM GIVE A NAME OR ANYTHING? WERE
12 YOU PART OF THAT CONVERSATION?

13 A I --- I DON'T REMEMBER. I THINK HE GAVE THE NAME OF
14 MARK, BUT I --- I DON'T KNOW THAT I HEARD THAT. I MAY
15 HAVE, BUT I DON'T REMEMBER.

16 Q AND ARE YOU THERE WHEN HE IS ASKED TO GET OUT OF THE
17 CAR?

18 A I WAS.

19 Q AND ARE YOU THERE WHEN HE'S MIRANDIZED BY DETECTIVE
20 MCSWAIN?

21 A I DID HEAR HIM TELLING HIM --- GIVE HIM HIS RIGHTS.
22 YES, MA'AM.

23 Q AND DO YOU TALK WITH HIM AFTER HE'S MIRANDIZED?

24 A YES, MA'AM.

25 Q AND ARE YOU PART OF THE DECISION WHERE YOU DECIDE TO

JIMMY WEST - DIRECT BY MS. LIPINSKI

324

1 TRANSPORT HIM AWAY FROM THE SIDE OF THE ROAD TO THE
2 GASTONIA POLICE DEPARTMENT?

3 A WELL, AT SOME POINT DURING THIS CONVERSATION, AND I
4 DON'T KNOW EXACTLY WHEN, BECAUSE IT'S BEEN A LONG TIME
5 AGO, HE ACTUALLY GAVE ME HIS REAL NAME OF TERRY, AND I
6 THINK HIS DRIVER'S LICENSE WERE REVOKED, SO HE WAS
7 ACTUALLY PLACED IN THE BACK OF A GASTONIA CITY POLICE CAR,
8 MARKED POLICE CAR, AND TAKEN TO THE POLICE DEPARTMENT.

9 Q AND DO YOU HAVE THE OCCASION TO SPEAK WITH HIM THERE?

10 A I DID.

11 Q AND DID YOU SPEAK WITH HIM IN THE INTERVIEW ROOM, IN
12 THE LOBBY? WHERE DID YOU SPEAK WITH MR. DUNOVANT?

13 A I WAS IN THE INTERVIEW ROOM WITH LIEUTENANT TOLSON
14 WHEN SHE ADVISED HIM OF HIS RIGHTS AGAIN AND GOT A
15 STATEMENT FROM HIM.

16 Q AND SO YOU AND LIEUTENANT TOLSON GO IN THIS ROOM TO
17 INTERVIEW HIM.

18 A YES, MA'AM.

19 Q AND DO YOU HEAR HER BEGIN TO REVIEW A WAIVER OF
20 RIGHTS HERSELF, TO MIRANDIZE HIM HERSELF?

21 A YES, MA'AM.

22 Q AND I'M GOING TO SHOW YOU WHAT'S BEEN PREVIOUSLY
23 MARKED AS STATE'S EXHIBIT NUMBER 18 FOR I.D. PURPOSES AND
24 ASK YOU IF YOU RECOGNIZE THAT. IS THAT THE MIRANDA FORM
25 THAT LIEUTENANT TOLSON REVIEWED WITH TERRY DUNOVANT?

JIMMY WEST - DIRECT BY MS. LIPINSKI

325

1 A YES, MA'AM, IT IS.

2 Q AND DOES IT BEAR HIS SIGNATURE?

3 A YES, MA'AM.

4 Q AND HER SIGNATURE?

5 A YES, MA'AM.

6 MS. LIPINSKI - YOUR HONOR, AT THIS TIME THE
7 STATE WOULD MOVE STATE'S EXHIBIT NUMBER 18 INTO EVIDENCE.

8 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

9 THE COURT - IT'S IN.

10 (DOCUMENT MARKED INTO EVIDENCE AS STATE'S
11 EXHIBIT NUMBER 18.)

12 Q AND IF YOU COULD JUST BRIEFLY DESCRIBE --- READ TO
13 THE JURY WHAT'S ON THIS FORM AND WHAT HAPPENED IN REGARDS
14 TO IT.

15 A IT'S A RIGHT'S FORM ISSUED BY THE YORK COUNTY
16 SHERIFF'S OFFICE WAIVER OF RIGHTS. IT SAYS YOUR RIGHTS --
17 - BEFORE I ASK YOU ANY QUESTIONS I WANT TO ADVISE YOU OF
18 YOUR RIGHTS. YOU WANT ME TO READ THE RIGHTS?

19 Q YES, PLEASE.

20 A IT SAYS, YOU --- NUMBER ONE, YOU HAVE THE RIGHT TO
21 REMAIN SILENT; NUMBER TWO, ANYTHING YOU SAY CAN --- CAN
22 AND WILL BE USED AGAINST YOU IN A COURT OF LAW; NUMBER
23 THREE, YOU HAVE THE RIGHT TO TALK TO AN ATTORNEY AND HAVE
24 HIM OR HER PRESENT WHILE YOU'RE BEING QUESTIONED. NUMBER
25 FOUR, IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY, ONE WILL

JIMMY WEST - DIRECT BY MS. LIPINSKI

326

1 BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF
2 YOU WISH. NUMBER FIVE, YOU CAN DECIDE AT ANY TIME TO
3 EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE
4 ANY STATEMENTS. IT SAYS, DO YOU UNDERSTAND THESE RIGHTS
5 I'VE EXPLAINED TO YOU, AND THERE'S A BOX, YES OR NO AND
6 IT'S CHECKED YES. IT'S GOT TERRY DUNOVANT'S SIGNATURE AND
7 THE DATE OF 5/3 07. IF YOU GO ON DOWN THERE'S A ---

8 Q AND LET ME GO --- BEFORE YOU GO ANY FURTHER --- I
9 KNOW THERE'S MORE TO ----

10 A SURE.

11 Q BUT DO YOU OBSERVE THIS EXCHANGE BETWEEN MR. DUNOVANT
12 AND LIEUTENANT TOLSON?

13 A YES, MA'AM.

14 Q AND DOES HE APPEAR TO UNDERSTAND WHAT SHE'S SAYING?

15 A YES, MA'AM.

16 Q DID HE ENGAGE HER DIRECTLY?

17 A INITIALLY HE DID NOT. HE FOR WHATEVER REASON
18 WOULDN'T --- DID NOT HAVE VERY MUCH COMMUNICATION WITH MS.
19 TOLSON. I DON'T KNOW IF HE JUST DIDN'T LIKE HER OR WHAT,
20 BUT --- HE AND I --- I ACTUALLY EXPLAINED TO HIM THAT
21 WHAT'S SHE TRYING TO DO IS TO ADVISE YOU OF YOUR RIGHTS SO
22 SHE CAN GET A STATEMENT FROM YOU AND AFTER WE TALKED A
23 MINUTE HE --- HE ACTUALLY AGREED TO THIS.

24 Q AND IN ADDITION TO JUST TELLING HIM THE PURPOSE WAS
25 TO READ HIM HIS RIGHTS, DO YOU TELL HIM ANYTHING THAT ---

JIMMY WEST - DIRECT BY MS. LIPINSKI

327

1 THAT HE UNDERSTANDS HIS RIGHTS AND THE PROCESS COULDN'T GO
2 FARTHER, DO YOU EXPLAIN THAT TO HIM, AS WELL?

3 A I DON'T REMEMBER THE EXACT DIALOGUE, BUT I DID
4 EXPLAIN TO HIM THAT IN ORDER FOR US TO TALK TO YOU, WE'VE
5 GOT TO READ YOU YOUR RIGHTS AND HE SEEMED TO UNDERSTAND
6 THAT AND HE AGREED TO IT.

7 Q AND DOES THE FORM GO FURTHER?

8 A YES, MA'AM, AT THE BOTTOM THERE'S A WAIVER OF RIGHTS.
9 IT SAYS, I AM WILLING TO TALK TO THE POLICE AND ANSWER
10 QUESTIONS; I DO NOT WANT AN ATTORNEY AT THIS TIME; I
11 UNDERSTAND AND KNOW WHAT I AM DOING; NO PROMISES, THREATS
12 HAVE BEEN MADE TO ME AND NO PRESSURE OF ANY KIND HAS BEEN
13 PLACED UPON ME, AND IT'S WITNESSED BY BETH B. TOLSON AND
14 SIGNED BY TERRY DUNOVANT. ON 5/3 OF '07 AND DOWN AT THE
15 BOTTOM IT'S GOT A INTERVIEW --- IT'S GOT TERRY DUNOVANT'S
16 NAME WHICH WAS WRITTEN BY LIEUTENANT TOLSON, AND IT'S GOT
17 HIS DATE OF BIRTH OF AND IT'S GOT EDUCATIONAL
18 LEVEL AND HE FINISHED THE TENTH GRADE AND IT SAYS CAN YOU
19 READ AND WRITE AND IT'S GOT THE WORD YES OR NO --- OR
20 READS, GOT THE WORD YES OR NO; HE'S GOT YES CIRCLED;
21 WRITE, YES OR NO, AND IT'S GOT YES CIRCLED AND IT'S GOT
22 PLACE OF INTERVIEW, GASTONIA PD, TIME OF 2:12 AND
23 INTERVIEW --- INTERVIEWER TOLSON, WEST AND BOMAR, 5/3 OF
24 '07..

25 Q AND THE INTERVIEW ROOM THAT YOU SPOKE WITH HIM, COULD

JIMMY WEST - DIRECT BY MS. LIPINSKI

328

1 YOU DESCRIBE THE ROOM TO THE JURY?

2 A IT WAS A WHITE ROOM AND YOU WALK INTO IT --- WE'VE
3 GOT FOUR INTERVIEW ROOMS. YOU WALK INTO THE DOOR, IT'S A
4 WOODEN DOOR. THOSE DOORS DO LOCK WHEN YOU CLOSE THE DOOR.
5 IT'S ABOUT A TEN BY --- TEN BY TEN OR A TWELVE BY TWELVE
6 ROOM, CARPET FLOOR WITH A LARGE TWO-WAY MIRROR ON ONE SIDE
7 OF THE ROOM WITH A BUSINESS-TYPE TABLE WITH ONE CHAIR ON
8 ONE SIDE, TWO CHAIRS ON THE OTHER SIDE AND A VIDEO CAMERA
9 THAT WE USE FOR --- SPECIFICALLY FOR HOMICIDE SO THE
10 CAMERA WAS NOT ON AT THIS TIME.

11 Q AND WHEN YOU SPOKE WITH MR. DUNOVANT AND LIEUTENANT
12 TOLSON SPOKE WITH HIM, WAS SHE EVER --- WITHIN THE INITIAL
13 PART WHERE THE MIRANDA WARNINGS WAS BEING READ, WAS SHE
14 EVER LEFT ALONE WITH HIM?

15 A NO, MA'AM.

16 Q DO YOU EVER THREATEN MR. DUNOVANT IN ORDER TO GET HIM
17 TO TALK TO YOU ALL?

18 A NO, MA'AM.

19 Q DO YOU EVER PROMISE HIM ANYTHING, ANY HOPE OF REWARD
20 OR ANYTHING LIKE THAT IN ORDER TO GET HIM TO TALK TO YOU?

21 A NO, MA'AM.

22 Q DO YOU SAY ANYTHING AT ALL TO ENGENDER HIM TO
23 COMMUNICATE WITH YOU AND LIEUTENANT TOLSON, OTHER THAN
24 SHE'S JUST TRYING TO READ YOU YOUR RIGHTS?

25 A NO, MA'AM.

JIMMY WEST - DIRECT BY MS. LIPINSKI

329

1 Q DO YOU EVER HAVE A CONVERSATION WITH HIM REGARDING --
2 - THAT THE VICTIM MAY HAVE GIVEN A STATEMENT AND HOW THAT
3 MAY IMPACT HIS DECISION TO GIVE A STATEMENT?

4 A I BASICALLY TOLD HIM THAT YOU DON'T WANT TO GO TO
5 COURT WITH YOUR FUTURE HINGING ON WHAT SOMEBODY ELSE SAYS,
6 THAT YOU NEED TO TELL YOUR SIDE OF THE STORY AS TO WHAT
7 HAPPENED, SO WHEN YOU GET TO COURT YOUR SIDE WILL BE OUT
8 THERE.

9 Q AND ---

10 A AND THAT MAY NOT BE THE EXACT WORDING, BUT THAT WAS
11 THE GIST OF THE CONVERSATION.

12 Q AND DOES HE THEN INDICATE HE WANTS TO SPEAK TO YOU?

13 A YES, MA'AM.

14 Q DOES HE EVER ASK FOR A LAWYER?

15 A NO, MA'AM.

16 Q DOES HE EVER ASK FOR ANYTHING?

17 A NO, MA'AM.

18 Q AND THE QUESTIONING THAT CONTINUES, DO YOU INITIATE
19 THAT QUESTIONING? ARE YOU HAVING THAT DISCUSSION WITH MR.
20 DUNOVANT OR ARE YOU AND LIEUTENANT TOLSON BOTH HAVING IT?

21 A NO, MA'AM, LIEUTENANT TOLSON --- I'M NOT --- I KNOW
22 ABOUT THE CASE BUT I DON'T KNOW THE PARTICULARS OF THE
23 CASE. SHE DOES THE INTERVIEW; I JUST SET IN THE ROOM.

24 Q AND IS THAT TYPICAL TO HAVE TWO DETECTIVES ON
25 OCCASION IN A ROOM WITH THE SUSPECT?

JIMMY WEST - DIRECT BY MS. LIPINSKI

330

1 A YES, MA'AM, I'D SAY NINETY-NINE PERCENT OF THE TIME
2 WE HAVE TWO INVESTIGATORS IN THE ROOM.

3 Q AND IS SHE TAKING NOTES AS HE IS WRITING? IS HE
4 WRITING SOMETHING OUT? DID THEY GIVE HIM PAPER AND ASK
5 HIM TO WRITE SOMETHING?

6 A NO, MA'AM, HE NEVER --- HE NEVER WRITES ANYTHING LIKE
7 THAT.

8 Q IS THAT DONE BY LIEUTENANT TOLSON?

9 A YES, MA'AM.

10 Q AND IS SHE WRITING AS SHE'S QUESTIONING HIM OR DO YOU
11 QUESTION HIM, GET THE STORY AND THEN GO BACK AND WRITE THE
12 STATEMENT, IF YOU RECALL?

13 A I CAN'T BE FOR SURE.

14 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
15 NUMBER 17 FOR I.D. PURPOSES ONLY AND ASK YOU IF YOU
16 RECOGNIZE THIS TWO PAGE STAPLED DOCUMENT?

17 A YES, MA'AM.

18 Q AND DO YOU KNOW WHOSE HANDWRITING THAT IS?

19 A THAT'S LIEUTENANT TOLSON'S.

20 Q AND IS THAT DONE EITHER DURING OR AFTER HER
21 QUESTIONING OF TERRY DUNOVANT?

22 A YES, MA'AM.

23 Q AND DOES HE SIGN THAT DOCUMENT?

24 A YES, MA'AM.

25 Q AND DOES HE SIGN IT IN YOUR PRESENCE, IF YOU RECALL?

JIMMY WEST - DIRECT BY MS. LIPINSKI

331

1 A YES, MA'AM.

2 Q AND DOES HE SIGN IT FREELY? DO YOU ALL OFFER HIM OR
3 THREATEN HIM IN ANY WAY IN ORDER TO GET HIM TO SIGN IT?

4 A NO, MA'AM.

5 Q DID YOU ALL HAVE --- YOU AS AN OFFICER WITH THE
6 GASTONIA POLICE DEPARTMENT DO YOU CARRY A FIREARM WITH YOU
7 AT ALL TIMES?

8 A YES, MA'AM.

9 Q AND WHERE WAS THAT AT THE TIME YOU WERE QUESTIONING
10 HIM?

11 A IT WAS ON MY SIDE.

12 Q DID YOU EVER GRAB IT OR TOUCH IT OR IN ANY WAY BRING
13 THE SUSPECT'S ATTENTION TO IT?

14 A NO, MA'AM.

15 Q DID YOU EVER SEE HER DO THAT?

16 A NO, MA'AM. AND WERE YOU DRESSED AS YOU WERE TODAY OR
17 PERHAPS IN A POLO SHIRT?

18 A I --- I DRESS LIKE THIS EVERY DAY.

19 Q AND DO YOU RECALL HOW LIEUTENANT TOLSON WAS DRESSED?

20 A (NO RESPONSE)

21 Q DO YOU RECALL IF SHE WAS IN UNIFORM OR NOT?

22 A SHE WAS IN PLAIN CLOTHES. I THINK SHE HAD ON A ---
23 SOMEWHAT CASUAL BUSINESS ATTIRE, PULLOVER SHIRT AND A PAIR
24 OF SLACKS.

25 MS. LIPINSKI - AND, YOUR HONOR, AT THIS TIME WE

JIMMY WEST - DIRECT BY MS. LIPINSKI

332

1 WOULD MOVE STATE'S EXHIBIT NUMBER 17 INTO EVIDENCE.

2 MR. LEMEL - WITHOUT OBJECTION.

3 THE COURT - ALL RIGHT, IN WITHOUT OBJECTION.

4 (DOCUMENT MARKED INTO EVIDENCE AS STATE'S
5 EXHIBIT NUMBER 17.)

6 Q AND IF YOU COULD, PLEASE PUBLISH THAT STATEMENT TO
7 THE JURY.

8 A IT'S A VOLUNTARY STATEMENT FORM, PAGE ONE OF TWO, HAS
9 TERRY DUNOVANT'S NAME ON TOP, REPORTED ASSAULT. IT'S GOT
10 THE DATE OF THE OCCURRENCE OF 5/3/07 AND IT'S A STATEMENT.
11 IT WAS WRITTEN BY BETH TOLSON. IT SAYS AROUND 2:30 OR
12 3:00 O'CLOCK THIS A.M. I WENT TO THE GAS STATION TO GET
13 GAS. I WENT TO THE GAS STATION BESIDE THE BOJANGLES ON
14 BESSEMER CITY ROAD. A LADY WAS STANDING OUTSIDE WHEN I
15 CAME OUT. SHE ASKED ME FOR A RIDE AND ASKED ME IF I
16 WANTED A DATE. SHE ASKED --- SHE ASKED HIM FOR CRACK
17 ROCK. I BOUGHT SOME CRACK EARLIER AND HAD SOME WITH ME.
18 SHE LOOKED LIKE SHE HAD BEEN IN A FIGHT. SHE HAD
19 SCRATCHES ON HER ARMS, SCRATCHES ON HER FACE AND A KNOT ON
20 HER HEAD. SHE SAID SHE WAS A PROSTITUTE AND TOLD ME SHE
21 HAD BEEN AT THE MICRO HOTEL BEHIND BOJANGLES WITH A ---
22 WITH A FRIEND GIRL AND SOME DUDES SMOKING CRACK AND
23 TURNING TRICKS. SHE SAID THAT SHE HAD BEEN GIVING --- HAD
24 BEEN GIVING ORAL SEX. SHE DIRECTED ME TO A FIELD NEAR A
25 CHURCH OFF OF HIGHWAY 321. WE SMOKED THE CRACK AND SMOKED

JIMMY WEST - DIRECT BY MS. LIPINSKI

333

1 FOUR ROCKS, FOUR TWENTY DOLLAR ROCKS OUT OF HER GLASS
2 PIPE. SHE SEEMED TO BE ON SOMETHING ELSE. WE GOT OUT OF
3 THE CAR AND SHE GAVE ME ORAL SEX. WE HAD SEX. SHE HAD
4 HER ELBOWS ON THE DRIVER'S SIDE OF THE HOOD ON THAT SIDE.
5 I DID TRADE DRUGS AND MONEY FOR SEX. I HAD ON THE SAME
6 PANTS THAT I HAVE ON NOW. I HAD ON A WHITE WIFE-BEATER T-
7 SHIRT. SHE SAID THAT SHE USUALLY GOT MORE THAN --- MORE
8 THAN TWENTY DOLLARS FOR A TRICK. I GAVE HER TWENTY
9 DOLLARS. AFTER WE FINISHED --- AFTER WE FINISHED I
10 DROPPED HER OFF AT THE HOT SPOT. I THINK SHE GOT MAD
11 BECAUSE I DIDN'T GIVE HER ANY MORE MONEY OR DOPE. WE WERE
12 BOTH UNDER THE INFLUENCE OF CRACK COCAINE. I GOT INTO A
13 SCUFFLE WITH SOMEONE --- WITH SOMEONE LAST NIGHT A LITTLE
14 AFTER 12:00 O'CLOCK. HE GYPPE ME ON SOME --- ON SOME
15 WEIGHT ON SOME CRACK PURCHASE. I DON'T KNOW --- I DON'T
16 KNOW HIS NAME. ALL I KNOW HIM BY HIS BONE. SHE SAID HER
17 NAME WAS MISTI AND SAID THAT SOME PEOPLE CALL HER
18 SOMETHING ELSE, SOMETHING ELSE ALSO. SHE TOLD ME SHE WAS
19 OUTSIDE OF THE STORE PROSTITUTING, THAT'S THE REASON SHE
20 WAS THERE. I DID NOT FORCE HER IN ANY KIND OF WAY. SHE
21 WALKED ON HER OWN TO MY CAR. SHE APPROACHED ME. I DID
22 NOT HARM HER IN ANY KIND OF WAY. SHE GOT INTO MY CAR ON
23 HER OWN --- ON HER OWN FREE WILL. SHE WANTED TO GET HIGH
24 AND MAKE SOME MONEY. I DO NOT HAVE MY PENIS PIERCED AND
25 IT'S PAGE TWO OF TWO AT 1:20 P.M. ON THE 3RD DAY OF MAY,

JIMMY WEST - DIRECT BY MS. LIPINSKI

334

1 2007, AND IT'S SIGNED TERRY DUNOVANT.

2 Q NOW, WERE YOU EVER DIRECTED TO THE CHURCH WHERE MR.
3 DUNOVANT AGREES THAT THIS INCIDENT OCCURRED?

4 A NO, MA'AM, I HAVE NO KNOWLEDGE WHERE THAT'S AT.

5 Q NOT IN GASTONIA OR IN CLOSE PROXIMITY TO THAT GAS
6 STATION OR THAT HOTEL?

7 A I KNOW JUST THROUGH THIS INVESTIGATION THAT IT IS ON
8 THE --- IT IS IN SOUTH CAROLINA WHICH WAS --- IS PROBABLY
9 TEN TO FIFTEEN MILES AWAY FROM THIS GAS STATION WHERE SHE
10 WAS PICKED UP, AND THAT IT'S SOMEWHERE ON 321.

11 Q AND HAVE NO KNOWLEDGE WHERE MISTI HILL LIVED OR
12 ANYTHING LIKE THAT, NOT FAMILIAR WITH THAT PART OF THE
13 INVESTIGATION.

14 A NO, MA'AM.

15 Q AS PART OF YOUR INVESTIGATION AND IN TERMS OF BEING
16 A HOMICIDE DETECTIVE AND INVESTIGATING OTHER CRIMES, ARE
17 YOU FAMILIAR WITH THE CRIME OF PEOPLE TRADING SEX FOR
18 DRUGS, SPECIFICALLY CRACK?

19 A YES, MA'AM.

20 Q AND IS THERE A TYPICAL GOING RATE FOR THOSE TYPE OF
21 PROSTITUTES?

22 A I DON'T KNOW THAT I CAN ANSWER THAT ACCURATELY.

23 Q IN THIS PARTICULAR OCCASION HE INDICATED THAT THEY
24 SMOKED FOUR TWENTY DOLLAR ROCKS.

25 A YES, MA'AM.

JIMMY WEST - DIRECT BY MS. LIPINSKI

335

1 Q IS THAT IN YOUR OPINION A LOT OF CRACK COCAINE OR A
2 SMALL AMOUNT?

3 A I THINK THAT WOULD BE A --- BE A SUBSTANTIAL AMOUNT
4 COMPARED TO WHAT --- I MEAN MY UNDERSTANDING IS THAT THE
5 YOUNG LADIES THAT WE HAVE TYPICALLY WALKING UP AND DOWN
6 GASTON AVENUE WHICH IS MORE OF A DRUG CORRIDOR FOR US, NOT
7 BESSEMER CITY ROAD, IS ABOUT TWENTY DOLLARS PER POP --- IS
8 ABOUT WHAT THE PROSTITUTES --- OR THE YOUNG LADIES GET. I
9 DON'T ---

10 Q AND IN THIS CASE HE INDICATED THAT HE NOT ONLY SMOKED
11 FOUR TWENTY DOLLAR CRACK ROCKS WITH HER, BUT IN ADDITION
12 TO THAT HE GAVE HER TWENTY DOLLARS.

13 A YES, MA'AM.

14 Q AND --- AND ARE THERE AREAS NEAR THIS BESSEMER CITY
15 ROAD IF SHE WAS ENGAGING IN THIS ACTIVITY THAT SHE
16 COULD'VE ACCOMPLISHED THAT AT WITHOUT DRIVING FIFTEEN
17 MILES AWAY?

18 A YES, MA'AM, THERE'S A COUPLE OF PLACES RIGHT OFF OF
19 NORTHWEST BOULEVARD WHICH IS ONE OF THE SIDE STREETS OFF
20 OF BESSEMER CITY ROAD WHERE WE HAVE A LOT OF ACTIVITY OF
21 THE YOUNG LADIES, THEY'LL --- THEY'LL PICK UP A JOHN AND
22 THEY'LL GO THERE. THE PATROL OFFICERS CATCH THEM IN THERE
23 QUITE FREQUENTLY, SO THERE'S --- THERE'S SEVERAL AREAS
24 RIGHT IN THERE THAT THEY COULD EASILY GET INTO --- GOTTEN
25 TO.

JIMMY WEST - DIRECT BY MS. LIPINSKI

336

1 Q AND IF YOU CONTINUE DOWN 321 GOING IN THE DIRECTION
2 OF CLOVER, THERE ARE OTHER COMMERCIAL INDUSTRIAL AREAS
3 THERE AS WELL.

4 A YES, MA'AM.

5 Q AND WHEN YOU SPOKE WITH MR. DUNOVANT, OTHER THAN YOU
6 SAID THIS INITIAL RELUCTANCE ON HIS PART TO SPEAK WITH
7 LIEUTENANT TOLSON, DID YOU NOTICE ANYTHING ELSE ABOUT HIS
8 APPEARANCE OR DEMEANOR ON THAT PARTICULAR DAY?

9 A NO, MA'AM, OTHER THAN THE FACT THAT HE JUST DIDN'T
10 GET ALONG WITH DETECTIVE TOLSON. HE --- HE SEEMED FAIRLY
11 NORMAL WHEN I TALKED TO HIM.

12 Q AND YOU'RE NOT PART OF THE SEARCH OF THE CAR OR
13 ANYTHING LIKE THAT?

14 A I SAW THE CAR. I GLANCED INTO THE CAR, BUT I DID NOT
15 PROBE INTO THE CAR, NO, MA'AM.

16 Q AND YOU'RE NOT PART OF THE TAKING OF DNA SAMPLES OR
17 CLOTHING FROM MR. DUNOVANT IN ANY WAY?

18 A NO, MA'AM.. I KNOW THEY HAD AN ISSUE WHEN THEY WERE
19 DOING THE RAPE KIT, TRYING TO RETRIEVE SOME PUBIC HAIR.
20 HE WAS RELUCTANT TO GIVE THAT BUT HE AND I SPOKE ---

21 Q ANY MAN WOULD BE SO ---

22 A I IMAGINE THEY WOULD, YES, MA'AM.

23 Q BUT YOU'RE NOT THE ONE THAT COLLECTS THOSE SAMPLES.
24 YOU'RE NOT PART OF THAT CHAIN OF EVIDENCE. YOU'RE NOT
25 ANYTHING OF THAT NATURE.

JIMMY WEST - DIRECT BY MS. LIPINSKI

337

1 A NO, MA'AM.

2 Q DO YOU REMEMBER IF YOU SAW HIM HAVING ANY INJURIES OF
3 ANY KIND?

4 A I REMEMBER THERE WAS SOMETHING TO DO WITH ONE OF HIS
5 HANDS. HE SAID HE GOT INTO A FIGHT THE NIGHT BEFORE BUT -
6 -- MAYBE SOME BRUISING OR SWELLING OR SOMETHING, BUT I ---
7 I COULDN'T TELL YOU EXACTLY WHAT THAT IS NOW.

8 Q YOU DIDN'T DOCUMENT THAT IN ANY WAY?

9 A NO, MA'AM, I DID NOT.

10 Q THAT WASN'T PART OF YOUR PARTICIPATION IN THE
11 INVESTIGATION.

12 A NO, MA'AM, MY --- MY PART WAS PRETTY MUCH JUST TO BE
13 IN THE INTERVIEW ROOM WITH HER SO NOTHING HAPPENED, YOU
14 KNOW, HE DIDN'T GET MAD OR WHATEVER. YOU KNOW, IT'S JUST
15 STANDARD PROTOCOL.

16 Q AND IS IT YOUR OCCASION THAT WHEN INTERVIEWING
17 CERTAIN SUSPECTS THAT SOME OF THEM PERHAPS REACT BETTER TO
18 ONE DETECTIVE OR THE OTHER, FEMALE OR MALE?

19 A IT'S FAIRLY COMMON.

20 Q GOOD COP, BAD COP THING.

21 A YES, MA'AM.

22 Q AND YOU STATED THAT HE INITIALLY GAVE THAT NAME OF
23 MARK DUNOVANT AND HE DIDN'T GIVE HIS REAL NAME OF TERRY
24 DUNOVANT.

25 A THAT'S CORRECT.

JIMMY WEST - CROSS BY MR. LEMEL

338

1 Q HAVE YOU EVER HAD ANY OCCASION TO INVESTIGATE
2 SOMEBODY FOR A CRIME WHERE THEY GAVE YOU THE WRONG NAME?

3 A YES, MA'AM.

4 Q NOT JUST FOR --- BECAUSE THEY DIDN'T HAVE A DRIVER'S
5 LICENSE, BUT MORE SERIOUS CRIMES AS WELL THEY CAN GIVE YOU
6 THE FALSE NAME.

7 A YES, MA'AM.

8 MS. LIPINSKI - THAT'S ALL WE HAVE OF SERGEANT
9 WEST AT THIS TIME, YOUR HONOR.

10 CROSS EXAMINATION

11 BY MR. LEMEL -

12 Q SERGEANT WEST, YOU YOURSELF DID NOT REALLY DOCUMENT
13 ANYTHING IN THIS PARTICULAR CASE.

14 A NO, SIR.

15 Q DIDN'T WRITE UP A REPORT OR ANYTHING LIKE THAT.

16 A NO, SIR.

17 Q LEFT THAT TO SERGEANT MCSWAIN BASICALLY TO PRODUCE A
18 REPORT ABOUT WHAT HAPPENED.

19 A HE WAS THE DETECTIVE; I WAS A SUPERVISOR.

20 Q OKAY. AND SO THAT ROLLS DOWNHILL TO HIM TO DO THE
21 PAPERWORK.

22 A THAT'S CORRECT.

23 Q OKAY. ONE OF THE LAST QUESTIONS MS. HERVEY ASKED YOU
24 JUST WAS WITH REGARD TO FALSE NAMES. AS YOU SAID THAT IS
25 NOT UNCOMMON FOR PEOPLE WHEN THEY FIRST ENCOUNTER POLICE

JIMMY WEST - CROSS BY MR. LEMEL

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1 TO GIVE A FALSE NAME.

2 A THAT'S CORRECT.

3 Q AND THAT'S TRUE WITH THINGS LIKE SIMPLY HAVING A
4 PERSON'S DRIVER'S LICENSE REVOKED.

5 A YES, SIR.

6 Q A LOT OF TIMES THEY'LL GIVE A FALSE NAME TO AVOID THE
7 FACT OR TRYING TO DECEIVE THE FACT THAT THEY DON'T HAVE A
8 LICENSE TO DRIVE WHEN THEY'RE CAUGHT DRIVING.

9 A YES, SIR.

10 Q AND THAT'S VERY COMMON BASICALLY.

11 A IT HAPPENS QUITE REGULARLY, YES.

12 Q OKAY. THE SITUATION AS YOU SAID FOR THE AREAS NEARBY
13 WHERE YOU HAVE A LOT OF PROBLEMS WITH PROSTITUTION ---

14 A RIGHT.

15 Q AND THAT IS A PROBLEM IN GASTONIA. THERE IS A ---
16 BASICALLY A TRADE OF PEOPLE WHO PROSTITUTE THEMSELVES FOR
17 SEX IN ORDER TO OBTAIN DRUGS OR MONEY FOR DRUGS.

18 A YES, SIR, IT IS.

19 Q BUT YOU AS AN OFFICER AND AS YOUR POLICE DEPARTMENT
20 KNOWS, YOU KNOW THE AREAS THAT THOSE PEOPLE TYPICALLY GO
21 TO.

22 A YES, SIR.

23 Q AND YOU LIKE TO PATROL THOSE AREAS.

24 A I DON'T. PATROL GUYS DO, YES.

25 Q AND WHEN I SAY YOU, I SAY ---

JIMMY WEST - CROSS BY MR. LEMEL

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1 A SURE.

2 Q --- THE POLICE DEPARTMENT TRIES TO HAVE A PRESENCE
3 THERE.

4 A YES, SIR.

5 Q AND I IMAGINE AT A CERTAIN POINT IN TIME WORDS GETS
6 AROUND AMONGST THE PEOPLE WHO ARE DOING THAT OR COMMITTING
7 THAT ACT OF WHERE THE POLICE TEND TO PATROL.

8 A I --- I'M SURE.

9 Q OKAY. AND, IN FACT, IF SOMEBODY WANTED TO BE IN A
10 SITUATION WHERE THEY WERE SAFE FROM THE GASTON CITY
11 POLICE, ONE PLACE THEY COULD GO WOULD BE OUT INTO THE
12 COUNTRY OVER THE BORDER INTO THE SOUTH CAROLINA.

13 A I'M SURE THERE'S A MILLION THEY COULD GO, YES.

14 Q RIGHT. AND THAT WOULD JUST BE UP TO AN INDIVIDUAL TO
15 CHOOSE WHERE THEY WANT TO GO.

16 A SURE.

17 Q MIGHT BASE THAT DECISION BASED UPON OTHER AREAS THAT
18 THEY WERE FAMILIAR WITH.

19 A SURE.

20 Q PLACES NEAR WHERE THEIR HOME WAS, FOR EXAMPLE.

21 A SURE.

22 Q NOW, IN THIS CASE ESSENTIALLY WHAT YOU DID IS YOU
23 WERE THERE WHILE THE STATEMENT WAS BEING TAKEN BY
24 DETECTIVE TOLSON.

25 A YES, SIR.

JIMMY WEST - CROSS BY MR. LEMEL

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1 Q AND LIKE YOU SAID, INITIALLY HE WASN'T PARTICULARLY
2 FOND OF TALKING WITH DETECTIVE TOLSON.

3 A SURE.

4 Q AND DETECTIVE TOLSON IS A FEMALE.

5 A YES, SIR.

6 Q AND WHEN HE WAS BROUGHT IN THAT INTERVIEW ROOM AND
7 THAT CONVERSATION STARTED, HE KNEW HE'D BEEN TOLD WHY THIS
8 INVESTIGATION WAS TAKING PLACE.

9 A I'M SURE HE WAS. NOT BY ME, BUT I'M --- I FEEL
10 CERTAIN THAT HE KNEW.

11 Q RIGHT. IT WASN'T THAT HE JUST STARTED BLURTING OUT
12 ABOUT HAVING SEX WITH MISTI HILL THE NIGHT BEFORE, HE WAS
13 FOCUSED ON THAT ---

14 A YES, SIR.

15 Q --- BY SOMEBODY ELSE.

16 A YES, SIR, I'M SURE.

17 Q AND IT MAY HAVE SIMPLY BE AS SIMPLE A SITUATION OF A
18 MAN NOT NECESSARILY WANTING TO DISCUSS ALL THAT WITH A
19 WOMAN MAY CAUSE SOME HESITATION TO TALK.

20 A I --- THAT'S POSSIBLE.

21 Q OKAY. BUT ONCE HE BEGAN TALKING HE GAVE A FAIRLY
22 DETAILED ACCOUNT OF HIS ENCOUNTER WITH MS. HILL.

23 A I --- I DON'T KNOW HOW DETAILED IT WAS, I MEAN OTHER
24 THAN WHAT I READ. I --- YOU KNOW ---

25 Q WELL, HE TOLD YOU HOW THEY MET.

JIMMY WEST - CROSS BY MR. LEMEL

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- 1 A YES.
- 2 Q HE TOLD YOU WHERE THEY MET.
- 3 A YES.
- 4 Q HE TOLD YOU THAT SHE APPROACHED HIM.
- 5 A YES.
- 6 Q AND THAT SHE TOLD HIM ABOUT WANTING A DATE ---
- 7 A YES, SIR.
- 8 Q --- AND THAT PHRASE OF DO YOU WANT TO DATE, THAT'S --
- 9 - IN YOUR EXPERIENCE AS A POLICE OFFICER THAT'S A FAIRLY
- 10 OPENING OR FAIRLY COMMONLY OPEN-LINE FOR A PROSTITUTE
- 11 LOOKING TO SEE IF SOMEBODY'S INTERESTED.
- 12 A I WOULD SAY SO, YES.
- 13 Q OKAY. THAT'S SORT OF THE STANDARD LANGUAGE, ARE YOU
- 14 LOOKING FOR A DATE.
- 15 A I'VE NEVER PICKED UP PROSTITUTES, I DON'T KNOW.
- 16 Q I UNDERSTAND. I'M NOT SAYING THAT YOU DID. BUT YOU
- 17 HAVE BEEN DOING THIS FOR TWENTY YEARS.
- 18 A YES, SIR.
- 19 Q AND YOU'RE ONE OF THE SENIOR OFFICERS OVER THERE AT
- 20 THE GASTON POLICE DEPARTMENT. RIGHT?
- 21 A YES, SIR.
- 22 Q AND YOU GET TO KNOW THINGS IN THAT BUSINESS. RIGHT?
- 23 A YES, SIR.
- 24 Q AND ONE OF THOSE IS KNOWING PEOPLE WHO ARE COMMITTING
- 25 THE CRIME OF PROSTITUTION.

JIMMY WEST - CROSS BY MR. LEMEL

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- 1 A YES, SIR.
- 2 Q AND THAT'S A TYPICAL OPENING LINE IN THAT SCENARIO.
- 3 A I WOULD SAY SO.
- 4 Q OKAY. ALL RIGHT. AND HE TOLD YOU ABOUT GOING DOWN
- 5 THE ROAD. SMOKING CRACK BASICALLY.
- 6 A YES, SIR.
- 7 Q OKAY.
- 8 A YES, SIR.
- 9 Q AND HE SAID THAT BETWEEN THEM THEY --- THEY SMOKED UP
- 10 A TOTAL OF FOUR ROCKS OF CRACK COCAINE.
- 11 A YES, SIR.
- 12 Q WHICH IS ABOUT EIGHTY DOLLARS WORTH OF CRACK COCAINE.
- 13 A YES, SIR.
- 14 Q NOW, DID HE SAY THAT CAME FROM MS. HILL OR DID HE
- 15 SAY WHERE THAT CAME FROM, THE CRACK ITSELF, DID HE SAY
- 16 WHERE THAT CRACK ITSELF CAME FROM, OR JUST THAT HE HAD IT?
- 17 A UM --- THE CRACK CAME FROM HIM. SHE HAD A CRACK PIPE
- 18 SUPPOSEDLY ---
- 19 Q OKAY.
- 20 A --- OR A GLASS PIPE.
- 21 Q OKAY. SO IT WASN'T THAT SHE WAS PROVIDING THE CRACK,
- 22 BUT BASICALLY HE WAS PROVIDING THE CRACK.
- 23 A YES, SIR.
- 24 Q AND WHAT HE PROVIDED WAS FOUR ROCKS.
- 25 A YES, SIR.

JIMMY WEST - CROSS BY MR. LEMEL

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1 Q EIGHTY DOLLARS WORTH.

2 A RIGHT.

3 Q AND THAT SHE ACTUALLY HAD THE CRACK PIPE WITH WHICH
4 TO SMOKE IT.

5 A YES, SIR.

6 Q HE ALSO INDICATED THAT SHE TOLD HIM THAT SHE'D BEEN
7 AT THE HOTEL RIGHT AROUND THE CORNER.

8 A YES, SIR.

9 Q WHICH, IN FACT, BY THE TRUCK STOP THERE OFF 85 THERE
10 IS A MICROTTEL OR A SMALL HOTEL. RIGHT? DO YOU KNOW?

11 A THERE'S ACTUALLY A HOTEL BEHIND THIS BUSINESS AT
12 WHERE HE PICKED HER UP, YES.

13 Q OKAY.

14 A IT'S NOT THE MICROTTEL AND IT'S NOT A TRUCK STOP, BUT
15 THERE IS A HOTEL BACK THERE, YES.

16 Q WELL, I CALL IT TRUCK STOP. IT'S RIGHT OFF OF I-85.

17 A YES, SIR, IT IS.

18 Q THERE ARE GAS PUMPS BEHIND IT WHERE TRUCKS FILL UP AS
19 OPPOSED TO REGULAR CARS. REMEMBER BIG OPEN AREA BACK
20 THERE.

21 A WELL, THAT'S ACTUALLY ANOTHER STORE UP THE STREET,
22 BUT YOU'RE --- THERE IS ONE IN THAT AREA, YES.

23 Q OKAY. THERE'S NO A BIG OPEN AREA BEHIND THE STORE
24 THAT WE'RE TALKING ABOUT ---

25 A NOT AT THE STORE IN FRONT OF THE --- THE HOTEL IS AT

JIMMY WEST - CROSS BY MR. LEMEL

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1 ONE LOCATION. THERE'S A STORE IN FRONT OF IT WHICH IS THE
2 BP STATION. IT WAS MY UNDERSTANDING THAT'S WHERE SHE WAS
3 AT. THE STORE YOU'RE TALKING ABOUT IS ON UP THE STREET
4 AND IT'S NOT BUT JUST A HUNDRED YARDS.

5 Q AND WHAT'S THE NAME OF THAT STORE?

6 A I THINK IT'S A TEXACO STATION MAYBE BUT I'M --- I'M
7 NOT SURE, BUT THAT'S --- I THINK THAT'S WHAT YOU'RE
8 TALKING ABOUT WITH THE GAS PUMPS, ---

9 Q OKAY.

10 A --- BUT WE'RE IN THE RIGHT AREA.

11 Q ALL RIGHT. BUT I'M TRYING TO FOCUS A LITTLE BIT ---
12 I MEAN --- AND YOU DIDN'T ACTUALLY GO TO WHEREVER IT WAS
13 THEY SUPPOSEDLY ENCOUNTERED EACH OTHER.

14 A I WENT TO THE STORE ON THE CORNER OF BESSEMER CITY
15 ROAD AND SHANNON BRADLEY ROAD. THAT'S WHERE WE MET THE
16 DETECTIVES AND I ---

17 Q I UNDERSTAND.

18 A --- AND I DON'T KNOW IF THAT'S WHERE THEY --- WHERE
19 HE PICKED HER UP OR IT WAS THE BP STATION. I --- I'M NOT
20 SURE SO I CAN'T ---

21 Q BUT SOMEWHERE AROUND THERE THERE'S A STORE THAT HAS
22 GAS PUMPS IN BACK ---

23 A YES, SIR.

24 Q --- WHERE EIGHTEEN-WHEELER'S FILL UP.

25 A YES, SIR.

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1 Q WHICH IS DIFFERENT FROM THE GAS PUMPS IN FRONT WHERE
2 THE NORMAL CARS FILL UP.

3 A I --- I THINK SO, YES.

4 Q OKAY. ALL RIGHT. AND REGARDLESS, THERE IS, IN
5 FACT, A HOTEL RIGHT THERE.

6 A YES, SIR, THERE IS.

7 Q WHICH IS CONSISTENT WITH WHAT HE SAID SHE SAID.

8 A YES, SIR.

9 Q OKAY. AND HE DIDN'T HOLD BACK IN TERMS OF ADMITTING
10 THAT HE HAD, IN FACT, SMOKED CRACK WITH HER.

11 A THAT'S RIGHT.

12 Q AND HE DIDN'T HOLD BACK IN SAYING THAT HE HAD --- HE
13 DID, IN FACT, TRADE THAT CRACK AND THE TWENTY DOLLARS ---

14 A YES, SIR.

15 Q --- FOR SEX.

16 A YES, SIR.

17 Q AND BASICALLY DID NOT TRY TO PUT A SPIN ON THAT AT
18 ALL, ADMITTED HE COMMITTED THAT CRIME.

19 A THAT'S CORRECT.

20 MR. LEMEL - NO FURTHER QUESTIONS.

21 THE COURT - RE-DIRECT?

22 RE-DIRECT EXAMINATION

23 BY MS. LIPINSKI -

24 Q MR. LEMEL STATED THAT IT WAS POSSIBLE THAT MR.
25 DUNOVANT BECAUSE HE HAD BEEN ACCUSED OF THIS CRIME JUST

JIMMY WEST - RE-DIRECT BY MS. LIPINSKI

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1 WASN'T WARMING UP TO LIEUTENANT TOLSON?

2 A I'M SORRY. COULD YOU SAY THAT AGAIN?

3 Q MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT MR.
4 DUNOVANT'S INTERACTION INITIALLY WITH LIEUTENANT TOLSON.

5 A YES, SIR. I MEAN YES MA'AM.

6 Q AND STATED --- THAT'S ALL RIGHT --- THAT POSSIBLY IT
7 COULD'VE BEEN BECAUSE HE KNEW HE WAS BEING ACCUSED OF RAPE
8 IN ESSENCE.

9 A THAT'S POSSIBLE.

10 Q IT'S ALSO POSSIBLE THAT HE JUST DIDN'T LIKE WOMEN IN
11 GENERAL.

12 A THAT'S POSSIBLE AS WELL.

13 Q AND MR. LEMEL ASKED YOU SOME QUESTIONS IN TERMS OF
14 ASKING FOR A DATE. IS IT ALSO TYPICAL OF JOHNS OR PEOPLE
15 WHO PICK UP PROSTITUTES TO USE THAT LANGUAGE AS WELL?

16 A I WOULD THINK SO.

17 Q SO THAT'S NOT SOME SPECIFIC LANGUAGE LIMITED TO
18 PROSTITUTES. IT KIND OF WORKS BOTH WAYS SO TO SPEAK.

19 A I WOULD IMAGINE.

20 Q AND MR. LEMEL TOLD YOU THAT HE MAY HAVE FOR WHATEVER
21 REASON THAT THEY COULD'VE GONE INTO SOUTH CAROLINA BECAUSE
22 THIS AREA MAY HAVE BEEN CLOSER TO AN AREA KNOWN FOR
23 PROSTITUTION AND THEY WERE TRYING TO ELUDE APPREHENSION.

24 A YES, MA'AM.

25 Q WOULD IT HAVE BEEN NECESSARY TO DRIVE ALL THE WAY TO

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 SOUTH CAROLINA TO FIND THAT LOCATION?

2 A NO, MA'AM.

3 MS. LIPINSKI - NOTHING FURTHER, YOUR HONOR.

4 THANK YOU.

5 MR. LEMEL - NOTHING ON RE-CROSS, YOUR HONOR.

6 THE COURT - STEP DOWN AND BE EXCUSED. WE

7 APPRECIATE YOUR TIME.

8 MR. WEST - THANK YOU, JUDGE.

9 THE COURT - CALL YOUR NEXT WITNESS.

10 MS. LIPINSKI - THANK YOU, YOUR HONOR. COULD

11 SERGEANT WEST AND MCSWAIN BE EXCUSED SO THEY CAN GO BACK

12 TO GASTONIA? DO YOU HAVE OBJECTION TO THAT? I CAN GET

13 THEM BACK IF YOU NEED ME TO.

14 MR. LEMEL - (INDICATING YES)

15 MS. LIPINSKI - THANK YOU. YOU CAN JUST PUT THAT

16 ON THAT TABLE THERE. THANK YOU. YOUR HONOR, AT THIS TIME

17 THE STATE WOULD CALL DETECTIVE BOMAR TO THE STAND.

18 CHRIS BOMAR, AFTER BEING FIRST DULY SWORN,

19 TESTIFIES AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. LIPINSKI -

22 Q DETECTIVE BOMAR, IF YOU COULD STATE YOUR FULL NAME

23 FOR THE RECORD I WOULD APPRECIATE IT.

24 A CHRISTOPHER LOWELL BOMAR.

25 Q AND WITH WHOM ARE YOU CURRENTLY EMPLOYED?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 A CURRENTLY EMPLOYED WITH THE YORK COUNTY SHERIFF'S
2 OFFICE HERE IN YORK COUNTY.

3 Q AND IN WHAT CAPACITY ARE YOU EMPLOYED WITH THE YORK
4 COUNTY SHERIFF'S OFFICE?

5 A CURRENTLY I SERVE IN THE CRIMINAL INVESTIGATIONS
6 DIVISION IN THE JUVENILE SEX CRIMES UNIT.

7 Q AND SPECIFICALLY WHAT DOES THAT MEAN? WHAT TYPE OF
8 CRIMES DO YOU INVESTIGATE?

9 A WE INVESTIGATE ANY TYPE OF SEXUAL CRIMES, WHETHER IT
10 INVOLVES A CHILD, AN ADULT, ALSO DEAL WITH ANY CRIMES
11 DEALING WITH JUVENILES AS FAR AS THEM BEING CHARGED.

12 Q AT ONE TIME WAS LIEUTENANT BETH TOLSON YOUR IMMEDIATE
13 SUPERVISOR?

14 A SHE WAS.

15 Q AND IN WHAT CAPACITY DID YOU SERVE UNDER HER
16 SPECIFICALLY?

17 A I WAS ONE OF HER INVESTIGATORS.

18 Q AND DID SHE EVER ACTUALLY ACTIVELY PARTICIPATE IN THE
19 INVESTIGATION WITH PEOPLE?

20 A SHE DID.

21 Q AND DID SHE DO THAT IN THIS PARTICULAR CASE, THE
22 INVESTIGATION OF THE EVENTS THAT OCCURRED ON MAY 3RD OF
23 2007?

24 A SHE WAS.

25 Q AND SPECIFICALLY HOW DID YOU BECOME AWARE THAT THIS

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 CRIME HAD OCCURRED?

2 A ACTUALLY I WAS GETTING READY FOR WORK THAT MORNING
3 AND MY LIEUTENANT CALLED ME AND STATED THAT THEY'D JUST
4 HAD A CALL FOR THE ROAD UNITS TO RESPOND DOWN TO BOLING
5 GREEN NEAR WEEPING MARY BAPTIST CHURCH. SHE ASKED IF I
6 COULD HURRY UP AND GO AHEAD AND HEAD INTO THAT LOCATION.
7 SO I GOT MYSELF TOGETHER AND ACTUALLY WENT TO THE SCENE
8 SUPPOSEDLY WHERE THE INCIDENT HAD OCCURRED.

9 Q DO YOU GET TO THE --- DO YOU GO DIRECTLY TO THE
10 CHURCH OR DO YOU GO TO THE DIXIE DINER?

11 A I GO UM --- ACTUALLY I GO TO BOTH PLACES, TO THE
12 DIXIE DINER AND TO THE WEEPING MARY. I CAN'T REMEMBER
13 WHICH ONE I WENT TO FIRST.

14 Q WHEN YOU GET TO THE DIXIE DINER, IS THE VICTIM MISTI
15 HILL STILL THERE?

16 A NO.

17 Q SHE AT THAT POINT HAD ALREADY BEEN TRANSPORTED AWAY
18 BY EMS?

19 A THAT'S CORRECT.

20 Q OR WAS SHE OUT AT THE GRAVEYARD DIRECTING OFFICERS
21 WHERE ---

22 A SHE WAS --- MY UNDERSTANDING SHE WAS ALREADY
23 TRANSPORTED TO PIEDMONT MEDICAL CENTER.

24 Q AND SO HOW DO YOU GET OUT TO THE GRAVEYARD AT WEEPING
25 MARY BAPTIST CHURCH?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 A AFTER DISPATCH TOLD ME EXACTLY WHERE THE LOCATION WAS
2 AND WHERE FSU YOU WAS RESPONDING WHICH IS OUR FORENSIC
3 SERVICE UNIT, THAT'S --- THAT'S THE DIRECTION THAT I
4 HEADED TO AND JUST KIND OF SURVEYED THE SCENE BEING THE
5 LEADING INVESTIGATOR IN THIS CASE.

6 Q AND WERE YOU PART OF THE EVIDENCE COLLECTION OUT
7 THERE AT THE GRAVEYARD?

8 A NO, I WAS NOT.

9 Q WAS THAT CONDUCTED BY INVESTIGATOR JOHN WILLIAMS WITH
10 THE FORENSIC SERVICES UNIT?

11 A THAT WAS.

12 Q IS THAT TYPICAL KIND OF DISTRIBUTION OF DUTIES AT THE
13 YORK SHERIFF'S OFFICE TO ALLOW THE FSU TO COLLECT
14 EVIDENCE?

15 A IF THEY'RE THERE, THEY'RE THE ONES WHO NEED TO BE
16 COLLECTING THE EVIDENCE. THAT'S CORRECT.

17 Q AND DO YOU EVER HAVE THE OCCASION TO GO TO THE
18 HOSPITAL?

19 A I DO. IN FACT, AFTER I SURVEYED THE SCENE AND JUST
20 KIND OF GET A GIST OF WHAT'S GOING ON, MYSELF AND
21 LIEUTENANT TOLSON BOTH RESPOND TO PIEDMONT MEDICAL CENTER
22 TO SEE THE VICTIM.

23 Q AND IS SHE PRESENT THERE AT THAT TIME?

24 A SHE IS.

25 Q LET ME SHOW YOU WHAT'S BEEN --- DID YOU HAVE THE

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 OCCASION WHEN YOU SPOKE WITH MISTI HILL TO OBSERVE ANY OF
2 THE INJURIES ON HER?

3 A I DID.

4 Q AND DID YOU TAKE ANY PHOTOGRAPHS YOURSELF OF SOME OF
5 THOSE INJURIES?

6 A I DID.

7 Q LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY MARKED FOR
8 I.D. PURPOSES ONLY AS STATE'S EXHIBIT 13(D) AND ASK YOU IF
9 THAT'S A PHOTOGRAPH YOU TOOK OF MISTI HILL AND SOME
10 INJURIES TO HER BACK?

11 A THAT IS ONE OF THE PHOTOGRAPHS I TOOK.

12 Q AND DOES THAT INDICATE SOME SCRATCHING AND REDNESS TO
13 HER LOWER BACK OR TRUNK AREA?

14 A YES, IT DOES.

15 Q DOES IT ALSO DEPICT SOME OF THE CLOTHES SHE HAD ON
16 THAT PARTICULAR DAY?

17 A THAT'S CORRECT.

18 Q SO YOUR PICTURES WERE TAKEN PRIOR TO THOSE CLOTHES
19 BEING REMOVED FROM HER?

20 A THAT'S CORRECT.

21 Q AND LET ME SHOW YOU --- IF YOU LOOK THROUGH STATE'S
22 EXHIBITS NUMBER 4(A) THROUGH (V) AS IN VICTOR AND ASK YOU
23 IF THOSE PICTURES DETAIL OTHER INJURIES THAT MISTI HILL
24 RECEIVED?

25 A MOST OF THESE INJURIES IS WHAT I VIEWED MYSELF EXCEPT

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 FOR SOME OF THE ONES THAT THEY HAD TO MOVE THE EAR BACK.
2 THOSE I DID NOT SEE, BUT THE ONES ON THE ARMS, LEGS AND
3 SIDE OF HER NECK, THOSE WERE THE INJURIES THAT I VISUALLY
4 SAW MYSELF.

5 Q AND ARE YOU PART OF THE EVIDENCE COLLECTION OF THE
6 SANE EXAMINATION OF MISTI HILL?

7 A NO, I DID NOT COLLECT THE SANE KIT WHATSOEVER.

8 Q YOU LEFT THAT TO THE NURSES?

9 A THAT'S CORRECT.

10 Q DO YOU HAVE THE OCCASION TO INTERVIEW MISTI HILL?

11 A I DID. MYSELF AND LIEUTENANT TOLSON BOTH.

12 Q AND JUST BRIEFLY, IF YOU COULD, DESCRIBE TO THE JURY,
13 WHAT WAS MISTI HILL'S OVERALL DEMEANOR WHEN YOU
14 ENCOUNTERED HER IN THE EMERGENCY ROOM?

15 A SHE WAS VISIBLY CRYING, STATING THAT SHE WAS IN PAIN.
16 YOU COULD TELL THAT SHE WAS IN VERY MUCH IN A DISCOMFORT
17 STATE. WE ASKED HER SEVERAL QUESTIONS ABOUT WHAT HAD
18 OCCURRED, WHERE IT OCCURRED, WHO WITH, THOSE STANDARD TYPE
19 OF QUESTIONS.

20 Q AND WAS SHE ABLE TO COMMUNICATE WITH YOU EFFECTIVELY?

21 A SHE DID.

22 Q AND DID YOU OBSERVE ANYTHING THAT INDICATED THAT SHE
23 WAS UNDER THE INFLUENCE OF ANY NARCOTICS OR OTHER
24 SUBSTANCES?

25 A NOT AT THAT TIME.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 Q DID SHE APPEAR TO YOU TO BE UNDER THE INFLUENCE OF
2 ANYTHING?

3 A NOT AT THAT TIME.

4 Q DID SHE APPEAR EMOTIONALLY DISTRESSED IN ANY WAY?

5 A SHE DID APPEAR VERY EMOTIONALLY DISTRESSED.

6 Q DID SHE HAVE ANY DIFFICULTY COMMUNICATING WITH YOU?

7 A THE ONLY TIME THAT SHE HAD DIFFICULTY COMMUNICATING
8 WITH US IS WHEN SHE WAS ACTUALLY TRYING TO DESCRIBE WHAT
9 HAD OCCURRED TO HER. AS YOU CAN IMAGINE, PEOPLE UNDER
10 THOSE TYPES OF SITUATIONS HAVE A HARD TIME DESCRIBING
11 THOSE CERTAIN ACTS.

12 Q AND --- BUT DO YOU ALL AFFORD HER THE OPPORTUNITY TO
13 PROVIDE YOU WITH THAT INFORMATION?

14 A WE DID.

15 Q AND IS THAT PART OF TRAINING AND EDUCATION THAT YOU
16 RECEIVED IN INVESTIGATING SEX CRIMES?

17 A IT IS.

18 Q AND YOU ALSO HAVE THE OCCASION TO SPEAK TO MR.
19 DUNOVANT?

20 A WE DID.

21 Q AND WERE YOU PART OF THE ACTUAL TAKING OF THE
22 STATEMENT BY LIEUTENANT BETH TOLSON?

23 A I WAS IN AND OUT OF THAT INTERVIEW ROOM. ANY TIME
24 THAT SERGEANT WEST WHO YOU JUST HEARD FROM HAD TO STEP OUT
25 --- WE NEVER LEFT ONE INVESTIGATOR IN THERE, SO I WOULD

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 COME IN JUST TO BE IN THERE, BUT MOST OF THE TIME IT WAS
2 SERGEANT WEST AND LIEUTENANT TOLSON THERE IN THE INTERVIEW
3 ROOM.

4 Q WHILE YOU ARE THERE FOR THE QUESTIONING OF MR.
5 DUNOVANT, DO YOU TAKE SOME PICTURES OF HIS OVERALL
6 CONDITION?

7 A THOSE PICTURES WERE TAKEN MOSTLY AT THE SCENE WHEN
8 THE VEHICLE WAS BEING STOPPED.

9 Q SO THOSE WERE ACTUALLY OUT WHERE THEY DID THE STAR
10 (SIC), NOT BACK WHEN THEY WERE TAKING THE STATEMENT?

11 A THAT'S CORRECT.

12 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
13 NUMBERS 3(A), (B) AND (C) AND ASK YOU IF YOU RECOGNIZE
14 WHAT IS DEPICTED IN THOSE PHOTOGRAPHS AND IF YOU TOOK
15 THOSE PHOTOGRAPHS?

16 MR. LEMEL - YOUR HONOR, CAN WE APPROACH REAL
17 QUICKLY.

18 (BENCH CONFERENCE WAS HELD IN THE PRESENCE OF
19 THE JURY BUT OUT OF THE HEARING OF THE JURY WHICH WAS NOT
20 REPORTED.)

21 A AND THESE PICTURES THAT I'M DESCRIBING, THESE WERE
22 ACTUALLY TAKEN WHEN HE'S THERE AT GASTONIA POLICE
23 DEPARTMENT. THERE ARE OTHER PICTURES TAKEN THERE WHEN WE
24 HAD THE VEHICLE STOP, SO --- THE ONES THAT I'M DESCRIBING
25 ARE THE ONES THAT WERE ACTUALLY TAKEN THERE AT GASTONIA

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 POLICE DEPARTMENT.

2 Q AND DO THEY ACCURATELY REFLECT THE CONDITION OF TERRY
3 DUNOVANT AT THE TIME THAT HE WAS --- THAT LIEUTENANT
4 TOLSON SPOKE WITH HIM?

5 A THAT IS --- IT DOES DEPICT THOSE --- DEPICT
6 ACCURATELY WHAT HE WAS LOOKING LIKE AT THE TIME.

7 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WE MOVE
8 STATE'S 13 (A) (B) (C) AND (E) INTO EVIDENCE. I THINK
9 WE'VE ALREADY MOVED (D), BUT JUST WRAPPING THOSE UP AS ALL
10 PART OF MR. BO --- DETECTIVE BOMAR'S PICTURES.

11 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

12 THE COURT - IN WITHOUT OBJECTION.

13 MS. LIPINSKI - YOUR HONOR, WE'D ALSO LIKE TO
14 PUBLISH THESE TO THE JURY.

15 THE COURT - ALL RIGHT.

16 (DOCUMENTS MARKED INTO EVIDENCE AS STATE'S
17 EXHIBIT'S 13(A), 13(B), 13(C) AND 13(E) INTO EVIDENCE)

18 Q DID YOU NOTE ANY INJURIES TO MR. DUNOVANT?

19 A I DID. I NOTICED THERE THERE ARE INJURIES TO HIS
20 HAND, PARTICULARLY A BREAK IN THE SKIN. THERE WAS BLOOD
21 DROPPINGS ON HIS PANTS. HIS PANTS WERE RIPPED. THOSE
22 TYPE OF INJURIES.

23 Q WAS THERE ANY DAMAGE TO HIS CLOTHING?

24 A LIKE I SAID, YOU COULD TELL THAT THE PANTS HAD BEEN
25 RIPPED THERE AT THE KNEE.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

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1 Q DO YOU ACTUALLY PARTICIPATE IN THE TAKING OF SAMPLES
2 AND CLOTHING FROM MR. DUNOVANT?

3 A I WAS PRESENT THERE WHEN THEY WERE TAKEN.

4 Q AND WERE THEY --- WAS THAT DONE BY THEIR CSI OR THEIR
5 FSU AND THEN TURNED OVER TO YOU?

6 A THAT'S CORRECT.

7 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
8 NUMBER 14 AND ASK YOU IF THAT WAS THE CLOTHING TAKEN FROM
9 MR. DUNOVANT AND TURNED OVER TO YOU BY GASTONIA CSI?

10 A THIS IS.

11 Q AND DOES IT BEAR YOUR SIGNATURE?

12 A IT DOES.

13 Q AND IS THAT SOMETHING THAT YOU TURNED INTO PROPERTY
14 AND EVIDENCE?

15 A THIS IS WHAT I TURNED IN. CORRECT.

16 MS. LIPSINKI - AND, YOUR HONOR, AT THIS TIME WE
17 WOULD MOVE STATE'S EXHIBIT NUMBER 14 INTO EVIDENCE.

18 THE COURT - ANY OBJECTION?

19 MR. LEMEL - NO, SIR, YOUR HONOR.

20 THE COURT - WITHOUT OBJECTION.

21 (CLOTHING MARKED INTO EVIDENCE AS STATE'S
22 EXHIBIT NUMBER 14.)

23 Q AND DETECTIVE BOMAR, DO YOU HAVE ANY OBJECTION TO
24 TAKING THAT CLOTHING OUT OF THE BAG AND SHOWING IT TO THE
25 JURY?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

358

1 A DO YOU HAVE ANY GLOVES?

2 (DISCUSSION IS HELD BETWEEN MS. LIPINSKI AND THE
3 CLERK WHICH WAS NOT REPORTED)

4 (GLOVES HANDED TO THE WITNESS)

5 Q I DON'T BELIEVE THE GLOVE FITS.

6 A NO. WELL, I DON'T KNOW IF THESE WILL DO ANY GOOD.
7 THEY RIPPED A LITTLE BIT, BUT WE'LL MAKE THE BEST OF IT.
8 (PAUSE) THESE ARE THE PAIR OF PANTS THAT MR. DUNOVANT HAD
9 ON HIM AT THE TIME. THIS IS HIS UNDERGARMENT THAT HE HAD
10 ON DURING THE TIME. THIS IS THE SHIRT THAT HE CURRENTLY
11 HAD ON DURING THE TIME. THIS IS HIS BELT. THE BROWN BOOT
12 SHOES CURRENTLY HE HAD ON. HIS SOCKS AND BALL CAP. THOSE
13 WERE ---

14 Q YOU CAN RETURN THOSE ITEMS TO THE BAG, JUST SO THEY -
15 --- THANK YOU.

16 A (WITNESS COMPLIES)

17 Q ONE FINAL QUESTION. I WON'T ASK YOU TO TAKE THIS ONE
18 OUT OF THE BAG, BUT IF YOU LOOK AT STATE'S EXHIBIT NUMBER
19 15, YOU MAY HAVE TO OPEN THIS SLED PACKAGING, BUT ASK YOU
20 IF THAT'S THE DNA OR THE BLOOD SAMPLE TAKEN FROM THE
21 DEFENDANT? YOU MIGHT BE ABLE TO TELL THAT BY LOOKING AT
22 THE SHERIFF'S OFFICE ENVELOPE INSIDE.

23 A IT IS.

24 MS. LIPINSKI - AND, YOUR HONOR, AT THIS TIME WE
25 WOULD JUST MARK THE DNA SAMPLE FOR I.D. AS STATE'S EXHIBIT

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

359

1 NUMBER 15 AT THIS TIME.

2 THE COURT - OKAY.

3 (DOCUMENT MARKED FOR IDENTIFICATION AS STATE'S
4 EXHIBIT NUMBER 15.)

5 Q AND DID YOU EVER HAVE THE OCCASION TO SERVE A WARRANT
6 ON TERRY DUNOVANT?

7 A I DID.

8 Q AND AT THAT TIME DID YOU NOTICE THAT HE HAD ANY ---
9 HAD RECEIVED ANY TYPE OF MEDICAL ATTENTION FOR HIS HAND?

10 A WHEN I WENT DOWN ON JUNE 4TH OF 2007 I NOTICED WHEN
11 I WENT INTO OUR DETENTION FACILITY, WHEN I CAME TO SERVE
12 THE WARRANT, I NOTICED THAT ON THE HAND THAT WE
13 PHOTOGRAPHED OF THE INJURIES HE HAD A WHAT APPEARED TO BE
14 HIS ARM WRAPPED IN SOME TYPE OF WRAPPING. I CALLED IT A
15 CAST, BUT IT WAS JUST WRAPPED.

16 Q THAT WAS APPROXIMATELY A MONTH AFTER THE INITIAL
17 ARREST.

18 A THAT'S CORRECT.

19 Q BUT HE STILL HAD THAT WRAPPING ON HIM?

20 A THAT'S CORRECT.

21 Q AND WHEN YOU TAKE THE SUSPECT SAMPLE FROM MR.
22 DUNOVANT, DO YOU JUST --- DO YOU JUST OBSERVE THE BLOOD
23 TAKING OF THE SAMPLE OR DO YOU OBSERVE THE PUBIC HAIRS AND
24 THE OTHER HAIR SAMPLE?

25 A I WAS PRESENT FOR ALL OF THAT.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

360

1 Q AND DID THE VICTIM DESCRIBE IN ANY PARTICULARITY THE
2 GENITALIA OF HER ASSAILANT?

3 A LET ME LOOK OVER MY NOTES.

4 Q SURE.

5 A SHE STATED THAT HE HAD BUMPS ON HIS PENIS.

6 Q AND DID YOU OBSERVE ANY BUMPS ON THE DEFENDANT'S
7 PENIS?

8 A YES.

9 Q DID SHE ALSO DESCRIBE WHETHER HE WAS CIRCUMCISED OR
10 NOT?

11 A SHE STATED THAT HE WAS CIRCUMCISED.

12 Q DID YOU OBSERVE THAT HE WAS CIRCUMCISED?

13 A YES.

14 Q AND WHEN YOU SAY HE, WE'RE REFERRING TO TERRY
15 DUNOVANT AND THE TAKING OF THAT --- THOSE SAMPLES.

16 A YES.

17 Q CAPTAIN HOFFMAN TESTIFIED BRIEFLY THAT HE SECURED A
18 VIDEO FROM THE BP GAS STATION OR THE GRAB AND GO.

19 A RIGHT.

20 Q AND DID HE TURN THAT VIDEO OVER TO YOU?

21 A HE DID.

22 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT
23 NUMBER 16 AND ASK YOU IF THAT'S THE VIDEO HE TURNED OVER
24 TO YOU?

25 A THAT IS.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

361

1 Q AND DOES IT INDICATE AN ADDRESS FROM WHERE THAT VIDEO
2 CAME?

3 A IT JUST STATES THE GRAB AND GO CONVENIENCE STORE
4 THERE IN GASTONIA OFF OF CHAUDRY (PHONETIC) BUTLER'S
5 COMPUTER.

6 Q AND DID YOU HAVE THE OCCASION TO VIEW WHAT WAS ON
7 THIS VIDEO TAPE?

8 A I DID.

9 MS. LIPINSKI - YOUR HONOR, AT THIS TIME WE WOULD
10 MOVE STATE'S EXHIBIT NUMBER 16 INTO EVIDENCE.

11 MR. LEMEL - WITHOUT OBJECTION, YOUR HONOR.

12 THE COURT - IN.

13 (VIDEO MARKED INTO EVIDENCE AS STATE'S EXHIBIT
14 NUMBER 16.)

15 MS. LIPINSKI - I'M NOT READY FOR THE VIDEO YET.
16 I'M SORRY. IT TAKES HIM A LITTLE WHILE TO KEY IT UP.
17 WE'LL GET THERE, YOUR HONOR.

18 Q THE DNA SAMPLES, THE PUBIC HAIRS AND THOSE TYPES
19 THINGS, ONCE CSI IN GASTONIA TURNED IT OVER TO YOU, DID
20 YOU THEN TURN IT INTO PROPERTY AND EVIDENCE HERE AT THE
21 YORK COUNTY SHERIFF'S OFFICE?

22 A I DID.

23 Q AND DID YOU --- DID YOU DIRECT OR DID SOMEONE ELSE
24 DIRECT SOMEONE TO TAKE THAT SAMPLE TO THE SOUTH CAROLINA
25 LAW ENFORCEMENT DIVISION FOR TESTING?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

362

1 A SOMEONE DID, YES.

2 Q BUT YOU DID NOT.

3 A THAT I CAN'T REMEMBER.

4 Q COULD'VE BEEN YOU OR LIEUTENANT TOLSON?

5 A THAT'S CORRECT.

6 Q BUT ONE OF YOU WOULD'VE LOOKED AT THE EVIDENCE AND
7 SUBMITTED IT TO SLED.

8 A THAT'S CORRECT.

9 Q ARE YOU AWARE OF SLED HAVING ANY PRIORITIZATION OF
10 EVIDENCE THEY TESTS? WILL THEY TESTS EVERYTHING IN A CASE
11 OR DO THEY ASK THAT YOU SUBMIT CERTAIN SAMPLES FIRST AND
12 THEN OTHER SAMPLES LATER?

13 A USUALLY THE SANE KIT GOES FIRST, FOLLOWED BY A
14 SUSPECT KIT, USUALLY A MOUTH SWAB OF SOME FOR A DNA
15 COMPARISON.

16 Q AND WHAT IS THE PURPOSE OF NOT SENDING EVERYTHING TO
17 SLED AND FOCUSING FIRST ON THAT SEXUAL ASSAULT KIT AND
18 SUSPECT SAMPLE?

19 A WHEN DOING ONE THEY TELL US BECAUSE OF THE AMOUNT OF
20 CASE LOAD THAT THEY HAVE, AND SO THEY JUST WANT TO BE
21 SPECIFIC ABOUT THE CERTAIN THINGS THAT THEY WANT TO TEST
22 FOR AND SO THAT AFTER WE DO OUR INVESTIGATION THEY JUST
23 TEST FOR CERTAIN THINGS FIRST. REALLY NOT SURE WHY THEIR
24 WHOLE PROTOCOL'S THERE, BUT THAT'S JUST HOW THEY DO
25 THINGS.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

363

1 Q AND IN TERMS OF TESTING THAT INITIAL SEXUAL ASSAULT
2 KIT AND SUSPECT SAMPLE, WE'RE TALKING ABOUT SLED --- WE
3 KNOW WHAT THEY ARE. IF YOU COULD, DESCRIBE TO THE JURY
4 WHAT THAT ACRONYM SLED STANDS FOR AND WHAT THEY DO TO
5 ASSIST YOU OR PARTICIPATE IN THE INVESTIGATION ITSELF.

6 A SLED STANDS FOR THE STATE LAW ENFORCEMENT DIVISION
7 HERE IN SOUTH CAROLINA AND BASICALLY SLED IS THERE TO
8 ASSIST ALL LAW ENFORCEMENT AGENCIES IN AREAS THAT THEY
9 DON'T HAVE THE CAPABILITIES OF DOING THINGS, AND ONE OF
10 THOSE AREAS IS A DNA LAB THAT THEY HAVE THERE AT THEIR
11 FACILITIES AND SO WE WOULD SUBMIT THINGS OF EVIDENCE
12 DEALING WITH BLOOD, SALIVA, ANY TYPE OF BODILY FLUIDS THAT
13 WE WOULD LIKE TO HAVE A DNA COMPARISON TO.

14 Q SO SLED WASN'T ACTIVELY PARTICIPATING IN QUESTIONING
15 WITNESSES IN THIS PARTICULAR CASE. THEY WERE SOLELY
16 LIMITED TO A FORENSIC ANALYSIS OF EVIDENCE.

17 A THE ONLY THING THEY DID WAS DO THE FORENSICS. THAT'S
18 CORRECT.

19 Q AND DID YOU TRANSPORT THOSE ITEMS FROM SLED?

20 A I DID NOT.

21 Q SOMEONE ELSE DID?

22 A YES.

23 Q SHERIFF'S OFFICE ROUTINELY DRIVES TO SLED FOR THAT
24 VERY PURPOSE TO TAKE AND PICK UP EVIDENCE?

25 A THAT'S CORRECT.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

364

1 Q YOU VIEWED WHAT IS ON THIS VIDEO TAPE?

2 A I HAVE.

3 Q LET ME SEE IF I CAN --- AND IF WE COULD NOW DIM THE
4 LIGHT. I JUST HAVE THOSE FOLLOW-UP QUESTIONS, YOUR HONOR
5 ---

6 (WHEREUPON VIDEO IS PLAYED AND THE FOLLOWING
7 QUESTIONS ARE ASKED DURING THE STARTING AND STOPPING OF
8 THE VIDEO:)

9 Q THIS IS A SURVEILLANCE TAPE FROM A CONVENIENCE STORE.

10 A THAT'S CORRECT.

11 Q AND IS IT PART OF YOUR INVESTIGATION TO ROUTINELY GO
12 GET THESE SURVEILLANCE TAPES FROM CONVENIENCE STORES?

13 A IF IT PERTAINS TO OUR CASE, YES.

14 Q HAVE YOU EVER HAD THE OCCASION THAT THESE CONVENIENCE
15 STORES, INSTEAD OF HAVING THEIR VIDEOS PLAY ON YOUR NORMAL
16 DVD, THEY HAVE SOME TYPE OF PROPRIETARY OR OTHER SOFTWARE
17 THAT COORDINATES THE NUMBER OF CAMERAS THAT THEY HAVE IN
18 THE STORE?

19 A UNFORTUNATELY THAT'S THE CASE.

20 Q AND WHEN YOU SAY UNFORTUNATELY, WHY UNFORTUNATELY?

21 A BECAUSE IT CREATES A BURDEN OF US, BECAUSE A LOT OF
22 TIMES WE GET THINGS, WE CANNOT VIEW OR PLAY UNTIL WE GET
23 THAT SPECIAL PROPRIETARY SOFTWARE TO USE.

24 Q AND THIS PARTICULAR PLAYER HERE, IS THAT ONE OF THOSE
25 PROPRIETARY SOFTWARES THEY BURNED FOR YOU ON THE CD?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

365

1 A THEY DID.

2 Q AND SO IN ESSENCE EVERY TIME YOU GET A NEW VIDEO YOU
3 HAVE TO LEARN A NEW PART OF SOFTWARE?

4 A UNFORTUNATELY, TRUE.

5 Q I'M GOING TO TRY AND MAKE IT THROUGH AS WELL. IF YOU
6 COULD, THIS DROP DOWN WINDOW THAT I'M PICKING, THERE'S
7 ACTUALLY MULTIPLE CAMERAS AT THIS CONVENIENCE STORE.

8 A RIGHT.

9 Q SO YOU CAN SELECT CERTAIN CAMERAS AND THEN SELECT
10 CERTAIN TIMES THAT THOSE CAMERAS RECORDED WHAT OCCURRED ON
11 THAT PARTICULAR STORE.

12 A RIGHT, IN DIFFERENT AREAS OF THAT STORE.

13 Q AND --- SO IN THIS PARTICULAR OCCASION, WE'LL SELECT
14 CAMERA TWO, AT THIS PARTICULAR TIME AND ALSO OVER HERE, IF
15 YOU COULD WHERE THE CURSOR IS INDICATED, AND I DON'T KNOW
16 IF YOU CAN SEE THAT, BUT IS IT --- YOU MAY HAVE ---

17 MS. LIPINSKI - YOUR HONOR, COULD HE STEP DOWN SO
18 HE CAN ---

19 THE COURT - YES.

20 A THE DATE ON THERE SAYS 5/03 2007 APPROXIMATELY 5:20
21 05.

22 Q AND THAT WOULD BE A TIME, 5:20 IN THE MORNING?

23 A THAT'S CORRECT.

24 Q IS IT FAIR TO SAY THIS IS THE INSIDE OF THE STORE
25 OVERLOOKING THE CASH REGISTER?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

366

1 A THAT'S CORRECT.

2 Q THIS DOES NOT APPEAR --- IF WE WERE TO SLOW THIS DOWN
3 TO NORMAL SPEED, IT DOESN'T APPEAR TO PLAY LIKE A MOVIE.
4 IT'S SOMEWHAT CHOPPY..

5 A THAT'S CORRECT.

6 Q DO THESE CAMERAS CONTINUOUSLY ROLL LIKE A VIDEO
7 CAMERA, CAMCORDER MIND OR DO THEY RANDOMLY ALSO TAKE
8 PICTURES AT PERHAPS AT RANDOM INTERVALS, RANDOM SECONDS
9 JUST TO PRESERVE MEMORY SPACE?

10 A WELL, WHAT I ALSO UNDERSTAND TOO IS THERE'S A TIME
11 DELAY BETWEEN THE CAMERAS. IF YOU HAVE MULTIPLE CAMERAS
12 IT'S ALSO SNAPPING SHOTS AT THOSE OTHER CAMERAS, SO THAT'S
13 WHY YOU MAY HAVE A DELAY.

14 Q SO THIS CAMERA WOULD'VE RECORDED THAT BIT OF TIME IN
15 THAT PARTICULAR SCENE.

16 A THAT'S CORRECT.

17 Q IF WE LOOK AT KIND OF A MULTI VIEW YOU CAN SEE THAT
18 THERE ARE OTHER CAMERAS RECORDING AT OTHER LOCATIONS
19 OUTSIDE THE CONVENIENCE STORE.

20 A THAT'S CORRECT.

21 Q SO WE MOVE TO 5:24 THE NEXT SEGMENT OF CAMERA TWO.
22 (PAUSE) AND IF I COULD DIRECT YOUR ATTENTION, YOU PULLED
23 SOME CLOTHES OUT OF THAT BAG. DO THEY APPEAR TO BE
24 CONSISTENT WITH THE INDIVIDUAL WHO JUST WALKED INTO THE
25 STORE?

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

367

1 A THEY DO.

2 Q AND DOES THAT ALSO APPEAR TO BE THE DEFENDANT, TERRY
3 DUNOVANT, COMING INTO THE STORE?

4 A THAT'S WHO I BELIEVE IT TO BE.

5 Q AND COULD YOU LOOK AT THE TIME STAMP ON THE CAMERA?
6 CAN YOU SEE THAT IN THE BOTTOM CORNER? DO YOU NEED TO
7 STEP DOWN ---

8 A I CAN. NO, I CAN SEE IT FROM HERE. IT SAYS 5:25 06
9 902, WHICH WE WOULD ATTRIBUTE IN THE MORNING.

10 Q SO IT APPEARS THAT HE COMES INTO THE STORE, MAKES
11 SOME TYPE PURCHASE AND EXITS THE STORE.

12 A THAT'S CORRECT.

13 MS. LIPINSKI - BEG THE COURT'S INDULGENCE, YOUR
14 HONOR.

15 Q THIS WILL BE ANOTHER CAMERA ANGLE OF THAT SAME STORE?

16 A THAT'S CORRECT.

17 Q APPEAR TO BE A WAFFLE HOUSE ON THE BACK PART OF THIS
18 PICTURE, TO THE BEST THAT YOU CAN SEE?

19 A THAT'S CORRECT.

20 Q AND THIS IS THE SAME INDIVIDUAL OR DOES IT APPEAR TO
21 BE THE SAME INDIVIDUAL THAT WE SAW INSIDE THE STORE?

22 A IT APPEAR, DOES, TO BE THE SAME.

23 Q AND AGAIN THE TIME ON THIS PARTICULAR VIDEO AS HE
24 APPROACHES THE STORE IS?

25 A 5:25 01 IN THE MORNING.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

368

1 MS. LIPINSKI - I APOLOGIZE, YOUR HONOR. I HAD
2 TO SPEED UP A LITTLE. GOING TO SLOW THAT DOWN. (PAUSE)
3 SORRY, YOUR HONOR.

4 Q AND, AGAIN, THIS NOW APPEARS TO HIM BE EXITING THE
5 STORE.

6 A THAT'S CORRECT.

7 MS. LIPINSKI - AND I APOLOGIZE, YOUR HONOR.
8 THERE'S JUST SOME ISSUES TRYING TO PLAY THESE VIDEOS.
9 (PAUSE)

10 Q AND THAT AT THE END WHERE THAT CAR PULLED UP, THAT
11 WAS ACTUALLY THE END OF THE VIDEO AND IT KICKED BACK TO
12 THE BEGINNING WHERE YOU SEE HIM WALK IN?

13 A THAT'S CORRECT.

14 Q I WANT TO GO JUST SLIGHTLY BEFORE HE ENTERS AT 5:23
15 41. OKAY, BACK EVEN FURTHER. YOU CAN ACTUALLY SEE A
16 PERSON UP HERE NEAR WHAT APPEAR TO BE AN ICE COOLER?

17 A THAT'S CORRECT. YOU GOT SOMEONE SITTING ON THE ICE
18 COOLER.

19 Q GIVEN THE PROXIMITY, IT'S POSSIBLE THAT THIS PERSON
20 COMMUNICATED WITH THE PERSON IN THIS CAR?

21 A I REALLY COULD'VE SAY.

22 Q ON THIS PARTICULAR OCCASION HE DOES THOUGH APPEAR TO
23 BE HAVING SOME CONVERSATION WITH HER AND PERHAPS EVEN
24 GIVING DIRECTIONS OR POINTING TO SOMETHING.

25 A HE APPEARS TO BE POINTING TO SOMETHING.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

369

1 Q AND AGAIN, WORKING OUR WAY BACKWARDS WHEN WE
2 IDENTIFIED THE SUSPECT WALKING IN THE STORE, THIS WOULD
3 APPROXIMATELY A FEW MINUTES EARLIER TO THE PREVIOUS VIDEO
4 AGAIN LOOKING AT THE FRONT OF THE STORE.

5 A THAT'S RIGHT.

6 Q AGAIN, IT APPEARS THAT THIS PERSON, HOWEVER, IS STILL
7 STANDING IN THE CORNER OF THE --- IN THE AREA OF THE ICE
8 COOLER.

9 A YES, THAT APPEARS TO BE THE SAME PERSON.

10 Q AND THIS PERSON THAT'S BEEN DOWN AT THE WATER COOLER
11 AND IS LATER --- WE'RE MOVING OBVIOUSLY IN REVERSE
12 DIRECTION --- APPEARS TO BE A --- THE VICTIM MISTI HILL.

13 A THAT'S CORRECT.

14 Q BASED ON THE PICTURES OF THE CLOTHING THAT YOU
15 OBSERVED HER ON THE DAY IN QUESTION?

16 A THAT'S CORRECT.

17 Q AND SHE APPEARS TO HAVE SOME TYPE OF BANDANNA ON HER
18 HEAD?

19 A THAT'S CORRECT.

20 Q HARD TO TELL FROM THIS PARTICULAR VIEW. THESE
21 CAMERAS AREN'T ALWAYS THE BEST IN TERMS OF QUALITY, CAN'T
22 TELL THE COLOR, BUT IT DOES APPEAR SHE HAS SOMETHING
23 WRAPPED ON HER HEAD THERE.

24 A THAT'S CORRECT.

25 Q ENGAGE IN A CONVERSATION WITH THIS GENTLEMAN.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

370

1 A APPEARS TO BE SO.

2 Q OBVIOUSLY WE'RE WORKING IN REVERSE ORDER. THIS IS A
3 GENTLEMAN YOU SEE IN LATER VIDEOS THAT APPEARS TO POINT TO
4 SOMETHING OFF IN THAT DIRECTION WHILE HAVING A
5 CONVERSATION WITH HER.

6 A THAT'S CORRECT.

7 Q LET ME PAUSE THIS. THE TIME STAMP ON THIS ONE ---
8 CAN YOU SEE THAT?

9 A I CAN.

10 Q IT'S 5:13 59.

11 A 59 113.

12 Q AGAIN, MOVING BACK IN ORDER OF TIME FROM THE PREVIOUS
13 VIDEOS, AGAIN SEE HER STANDING UP HERE NEAR THE ICE
14 COOLER?

15 A THAT'S CORRECT.

16 Q AND THIS LAST ONE, THE DATE STAMPED --- TIME STAMP,
17 I'M SORRY --- AT 5:28, THIS WOULD BE AFTER YOU SEE MR.
18 DUNOVANT ENTER THE STORE AT APPROXIMATELY 5:26.

19 A (NO RESPONSE)

20 Q SNIPPETS OF THIS ONE YOU CAN NO LONGER SEE THE VICTIM
21 HERE BY THE ICE COOLER.

22 A THAT'S CORRECT.

23 Q GOING BACK TO THIS ONE --- (PAUSE) THIS IS JUST A
24 FRAME-BY-FRAME EVENT. SO CLEARLY ONCE HE'S GONE SHE'S
25 GONE AS WELL.

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

371

1 A THAT'S CORRECT.

2 Q AND, OBVIOUSLY, THERE'S SOMETHING OVER IN THIS AREA.
3 YOU SEE A CAR HERE IN A CORNER, FRONT OF THE CONVENIENCE
4 STORE LIKELY TO THE GAS PUMPS. THAT IS LOCATED SOMEWHERE
5 IN THAT AREA OFF CAMERA.

6 A IT APPEARS TO BE SO.

7 Q THIS WOULD BE THE --- IF IT'LL STAY LONG ENOUGH. I
8 APOLOGIZE. GAS PUMP AREA, SOME PART ASSOCIATED WITH THAT
9 CONVENIENCE STORE. IF YOU'D LOOK AT --- THE CAMERA HERE
10 INSIDE, CAMERA HERE IN THE FRONT. SO OBVIOUSLY SOME
11 CAMERAS ARE NOT EVEN BEING USED BY THE STORE AT THAT
12 PARTICULAR TIME.

13 A THAT --- THAT APPEARS TO BE SO.

14 MS. LIPINSKI - I APOLOGIZE FOR THE LENGTH OF
15 THAT, YOUR HONOR. UNFORTUNATELY, THERE'S MULTIPLE ---
16 THAT WAS THE ONLY WAY WE WERE ABLE TO DISPLAY THAT TO THE
17 JURY. COURT'S INDULGENCE ONE MOMENT. (PAUSE)

18 Q OBVIOUSLY BECAUSE THERE'S SOME AREAS NOT ON CAMERA,
19 THIS IS INDEED THE CONVENIENCE STORE WHERE MISTI HILL GOT
20 IN THE CAR WITH TERRY DUNOVANT. THAT'S NOT VIEWABLE BY
21 THE CAMERAS ON THIS PARTICULAR CD.

22 A WE DO NOT INDICATE ANYWHERE ON THE VIDEO WHERE WE
23 ACTUALLY SEE HER GETTING INTO THE VEHICLE WITH MR.
24 DUNOVANT.

25 Q JUST SEE IT CLEARLY WHEN --- AFTER HE LEAVES, SHE

CHRIS BOMAR - DIRECT BY MS. LIPINSKI

372

1 LEAVES AS WELL.

2 A THAT'S CORRECT.

3 Q AND IT'S HER TESTIMONY THAT THEY DID --- HE DID PICK
4 HER UP AT A GAS STATION LOCATED AT BESSEMER CITY AND THAT
5 THEY LEFT FROM THERE?

6 A THAT'S CORRECT. SHE STATED BESSEMER CITY ROAD NEAR
7 WAFFLE HOUSE.

8 (END OF VIDEO)

9 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT.
10 IF I COULD SPEAK WITH DEFENSE COUNSEL

11 (WHEREUPON DISCUSSION IS HELD BETWEEN COUNSEL
12 OUT OF THE HEARING OF THE JURY WHICH WAS NOT REPORTED)

13 MS. LIPINSKI - YOUR HONOR, COULD WE APPROACH?

14 (BENCH CONFERENCE WAS HELD IN THE PRESENCE OF
15 THE JURY BUT OUT OF THE HEARING OF THE JURY WHICH WAS NOT
16 REPORTED.)

17 THE COURT - PLAN OUR TIME.

18 MS. LIPINSKI - IF YOU COULD BRING THE LIGHTS
19 BACK UP. I THINK WE'RE DONE WITH THE VIDEO PORTION OF
20 THESE QUESTIONS, YOUR HONOR. I UNDERSTAND IT'S REACHED A
21 LATE HOUR, IF WE COULD RESUME IN THE MORNING, I MIGHT HAVE
22 A FEW FINAL QUESTIONS FOR MR. BOMAR AT THAT AND THEN WE
23 WOULD TENDER HIM OVER TO MR. LEMEL, WHATEVER THE COURT'S
24 SCHEDULE.

25 THE COURT - BUT YOU DON'T HAVE ANY NOW.

373

1 MS. LIPINSKI - AT THIS PARTICULAR TIME I DON'T,
2 YOUR HONOR. I THINK ---

3 THE COURT - MEMBERS OF THE JURY PANEL, BECAUSE
4 IT'S 5:15 AND WE HAVEN'T --- IT'S GOING TO --- AFTER SOME
5 BRIEF QUESTIONS APPARENTLY FROM THE STATE, IT WILL BE A
6 CROSS EXAMINATION OF MR. BOMAR AND THAT WILL PROBABLY TAKE
7 --- WILL TAKE US WELL INTO THE EVENING, SO RATHER THAN DO
8 THAT, WE'LL WAIT AND START BACK AT 11:00 IN THE MORNING
9 AND PICK UP WHERE WE ARE NOW. I'VE GOT SOME THINGS THAT
10 WILL --- I CAN'T START EARLIER BECAUSE OF SOME CONFLICTS
11 IN MY SCHEDULING, SO PLEASE BE BACK AT 11:00 A.M. AND
12 WE'LL START. THIS WITNESS WILL BE BACK ON THE STAND AND
13 MS. LIPINSKI HAS SAID SHE MAY HAVE A FEW MORE QUESTIONS
14 AND THEN WE'LL HAVE THE CROSS EXAMINATION AND PROCEED. SO
15 HAVE A PLEASANT EVENING, KEEPING IN MIND THOSE THINGS I
16 TOLD YOU ABOUT NOT LETTING YOURSELF BE EXPOSED TO. THANK
17 YOU.

18 (JURY EXITS THE COURTROOM)

19 THE COURT - OF COURSE, DETECTIVE BOMAR, YOU'VE
20 DONE THIS ENOUGH. YOU KNOW YOU CAN'T DISCUSS YOUR
21 TESTIMONY WITH ANYBODY SINCE YOU'RE ON THE STAND AND ---

22 MR. BOMAR - YES, SIR.

23 THE COURT - --- SUBJECT TO THE CROSS EXAMINATION
24 NEXT. ANYTHING ELSE WE CAN DO THIS AFTERNOON?

25 MS. LIPINSKI - I DON'T BELIEVE SO, YOUR HONOR.

1 I DON'T THINK WE HAVE ANYTHING ELSE PREPARED. I DON'T ---
2 DO YOU HAVE ANY OTHER ---

3 MR. LEMEL - I DON'T THINK SO, YOUR HONOR.

4 THE COURT - ALL RIGHT, WE'LL START BACK AT ---
5 WHAT'D I SAY --- 11:00 IN THE MORNING.

6 (COURT IN RECESS FOR THE DAY AT 5:20 P.M.)

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STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF GENERAL SESSIONS
SIXTEENTH JUDICIAL CIRCUIT
07-GS-46-3117, 3118
3119

STATE OF SOUTH CAROLINA)
VS.)
TERRY ARNAIL DUNOVANT)

TRANSCRIPT OF RECORD
VOLUME II
(PAGES 375-783)

APRIL 1 & 2, 2009
YORK, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

A P P E A R A N C E S:

MINDY HERVEY LIPINSKI, ASSISTANT SOLICITOR
YORK, SOUTH CAROLINA

JUSTIN D. MAINES, ASSISTANT SOLICITOR
YORK, SOUTH CAROLINA

ATTORNEYS FOR THE STATE

GARY LEMEL, ASSISTANT PUBLIC DEFENDER
YORK, SOUTH CAROLINA

KINDLE JOHNSON, ASSISTANT PUBLIC DEFENDER
YORK, SOUTH CAROLINA

ATTORNEYS FOR THE DEFENDANT

SHIRLEY G. BROOM
CIRCUIT COURT REPORTER
SIXTEENTH JUDICIAL CIRCUIT

I N D E X

WITNESS	DIRECT	CROSS	RE-DIRECT	RE-CROSS
CHRIS BOMAR (CONTD.)				
BY MS. LIPINSKI	378			
BY MR. LEMEL		384		
BY MS. LIPINSKI			471	
BY MR. LEMEL				485
GARY ROLLINS				
BY MS. LIPINSKI	490			
BY MR. LEMEL		492		
DAVID EAGERTON				
BY MR. MAINES	493			
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LILLY GALLMAN				
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E X H I B I T S

EXHIBIT NO.	DESCRIPTION	ID	EV
S-1	SEXUAL ASSAULT KIT		527
S-15	DNA SAMPLE		527
S-19	PHOTOS (D) (E)		560
C-1	NOTE		489

1 THE COURT - STATE READY?.

2 MS. LIPINSKI - YES, SIR, YOUR HONOR. I'D LIKE
3 TO PUT A COUPLE OF QUICK ISSUES ON THE RECORD BEFORE ---

4 THE COURT - ALL RIGHT, IF THE DEFENSE IS READY
5 FOR THAT.

6 MR. LEMEL - YES, SIR.

7 THE COURT - ALL RIGHT. YES, MA'AM.

8 MS. LIPINSKI - MR. LEMEL HAD A MOTION IN LIMINE
9 REGARDING A HOT SPOT VIDEO. THE FSU'S ACQUIRED SOME STOP
10 THAT'S TRYING TO BREAK THAT VIDEO DOWN. IT'S A VERY RAPID
11 THING AND EVEN PLAYING IT IN SLOW MOTION DOESN'T REALLY
12 SEEM TO SLOW IT DOWN AND YOU'RE SWITCHING FROM CAMERAS.
13 I THINK THAT THEY HAD ACCOMPLISHED THAT. WE'VE PROVIDED
14 MR. LEMEL WITH THE VIDEO LAST NIGHT ABOUT 6:00 O'CLOCK.
15 HE E-MAILED ME AFTER I LEFT THAT HE COULDN'T VIEW IT. I
16 GAVE HIM ANOTHER COUPLE THIS MORNING, HOPEFULLY HE CAN
17 VIEW, BUT NONETHELESS I DON'T THINK WE'RE --- ESPECIALLY
18 AT THIS LATE DATE GOING TO GET TO A SITUATION WHERE IT'S
19 SOMETHING WE CAN PUT IN FRONT OF THE JURY. I VIEWED MY
20 COPY LAST NIGHT. THERE'S A CAR THAT PULLS UP AT THE HOT
21 SPOT. IT'S NOT A GREEN FORD TAURUS. I TOLD MR. LEMEL
22 THAT, AND I THINK THE AGREEMENT THAT WE'VE WORKED OUT IS
23 THE STATE WILL NOT PUT IN THE HOT SPOT VIDEO IN ANY FORM
24 OR FASHION WITH THE AGREEMENT THAT THE DEFENSE WILL NOT
25 CHALLENGE THAT THE DETECTIVES DID NOT GO TO THE HOT SPOT

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1 AND TRY AND GET THE VIDEO TO CORROBORATE HIS CLIENT'S
2 STATEMENT THAT THAT'S WHERE HE DROPPED HER OFF.

3 MR. LEMEL - THAT'S CORRECT, YOUR HONOR.

4 THE COURT - OKAY.

5 MS. LIPINSKI - AND I JUST HAVE A FEW QUESTIONS
6 ABOUT THE MAP WITH DETECTIVE BOMAR AND MISTI'S STATEMENT,
7 BUT I'LL BE VERY BRIEF THIS MORNING. I DON'T THINK IT'LL
8 TAKE MORE THAN TEN OR FIFTEEN MINUTES TOPS.

9 THE COURT - ALL RIGHT. DETECTIVE BOMAR, YOU
10 WANT TO COME BACK UP AND HAVE A SEAT AND YOU'LL BE ---

11 (DISCUSSION IS HELD BETWEEN COUNSEL WHICH WAS
12 NOT REPORTED.)

13 MR. LEMEL - I ASSUME THAT WE WOULD GO THROUGH
14 DETECTIVE BOMAR, WE'LL PROBABLY HIT ABOUT NOON AROUND THEN
15 AND WE'D BREAK FOR LUNCH AND THEN COME BACK WITH WHATEVER
16 ELSE ---

17 THE COURT - WE'LL SEE.

18 MS. LIPINSKI - AND THE ONLY REASON --- IT JUST
19 OUT OF AN ABUNDANCE OF CAUTION BECAUSE I THINK IT'S A
20 RELATIVELY SIMPLY MATTER, I'VE PROVIDED THE DEFENSE WITH
21 A COPY OF MISTI HILL'S STATEMENT. I THINK THE ONLY
22 IMPEACHABLE OFFENSE THAT I FOUND IS THAT SHE HAS A 1999
23 CONVICTION OF FINANCIAL TRANSACTION CARD FRAUD WHERE SHE
24 GOT TWENTY-FOUR MONTHS PROBATION AND THAT --- I JUST
25 WANTED TO PUT --- I THINK WE AGREE THAT'S HER IMPEACHABLE

1 RECORD. DO YOU HAVE ANY OBJECTION TO THAT?

2 MR. LEMEL - NO, I MEAN THAT --- I AGREE THAT
3 THAT IS HER IMPEACHABLE RECORD.

4 MS. LIPINSKI - AND I JUST WANTED --- IN THE
5 EVENT WE DO CALL HER THIS DOESN'T TAKE AS LONG, THAT WAY
6 WE DO THAT HAVE THAT.

7 MR. LEMEL - AND JUST FROM A TIMING STANDPOINT,
8 AGAIN, IT BEING MS. HILL, I EXPECT HER TO BE AN EXTENDED
9 WITNESS SO ---

10 THE COURT - I UNDERSTAND THAT, AND I ---

11 MS. LIPINSKI - AND JUST THE OTHER SCHEDULING
12 MATTER, I THINK THEY HAD SCHEDULED A COUPLE OF BOND
13 HEARINGS FOR YOU TOMORROW MORNING, AND THE SOLICITOR'S
14 OFFICE IS ANTICIPATING PERHAPS RESUMING THE TRIAL AT 10:00
15 O'CLOCK. OUR LIMITED WITNESS LEFT WILL BE LIEUTENANT BETH
16 TOLSON. THERE ARE JUST A FEW THINGS SHE DID THAT
17 DETECTIVE BOMAR WAS NOT INVOLVED IN, BUT I THINK THE BULK
18 OF THE INVESTIGATION CROSS CAN BE ACCOMPLISHED WITH
19 DETECTIVE BOMAR TODAY. I DO NOT ENVISION HER BEING A
20 LENGTHY WITNESS. MR. LEMEL AND I TALKED ABOUT SCHEDULING.
21 I THINK THAT AT WORST CASE SCENARIO PUTS US ARGUING AND
22 CHARGING AFTER LUNCH IN THE EVENT THAT HE DOES CALL HIS
23 CLIENT, AND IF NOT, WE CAN ARGUE AND CHARGE EVEN BEFORE
24 LUNCH IF YOU DON'T HAVE ANY OPPOSITION TO DOING THIS
25 BEFORE WE RESUME THE TRIAL. IF YOU DO THEN WE CAN MOVE

CHRIS BOMAR - DIRECT (CONTD.) BY MS. LIPINSKI

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1 THEM AT THE AFTERNOON, WHATEVER YOUR PREFERENCE.

2 THE COURT - ALL RIGHT, WE CAN DO THEM.

3 MS. LIPINSKI - WE'RE READY.

4 THE COURT - ALL RIGHT, BRING IN THE JURY.

5 (JURY RETURNS TO THE COURTROOM)

6 THE COURT - ALL RIGHT. YOU MAY PROCEED. CALL -
7 -- DETECTIVE BOMAR'S ON THE STAND.

8 MS. LIPINSKI - MAY IT PLEASE THE COURT.

9 DIRECT EXAMINATION

10 BY MS. LIPINSKI (CONTD.) -

11 Q DETECTIVE BOMAR, IF I COULD ASK YOU TO STEP DOWN.
12 I'M GOING TO PULL THIS MAP OUT AND JUST ASK YOU A COUPLE
13 OF QUESTIONS ABOUT WHAT OCCURS SOUTH OF THE STATE LINE.
14 AND WE'RE REFERRING FOR THE PURPOSES OF THE RECORD STATE'S
15 EXHIBIT NUMBER 20 WHICH HAS BEEN IDENTIFIED AS THE AERIAL
16 PHOTO OR MAP OF THE AREA. OBVIOUSLY, THE BULK OF THIS MAP
17 IS NORTH CAROLINA WHICH IS NOT YOUR JURISDICTION.
18 CORRECT?

19 A THAT'S CORRECT.

20 Q DETECTIVE MCSWAIN TESTIFIED EARLIER THAT THIS 1721
21 BESSEMER CITY ROAD, THIS IS THE ADDRESS OF THE GRAB AND GO
22 WHERE WE GOT THAT SURVEILLANCE VIDEO AND WHERE HE PICKS UP
23 MISTI HILL. DO YOU RECALL?

24 A I RECALL THAT.

25 Q AND THEN THIS YELLOW LINE BEING THE STATE LINE, I

CHRIS BOMAR - DIRECT (CONTD.) BY MS. LIPINSKI

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1 WANT TO DRAW YOUR ATTENTION TO THE BOTTOM OF THE MAP AND
2 I APOLOGIZE FOR THAT, BUT OBVIOUSLY TO GET THIS WHITE AREA
3 INVOLVED THE DIXIE DINER WHERE HE PICKS HER UP, DO YOU
4 HAVE THAT ADDRESS AND RESPONDING ADDRESS OFF THE INCIDENT
5 REPORT?

6 A I DO. THE ACTUAL ADDRESS --- I HAVE TO REFER BACK TO
7 MY ---

8 COURT REPORTER - I'M NOT PICKING HIM UP.

9 A I'M SORRY. WHICH ONE DO I NEED TO SPEAK INTO?

10 COURT REPORTER - THIS ONE WILL BE OKAY.

11 A OKAY. THE ACTUAL ADDRESS I HAVE FOR THE INCIDENT
12 LOCATION IS 1799 NORTH HIGHWAY 321.

13 Q AND WOULD THAT BE THE ADDRESS OF THE CHURCH WHERE
14 THEY ---

15 A THAT WOULD BE THE ACTUAL INCIDENT LOCATION.

16 Q AND WAS THAT WHAT IS MARKED HERE ON THIS MAP, THIS
17 1799 HIGHWAY 321?

18 A THAT APPEARS TO BE WHAT'S MARKED ON THE INCIDENT
19 REPORT.

20 Q AND ASSUMING THIS IS 321 GOING DOWN INTO CLOVER, DOES
21 THE CHURCH SIT ON THIS ROAD OR BACK OFF THIS ROAD ON A
22 FRONTAGE ROAD FOR LACK OF A BETTER TERM?

23 A ACTUALLY, YOU ACTUALLY HAVE TO GO ON ANOTHER ROAD OFF
24 OF 321 TO REACH THE CHURCH, SO IT SITS OFF OF THE MAIN
25 ROAD OF HIGHWAY 321.

CHRIS BOMAR - DIRECT (CONTD.) BY MS. LIPINSKI

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1 Q AND THE DIXIE DINER, IF YOU CAN RECALL, I DON'T KNOW
2 IF --- DOES THAT SIT MORE DIRECTLY ON 321?

3 A THE DIXIE DINER ACTUALLY --- YOU CAN VIEW IT AND SEE
4 IT AND TO GET TO DIXIE DINER FROM 321.

5 Q SO THAT SITS ACTUALLY ON THE ROAD THERE?

6 A THAT'S CORRECT.

7 Q IN CLOSE PROXIMITY TO THE CHURCH?

8 A CORRECT. IF YOU GO FROM BEHIND THE DIXIE DINER YOU
9 CAN GET TO THE CHURCH, BUT YOU CAN'T DRIVE FROM THE DIXIE
10 DINER TO GET TO THE CHURCH. IN OTHER WORDS, THERE IS NO
11 DIRECT PATH FROM THE DIXIE DINER. YOU HAVE TO GO BACK
12 ONTO 321, GO AROUND AND THERE'S ANOTHER SIDE ROAD THAT YOU
13 HAVE TO GET ONTO TO GET TO THE CHURCH.

14 Q THANK YOU. I'LL HAVE YOU TAKE THE STAND.

15 A (WITNESS COMPLIES)

16 Q AND I BELIEVE YOU STATED YOU INITIALLY RESPONDED TO
17 THE DIXIE DINER AND BY THAT TIME MISTI HAD ALREADY LEFT IN
18 AN AMBULANCE.

19 A THAT'S CORRECT.

20 Q AND YOU WERE DIRECTED BACK TO THE GRAVEYARD AT
21 WEEPING MARY BAPTIST CHURCH.

22 A THAT'S CORRECT.

23 Q BUT AT SOME POINT YOU DO GO TO THE HOSPITAL AND
24 INTERVIEW MISTI HILL.

25 A THAT'S CORRECT.

CHRIS BOMAR - DIRECT (CONTD.) BY MS. LIPINSKI

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1 Q AND IS THAT YOUR INTERVIEW OR IS THAT LIEUTENANT
2 TOLSON'S INTERVIEW OR ARE YOU BOTH TALKING TO HER?

3 A WE ARE BOTH TALKING WITH HER, BUT MOSTLY --- MOSTLY
4 I'M ASKING QUESTIONS AND THEN SHE'LL INTERJECT IN CERTAIN
5 SITUATIONS WHERE SHE NEEDS CLARIFICATION.

6 Q AND BY SHE, DO YOU MEAN MISTI OR DO YOU MEAN
7 LIEUTENANT TOLSON?

8 A LIEUTENANT TOLSON.

9 Q AND SHE STATE --- THE VICTIM TOLD YOU OBVIOUSLY SHE
10 WAS PICKED UP AT A GAS STATION IN BESSEMER CITY.

11 A THAT'S CORRECT.

12 Q AND IT WAS NEAR A WAFFLE HOUSE.

13 A THAT'S CORRECT.

14 Q AND I BELIEVE WE SAW THE SURVEILLANCE VIDEO THAT
15 THERE DOES APPEAR TO BE A WAFFLE HOUSE ADJOINING THE
16 PARKING LOT OF THE GRAB AND GO.

17 A THAT'S CORRECT.

18 Q AND WAS SHE ABLE TO TELL YOU WHAT TIME SHE WAS
19 DROPPED OFF?

20 A YOU MEAN AT THE CONVENIENCE STORE?

21 Q YES, SIR.

22 A SOMEWHERE --- SHE GAVE US A TIME-FRAME OF SOMEWHERE
23 BETWEEN 4:30 AND 5:30 IN THE MORNING. WELL, I TAKE THAT
24 BACK. SHE STATES THAT THE SUBJECT WALKED IN ABOUT THAT
25 TIME. I DON'T SEE --- I DON'T SEE A TIME THAT I HAVE IN

CHRIS BOMAR - DIRECT (CONTD.) BY MS. LIPINSKI

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1 MY NOTES.

2 Q WHEN SHE ACTUALLY GOT THERE?

3 A THAT WHEN SHE ACTUALLY GOT THERE.

4 Q DID SHE TELL YOU WHERE SHE HAD BEEN PREVIOUS TO BEING
5 AT THE GAS STATION?

6 A SHE STATED THAT SHE WAS WITH SOME FRIENDS AT I
7 BELIEVE IT'S CALLED THE GOOD TIMES, AND I FORGET THE OTHER
8 LOCATION RIGHT OFF HAND WHERE SHE HAD BEEN WITH A COUPLE
9 OF FRIENDS.

10 Q DID SHE INDICATE TO YOU WHETHER OR NOT SHE HAD
11 CONSUMED AN ALCOHOL THE NIGHT IN QUESTION?

12 A (NO RESPONSE)

13 Q I BELIEVE THAT'S AT THE BOTTOM OF YOUR INTERVIEW.

14 A SHE STATED SHE DRANK APPROXIMATELY FOUR BEERS PRIOR
15 TO THE SUBJECT PICKING HER UP.

16 Q AND DID SHE INDICATE WHETHER OR NOT THERE WAS ANY
17 AGREEMENT BETWEEN HER AND THE DEFENDANT TO SMOKE CRACK
18 COCAINE ON THE NIGHT IN QUESTION?

19 A THERE WAS --- REPEAT THAT.

20 Q DID SHE EVER INDICATE TO YOU WHETHER OR NOT --- WHEN
21 SHE WENT WITH THE DEFENDANT --- WHAT WAS THE PURPOSE OF
22 HER GOING WITH THE DEFENDANT? WHERE WERE --- WHERE DID
23 SHE BELIEVE THEY WERE GOING THAT NIGHT?

24 A SHE BELIEVED THAT HE WAS TO DRIVE HER HOME.

25 Q AND WAS THERE ANY AGREEMENT BETWEEN THE TWO OF THEM

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1 EITHER AT THE TIME HE PICKED HER UP OR ANY OTHER TIME THAT
2 THE TWO OF THEM WOULD SMOKE CRACK COCAINE DURING THE TRIP
3 OR AT THE END OF IT?

4 A SHE INDICATED ON --- IN THE ROUTE THAT THEY TALKED
5 ABOUT CRACK AND THAT THEY DID SMOKE SOME CRACK.

6 Q AND DID SHE GIVE YOU A DESCRIPTION OF THE SEXUAL
7 ASSAULT TO THE EXTENT OF WHAT SEX ACTS OR OCCURRED OR
8 ATTEMPTED TO OCCUR?

9 A SHE DID.

10 Q AND DID SHE EVER INDICATE TO YOU THAT THE DEFENDANT
11 ATTEMPTED TO PERFORM ORAL SEX ON HER?

12 A THAT WAS NEVER EVER BROUGHT UP.

13 Q DID SHE INDICATE HOWEVER THAT HE ATTEMPTED TO FORCE
14 HER TO PERFORM ORAL SEX ON HIM?

15 A SHE DID.

16 Q AND THAT HE ALSO FORCED HER TO HAVE VAGINAL SEX WITH
17 HER.

18 A THAT'S CORRECT.

19 Q AND AGAIN SHE WAS ABLE TO DESCRIBE SOME PARTICULAR
20 IDIOSYNCRACIES OF HIS PENIS INCLUDING THOSE BUMPS AND HIM
21 BEING CIRCUMCISED?

22 A THAT'S CORRECT.

23 Q AND THAT'S SOMETHING THAT YOU CONFIRMED WHEN YOU WERE
24 GETTING THE DNA SAMPLE AND THE PUBIC HAIR COMBINGS FROM
25 HIM.

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 A IN OBSERVATION OF THOSE THINGS BEING DONE, THAT'S
2 CORRECT.

3 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT.
4 THOSE ARE JUST THE FINAL FOLLOW-UP OF DETECTIVE BOMAR,
5 YOUR HONOR. THAT'S ALL WE HAVE OF THE DETECTIVE AT THIS
6 TIME.

7 CROSS EXAMINATION

8 BY MR. LEMEL -

9 Q GOOD MORNING, DETECTIVE BOMAR.

10 A GOOD MORNING.

11 Q NOW, AS YOU INDICATED EARLIER YOU WERE AN OFFICER
12 WITH THE YORK COUNTY SHERIFF'S DEPARTMENT.

13 A A DETECTIVE, YES, SIR.

14 Q RIGHT. DETECTIVE JUST BEING YOUR RANK OF OFFICER.

15 A THAT'S CORRECT.

16 Q OKAY. AND AS A DETECTIVE WITHIN THE DETECTIVE
17 DIVISION Y'ALL HAVE DIVIDED UP INTO A NUMBER OF WHAT I'M
18 GOING TO CALL DIVISIONS FOR LACK OF A BETTER WORD?

19 A THAT'S CORRECT.

20 Q SOME PEOPLE HANDLE BASICALLY PROPERTY CRIMES?

21 A THAT'S CORRECT.

22 Q BUT YOU ARE ASSIGNED TO THE DIVISION THAT
23 INVESTIGATES JUVENILES?

24 A THAT'S CORRECT.

25 Q AND SEX CRIMES.

CHRIS BOMAR - CROSS BY MR. LEMEL

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- 1 A THAT'S CORRECT.
- 2 Q SO PRETTY MUCH ANYTHING THAT HAPPENS THAT FALLS UNDER
- 3 THE COUNTY'S --- THE COUNTY, AS OPPOSED TO LIKE A CITY
- 4 POLICE DEPARTMENT THAT INVOLVES A SEX CRIME ---
- 5 A THAT'S CORRECT.
- 6 Q --- IS GOING TO MAKE ITS WAY TOWARDS YOUR DIVISION
- 7 EVENTUALLY.
- 8 A THAT'S CORRECT.
- 9 Q OKAY. NOW, YOU YOURSELF WERE PROMOTED TO THE
- 10 DETECTIVE DIVISION AFTER SERVICE IN OTHER DIVISIONS.
- 11 CORRECT?
- 12 A THAT'S CORRECT.
- 13 Q YOU SERVED AS PATROL OFFICER FOR A PERIOD OF TIME AS
- 14 WELL WITH THE SHERIFF'S DEPARTMENT.
- 15 A THAT'S CORRECT.
- 16 Q AND AS A PATROL OFFICER, LIKE OFFICERS WE HAD HERE
- 17 EARLIER WHO'S SINCE TRANSFERRED OVER TO A DIFFERENT POLICE
- 18 DEPARTMENT, PATROL HAS OFFICERS ON DUTY ALL THE TIME.
- 19 A THAT'S CORRECT.
- 20 Q BUT THE DETECTIVE DIVISION TENDS TO WORK MORE OF A
- 21 NORMAL SCHEDULE.
- 22 A EXCEPT FOR ONE BEING ON CALL.
- 23 Q RIGHT.
- 24 A THAT'S CORRECT.
- 25 Q HADN'T GOTTEN THERE YET, BUT RIGHT. YOUR NORMAL

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 SCHEDULE IS SORT OF AN 8:00 TO 5:00, 9:00 TO 5:00 KIND OF
2 JOB.

3 A TYPICALLY IF NO EMERGENCIES.

4 Q RIGHT. AND THAT'S MOSTLY ON WEEKENDS --- ON
5 WEEKDAYS.

6 A THAT'S CORRECT.

7 Q YOU MOSTLY HAVE WEEKENDS OFF.

8 A THAT IS CORRECT.

9 Q SUBJECT TO AGAIN SOMEONE BEING ON CALL.

10 A THAT'S CORRECT.

11 Q BECAUSE THERE'S ALWAYS SOME DETECTIVE WHO'S READY TO
12 RESPOND OUT IF SOMETHING COMES UP THAT REQUIRES A
13 DETECTIVE'S ATTENTION.

14 A THAT'S CORRECT.

15 Q OKAY. BUT THE VAST MAJORITY OF THE WORK YOU DO TAKES
16 PLACE DURING NORMAL BUSINESS HOURS.

17 A THOSE ARE THE CASES THAT ARE ASSIGNED TO ME. THAT'S
18 CORRECT.

19 Q RIGHT. NOW, LET'S TALK ABOUT A CASE TYPICALLY ENDS
20 UP GETTING TO THE ATTENTION OF THE DETECTIVE DIVISION WITH
21 THE SHERIFF'S OFFICE. AT SOME POINT IN TIME IN ALMOST
22 EVERY CASE SOMEONE GETS IN TOUCH WITH THE SHERIFF'S
23 DEPARTMENT, FOR EXAMPLE, ---

24 A THAT'S CORRECT.

25 Q --- TO START SOMETHING.

CHRIS BOMAR - CROSS BY MR. LEMEL

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- 1 A THAT'S CORRECT.
- 2 Q THERE'S SOME SORT OF CALL FOR SERVICE.
- 3 A THAT'S CORRECT.
- 4 Q SOME ARE INITIATED ACTUALLY BY A DEPUTY OUT IN THE
- 5 FIELD DRIVING AROUND, BUT A LOT COME FROM A CALL IN.
- 6 A THAT'S CORRECT.
- 7 Q AND MOST OF THOSE INITIAL COMPLAINTS, THOSE INITIALS
- 8 RESPONSES COME IN THE FORM OF THE PATROL DIVISION.
- 9 A THAT'S CORRECT.
- 10 Q THEY GO OUT ---
- 11 A THAT'S CORRECT.
- 12 Q --- AND TALK TO WHOEVER CALLED THE SHERIFF'S
- 13 DEPARTMENT.
- 14 A THAT'S TYPICALLY --- YES.
- 15 Q BE THAT VIA 9-1-1 OR THE NORMAL PHONE LINE.
- 16 A YES.
- 17 Q AND THERE ARE SOME CASES THAT A PATROL OFFICER CAN
- 18 COMPLETE TOTALLY ON HIS OWN.
- 19 A THAT'S CORRECT.
- 20 Q DOESN'T NEED TO INVOLVE THE DETECTIVE DIVISION.
- 21 A THAT'S CORRECT.
- 22 Q BUT THERE ARE OTHER CASES BECAUSE THEIR MAGNITUDE OR
- 23 COMPLEXITY OR THEY JUST NEED MORE CHECKING INTO THAT A
- 24 PATROL OFFICER DOESN'T TRY TO DO EVERYTHING ON HIS OWN.
- 25 A THAT'S CORRECT.

CHRIS BOMAR - CROSS BY MR. LEMEL

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- 1 Q HE SUMMONS IN OTHER PEOPLE TO ASSIST HIM.
- 2 A THAT'S CORRECT.
- 3 Q WHICH MAY INCLUDE FORENSIC SERVICES.
- 4 A THAT'S CORRECT.
- 5 Q AND MAY INCLUDE THE DETECTIVE DIVISION.
- 6 A THAT'S CORRECT.
- 7 Q NOW, IN THIS INITIAL CONTACT THE DEPUTY WHO FIRST
- 8 ARRIVES ON THE SCENE IN A SITUATION THAT HAS CERTAIN
- 9 RESPONSIBILITIES.
- 10 A THAT'S CORRECT.
- 11 Q HE TRIES TO FIND OUT AS QUICKLY AS HE CAN EXACTLY
- 12 WHAT HE'S THERE FOR.
- 13 A GET AS MUCH INFORMATION HE CAN. THAT'S CORRECT.
- 14 Q RIGHT. BECAUSE INFORMATION THAT HE GETS RIGHT THERE
- 15 WHEN IT'S FRESHEST OFTEN IS VERY IMPORTANT TO YOU ON DOWN
- 16 THE LINE WHEN YOU INVESTIGATE.
- 17 A IT AIDS US, YES.
- 18 Q RIGHT. AND THEY'RE TAUGHT HOW TO SORT OF MAKE THAT
- 19 INITIAL CONTACT AS PART OF THEIR LAW ENFORCEMENT TRAINING.
- 20 A THROUGH THE ACADEMY, YES.
- 21 Q AND YOU RECEIVED THAT TRAINING.
- 22 A THAT'S CORRECT.
- 23 Q AND ALSO TRAINING THAT YOU DO SORT OF ON-THE-JOB.
- 24 A THAT'S CORRECT.
- 25 Q OKAY. NOW, IN THIS PARTICULAR CASE IT'S A LITTLE BIT

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 DIFFERENT HOW YOU GOT INVOLVED WITH IT BECAUSE HE NEVER
2 ACTUALLY --- IT SOUNDED FROM WHAT YOU SAID BEFORE,
3 ACTUALLY HAD TO CALL IN FOR DETECTIVE ASSISTANCE, BUT
4 DETECTIVE TOLSON SOMEHOW HEARD THE CALL AND GOT IN TOUCH
5 WITH YOU EARLY ON?

6 A I'M NOT SURE EXACTLY HOW IT CAME INTO THE DETECTIVE
7 DIVISION TO BEGIN WITH. ALL I KNOW IS THAT I WAS ACTUALLY
8 CALLED BY MY LIEUTENANT TO RESPOND.

9 Q OKAY, AND THAT WAS DETECTIVE TOLSON.

10 A THAT'S CORRECT.

11 Q OKAY. SO AT SOME POINT IN TIME SHE INSTRUCTS A
12 DETECTIVE, YOU, TO GO OUT THERE TO THE SCENE.

13 A THAT'S CORRECT.

14 Q OKAY. NOW, TYPICALLY THROUGH THE COURSE OF AN
15 INVESTIGATION ONE OR MORE DETECTIVES CAN PARTICIPATE.

16 A THAT'S CORRECT.

17 Q DEPENDING ON THE NEEDS AND WHAT HAS TO BE DONE.

18 A MANPOWER, THAT'S CORRECT.

19 Q OKAY. THE DETECTIVE DIVISION WORKS TOGETHER TO
20 GATHER UP WHATEVER EVIDENCE THEY CAN.

21 A THAT'S CORRECT.

22 Q DETECTIVE MAY DECIDE WHETHER HE THINKS HE HAS WHAT'S
23 CALLED PROBABLE CAUSE IN A CASE.

24 A I'M SORRY.

25 Q A DETECTIVE WILL DECIDE WHETHER HE THINKS HE HAS

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 WHAT'S CALLED PROBABLE CAUSE IN A CASE? YOU FAMILIAR WITH
2 THE TERM PROBABLE CAUSE?

3 A I THINK BE MORE ACCURATE TO SAY HE'S THERE TO GATHER
4 FACTS AND THEN IF PROBABLE CAUSE IS DETERMINED, THEN YES.

5 Q RIGHT. I MEAN HE DOES HIS INVESTIGATION AND HE
6 DECIDES WHETHER HE HAS REACHED A POINT WHERE HE'S GOT THE
7 PROBABLE CAUSE.

8 A OKAY.

9 Q YOU WOULD AGREE WITH ME.

10 A WELL, IN --- I GUESS I'M CONFUSED ABOUT --- BECAUSE
11 NOT EVERY TIME THEY'RE LOOKING FOR JUST PROBABLE CAUSE;
12 THEY'RE LOOKING FOR FACTS TO GATHER FOR THE PROBABLE
13 CAUSE.

14 Q AND I'M NOT ASKING TO LOOK FOR PROBABLE CAUSE. MY
15 QUESTION TO YOU IS, AFTER HE GATHERS FACTS --- OKAY --- AT
16 SOME POINT IN TIME BASED UPON WHAT HE HAS GATHERED HE
17 DETERMINES WHETHER HE HAS REACHED PROBABLE CAUSE.

18 A THAT'S CORRECT.

19 Q OKAY. AND BASED UPON PROBABLE CAUSE, HE CAN GO GET
20 A WARRANT.

21 A THAT'S CORRECT.

22 Q BECAUSE YOU ONLY NEED TO HAVE PROBABLE CAUSE IN ORDER
23 TO GET AN ARREST WARRANT.

24 A THAT'S CORRECT.

25 Q OKAY. AND HE ARREST SOMEBODY WITH THAT WARRANT.

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 A IF WE HAVE PROBABLE CAUSE, YES.

2 Q COMPLETES HIS INVESTIGATION.

3 A CONTINUES WITH IT, YES.

4 Q BUT AT SOME POINT IN TIME COMPLETES IT.

5 A THAT'S CORRECT.

6 Q PREPARES THE CASE FOR A PROSECUTOR.

7 A THAT'S CORRECT.

8 Q WHICH WOULD INCLUDE FILLING OUT A LOT OF PAPERWORK.

9 A THAT'S CORRECT.

10 Q A LOT OF WHAT POLICE DO NOWADAYS IS PAPERWORK
11 BASICALLY.

12 A THAT'S --- THAT'S CORRECT.

13 Q SOME OF THAT PAPERWORK IS USED BY YOU INTERNALLY ---

14 A THAT'S CORRECT.

15 Q --- AND SOME OF IT IS GOING TO BE TRANSMITTED OVER TO
16 THE PROSECUTOR FOR THEIR REVIEW OF THE CASE.

17 A THAT'S CORRECT.

18 Q ONE OF THE THINGS THAT WOULD BE PREPARED BY YOU IN
19 THIS CASE IS WHAT I'M GOING TO CALL THE LEAD INVESTIGATOR
20 WOULD BE A GENERAL SESSIONS CASE SUMMARY?

21 A THAT'S CORRECT.

22 Q AND THAT'S JUST A DOCUMENT THAT PRESERVES A SUMMARY
23 OF WHAT YOU DID AND WHAT YOU FOUND IN A PARTICULAR CASE.

24 A THAT'S CORRECT.

25 Q IS IN THAT SENSE SOMEWHAT SIMILAR TO THE POLICE

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 REPORT, THE INCIDENT REPORT THAT THE DEPUTY WHO TESTIFIED
2 EARLIER WAS TALKING ABOUT THAT HE USES TO DO THE SAME
3 THING.

4 A CORRECT. IT JUST GIVES YOU A GENERAL SNAPSHOT OF
5 WHAT OCCURRED.

6 Q RIGHT. AND THERE ARE DIFFERENT SECTIONS ON THERE ON
7 THAT REPORT.

8 A ON THE GENERAL SESSIONS?

9 Q YES.

10 A AS FAR AS ---

11 Q WELL, THERE'S A SECTION WHERE YOU MAY IDENTIFY WHO A
12 SUSPECT IS.

13 A THAT'S CORRECT.

14 Q WHO THE WITNESSES ARE.

15 A THAT'S CORRECT.

16 Q WHO THE INVESTIGATING OFFICERS ARE.

17 A THAT'S CORRECT.

18 Q ANY OTHER WITNESSES THAT MIGHT BE INVOLVED.

19 A THAT'S CORRECT.

20 Q AND THE SECTION THAT WE CALL THE NARRATIVE.

21 A THAT'S CORRECT.

22 Q WHICH IS THE DESCRIPTION OF WHAT ACTUALLY HAPPENED IN

23 A PARTICULAR CASE PURSUANT TO THE DETECTIVE'S
24 INVESTIGATION.

25 A I'D SAY A SNAPSHOT OF IT, YES.

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 Q SNAPSHOT. BUT IT IS A SNAPSHOT THAT'S GOING TO BE
2 RELAYED TO THE PEOPLE IN THE PROSECUTOR'S OFFICE.

3 A GIVES THEM A GENERAL IDEA OF WHAT HAD OCCURRED
4 WITHOUT HAVING TO GO THROUGH THE WHOLE CASE FOLDER.

5 Q IT'S A SNAPSHOT THAT'S GOING TO BE RELAYED TO THE
6 DEFENSE ATTORNEY.

7 A THAT'S CORRECT.

8 Q AND YOU YOURSELF MAY ACTUALLY USE THAT GENERAL
9 SESSIONS CASE SUMMARY WHEN YOU'RE UP THERE ON THE STAND.

10 A AT TIMES, YES.

11 Q DO YOU HAVE ONE RIGHT NOW?

12 A THAT'S WHAT I'M LOOKING FOR ACTUALLY.

13 Q OKAY.

14 A I HAVEN'T BEEN REFERRING TO THAT SNAPSHOT THAT YOU --
15 - HAS BEEN SUGGESTED.

16 Q BUT THAT IS SOMETHING THAT YOU WOULD TYPICALLY DO IN
17 THIS CASE, YOU'RE PREPARING WITH AN EYE TOWARDS THAT.

18 A TYPICALLY.

19 Q RIGHT. AND BECAUSE IT'S GOING TO BE REVIEWED BY ALL
20 THESE PEOPLE AND MAY ACTUALLY BE NEEDED BY YOU AT SOME
21 POINT IN TIME IN THE FUTURE, ALTHOUGH IT IS A SNAPSHOT,
22 YOU WANT TO MAKE IT COMPLETE.

23 A AS MUCH AS POSSIBLE.

24 Q AND ACCURATE, WHATEVER YOU PUT IN THERE.

25 A AS MUCH AS POSSIBLE, SURE.

CHRIS BOMAR - CROSS BY MR. LEMEL

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1 Q NOW, LET'S TALK ABOUT WHAT HAPPENED BACK ON MAY 3RD
2 OF 2007. DO YOU NEED TO HAVE YOUR CASE SUMMARY TO HAVE
3 THAT OR DOES THAT HELP YOU?

4 A WELL, THAT'S WHAT I'M LOOKING FOR RIGHT NOW, SO I ---

5 Q YOU WANT TO TAKE A SECOND TO LOOK FOR THAT?

6 A YES, IF YOU DON'T MIND.

7 Q SURE.

8 A RIGHT NOW I'M NOT RUNNING ACROSS ---

9 Q OKAY. DO YOU FEEL LIKE YOU NEED TO HAVE IT TO
10 TESTIFY?

11 A NO, SIR.

12 Q OKAY. I'VE GOT A COPY. I ONLY HAVE ONE COPY
13 UNFORTUNATELY, BUT IF AT ANY POINT IN TIME YOU FEEL LIKE
14 IT WOULD HELP YOU TO REFER TO THIS, PLEASE LET ME KNOW AND
15 I'LL BE HAPPY TO SHARE THIS WITH YOU.

16 A THANK YOU.

17 Q SO THIS ALL HAPPENED ON MAY 3RD OF 2007.

18 A THAT'S CORRECT.

19 Q RIGHT? WHICH WAS A THURSDAY, MAY 3RD.

20 A UM, THE DATE TO BE ACTUALLY HONEST UNLESS I'M LOOKING
21 AT A CALENDAR I CAN'T TELL YOU IF THAT WAS A THURSDAY,
22 WEDNESDAY OR FRIDAY.

23 Q OKAY. BUT THIS MAY 3RD WAS THE FIRST DAY THAT YOU
24 ACTUALLY MET WITH MS. HILL.

25 A THAT'S CORRECT.

CHRIS BOMAR - CROSS BY MR. LEMEL

395

1 Q DETECTIVE TOLSON INSTRUCTED YOU TO WORK ON THIS CASE.

2 A THAT'S CORRECT.

3 Q AND BASED ON THAT INSTRUCTION YOU WENT TO THE DIXIE
4 DINER.

5 A THAT'S CORRECT.

6 Q AND MS. HILL WAS NOT THERE.

7 A THAT'S CORRECT.

8 Q THEN YOU WENT OVER TO THE WEEPING MARY BAPTIST
9 CHURCH.

10 A TO SURVEY THE SCENE, YES.

11 Q AND MS. HILL WAS NOT THERE.

12 A THAT'S CORRECT.

13 Q BUT YOU DID TAKE THE TIME TO NOTE WHAT WAS GOING ON
14 THERE.

15 A THAT'S CORRECT.

16 Q LOOKED AND SAW WHAT THE OFFICERS WERE DOING WHO WERE
17 THERE.

18 A AND FORENSICS.

19 Q AND FORENSICS.

20 MS. LIPINSKI - I'M SORRY, BUT THIS IS AN ACTUAL
21 COPY ---

22 MR. LEMEL - THAT'S FINE.

23 Q THIS HAS BEEN HANDED TO ME BY THE SOLICITOR. IS THIS
24 A COPY OF YOUR GENERAL SESSIONS CASE SUMMARY IN THIS CASE?

25 A IT IS.

CHRIS BOMAR - CROSS BY MR. LEMEL

396

1 Q AND AGAIN, WOULD HAVING THAT UP THERE WITH YOU MAKE
2 YOU MORE COMFORTABLE IN TERMS OF TESTIFYING?

3 A THANK YOU.

4 Q OKAY. SO AT THE CHURCH YOU SURVEYED WHAT WAS GOING
5 ON.

6 A THAT'S CORRECT.

7 Q MADE A NOTE OF WHAT THE CHURCH ITSELF AND THE AREA
8 LOOKED LIKE, THINGS LIKE THAT.

9 A THAT'S CORRECT.

10 Q SO YOU KNEW WHAT WAS BEING TALKED ABOUT IN THIS
11 PARTICULAR ---

12 A THAT'S CORRECT.

13 Q AND BASICALLY MADE SURE THAT EVERYTHING WAS UNDER
14 CONTROL AT THAT SIGHT AT THAT POINT IN TIME.

15 A THAT'S CORRECT.

16 Q FROM THERE YOU WENT TO PIEDMONT MEDICAL CENTER.

17 A I BELIEVE SO, YES.

18 Q OKAY. AND THAT'S WHERE YOU FIRST MET MS. HILL.

19 A THAT'S CORRECT.

20 Q AND SHE WAS UNDERGOING TREATMENT.

21 A THAT'S CORRECT.

22 Q AND EXAMINATION.

23 A THAT'S CORRECT.

24 Q NOW, WHILE YOU WERE CONDUCTING --- OR WHILE YOU WERE
25 THERE YOU CONDUCTED AN INTERVIEW WITH HER.

CHRIS BOMAR - CROSS BY MR. LEMEL

397

- 1 A THAT'S CORRECT.
- 2 Q YOU AND DETECTIVE TOLSON.
- 3 A THAT'S CORRECT.
- 4 Q WHILE YOU WERE CONDUCTING THAT INTERVIEW OTHER
- 5 OFFICERS WERE DOING OTHER THINGS RELATING TO THIS
- 6 INVESTIGATION.
- 7 A THAT'S CORRECT.
- 8 Q OKAY. AND SORT OF --- I GUESS IT WOULD BE SAFE TO
- 9 SAY YOU FARMED IT OUT, DIFFERENT OFFICERS WERE ASSIGNED TO
- 10 DO DIFFERENT THINGS.
- 11 A THAT'S CORRECT.
- 12 Q SOME OF THEM WERE ASSIGNED TO WORK THE SCENE THERE AT
- 13 THE CHURCH.
- 14 A THAT'S CORRECT.
- 15 Q OTHERS AS THE STORY CAME OUT WERE ASSIGNED TO GO PICK
- 16 UP OTHER THINGS.
- 17 A THAT'S CORRECT.
- 18 Q WHICH WOULD INCLUDE THE VIDEO FROM, I THINK IT'S THE
- 19 GRAB AND GO UP IN GASTONIA?
- 20 A THAT WOULD BE LATER, AND ACTUALLY I WAS --- THAT
- 21 HAPPENED A LOT LATER.
- 22 Q OKAY. THAT HAPPENED A LOT LATER. AT SOME POINT IN
- 23 TIME AFTER THE INTERVIEW YOU LEFT PIEDMONT MEDICAL CENTER.
- 24 A THAT'S CORRECT.
- 25 Q DID YOU GO BACK BY WEEPING MARY BAPTIST CHURCH AT

CHRIS BOMAR - CROSS BY MR. LEMEL

398

1 THAT POINT IN TIME?

2 A NO, WE DID NOT.

3 Q OKAY, YOU WENT STRAIGHT UP TO NORTH CAROLINA AT THAT

4 ---

5 A THAT'S CORRECT.

6 Q --- POINT IN TIME. AND THAT'S WHEN YOU SPOKE WITH
7 OFFICERS FROM GASTON COUNTY.

8 A MY CAPTAIN AND LIEUTENANT WERE SPEAKING WITH THEM.

9 Q OKAY. YOU WERE THERE WITH THEM.

10 A THAT'S CORRECT.

11 Q ALL OF YOU AT THE SAME TIME.

12 A THAT'S CORRECT.

13 Q AND IF YOU DID NOT ACTUALLY SPEAK WITH THEM YOU
14 CERTAINLY SAW THE INTERACTION THAT TOOK PLACE.

15 A THAT'S CORRECT.

16 Q ALL RIGHT. YOU ARRIVED UP IN GASTON COUNTY I THINK
17 WE'VE ESTABLISHED JUST BEFORE 11:00 O'CLOCK THAT SAME
18 MORNING.

19 A THAT'S REASONABLE. I CAN'T EVEN REMEMBER THE EXACT
20 TIME.

21 Q ALL RIGHT. BUT IT WAS ROUGHLY 11:00 O'CLOCK THAT
22 MORNING.

23 A RIGHT.

24 Q ROUGHLY THREE HOURS AFTER YOU FIRST MET MS. HILL AT
25 ABOUT 8:00 O'CLOCK THAT MORNING.

CHRIS BOMAR - CROSS BY MR. LEMEL

399

1 A I BELIEVE SO.

2 Q OKAY.

3 A I DON'T KNOW IF WE ROAD AROUND FIRST PRIOR TO MEETING
4 WITH THE DETECTIVES.

5 Q BUT IT WAS ROUGHLY 11:00 O'CLOCK.

6 A APPROXIMATELY.

7 Q AND YOU ROUGHLY MET WITH MS. HILL ABOUT 8:00 O'CLOCK.

8 A APPROXIMATELY, YES.

9 Q SO ABOUT THREE HOURS.

10 A THAT'S CORRECT.

11 Q OKAY. WITHIN THIRTY MINUTES OF Y'ALL HAVING THAT
12 MEETING WITH THE OFFICERS, YOU HAD FOUND MR. DUNOVANT.

13 A THE OTHER DETECTIVES DID, YES.

14 Q RIGHT. OKAY. DID YOU YOURSELF GO TO THE SCENE WHERE
15 TERRY WAS STOPPED THERE ON THE SIGHT?

16 A WE ALL RESPONDED TO THAT SCENE, YES, SIR.

17 Q OKAY, SO THAT WOULD BE YOU, ---

18 A LIEUTENANT TOLSON ---

19 Q --- LIEUTENANT TOLSON ---

20 A --- AND CAPTAIN HOFFMAN.

21 Q --- CAPTAIN HOFFMAN. AND IN THE COURSE OF THAT
22 PROCESS THERE WAS SOME DISCUSSION THAT TOOK PLACE OUT
23 THERE ON THE ROADSIDE.

24 A THAT'S CORRECT.

25 Q AND THEN HE WAS TAKEN TO THE GASTON POLICE

CHRIS BOMAR - CROSS BY MR. LEMEL

400

1 DEPARTMENT.

2 A THAT'S CORRECT.

3 Q WHERE A STATEMENT WAS TAKEN FROM HIM.

4 A THAT'S CORRECT.

5 Q AND AS WE HEARD EARLIER I THINK YOU JUST SORT SAT
6 THERE AND WATCHED THE STATEMENT BEING TAKEN AND WERE IN
7 AND OUT OF THE ROOM.

8 A THAT'S CORRECT.

9 Q THAT STATEMENT WAS COMPLETED WE'VE ESTABLISHED I
10 BELIEVE AT AROUND 1:20 THAT AFTERNOON?

11 A I BELIEVE THAT'S THE TIME HE SIGNED IT, YES.

12 Q OKAY. SO THAT'S ROUGHLY FIVE HOURS AFTER YOU FIRST
13 MET MS. HILL.

14 A THAT'S CORRECT.

15 Q ALL RIGHT. AND WE'VE ALSO ESTABLISHED THAT SOME TIME
16 BETWEEN THREE AND FOUR O'CLOCK THAT DAY WHEN TERRY WAS UP
17 AT THE GASTON POLICE DEPARTMENT STILL THEY RECEIVED COPIES
18 OF THE WARRANTS THAT YOU HAD SWORN OUT.

19 A THAT'S CORRECT.

20 Q SO SOME TIME AROUND 3:00 O'CLOCK BY THE DAY YOU'D
21 ALREADY TAKEN OUT THE WARRANTS FOR HIS ARREST.

22 A THAT'S CORRECT.

23 Q OKAY. WHICH WOULD ROUGHLY PLACE IT SEVEN HOURS AFTER
24 YOU FIRST MET MS. HILL.

25 A THAT'S CORRECT.

CHRIS BOMAR - CROSS BY MR. LEMEL

401

1 Q NOW, AT THE SAME TIME THAT YOU'RE TAKING OUT THE
2 WARRANT AT 3:00 O'CLOCK WE'VE ESTABLISHED THAT AS YOU SAID
3 MUCH LATER CAPTAIN HOFFMAN WENT TO GET THE VIDEO FROM THE
4 TRUCK STOP IN THIS CASE.

5 A THAT'S CORRECT. SOMEWHERE BETWEEN THE TIME SOMEWHERE
6 IN THAT AFTERNOON HE DECIDED TO GO BACK TO THE CONVENIENCE
7 STORE AND GET THE VIDEO.

8 Q WHICH HE ESTABLISHED AND HE TESTIFIED IT WAS ABOUT
9 3:00 O'CLOCK.

10 A THAT'S CORRECT.

11 Q SO JUST ABOUT THE SAME TIME YOU WERE GETTING THE
12 WARRANTS.

13 A I BELIEVE SO.

14 Q SO YOU WERE UNABLE TO VIEW THAT VIDEO BEFORE YOU
15 DECIDED TO GO TAKE OUT WARRANTS IN THIS CASE.

16 A THAT'S CORRECT.

17 Q ALL RIGHT. AND IN THAT SEVEN-HOUR PERIOD BEFORE YOU
18 TOOK OUT THE WARRANTS, YOU, IN FACT, DID NOT TALK WITH
19 ANYONE ELSE WHO HAD BEEN WITH MS. HILL BEFORE SHE MET MR.
20 DUNOVANT.

21 A THAT'S CORRECT.

22 Q OKAY. SO AT THE TIME YOU TOOK OUT YOUR WARRANTS
23 BASICALLY YOU WERE BASING YOUR DECISION UPON HER
24 STATEMENT, ---

25 A THAT'S CORRECT.

CHRIS BOMAR - CROSS BY MR. LEMEL

402

1 Q --- THE RESULTS OF THE EXAMINATION THAT WAS PERFORMED
2 AT PIEDMONT MEDICAL CENTER, ---

3 A THAT'S CORRECT.

4 Q --- THE STATEMENT OF TERRY, ---

5 A THAT'S CORRECT.

6 Q --- AND LOOKING AT THE AREA IN BEHIND THE CHURCH AT
7 THAT POINT IN TIME.

8 A THAT'S CORRECT.

9 Q ALL OF WHICH ROUGHLY OCCURRED IN THIS SEVEN-HOUR
10 PERIOD.

11 A THAT'S CORRECT.

12 Q NOW, WE ESTABLISHED THAT YOU WENT OUT TO THE CHURCH
13 THAT DAY ---

14 A THAT'S CORRECT.

15 Q --- WHICH IS JUST --- IT'S GOT AN ADDRESS THAT'S OFF
16 OF HIGHWAY 321. RIGHT?

17 A THAT'S CORRECT.

18 Q BUT AS YOU INDICATED EARLIER, IT'S NOT THAT THE
19 CHURCH SITS ON HIGHWAY 321.

20 A THAT'S CORRECT..

21 Q THAT, IN FACT, THE BUILDING OF THE CHURCH IS DOWN ---
22 I'M GOING TO CALL IT A DRIVEWAY OR A SMALL ROADWAY?

23 A THAT WOULD BE FAIR TO SAY.

24 Q OKAY. AND THAT SMALL ROADWAY IS SEVERAL HUNDRED FEET
25 LONG.

CHRIS BOMAR - CROSS BY MR. LEMEL

403

- 1 A THAT'S CORRECT.
- 2 Q THE DRIVEWAY ITSELF HAS GOT A LITTLE SMALL SIGN THAT
- 3 SAYS WEeping MARY BAPTIST CHURCH.
- 4 A THAT'S CORRECT.
- 5 Q IT'S MAYBE A COUPLE OF FEET LONG AND HIGH?
- 6 A YES, SIR.
- 7 Q NOT A BIG SIGN, NOT A BIG ROADWAY SIGN LIKE ON THE
- 8 HIGHWAY.
- 9 A NO, SIR.
- 10 Q BUT OTHERWISE THAT PARTICULAR DRIVEWAY IS FAIRLY NON-
- 11 DESCRIPT.
- 12 A THAT'S CORRECT.
- 13 Q IT'S JUST SORT OF A GRAY ASPHALT ONE-LANE ROAD ---
- 14 A THAT'S CORRECT.
- 15 Q --- GOING BACK TOWARDS THIS BUILDING.
- 16 A THAT'S CORRECT.
- 17 Q AND THE FIELD DIRECTLY BEHIND THE CHURCH IS NOT
- 18 READILY VISIBLE FROM 321.
- 19 A THAT'S CORRECT.
- 20 Q PARTICULARLY THE PORTION TO THE RIGHT OF THE
- 21 GRAVEYARD THAT'S AT ISSUE IN THIS CASE.
- 22 A THAT'S CORRECT.
- 23 Q THAT PARTICULAR SECTION IS BASICALLY COMPLETELY
- 24 SCREENED OFF FROM THE ROADWAY BY THE BUILD --- BY THE BODY
- 25 OF THE CHURCH BUILDING ITSELF.

CHRIS BOMAR - CROSS BY MR. LEMEL

404

1 A THAT'S CORRECT.

2 Q BASICALLY ONLY SOMEONE WHO IS FAMILIAR WITH THAT AREA
3 OR FAMILIAR WITH THAT CHURCH WOULD KNOW THAT THERE WAS
4 THAT OPEN PART OF THE FIELD BEHIND THE CHURCH IF THEY JUST
5 HAPPEN TO DRIVE PAST IT.

6 A UNLESS THEY JUST DROVE IN THERE AND JUST SAW IT.

7 Q RIGHT. THAT --- THEY WOULD HAVE TO HAVE DONE THAT IN
8 ORDER TO FIND IT.

9 A TO BE ABLE TO KNOW THAT, YES.

10 Q RIGHT. AT SOME POINT IN TIME THEY WOULD HAVE TO
11 DRIVE BACK THERE BEFORE THEY WOULD KNOW THAT FACT.

12 A RIGHT, WHETHER IT HAPPENED THAT DAY OR SOME OTHER
13 TIME.

14 Q IN THE DARK DRIVING BY, THAT SECTION WOULD NOT BE
15 READILY APPARENT.

16 A NO, SIR.

17 Q OKAY. LET'S GO BACK TO MS. HILL'S STATEMENT. DO YOU
18 HAVE A COPY OF THE STATEMENT THAT WAS TAKEN FROM MS. HILL?

19 A I DO. MY INTERVIEW NOTES IS WHAT YOU'RE REFERRING
20 TO?

21 Q YOUR INTERVIEW NOTES. YES, SIR. THANK YOU. AS I
22 UNDERSTAND IT, YOU WERE THE ONE WHO WAS ASKING MOST OF THE
23 QUESTIONS ---

24 A YES, SIR.

25 Q --- WHILE MS. --- DETECTIVE TOLSON WAS TAKING NOTES?

CHRIS BOMAR - CROSS BY MR. LEMEL

405

1 A NO, I'M ACTUALLY WRITING DOWN AS THE QUESTIONS --- AS
2 I'M ASKING THEM AND THEM SOMETIMES WHEN SHE INTERJECTS
3 SHE'S ASKING THEM AND I'M JUST WRITING DOWN ---

4 Q OKAY. SO YOU'RE BOTH TAKING --- YOU ARE BOTH ASKING
5 THE QUESTIONS AND WRITING DOWN THE RESPONSES.

6 A YES, I'M USUALLY MOSTLY WRITING DOWN STUFF.

7 Q OKAY. AND FROM THOSE WRITTEN THOSE THAT YOU TOOK,
8 YOU LATER WENT AND TYPED THIS DOCUMENT UP.

9 A THAT'S CORRECT, BECAUSE USUALLY WE DO THINGS IN WHAT
10 WE CALL SHORTHAND.

11 Q RIGHT. AND THAT'S SO YOU CAN KEEP UP WITH SOMEBODY
12 AS THEY'RE TALKING.

13 A THAT'S CORRECT.

14 Q AND THIS IS SOMETHING THAT YOU'RE TRAINED TO DO.

15 A I DON'T KNOW ABOUT TRAINED. IT'S SOMETHING YOU PICK
16 UP.

17 Q OKAY. YOU WOULD SAY THROUGH YOUR EXPERIENCE AS A
18 POLICE OFFICER --- HOW LONG HAVE YOU BEEN A DETECTIVE NOW?

19 A A DETECTIVE? JUST ONLY TWO AND A HALF YEARS. POLICE
20 ---

21 Q HOW LONG ---

22 A --- OFFICER, THIRTEEN --- COMING ON THIRTEEN YEARS.

23 Q AND IN THIRTEEN YEARS YOU LEARN TO PICK UP SOME
24 THINGS ---

25 A YOU LEARN TO DO THINGS QUICKER.

CHRIS BOMAR - CROSS BY MR. LEMEL

406

1 Q RIGHT. AND SO THE SHORTHAND, IT'S NOT LIKE THE
2 FORMAL SHORTHAND, ---

3 A NO, SIR.

4 Q --- BUT IT'S WHAT YOU PERSONALLY USE.

5 A IT'S SOMETHING THAT I USE MYSELF.

6 Q AND IT LETS YOU KEEP UP WITH SOMEBODY AS THEY'RE
7 GOING ALONG.

8 A THAT'S CORRECT.

9 Q SO THAT YOU CAN LATER TRANSCRIBE THOSE NOTES INTO A
10 WRITTEN FORMAT.

11 A CORRECT, SOME WAY SOMEBODY ELSE TO BE ABLE TO
12 UNDERSTAND THEM.

13 Q BUT THE PURPOSE OF DOING THAT IS TO ACCURATELY
14 TRANSCRIBE THOSE NOTES. RIGHT?

15 A TO THE BEST OF OUR ABILITY.

16 Q SURE. YOU DON'T WAIT A LONG TIME TO MAKE THAT
17 TRANSCRIPTION.

18 A NORMALLY, NO.

19 Q OKAY, AND YOU DIDN'T IN THIS PARTICULAR CASE.

20 A NO, SIR.

21 Q SO SAFE TO SAY THAT THE --- BETWEEN THE NOTES THAT
22 YOU TOOK, THE SHORTHAND AND THE SHORT PERIOD OF TIME YOU
23 FEEL THAT THAT WAS ACCURATE RECREATION OF YOUR INTERVIEW
24 WITH HER.

25 A THAT'S CORRECT.

CHRIS BOMAR - CROSS BY MR. LEMEL

407

1 Q OKAY. SO YOU HAD TO TAKE THAT STATEMENT FROM HER
2 BECAUSE NOBODY WAS --- NO OFFICER AT LEAST WAS AT THE
3 WEEPING MARY BAPTIST CHURCH THAT MORNING BEFORE 6:00
4 O'CLOCK.

5 A YOU TALKING ABOUT WITH HER AS THE INCIDENT OCCURRED?

6 Q RIGHT. NO OFFICER WAS THERE TO REPORT WHAT HAPPENED
7 THAT DAY AT THE WEEPING MARY BAPTIST CHURCH.

8 A I'M JUST TRYING TO CORRECT --- SO IN OTHER WORDS, THE
9 OFFICER DIDN'T SEE IT AND MAKE THE FIRST INITIAL REPORT.
10 IS THAT WHAT YOU'RE ASKING.

11 Q RIGHT.

12 A THAT'S CORRECT.

13 Q YES. I MEAN YOU HAD TO GET THE STATEMENT FROM HER AS
14 TO WHAT HAPPENED BECAUSE ---

15 A THAT'S CORRECT.

16 Q --- SHE WAS YOUR WITNESS TO WHAT HAPPENED.

17 A THAT'S CORRECT.

18 Q OKAY. AND YOU HAD NO OTHER WITNESS AT THAT POINT IN
19 TIME AS TO WHAT HAPPENED THAT MORNING AT WEEPING MARY
20 BAPTIST CHURCH AT SAY 4:30, 5:30 IN THE MORNING.

21 A NO, WE ONLY HAD THE --- MR. DUNOVANT AND MISTI HILL.

22 Q AND YOU DIDN'T GET TO MR. DUNOVANT UNTIL AFTER THAT
23 INTERVIEW.

24 A THAT'S CORRECT.

25 Q AND REALLY IN THIS SITUATION YOU DON'T HAVE ANY

CHRIS BOMAR - CROSS BY MR. LEMEL

408

1 WITNESS OF ANYTHING THAT MS. HILL WAS DOING PRIOR TO HER
2 ARRIVAL ON THAT VIDEO TAPE THAT WE SEE OR PRIOR TO HER
3 BEING ON THAT VIDEO TAPE.

4 A I DO NOT HAVE ACCESS TO THAT.

5 Q OKAY. ALL RIGHT. NOW, SHE TOLD YOU THROUGH THE
6 COURSE OF THAT INTERVIEW THAT SHE'D BEEN OUT AT TWO BARS
7 THAT NIGHT.

8 A THAT'S CORRECT.

9 Q AND SHE TOLD YOU THE NAME OF THOSE TWO BARS.

10 A SHE SPOKE OF THOSE NAMES OF THOSE BARS. THAT'S
11 CORRECT.

12 Q OKAY. AND DRAWING YOUR ATTENTION DOWN TO THE BOTTOM
13 OF YOUR SECOND PARAGRAPH OF YOUR INTERVIEW NOTES, ONE OF
14 THE LAST SENTENCES INDICATES THAT FIRST SHE WAS AT A BAR
15 CALLED GOOD TIMES ---

16 A AND THE OTHER ONE CHARLIES.

17 Q --- AND THEN SHE WENT TO ANOTHER BAR CALLED CHARLIES.

18 A THAT'S CORRECT.

19 Q OKAY. SHE TOLD YOU THAT SHE'D BEEN OUT WITH A
20 FRIEND.

21 A THAT'S CORRECT.

22 Q A GIRLFRIEND BY THE NAME, IF I'M PRONOUNCING THIS
23 RIGHT, SHAVONE?

24 A THAT'S --- I GUESS THAT'S HOW I WOULD PRONOUNCE IT.
25 THAT'S HOW I SPELLED IT.

CHRIS BOMAR - CROSS BY MR. LEMEL

409

1 Q OKAY. BUT SHE TOLD YOU THAT SHAVONE LEFT THE BAR.

2 A THAT'S --- THAT'S CORRECT.

3 Q BUT --- AND --- WHICH MEANT THAT MS. HILL HAD TO
4 LEAVE THE BAR WITH SOMEBODY ELSE.

5 A THAT'S CORRECT.

6 Q SOMEONE WHOSE NAME SHE DID NOT GIVE YOU.

7 A THAT'S CORRECT.

8 Q BUT IT WAS A WOMAN AND HER SON.

9 A THAT'S WHAT I WAS LED TO BELIEVE.

10 Q OKAY. THAT'S WHAT SHE TOLD YOU.

11 A THAT'S CORRECT.

12 Q OKAY. AND SHE STATED THAT SHE ENDED UP AT THE TRUCK
13 STOP BECAUSE THEY DROPPED HER OFF.

14 A I DON'T REMEMBER MENTION OF A TRUCK STOP BUT AT THE
15 CONVENIENCE ---

16 Q OKAY. WELL, I'M GOING TO CALL IT A TRUCK STOP,
17 BECAUSE I SEE BIG RIGS AND WE'LL TALK ABOUT THAT. WE'RE
18 GOING TO TALK ABOUT THE --- THE STORE IN BESSEMER CITY
19 THAT'S BEEN THE FOCUS ---

20 MS. LIPINSKI - YOUR HONOR, I OBJECT TO --- JUST
21 ASK THE QUESTION --- IF HE'S NOT GOING TO CALL IT A TRUCK
22 STOP --- I DON'T --- I THINK ---

23 THE COURT - YES, NOT WHAT YOU CALL IT, JUST ASK
24 QUESTIONS.

25 MR. LEMEL - OKAY.

CHRIS BOMAR - CROSS BY MR. LEMEL

410

1 Q THE STORE THAT IS AT ISSUE IN THIS CASE, YOU KNOW
2 WHAT STORE I'M TALKING ABOUT.

3 A THE CONVENIENCE CENTER, YES.

4 Q OKAY, YOU WANT TO CALL IT CONVENIENCE CENTER. THAT'S
5 FINE. THAT SHE ENDED UP AT THIS STORE DROPPED OFF BY THIS
6 WOMAN AND HER SON.

7 A THAT'S CORRECT.

8 Q AND SHE STATED THAT THE REASON WHY SHE WAS DROPPED
9 OFF IS THAT THEY WANTED --- SHE DIDN'T WANT TO BE WITH
10 THEM ANYMORE.

11 A THAT'S CORRECT.

12 Q THAT THEY WANTED TO BUY DRUGS ---

13 A THAT'S CORRECT.

14 Q --- AND BECAUSE OF THAT SHE DIDN'T WANT TO BE WITH
15 THEM.

16 A THAT'S CORRECT.

17 Q SO SHE ENDED UP AT THE STORE.

18 A THAT'S CORRECT.

19 Q SO LET'S TALK ABOUT THIS STORE. IT'S OFF OF I-85.

20 A YES, SIR.

21 Q VERY CLOSE TO AN ON-RAMP.

22 A THAT'S CORRECT.

23 Q WAS OPEN AT THAT POINT IN TIME APPARENTLY ALL NIGHT.

24 A I --- I DON'T HAVE THAT KNOWLEDGE.

25 Q WELL, CERTAINLY IT WAS OPEN AT 4:30 IN THE MORNING.

CHRIS BOMAR - CROSS BY MR. LEMEL

411

1 A THAT'S CORRECT.

2 Q AS WE SEE ON THE VIDEO THAT YOU WENT THROUGH BEFORE.

3 A THAT'S CORRECT.

4 Q OKAY. IT'S GOT GAS PUMPS IN THE FRONT ---

5 A THAT'S CORRECT.

6 Q --- WHERE NORMAL CARS GET GAS.

7 A I GUESS.

8 Q OKAY. GAS PUMPS ---

9 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT
10 TO HIM GUESSING. EITHER HE KNOWS OR HE DOESN'T KNOW.

11 THE COURT - WELL, I THINK IT'S IN NORMAL CARS.
12 I DON'T KNOW WHAT THAT MEANS, SO I GUESS THAT'S WHY HE'S
13 GUESSING. BUT DON'T GUESS. IF YOU DON'T KNOW WHAT HE'S
14 TALKING ABOUT IF HE SAYS NORMAL CARS, JUST SAY I DON'T
15 UNDERSTAND THE QUESTION. DON'T GUESS.

16 Q CARS THAT ARE NOT EIGHTEEN-WHEELERS ---

17 A THAT'S CORRECT.

18 Q --- OR BIG TRUCKS ---

19 A THAT'S CORRECT.

20 Q --- CAN GAS UP IN FRONT OF THIS PLACE, CAN'T IT?

21 A I ---

22 Q YOU REMEMBER?

23 A I DON'T KNOW.

24 Q OKAY. YOU WATCHED THE VIDEO.

25 A I WATCHED THE VIDEO.

CHRIS BOMAR - CROSS BY MR. LEMEL

412

1 Q OKAY. WHAT ABOUT THE PUMPS? DO YOU RECALL IF THEY
2 WERE GAS PUMPS IN THE BACK OF THE STORE?

3 A I DO NOT.

4 Q DO YOU RECALL THE SIZE OF THE VEHICLES THAT ARE FOUND
5 IN THE BACK OF THE STORE?

6 A I DO NOT.

7 Q OKAY. BUT THE VIDEO WOULD SHOW THAT IF WE HAD VIDEO
8 OF THE BACK OF THE STORE. RIGHT?

9 A I'D ASSUME SO.

10 Q OKAY. YOU KNOW THAT THE STORE HAS MOTELS AROUND IT.

11 A YES.

12 Q PLACE WHERE TRUCKERS CAN STOP THEIR RIGS TO SLEEP.

13 A I DON'T KNOW.

14 Q OKAY. AND YOU KNOW THAT MS. HILL WAS THERE.

15 A YES.

16 Q ROUGHLY AT 4:30 IN THE MORNING.

17 A YES.

18 Q SHE TOLD YOU THAT SHE HAD CALLED A CAB THAT NIGHT.

19 A YES.

20 Q YOU NEVER FOUND A CAB DRIVER THAT WENT TO THE STORE
21 THAT NIGHT.

22 A NO.

23 Q YOU NEVER FOUND A CAB COMPANY THAT HAD A RECORD OF A
24 CAB BEING CALLED TO THE STORE THAT NIGHT.

25 A THAT WAS NOT CHECKED INTO.

CHRIS BOMAR - CROSS BY MR. LEMEL

413

- 1 Q OKAY. WHICH MEANS YOU NEVER FOUND A CAB COMPANY.
- 2 A THAT'S CORRECT.
- 3 Q ALL RIGHT. NO ONE AT THE TRUCK STOP WHEN YOU WERE
- 4 THERE MENTIONED THAT A CAB DRIVER HAD COME TO THE STORE
- 5 AND WAS IRATE BECAUSE A CUSTOMER WHO CALLED HIM WASN'T
- 6 THERE.
- 7 A I'M NOT AWARE OF ANY.
- 8 Q OKAY. AND ON THE VIDEO THAT WE HAVE WE CERTAINLY
- 9 NEVER SEE A CAB PULLING UP TO THE STORE.
- 10 A NOT DURING THOSE TIMES, NO.
- 11 Q OKAY. SHE NEVER SAID ANYTHING TO YOU ABOUT CALLING
- 12 HER MOTHER FOR A RIDE.
- 13 A NOTHING OF THAT WAS MENTIONED.
- 14 Q OKAY. OR ANY OTHER FAMILY MEMBER.
- 15 A NOT THAT WAS MENTIONED TO ME.
- 16 Q OKAY. LET'S TALK ABOUT HOW MS. HILL MET TERRY.
- 17 PURSUANT TO YOUR GENERAL SESSIONS CASE SUMMARY, SHE TOLD
- 18 YOU THAT HE APPROACHED HER THAT NIGHT.
- 19 A I BELIEVE IN THE SUMMARY IT SAYS TERRY DUNOVANT
- 20 OFFERED TO GIVE HER A RIDE ---
- 21 Q OKAY.
- 22 A --- BACK TO HER RESIDENCE.
- 23 Q ALL RIGHT. I'M LOOKING AT THE FOURTH LINE, SAYS NEAR
- 24 WAFFLE HOUSE IN GASTONIA WHEN A BLACK MALE APPROACHED HER.
- 25 A OKAY. I SEE WHAT YOU'RE SAYING.

CHRIS BOMAR - CROSS BY MR. LEMEL

414

1 Q OKAY. SO YOUR SUMMARY STATED THAT HE TOLD --- SHE
2 TOLD YOU THAT HE APPROACHED HER THAT NIGHT.

3 A NOW APPROACHING TO ME MEANS WALKING UP TO.

4 Q OKAY. SURE. BUT WHAT YOU WROTE DOWN IS HE
5 APPROACHED HER.

6 A THAT'S CORRECT.

7 Q OKAY. IN TERMS OF WALKING UP TO HER.

8 A THAT'S CORRECT.

9 Q OKAY. LET'S --- LET'S DO THIS --- IF WE COULD TURN
10 THE LIGHTS DOWN, PLEASE. OKAY, PRIOR TO YESTERDAY WHEN
11 YOU SAW THIS VIDEO, HAD YOU SEEN THE VIDEO BEFORE?

12 A I HAVE.

13 Q OKAY. WHEN WAS THE LAST TIME YOU WATCHED IT BEFORE
14 YESTERDAY?

15 A OH, IT'S BEEN OVER A YEAR AGO.

16 Q OKAY. ALL RIGHT. OKAY. WE HAVE THE VIDEO BACK ON
17 THE CAMERA WHICH APPEARS TO BE ENTERED AS A STATE'S
18 EXHIBIT, THE VIDEO OF THE FRONT OF THE STORE.

19 THE COURT - MR. LEMEL, I HATE TO BE PICKY, BUT
20 IF YOU STAND BETWEEN THEM AND THE SCREEN THEY CAN'T SEE
21 IT.

22 MR. LEMEL - YES, SIR.

23 Q NOW, THE TIME STAMP --- CAN YOU SEE THE TIME STAMP
24 FROM WHERE YOU'RE SITTING RIGHT NOW?

25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

415

1 Q OKAY: THIS IS AT 5:13 A.M AND 18 SECONDS. RIGHT?

2 A THAT'S CORRECT:

3 Q THIS IS THE FIRST PART OF THE VIDEO THAT WAS --- OR
4 THE START OF THE VIDEO THAT WAS RETRIEVED BY CAPTAIN
5 HOFFMAN THAT DAY.

6 A THE STARTING TIME, YES.

7 Q THE STARTING TIME. THE CUT THAT HE TOOK STARTS AT
8 5:13.

9 A YES, SIR.

10 Q OKAY. NOW, IN THIS VIDEO CALLING YOUR ATTENTION TO
11 THE UPPER LEFT QUADRANT. I'M GOING TO TRY TO ZOOM IN A
12 LITTLE BIT MORE. AND I UNDERSTAND THAT THIS IS PIXELATED
13 AND IT DOESN'T REALLY COME ACROSS AS SUPER ACCURATE, BUT
14 WOULD YOU AGREE WITH ME WITH SEVERAL --- ON SEVERAL THINGS
15 HERE? FIRST, THERE IS A --- WHAT APPEARS TO BE A MINI VAN
16 IN THIS AREA, SOME SORT OF CAR?

17 A I AGREE THERE'S A VEHICLE THERE.

18 Q OKAY. COULD BE A MINI VAN?

19 A (NO RESPONSE)

20 Q OKAY. RIGHT HERE WE HAVE THE OUTLINE OF AN
21 INDIVIDUAL AND IF I TAKE IT BACK OUT A LITTLE BIT IT MAY
22 BECOME A LITTLE MORE CLEARER FOR YOU. OKAY. WOULD YOU
23 AGREE WITH ME THAT RIGHT HERE IS THE INDIVIDUAL?

24 A I WOULD AGREE THAT THERE IS SOMETHING THERE. I CAN'T
25 TELL YOU IT'S A INDIVIDUAL OR NOT.

CHRIS BOMAR - CROSS BY MR. LEMEL

416

1 Q OKAY. DID WE NOT ESTABLISH THAT THIS WAS THE AREA
2 THAT MS. HILL WAS STANDING IN IN THIS VIDEO YESTERDAY?

3 A SITTING I BELIEVE.

4 Q SITTING. OKAY. SITTING, STANDING, WHATEVER. SHE
5 WAS IN THAT AREA.

6 A YES, SIR.

7 Q OKAY. WOULD YOU AGREE WITH ME THAT THIS IS MOST
8 LIKELY MS. HILL FROM WHAT YOU SAW IN THE VIDEO YESTERDAY?

9 A NO, SIR, I CANNOT.

10 Q OKAY, BUT THERE IS SOMETHING STANDING IN FRONT OF A
11 CAR.

12 A YES, SIR.

13 Q OKAY, ALLOWING THIS TO PLAY ALONG. NOW, PAUSING IT
14 A COUPLE OF SECONDS MORE. THE OBJECT THAT I WAS TALKING
15 ABOUT IN THE UPPER LEFT-HAND CORNER HAS NOW TURNED TOWARDS
16 THE CAMERA. CORRECT?

17 A THEY HAVE MADE A MOTION TOWARDS THE CAMERA.

18 Q OKAY, AND WE CAN SEE NOW THAT IT'S SORT OF GOT A
19 PURPLISH SHIRT, PURPLISH TOP.

20 A I WOULD SAY IT'S LIGHT IN COLOR. I CAN'T TELL YOU
21 WHAT COLOR THE SHIRT IS.

22 Q THOSE LOOK LIKE BLUE JEANS?

23 A LOOKS LIKE PANTS, YES.

24 Q OKAY. WOULD YOU AGREE THAT IT'S BLUE JEANS?

25 A NO, SIR, I CAN'T --- IT'S JUST LIKE THIS VEHICLE

CHRIS BOMAR - CROSS BY MR. LEMEL

417

1 CLOSE TO SIDE, I CAN'T TELL YOU WHAT COLOR IT IS.

2 Q OKAY. WOULD YOU AGREE WITH ME AT LEAST THAT RIGHT
3 NOW WITH THIS VIEW OF THE CAMERA THAT THAT IS, INDEED, A
4 MINI VAN RIGHT THERE?

5 A A VEHICLE, YES.

6 Q WOULD YOU AGREE WITH ME THAT'S --- THAT'S A MINI VAN
7 OR NOT, SIR?

8 A I CANNOT AGREE WITH YOU, NO.

9 Q OKAY. LET IT PLAY SOME MORE. ALL RIGHT. TAKING IT
10 BACK FRAME-BY-FRAME ---

11 A YES, SIR.

12 Q --- HERE WE HAVE THE VEHICLE, THE OBJECT RIGHT HERE
13 WHICH YOU HAVE NOT IDENTIFIED.

14 A YES, SIR.

15 Q WE SEE THE VEHICLE PULL AWAY. CORRECT?

16 A THAT'S CORRECT.

17 Q AND THIS OBJECT IS STILL STANDING IN THAT AREA.

18 A YES, SIR.

19 Q AND, AGAIN, THAT OBJECT YOU CAN TELL AT LEAST IS
20 MOVING.

21 A YES, SIR.

22 Q RIGHT?

23 A YES, SIR.

24 Q ALL RIGHT. WE GO TO THE NEXT CLIP.

25 MR. LEMEL - BEGGING THE COURT'S INDULGENCE.

CHRIS BOMAR - CROSS BY MR. LEMEL

418

1 (DISCUSSION IS HELD BETWEEN COUNSEL WHICH WAS
2 NOT REPORTED.)

3 Q OKAY, THAT WAS AT 5:13 18. RIGHT? THAT WAS THAT
4 CLIP.

5 A YES, SIR.

6 Q MOVING ON TO THE NEXT CLIP WHICH STARTS AT 5:14 59.
7 OKAY. AGAIN, AT THE START OF THIS CLIP WE STILL HAVE THIS
8 OBJECT ---

9 A YES, SIR.

10 Q --- DOWN BY THE ICE MACHINE.

11 A YES, SIR.

12 Q WE HAVE AN INDIVIDUAL HERE IN THE CENTER OF THE
13 SCREEN.

14 A YES, SIR.

15 Q THIS IS A FEMALE. CORRECT?

16 A APPEARS TO BE SO.

17 Q BLONDE HAIR AND A PONY TAIL.

18 A LIGHT HAIR AND A PONY TAIL, YES.

19 Q REDDISH COLOR SHIRT.

20 A THERE AGAIN, IT'S A LIGHT COLOR SHIRT.

21 Q BLUE JEANS.

22 A I WOULD AGREE WITH YOU ON THAT.

23 Q OKAY. AND THIS PERSON IS APPROACHING THE STORE FROM
24 SOMEWHERE OUT IN THIS AREA. WE DON'T KNOW EXACTLY WHERE
25 BECAUSE THE TYPE OF FILM IT IS.

CHRIS BOMAR - CROSS BY MR. LEMEL

419

- 1 A YES, SIR.
- 2 Q NOW, THAT INDIVIDUAL WHO'S BLONDE HAS NOW GONE INTO
- 3 THE STORE. WE SEE THE ONLY THING ON THE PHOTOGRAPH AT
- 4 THIS POINT IN TIME IS SOME VEHICLE HERE PARKED NEAR THE
- 5 DOOR ---
- 6 A YES, SIR.
- 7 Q --- TO THE STORE, AND THIS OBJECT WHICH WE STILL
- 8 HAVEN'T IDENTIFIED IN THE UPPER LEFT-HAND CORNER.
- 9 A YES, SIR.
- 10 Q NOW, COUPLE SECONDS LATER WE NOW HAVE THIS INDIVIDUAL
- 11 THAT WE TALKED ABOUT, THE LIGHT HAIR AND THE BLUE JEANS
- 12 WALKING AWAY FROM THE STORE.
- 13 A YES, SIR.
- 14 Q THE OBJECT IN THE UPPER LEFT-HAND QUADRANT BY THE ICE
- 15 MACHINE IS STILL THERE.
- 16 A YES, SIR.
- 17 Q HAS NOT APPROACHED THIS INDIVIDUAL.
- 18 A NOT THAT I CAN TELL.
- 19 Q OKAY. ALL RIGHT, WE'RE NOW STOPPING IT --- CAN YOU
- 20 READ THE TIME STAMP ON IT NOW?
- 21 A YES, SIR, 5:15 49.
- 22 Q OKAY. NOW WE HAVE ANOTHER CAR IS PULLED UP. YES?
- 23 A YES, SIR.
- 24 Q IT IS PARKED NEAR THE DOOR TO THE CONVENIENCE STORE.
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

420

- 1 Q AND A MALE HAS GOTTEN OUT OF THAT VEHICLE.
- 2 A YES, SIR.
- 3 Q WEARING A LIGHT-COLORED SHIRT ---
- 4 A YES, SIR.
- 5 Q --- WITH A COLLAR ---
- 6 A YES, SIR.
- 7 Q --- AND A PAIR OF SHORTS.
- 8 A YES, SIR.
- 9 Q THE OBJECT IN THE UPPER LEFT QUADRANT STILL HAS NOT
- 10 MOVED.
- 11 A THAT'S CORRECT.
- 12 Q AND WE SEE THAT GENTLEMAN IN THE WHITE SHIRT WITH THE
- 13 COLLAR GOING IN THE STORE.
- 14 A YES, SIR.
- 15 Q THAT GENTLEMAN WAS ALSO A CAUCASIAN MALE. CORRECT?
- 16 A YES, SIR.
- 17 Q OKAY, CAN YOU READ THE TIME STAMP NOW?
- 18 A 5:17.
- 19 Q AND HOW MANY SECONDS?
- 20 A I'M SORRY. 6 SECONDS.
- 21 Q OKAY, AT THIS POINT IN TIME WE CAN SEE THAT THE WHITE
- 22 MALE WITH THE WHITE COLLARED SHIRT HAS COME OUT.
- 23 A YES, SIR.
- 24 Q GONE BACK IN HIS VEHICLE.
- 25 A HEADING TO THE VEHICLE, YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

421

1 Q NOW, THE OBJECT THAT WAS IN THE UPPER LEFT-HAND
2 QUADRANT HAS COME AWAY FROM THE ICE MAKER AT THIS POINT IN
3 TIME.

4 A YES, SIR.

5 Q YOU FEEL COMFORTABLE IDENTIFYING WHAT THAT IS NOW?

6 A WELL, VIEWING THE VIDEO, YES.

7 Q OKAY. AND THAT WAS MY BAD, BUT I TOOK IT OFF THERE,
8 BUT ---

9 MR. LEMEL - MY APOLOGIES TO THE COURT. I KEEP
10 ON MESSING WITH THE VIDEO HERE.

11 Q AND I'M ASKING --- I'M GOING TO ASK YOU TO FOCUS ON
12 THAT UPPER LEFT-HAND QUADRANT.

13 A YES, SIR.

14 Q NOW, AS WE ADVANCE THIS FORWARD, THE TIME NOW IS
15 WHAT?

16 A 5:17 AND 2 SECONDS.

17 Q THE OBJECT IN THE UPPER LEFT-HAND QUADRANT, ARE YOU
18 COMFORTABLE, AS WE SAID, IDENTIFYING THAT AT THIS POINT IN
19 TIME?

20 A THAT'S WHO WE BELIEVE IS MISTI HILL.

21 Q OKAY. WE --- AS FAR AS YOU KNOW AT THIS POINT IN
22 TIME THAT'S MS. HILL?

23 A YES, SIR.

24 Q NOW, YOU SAW THE CLOTHING THAT SHE WAS WEARING AT THE
25 HOSPITAL. RIGHT?

CHRIS BOMAR - CROSS BY MR. LEMEL

422

- 1 A YES, SIR.
- 2 Q AND THAT WAS A PAIR OF BLUE JEANS.
- 3 A YES, SIR.
- 4 Q AND SORT OF A PINKISH, PURPLISH SHIRT.
- 5 A PINKISH, REDDISH, YES.
- 6 Q OKAY. WHICH WOULD BE, AS BEST YOU CAN TELL FROM
- 7 THIS, CONSISTENT WITH WHAT THE INDIVIDUAL DOWN HERE IS
- 8 WEARING.
- 9 A CONSISTENT, YES.
- 10 Q OKAY. AND AGAIN, MS. HILL NOW DOES NOT APPROACH THE
- 11 GENTLEMAN IN THE WHITE-COLLARED SHIRT?
- 12 A I CAN'T SAY FOR CERTAIN ON THAT.
- 13 Q WELL, LET'S WATCH AND SEE. (PAUSE) WE'RE NOW SOME
- 14 30 SECONDS LATER ---
- 15 A YES, SIR.
- 16 Q --- THAN LAST TIME WE STOPPED IT. AGAIN, THE
- 17 GENTLEMAN IN THE WHITE SHIRT IS IN HIS CAR.
- 18 A YES, SIR.
- 19 Q MS. HILL IS STILL DOWN BY THE ICE MAKER.
- 20 A YES, SIR.
- 21 Q AND THERE'S THIS GENTLEMAN, CAUCASIAN MALE, HAT,
- 22 WHITE SHIRT, DARK PANTS, GOING IN THE STORE.
- 23 A YES, SIR.
- 24 Q ROUGHLY 15 SECONDS LATER. CORRECT?
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

423

1 Q 1740 --- 15 --- 5 --- 17 AND 43 SECONDS, MS. HILL IS
2 NOW MOVING DOWN THE FRONT OF THE BUILDING TOWARDS THE DOOR
3 OF THE CONVENIENCE STORE.

4 A MOVING IN THAT DIRECTION, YES, SIR.

5 Q THERE IS ANOTHER GENTLEMAN COMING IN.

6 A YES, SIR.

7 Q AGAIN, LOOKS LIKE A CAUCASIAN MALE.

8 A AT THIS POINT I CAN'T TELL.

9 Q BLUE JEANS.

10 A APPEARS TO BE.

11 Q 1751 SHE IS NOW DOWN BY THE DOOR.

12 A YES, SIR.

13 Q THE GENTLEMAN IN THE WHITE T-SHIRT AND THE DARK PANTS
14 AND THE HAT IS COMING OUT.

15 A YES, SIR.

16 Q THE GENTLEMAN, AGAIN, WHITE --- WOULD YOU AGREE WITH
17 ME HE'S A WHITE MALE?

18 A YES, SIR.

19 Q BLUE JEANS?

20 A YES, SIR.

21 Q SHIRT?

22 A YES, SIR.

23 Q IS GOING IN THE STORE.

24 A YES, SIR.

25 Q MS. HILL AT THIS POINT IN TIME IS TURNED FACING THE

CHRIS BOMAR - CROSS BY MR. LEMEL

424

1 GENTLEMAN WHO IS WALKING THROUGH THE PARKING LOT, THE MAN
2 IN THE WHITE HAT. WOULD YOU AGREE WITH ME NOW?

3 A THAT SHE'S FACING HIM?

4 Q LET'S TAKE IT BACK FRAME-BY-FRAME. THE GENTLEMAN IN
5 THE WHITE HAT IS LEAVING THE STORE.

6 A YES, SIR.

7 Q FROM THE --- HER ORIENTATION OF HER BODY, THAT'S
8 WHERE HER FACE IS, FACING DOWN TOWARDS THE GENTLEMAN IN
9 THE WHITE HAT.

10 A SHE'S LOOKING IN THAT DIRECTION.

11 Q OKAY. AS HE PROCEEDS OFF THE SCREEN TO THE RIGHT, DO
12 YOU SEE HER HEAD START TO TURN? WATCH AS WE ADVANCE.
13 RIGHT? SHE TURNS MORE TOWARDS WHERE HE IS WALKING TO.

14 A DIRECTION OF THE ROAD, YES, SIR.

15 Q OKAY. WHICH --- AND WE KNOW THE WHITE GENTLEMAN JUST
16 WALKED OFF THE RIGHT SIDE OF THE SCREEN. RIGHT?

17 A BUT WE DON'T KNOW WHICH DIRECTION.

18 Q OKAY. BUT WE SAW HIM JUST WALK OFF THE RIGHT SIDE OF
19 THE SCREEN.

20 A WE SAW HIM GO OFF THE CAMERA, YES.

21 Q AND SHE'S HEADED IN THE SAME GENERAL DIRECTION THAT
22 HE IS --- THAT HE WAS HEADED. RIGHT?

23 A YES, SIR.

24 Q YOU CAN NOW SEE HER ARM THERE. CAN YOU MAKE THAT
25 OUT?

CHRIS BOMAR - CROSS BY MR. LEMEL

425

1 A I CAN MAKE AN ARM, YES, SIR.

2 Q DOES IT APPEAR TO YOU THAT SHE HAS AN ARM WITH A
3 FINGER RAISED, LIKE THIS?

4 A NO, SIR, I CAN'T TELL. IT'S ---

5 Q NOT POINTING HER FINGER TOWARDS HIM, LIKE COME HERE?

6 A I CAN'T SEE FROM THIS FAR, NO, SIR.

7 Q WOULD YOU LIKE TO COME UP CLOSER?

8 A YES, SIR.

9 THE COURT - YOU CAN STEP DOWN.

10 Q AND I'LL TAKE IT BACK A COUPLE OF FRAMES FOR YOU.

11 THERE HER --- THE FIRST FRAME THAT I'M SHOWING YOU HER
12 ARMS ARE CROSSED PRETTY CLEARLY.

13 A YES, SIR.

14 Q THE NEXT FRAME, ONE ARM, WHAT APPEARS TO BE HER RIGHT
15 --- NO, HER LEFT ARM ---

16 A YES, SIR.

17 Q --- IS NOT CROSSED AND IS INSTEAD UP IN THE AIR LIKE
18 THIS WITH AT LEAST THE HAND RAISED IN THE AIR.

19 A I AGREE THERE'S A HAND RAISED.

20 Q OKAY. AND WHAT COULD BE A FINGER AT THE TOP THERE?

21 A I CAN'T SPECULATE ON THAT.

22 Q OKAY. HAVE A SEAT. AND IF AT ANY POINT IN TIME
23 AGAIN, DETECTIVE, IF YOU NEED TO COME DOWN AND TAKE A
24 LOOK, JUST LET ME KNOW.

25 A THANK YOU.

CHRIS BOMAR - CROSS BY MR. LEMEL

426

1 Q SHE WALKS OUT INTO THE PARKING LOT AREA OF THE STORE
2 AND NOW THE GENTLEMAN IN THE WHITE SHIRT AND THE DARK
3 PANTS AND HAT IS THERE WITH HER.

4 A YES, SIR.

5 Q AND THEY ARE HAVING SOME SORT OF CONVERSATION. THERE
6 IS SOME INTERACTION GOING ON THERE.

7 A YES, SIR.

8 Q OKAY. SHE APPROACHED HIM FROM THE FAR END OF THE
9 SIDEWALK DOWN TO HERE.

10 A YES, SIR.

11 Q DID SHE EVER TELL YOU THAT SHE TALKED WITH THE
12 GENTLEMAN?

13 A THAT WAS NEVER MENTIONED, NO, SIR.

14 Q ALL RIGHT, WE'RE NOW AT 1832 5:18 32 AND THEY'VE BEEN
15 TALKING THE ENTIRE TIME SINCE WE STOPPED THE FILM LAST,
16 SOME TIME AT 5:17.

17 A I AGREE THEY'D BEEN TOGETHER. I DON'T KNOW ABOUT
18 TALKING.

19 Q THEY'D BEEN TOGETHER. ENGAGED IN SOME SORT OF
20 INTERACTION AT THAT POINT IN TIME.

21 A SOME SORT, YES.

22 Q AND HE HAS WALKED AWAY FROM HER OFF THE SCREEN TO THE
23 RIGHT HAND.

24 A YES, SIR.

25 Q AND AT THIS POINT IN TIME WITH HER CLOSER TO THE

CHRIS BOMAR - CROSS BY MR. LEMEL

427

1 CAMERA, ARE YOU COMFORTABLE SAYING THAT THIS INDEED MS.

2 HILL IN SORT OF THE PINKISH, PURPLISH SHIRT?

3 A BY THE CLOTHING DESCRIPTION THAT WE HAVE, YES, SIR.

4 Q THE BLUE JEANS.

5 A YES, SIR.

6 Q SHE'S CARRYING HER PURSE THERE.

7 A BAG, YES.

8 Q BAG. DO YOU NOTICE IF SHE HAS A BANDANNA IN HER
9 HEAD?

10 A YES, SIR.

11 Q OKAY, SHE DOES HAVE A BANDANNA.

12 A YES, SIR.

13 Q OKAY. SO AFTER THE GENTLEMAN IN THE WHITE HAT
14 LEAVES, --- GO TO THE NEXT CONVENIENT STOPPING POINT ---
15 AT 18:49 WHERE HAS MS. HILL NOW REPOSITIONED HERSELF?

16 A BACK TOWARDS --- I GUESS WHAT WE CONSIDER IS THE ICE
17 MAKER MACHINE.

18 Q IN THE UPPER LEFT QUADRANT OF THIS ---

19 A YES, SIR.

20 Q AND ANOTHER CAR HAS PULLED IN.

21 A YES, SIR.

22 Q A RED CAR.

23 A YES, SIR.

24 Q DRIVEN BY A WHITE MALE.

25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

428

- 1 Q IN A TIE-DYED T-SHIRT?
- 2 A YES, SIR.
- 3 Q AND SHORTS.
- 4 A YES, SIR.
- 5 Q AND THAT GENTLEMAN GOES INTO THE STORE.
- 6 A YES, SIR.
- 7 Q WE JUST SAW ANOTHER GENTLEMAN COME OUT OF THE STORE.
- 8 RIGHT?
- 9 A YES, SIR.
- 10 Q YOU NOTICE THAT?
- 11 A YES, SIR.
- 12 Q I'M GOING TO TRY TO GET BACK TO THAT BECAUSE I MESSED
- 13 IT UP. OKAY, WE'RE RIGHT BACK WHERE WE WERE BEFORE.
- 14 RIGHT?
- 15 A YES, SIR.
- 16 Q ROUGHLY.
- 17 A YES, SIR.
- 18 Q YOU SEE THE GENTLEMAN GO BACK IN THE STORE, THE ONE
- 19 WITH THE TIE-DYED SHIRT?
- 20 A YES, SIR.
- 21 Q ANOTHER GENTLEMAN COME OUT.
- 22 A YES, SIR.
- 23 Q THAT'S THE END OF THAT CLIP.
- 24 A YES, SIR.
- 25 Q MOVING ON TO THE NEXT CLIP WHICH IS TIME STAMPED AS

CHRIS BOMAR - CROSS BY MR. LEMEL

429

1 STARTING AT 5:20 39.

2 A YES, SIR.

3 Q OKAY, AT THE START OF THIS CLIP WE SEE AGAIN THE
4 GENTLEMAN WHO HAD THE RED CAR, THE RED CAR IS STILL THERE.

5 A YES, SIR.

6 Q MS. HILL IS STILL STANDING IN THE UPPER LEFT
7 QUADRANT.

8 A YES, SIR.

9 Q BY WHAT WE'RE CALLING THE ICE MACHINE.

10 A YES, SIR.

11 Q THE GENTLEMAN IN THE TIE-DYE AND THE SHORTS AND HAT
12 COMES OUT.

13 A YES, SIR.

14 Q HE GOES TO HIS CAR.

15 A YES, SIR.

16 Q ANOTHER GENTLEMAN IN SIMULTANEOUS TIME COMES INTO THE
17 SCREEN AND HEADS IN THE STORE.

18 A YES, SIR.

19 Q AND THIS IS A WHITE MALE.

20 A YES, SIR.

21 Q WITH LOOKS LIKE WHITE OR GRAY HAIR.

22 A YES, SIR.

23 Q WEARING WHAT APPEARS TO BE A WORK UNIFORM OF A BLUE
24 SHIRT WITH A PATCH ON IT AND DARK BLUE PANTS.

25 A DARK BLUE PANTS AND A SHIRT WITH PATCH, YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

430

- 1 Q OKAY. THE GENTLEMAN WITH THE TIE-DYED SHIRT HAS
2 APPROACHED THE AREA WHERE THE NEWSPAPERS ARE KEPT ---
3 A YES, SIR.
4 Q --- NEAR WHERE MS. HILL IS STANDING.
5 A YES, SIR.
6 Q AND THERE BEGINS TO BE SOME INTERACTION BETWEEN THEM.
7 A POINTING, YES, SIR.
8 Q HE IS POINTING.
9 A YES, SIR.
10 Q HE IS LOOKING AT HER.
11 A YES, SIR.
12 Q AND IT APPEARS LIKE SHE IS LOOKING AT HIM.
13 A YES, SIR.
14 Q ANOTHER GENTLEMAN IS WALKING INTO THE STORE AT THIS
15 POINT IN TIME.
16 A YES, SIR.
17 Q DID SHE EVER MENTION HAVING A CONVERSATION WITH THE
18 GENTLEMAN IN THE TIE-DYED T-SHIRT TO YOU?
19 A NO, SIR.
20 Q AT 1522 08 WE SEE ANOTHER CAR HAS PULLED IN.
21 A YES, SIR.
22 Q THIS ONE OCCUPIED BY AN AFRICAN AMERICAN LADY. I'LL
23 TAKE IT BACK IF THAT'LL HELP YOU. THERE'S THE CAR. THE
24 NEXT IS HER OUT OF THE CAR.
25 A I'D AGREE SHE'S DARK-SKINNED AND A FEMALE, YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

431

1 Q OKAY. DARK-SKINNED FEMALE, POSSIBLY AFRICAN
2 AMERICAN.

3 A YES, SIR.

4 Q WHO IS ALSO RIGHT THERE NEAR THE NEWSPAPERS BY WHERE
5 MS. HILL IS STANDING.

6 A YES, SIR.

7 Q THAT LADY APPEARS LIKE SHE'S PICKED UP A NEWSPAPER.

8 A YES, SIR.

9 Q GOES BACK TO HER CAR.

10 A YES, SIR.

11 Q DOESN'T APPEAR THERE'S ANY INTERACTION BETWEEN MS.
12 HILL AND THAT LADY.

13 A NONE THAT I CAN TELL.

14 Q AND SHE DRIVES OFF.

15 A YES, SIR.

16 Q GENTLEMAN THAT WE TALKED ABOUT EARLIER WITH GRAY HAIR
17 AND THE BLUE SHIRT ---

18 A YES, SIR.

19 Q --- IS LEAVING THE STORE AT THE END OF THIS CLIP.

20 A YES, SIR.

21 Q HE WALKS AWAY TOWARDS WHATEVER'S OFF TO THE RIGHT OF
22 THE SCREEN.

23 A YES, SIR.

24 Q AND YOU KNOW WHAT'S SURPRISING? IS THAT WHERE THE
25 GAS PUMPS ARE?

CHRIS BOMAR - CROSS BY MR. LEMEL

432

1 A TO BE HONEST WITH YOU, I DON'T KNOW.

2 Q OKAY. NO INTERACTION BETWEEN MS. HILL AND THAT
3 GENTLEMAN?

4 A NO, SIR.

5 Q GO ONTO THE NEXT CLIP WHICH IS TIME STAMP 523 41.
6 THAT CLIP ONLY LAST ABOUT A SECOND AND A HALF --- DOESN'T
7 REALLY SHOW US ANYTHING.

8 A YES, SIR.

9 Q WE STILL SEE MS. HILL BASICALLY, SHE'S MOVED A LITTLE
10 BIT, BUT SHE'S STILL BASICALLY THERE BY THE ICE MAKER.

11 A YES, SIR.

12 Q ALL RIGHT, SO WE HAVE A LITTLE BIT OF A GAP IN THE
13 VIDEO BETWEEN 5:23 41 AND 5:25 01, MAYBE 15 SECONDS. IT'S
14 JUST NOT ON THE VIDEO.

15 A YES, SIR.

16 Q BUT AT SOME POINT IN TIME IN THAT TIME-FRAME AFRICAN
17 AMERICAN MALE APPEARS ON THE SCREEN.

18 A YES, SIR.

19 Q OKAY. AND THAT AFRICAN AMERICAN MALE IS, IN FACT,
20 TERRY.

21 A YES, SIR.

22 Q ALL RIGHT. NOW, WE SEE CERTAIN THINGS ABOUT TERRY AT
23 THIS POINT IN TIME. HE'S WALKING INTO THE STORE.

24 A YES, SIR.

25 Q HE HAS ON A SORT OF DARK SLEEVELESS SHIRT ---

CHRIS BOMAR - CROSS BY MR. LEMEL

433

- 1 A YES, SIR.
- 2 Q --- WHAT IS SOMETIMES REFERRED TO AS A WIFE-BEATER
- 3 SHIRT.
- 4 A YES, SIR.
- 5 Q HE HAS ON A PAIR OF KHAKI PANTS.
- 6 A YES, SIR.
- 7 Q AND THOSE KHAKI PANTS ARE VERY CLEARLY TORN
- 8 SIGNIFICANTLY AT THE KNEE.---
- 9 A YES, SIR.
- 10 Q --- AND UP ON THE THIGH.
- 11 A YES, SIR.
- 12 Q NOW, YOU HAD THOSE PANTS OUT BRIEFLY BEFORE ---
- 13 A YES, SIR.
- 14 Q --- AND IT HAD THOSE TEARS.
- 15 A YES, SIR.
- 16 Q PRETTY CLEAR THAT HE HAD THOSE TEARS HERE AT THE
- 17 STORE.
- 18 A YES, SIR.
- 19 Q OKAY. HE'S NOT LOOKING TOWARDS MS. HILL.
- 20 A NO, SIR.
- 21 Q DOESN'T APPEAR THAT THERE'S ANY INTERACTION GOING ON
- 22 AT ALL BETWEEN THEM.
- 23 A NONE THAT I CAN TELL.
- 24 Q SO AT 5:25 06 HE'S COMPLETELY INSIDE THE STORE.
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

434

1 Q HE'S IN THE STORE FOR ABOUT 8 SECONDS, BECAUSE AT
2 5:25 14 HE'S WALKING OUT OF THE STORE.

3 A YES, SIR.

4 Q OKAY, THAT --- ABOUT 8 SECONDS. DO YOU REMEMBER THE
5 CLIP YESTERDAY YOU SAW FROM INSIDE THE STORE?

6 A YES, SIR.

7 Q BASICALLY WHAT HE DID IS HE WALKED IN, HANDED SOME
8 MONEY TO THE CASHIER AND WALKED OUT.

9 A YES, SIR.

10 Q DIDN'T REALLY HAVE ANY OTHER INTERACTION.

11 A YES, SIR.

12 Q NOW, ON THIS SCREEN HE IS WALKING, AGAIN, OFF TO THE
13 RIGHT.

14 A YES, SIR.

15 Q THE SAME GENERAL DIRECTION THAT THE MAN IN THE WHITE
16 HAT WALKED.

17 A YES, SIR.

18 Q THE SAME GENERAL DIRECTION THAT THE MAN IN THE BLUE
19 SHIRT WALKED.

20 A YES, SIR.

21 Q NOW, I WANT TO CALL YOUR ATTENTION AT THIS POINT IN
22 TIME THAT MS. HILL IS STILL STANDING HERE BY THE ICE MAKER
23 IN THE UPPER RIGHT-HAND --- UPPER LEFT-HAND CORNER.

24 A YES, SIR.

25 Q NOW, AS WE ADVANCE THE SCREEN FRAME-BY-FRAME, WE SEE

CHRIS BOMAR - CROSS BY MR. LEMEL

435

- 1 THAT MR. DUNOVANT IS OFF THE SCREEN TO THE RIGHT.
- 2 A YES, SIR.
- 3 Q AND MS. HILL IS ALSO NO LONGER HERE.
- 4 A YES, SIR. ABOUT 5 SECONDS MISSING.
- 5 Q NOW, I'M ZOOMING IN A LITTLE BIT TO THE UPPER RIGHT-
- 6 HAND QUADRANT. YOU CAN STILL MAKE OUT MR. DUNOVANT RIGHT
- 7 HERE. CORRECT?
- 8 A YES, SIR.
- 9 Q NOW, KEEPING YOUR EYE --- YOU CAN SEE THERE'S SOME
- 10 SORT OF OBJECT HERE ON THE SCREEN, MAYBE A CAR.
- 11 A YES, SIR.
- 12 Q NOW, IN FRONT OF THAT CAR AS WE GO THROUGH THIS, YOU
- 13 CAN SEE WHAT'S --- THAT THERE'S BASICALLY NOTHING IN FRONT
- 14 OF THE CAR RIGHT NOW. RIGHT?
- 15 A THAT'S CORRECT.
- 16 Q THERE GOES MR. DUNOVANT, AND RIGHT THERE IN FRONT OF
- 17 THE CAR, FOR THIS FRAME THERE IS SOMETHING RIGHT HERE.
- 18 CORRECT? THAT WAS NOT THERE A FRAME BEFORE.
- 19 A ALL RIGHT, GO BACK ONE FRAME.
- 20 Q IT'S NOT THERE.
- 21 A YES, SIR.
- 22 Q IT'S THERE.
- 23 A YES, SIR.
- 24 Q THAT OBJECT COULD BE A PERSON'S LEG WALKING SUCH THAT
- 25 THE CAMERA CATCHES THEM AS THEY ARE BASICALLY IN THIS

CHRIS BOMAR - CROSS BY MR. LEMEL

436

1 POSTURE WITH ONE LEG TRAILING BEHIND. BASED ON THE ANGLE
2 OF IT, THE SHAPE OF IT, THAT IS A LEG.

3 MS. LIPINSKI - YOUR HONOR, IS THAT A QUESTION OR
4 IS HE TESTIFYING?

5 Q IS IT A LEG?

6 THE COURT - YES, LET'S KEEP IT IN A QUESTION AND
7 ANSWER FORMAT.

8 A I DON'T KNOW.

9 Q COULD IT BE A LEG?

10 A I DON'T KNOW.

11 Q COULD IT BE A LEG IN BLUE JEANS?

12 A I DON'T KNOW.

13 Q BUT WHAT WE DO KNOW IS FOR THIS SCREEN MS. HILL IS NO
14 LONGER WHERE SHE WAS IN THE LAST SCREEN.

15 A YES, SIR.

16 Q AND NOW EVEN WHERE THAT ONE OBJECT WAS IT'S NOT THERE
17 ANYMORE.

18 A YES, SIR.

19 Q AT NO TIME ON THIS VIDEO DO WE EVER SEE MR. DUNOVANT
20 GO DOWN TO WHERE SHE WAS STANDING.

21 A NO, SIR.

22 Q HE DOES NOT APPROACH HER DOWN THERE.

23 A NO, SIR.

24 Q AND IF WE LET THE REST OF THIS PLAY, AT NO TIME DO WE
25 EVER SEE MR. DUNOVANT BACK ON THIS SCREEN.

CHRIS BOMAR - CROSS BY MR. LEMEL

437

- 1 A NO, SIR.
- 2 Q AND THAT, OF COURSE, IS THE FIRST SHOT. CORRECT?
- 3 A YES SIR.
- 4 Q NOW, THERE ARE OTHER CAMERAS AT THIS SERVICE STATION,
5 GAS, CONVENIENCE STORE OR WHATEVER YOU WANT TO CALL IT.
- 6 A YES, SIR.
- 7 Q THIS WAS --- THIS IS ANOTHER SHOT FROM THE SAME SET
8 OF CAMERAS THAT DETECTIVE HOFF --- THAT CAPTAIN HOFFMAN
9 PICKED UP. RIGHT?
- 10 A YES, SIR.
- 11 Q THIS IS ALSO FROM THE SAME STORE.
- 12 A YES, SIR.
- 13 Q AND THIS IS A SET OF GAS PUMPS.
- 14 A YES, SIR.
- 15 Q DO YOU KNOW WHERE THIS SET OF GAS PUMPS IS IN
16 RELATIONSHIP TO THE REST OF THE STORE?
- 17 A NO, SIR.
- 18 Q BUT IT'S NOT THE ONES THAT ARE OUT IN FRONT OF THE
19 STORE.
- 20 A I CAN'T TELL YOU THAT.
- 21 Q OKAY. ON THIS PARTICULAR SCENE WE SEE A RED TRUCK,
22 REGULAR FOUR-WHEEL TRUCK. RIGHT?
- 23 A YES, SIR.
- 24 Q WE NEVER SEE THIS TRUCK ON THE FRONT VIEW THAT WE'VE
25 BEEN WATCHING FOR THE LAST THIRTY MINUTES.

CHRIS BOMAR - CROSS BY MR. LEMEL

438

- 1 A NO, SIR.
- 2 Q OKAY. AGAIN, WE SEE HERE A VAN AND A WHITE CAR OF
- 3 SOME SORT AT THESE PUMPS?.
- 4 A YES, SIR.
- 5 Q ANOTHER SIDE OF THESE WHITE CAR ON THE FAR SIDE
- 6 THERE'S AN EIGHTEEN WHEELER NOW IN THE PICTURE.
- 7 A YES, SIR. BEEN THERE FOR A WHILE.
- 8 Q OKAY. NOW, AS WE WATCH THIS, CAN YOU MAKE OUT WHAT
- 9 THIS FIGURE IS?
- 10 A A PERSON.
- 11 Q OKAY. CAN YOU TELL US ANYTHING ELSE ABOUT THAT
- 12 PERSON?
- 13 A NO, SIR.
- 14 Q CAN YOU TELL IF THAT POSSIBLY IS A FEMALE, PONY TAIL,
- 15 DUNGAREE SHORTS, SORT OF A REDDISH SHIRT?
- 16 A IT'S A PERSON WITH PANTS AND A REDDISH --- I CAN'T
- 17 BE FOR CERTAIN.
- 18 Q LET'S GO TO THE ANOTHER CAMERA. THIS IS ANOTHER
- 19 CAMERA, AGAIN FROM THE SAME STORE.
- 20 A YES, SIR.
- 21 Q MORE GAS PUMPS AT THE STORE.
- 22 A YES, SIR.
- 23 Q BUT IN THIS SITUATION WHAT WE HAVE IS TWO DIFFERENT
- 24 EIGHTEEN WHEEL TRUCKS.
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

439

1 Q ONE OF WHICH IS PULLED UP TO THE GAS PUMPS.

2 A YES, SIR.

3 Q AND EIGHTEEN WHEEL TRUCKS CAN'T GO TO NECESSARILY A
4 NORMAL SORT OF GAS STATION PUMPS IN A LOT OF SITUATIONS.
5 RIGHT?

6 A ONES THAT USUALLY DO DIESEL.

7 Q THEY NO DIESEL, BUT ALSO THERE MAY BE A COVERING OVER
8 A NORMAL PUMP THAT WOULDN'T ACCOMMODATE AN EIGHTEEN
9 WHEELER?

10 A YES, SIR.

11 Q OKAY. SO THEY --- THEY HAVE TO LOOK FOR SPECIAL
12 PUMPS BASICALLY, THAT'LL ACCOMMODATE THEM.

13 A YES, SIR.

14 Q WHICH, APPARENTLY, THIS STORE HAS.

15 A WELL, I DON'T KNOW IF THAT BELONGS TO THAT STORE. I
16 JUST KNOW THAT CAMERA'S FACING THAT DIRECTION.

17 Q WELL, WE KNOW THAT THE CAMERA IS PART OF THE STORE.
18 RIGHT?

19 A FACING OUTSIDE, YES, SIR.

20 Q OKAY. SO IF --- IF THAT PUMP DOESN'T BELONG TO THAT
21 STORE, IT'S RIGHT NEXT TO IT.

22 A YES, SIR.

23 Q ADVANCING AHEAD A LITTLE BIT, ANOTHER SHOT OF THE
24 SAME SIGHT, THE ONE TRUCK THAT WAS IN THE FOREGROUND HERE
25 IS NOW GONE. CORRECT?

CHRIS BOMAR - CROSS BY MR. LEMEL

440

1 A YES, SIR.

2 Q THAT TRUCK IS STILL THERE.

3 A YES, SIR.

4 Q AND THERE IS NOW ANOTHER EIGHTEEN WHEELER THAT WE SEE
5 PULLING THROUGH THAT SAME AREA, A TANKER TRUCK.

6 A YES, SIR.

7 Q AND JUST GOING THROUGH, AGAIN, WE SEE A FULL VIEW OF
8 ALL THESE PUMPS NOW ---

9 A YES, SIR.

10 Q --- WITH TANKER TRUNKS OR EIGHTEEN WHEELERS. SO
11 SUFFICE TO SAY THAT EVEN IF THEY'RE NOT ATTACHED TO THIS
12 PARTICULAR BUILDING, THERE IS A SECTION WHERE TRUCKS
13 PRIMARILY GAS UP RIGHT NEXT TO IT.

14 A NEARBY, YES, SIR.

15 Q OKAY.

16 MR. LEMEL - IF WE COULD HAVE THE LIGHTS BACK UP,
17 PLEASE.

18 THE COURT - THIS MIGHT BE A GOOD POINT TO TAKE
19 A LITTLE REFRESHER BREAK. I'M GOING TO LET EVERYBODY GO
20 TO THE JURY ROOM AND WE'LL SEND FOR YOU IN JUST A FEW
21 MINUTES. YOU CAN STEP DOWN IF YOU WISH AND REFRESH
22 YOURSELF.

23 (JURY EXITS THE COURTROOM)

24 (RECESS TAKEN)

25 THE COURT - THANK YOU, TAKE YOUR SEATS. GET MR.

CHRIS BOMAR - CROSS BY MR. LEMEL

441

1 DUNOVANT BACK IN.

2 (MR. DUNOVANT ENTERS THE COURTROOM)

3 THE COURT - ALL RIGHT, STATE READY?

4 MS. LIPINSKI - YES, YOUR HONOR.

5 THE COURT - DEFENSE?

6 MR. LEMEL - YES, SIR, YOUR HONOR.

7 THE COURT - BRING IN THE JURY.

8 (JURY RETURNS TO THE COURTROOM)

9 THE COURT - ALL RIGHT, GO AHEAD.

10 MR. LEMEL - THANK YOU, YOUR HONOR. MAY IT

11 PLEASE THE COURT.

12 CROSS EXAMINATION

13 BY MR. LEMEL (CONTD.) -

14 Q DETECTIVE BOMAR, JUST TO SORT OF SUMMARIZE SINCE WE
15 TOOK A LITTLE BREAK, WHAT WE KNOW FROM THE VIDEO IS THAT
16 MS. HILL BASICALLY WAS HANGING OUT IN THE UPPER LEFT-HAND
17 QUADRANT OF THAT VIDEO.

18 A YES, SIR.

19 Q THAT SHE HAD INTERACTIONS WITH TWO MEN THAT EVENING.

20 A YES, SIR.

21 Q THAT SHE DIDN'T TELL YOU ABOUT.

22 A YES, SIR.

23 Q SHE DIDN'T HAVE ANY INTERACTION WITH ANY OF THE WOMEN
24 THAT WE SAW ON THE VIDEO.

25 A NONE THAT I COULD TELL, NO.

CHRIS BOMAR - CROSS BY MR. LEMEL

442

1 Q AND THAT TERRY WAS NEVER IN THAT UPPER LEFT-HAND
2 QUADRANT ON ANY OF THOSE VIDEOS.

3 A NO, SIR.

4 Q OKAY. OVER THE COURSE OF YOUR INVESTIGATION, DID YOU
5 BECOME AWARE OF DIFFERENT STORIES THAT MS. HILL WAS
6 TALKING ABOUT REGARDING HER PAST RELATIONSHIP WITH TERRY?

7 A I'M SORRY, I DON'T FOLLOW THAT.

8 Q OKAY. LET ME JUST BREAK IT --- WERE YOU AWARE ---
9 YOU'RE SORT OF THE LEAD INVESTIGATOR ON THIS CASE.

10 A YES, SIR.

11 Q SO IT'S YOUR JOB TO SORT OF COLLATE ALL THE
12 INFORMATION AS IT COMES IN FOR LACK OF A BETTER WORD.

13 A YES, SIR.

14 Q WERE YOU AWARE THAT SHE TOLD OFFICER CHILDERS THAT
15 THE RELATIONSHIP BETWEEN HER AND TERRY WAS THAT OF A
16 STRANGER?

17 A I BELIEVE THAT --- TO CORRECT THAT HE --- SHE GAVE
18 HIM THE INFORMATION THAT SHE MAY HAVE KNEW OF HIM, BUT
19 THEY WEREN'T AN ACQUAINTANCE AND SO IT FELL UNDER THE
20 STRANGERS.

21 Q OKAY. HE --- AND YOU SAW HIS TESTIMONY AND ---

22 A YES, SIR.

23 Q --- HE TESTIFIED ABOUT WHAT HE RECALLED HER SAYING.

24 A YES, SIR.

25 Q BUT HE WROTE IT DOWN AS A STRANGER.

CHRIS BOMAR - CROSS BY MR. LEMEL

443

1 A YES, SIR.

2 Q DID YOU BECOME AWARE OF THAT IN THE COURSE OF YOUR
3 INVESTIGATION?

4 A THAT THEY WERE STRANGERS?

5 Q NO, THAT HE MARKED IT DOWN AS STRANGER.

6 A YES, SIR. I MEAN IT'S RIGHT THERE IN THE REPORT.

7 Q OKAY. SHE TOLD THE DOCTOR, DR. RIMMER, THAT SHE KNEW
8 HIM AS A DRUG DEALER.

9 A YES, SIR.

10 Q AND SHE TOLD DR. RIMMER THAT SHE'D ACTUALLY BOUGHT
11 DRUGS FROM HIM EARLIER THAT DAY.

12 A I DON'T RECALL THAT.

13 Q OKAY, YOU DON'T RECALL HEARING THAT.

14 A NO, SIR.

15 Q SHE TOLD THE SEXUAL ASSAULT EXAMINERS THAT THEY WERE
16 AN ACQUAINTANCE.

17 A YES, SIR.

18 Q AND SHE GAVE YOU THE INFORMATION TO PASS ON TO NORTH
19 CAROLINA THAT HIS NAME WAS TONY.

20 A THAT'S CORRECT.

21 Q BUT ULTIMATELY YOU WERE ABLE TO FIND NO VERIFICATION
22 OF ANY PRIOR CONNECTION BETWEEN THESE TWO PARTIES BEFORE
23 THAT NIGHT.

24 A THAT'S CORRECT.

25 Q SHE PROVIDED NO CORROBORATION TO HER STATEMENT THAT

CHRIS BOMAR - CROSS BY MR. LEMBL

444

1 SHE KNEW HIM BEFORE.

2 A THAT'S CORRECT.

3 Q NOW, OVER THE COURSE OF YOUR INVESTIGATION DID YOU
4 LEARN THAT MS. HILL HAD TALKED WITH THE NURSE EXAMINER
5 ABOUT ORAL SEX?

6 A YOU TALKING ABOUT THE SUMMARY ---

7 Q (INDICATING YES)

8 A --- THAT WAS WRITTEN IN THERE?

9 Q YES.

10 A I READ IT.

11 Q OKAY. AND AS PART OF THAT SUMMARY SHE TOLD NURSE
12 EXAMINER THAT HE HAD TRIED TO FORCE ORAL SEX ON HER.

13 A YES.

14 Q BUT THAT SHE HAD REFUSED TO PERFORM ORAL SEX.

15 A YES.

16 Q AND THE NURSE EXAMINER ASKED HER, SPECIFICALLY,
17 WHETHER PENETRA --- WHERE PENETRATION BY A PENIS HAD
18 OCCURRED.

19 A YES.

20 Q AND THAT SHE DID NOT INDICATE THE MOUTH.

21 MS. LIPINSKI - YOUR HONOR, HE WASN'T THERE. WHY
22 IS HE ASKING ABOUT ANOTHER WITNESS' TESTIMONY. IT'S SOME
23 SIGNIFICANCE TO THE INVESTIGATION, BUT THE --- NOT THE
24 SAME NURSE. I'M NOT SURE WHERE WE'RE GOING.

25 THE COURT - WELL, THIS IS CROSS EXAMINATION. I

CHRIS BOMAR - CROSS BY MR. LEMEL

445

1 NOT SURE WHERE IT'S GOING EITHER, BUT I'M GOING TO ALLOW
2 THE QUESTION.

3 MR. LEMEL - THANK YOU.

4 Q AND THIS IS YOUR --- YOU'RE TRYING TO COLLATE ALL
5 THIS INFORMATION TOGETHER. RIGHT?

6 A YES, SIR.

7 Q OKAY. THAT WHEN SHE TALKED TO THE NURSE EXAMINER,
8 THE NURSE EXAMINER ASKED MS. HILL IF SHE HAD ORALLY
9 COPULATED TERRY, IN OTHER WORDS, PERFORMED ORAL SEX ON
10 TERRY.

11 A YES.

12 Q AND SHE RESPONDED NO TO THAT.

13 A THAT SHE RESPONDED NO THAT SHE DIDN'T HAVE ORAL SEX
14 ON --- WITH THE NURSE?

15 Q THAT SHE DID NOT PERFORM ORAL SEX ON TERRY, MS. HILL
16 DID NOT PERFORM ORAL SEX ON TERRY IS WHAT SHE TOLD THE
17 NURSE EXAMINER.

18 A THAT SHE REFUSED.

19 Q RIGHT. THAT IT DIDN'T HAPPEN.

20 A REFUSED.

21 Q OKAY. WELL, REFUSING MEANING PENETRATION ---

22 MS. LIPINSKI - YOUR HONOR, HE'S PITTING ONE
23 WITNESS AGAINST ---

24 THE COURT - YOU'VE GOT TO TAKE HIS ANSWERS AS HE
25 GIVES THEM, MR. LEMEL.

CHRIS BOMAR - CROSS BY MR. LEMEL

446

1 MR. LEMEL - OKAY.

2 Q MS. HILL ADMITTED GETTING INTO THE CAR WITH TERRY.

3 A YES, SIR.

4 Q SHE DID SO VOLUNTARILY.

5 A AS FAR AS I KNOW, YES, SIR.

6 Q NO ONE FORCED HER TO DO THAT.

7 A NO, SIR.

8 Q AND SHE STATED THAT HE OFFERED HER A RIDE HOME.

9 A I BELIEVE SHE HAD ASKED FOR HIM TO GIVE HER A RIDE
10 HOME.

11 Q OKAY. AND SHE ALSO STATED THAT THEY HAD AN AGREEMENT
12 TO SMOKE CRACK TOGETHER.

13 A I BELIEVE THAT WAS A DISCUSSION, YES, SIR.

14 Q NOW, THROUGH YOUR INVESTIGATION DID YOU LEARN THAT
15 SHE TOLD THE NURSE EXAMINER THAT SHE'D TAKEN ONE HIT OF
16 CRACK AT 2:00 A.M.?

17 A NO, SIR.

18 Q DO YOU RECALL THE NURSE EXAMINER SAYING THAT?

19 A I RECALL THE TESTIMONY HERE ON THE STAND, YES, SIR.

20 Q OKAY. BUT CLEARLY SHE DID NOT ENCOUNTER TERRY UNTIL
21 SEVERAL HOURS AFTER 2:00 A.M.

22 A YES, SIR.

23 Q BY THE RECORDING THAT WE HAD HERE, IT WAS SOME TIME
24 AFTER 5:00 A.M.

25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

447

1 Q BUT WE KNOW THAT, IN FACT, SHE ADMITTED SMOKING CRACK
2 WITH TERRY THAT NIGHT.

3 A YES, SIR.

4 Q OKAY. NOW, SHE TOLD YOU THAT SHE WAS LEFT AT THE
5 TRUCK STOP BECAUSE SHE DIDN'T WANT TO BE WITH PEOPLE WHO
6 WERE BUYING DRUGS.

7 A YES, SIR.

8 Q THEN SHE GOT IN A CAR WITH A PERSON WHO WAS EITHER,
9 ONE, A STRANGER TO HER, OR TWO, A DRUG DEALER THAT SHE
10 KNEW?

11 A YES, SIR.

12 Q OKAY. AND SHE DID THIS WITH AN AGREEMENT AT SOME
13 POINT IN TIME TO SMOKE CRACK WITH HIM.

14 A YES, SIR.

15 Q AND SHE ADMITTED THAT SHE DID SMOKE CRACK ---

16 A YES, SIR.

17 Q --- ON TOP OF THE ALCOHOL SHE'D BEEN DRINKING.

18 A YES, SIR.

19 Q LET'S BRING OUT THE MAP HERE IF WE CAN. AND
20 DETECTIVE YOU'LL PROBABLY HAVE TO STEP DOWN.

21 A OH, OKAY.

22 Q OKAY, THIS IS WE'RE LOOKING AT STATE'S EXHIBIT NUMBER
23 20 AND I'M GOING TO TAPE THIS DOWN HERE SO IT DOESN'T ROLL
24 UP ON US AGAIN.

25 MR. LEMEL -- MADAM COURT REPORTER, IF I GET TOO

CHRIS BOMAR - CROSS BY MR. LEMEL

448

1 SOFT, JUST LET ME KNOW.

2 COURT REPORTER - I WILL.

3 Q OKAY, THERE ARE VARIOUS POINTS ON HERE ON THIS MAP ON
4 STATE'S EXHIBIT 20 THAT HAVE BEEN MARKED.

5 A YES, SIR.

6 Q CORRECT? ONE OF WHICH IS WEEPING MARY BAPTIST CHURCH

7 ---

8 A YES, SIR.

9 Q --- WHICH IS AT 1799 NORTH HIGHWAY 321.

10 A YES, SIR.

11 Q OKAY. AND THERE'S ANOTHER POINT THAT'S MARKED HERE
12 OFF OF FORBES ROAD.

13 A YES, SIR.

14 Q AND THAT IS, IN FACT, LOCATION OF MS. HILL'S
15 RESIDENCE IN THAT GENERAL AREA. CORRECT?

16 A YES, SIR.

17 Q OKAY. SO FORBES --- IF THIS 321, THIS RED LINE RIGHT
18 HERE. IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q OKAY. FORBES ROAD IS BASICALLY OFF OF 321. RIGHT?
21 HERE? YOU HAVE TO FOLLOW THE ROAD THIS WAY TO GET TO IT?

22 A YES, SIR.

23 Q OKAY. AND FORBES ROAD IS STILL LOCATED IN GASTONIA.
24 THIS IS THE LINE.

25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

449

- 1 Q THE DISTANCE BETWEEN FORBES ROAD AND DOWN HERE WHERE
2 THE WEEPING MARY BAPTIST CHURCH IS ROUGHLY FOUR MILES.
3 ARE YOU AWARE OF THAT?
- 4 A NO, SIR.
- 5 Q DID YOU BOTHER TO LOOK AT THAT AT ALL?
- 6 A NO, SIR.
- 7 Q OKAY. NOW, FURTHER DOWN 321, IF THIS MAP EXTENDED
8 JUST A LITTLE BIT FURTHER DOWN HERE, WOULD BE THE TOWN OF
9 CLOVER. RIGHT?
- 10 A IN THAT DIRECTION, YES, SIR.
- 11 Q IN THAT DIRECTION. A FEW MORE MILES DOWN THE ROAD.
- 12 A YES, SIR.
- 13 Q BECAUSE THE TOWN OF CLOVER ISN'T THAT FAR FROM THIS -
14 -- THE STATE LINE AT THAT PARTICULAR POINT.
- 15 A NO, SIR.
- 16 Q IF YOU WERE TRAVELLING FROM FORBES ROAD DOWN TOWARDS
17 CLOVER, YOU WOULD PASS RIGHT BY THE WEEPING MARY BAPTIST
18 CHURCH, WOULD YOU NOT?
- 19 A YES, SIR.
- 20 Q OKAY. AND WE CAN SEE IT A LITTLE BIT ON THIS MAP
21 THAT AS YOU TESTIFIED EARLIER THAT THE CHURCH IS OFFSET
22 FROM 321?
- 23 A YES, SIR.
- 24 Q AND YOU CAN KIND OF SEE THAT THERE'S SOME NARROW
25 DRIVEWAYS THAT HEAD UP TO THE BACK.

CHRIS BOMAR - CROSS BY MR. LEMEL

450

- 1 A YES, SIR.
- 2 Q AND WE CAN KIND OF GET A VIEW HERE OF THIS AREA IN
- 3 BACK IS WHERE THE GRAVEYARD AND OPEN FIELD IS.
- 4 A YES, SIR.
- 5 Q YOU CAN SEE THAT --- ALL THAT FROM THAT OVERHEAD
- 6 VIEW.
- 7 A CAN I SEE THAT?
- 8 Q YES, CAN YOU SEE THAT ON THIS OVERHEAD VIEW? THAT'S
- 9 THE CHURCH, THERE IN BEHIND IT IS THE FIELD THAT WE'RE
- 10 TALKING ABOUT? NO, EXCUSE ME, THAT'S THE CHURCH ---
- 11 A THAT'S THE CHURCH.
- 12 Q THERE'S THE FIELD.
- 13 A YES, SIR.
- 14 Q OKAY, AND THE CHURCH, JUST TO CLARIFY, IS THE ONE AT
- 15 1799 --- THAT'S ON THE LEFT HAND SIDE OF THE CEMETERY.
- 16 A THAT'S CORRECT.
- 17 Q OKAY. ALL RIGHT, WE CAN TAKE THIS BACK. THANK YOU.
- 18 ALL RIGHT, NOW YOU HAVE NO INFORMATION THAT TERRY HAD EVER
- 19 BEEN TO WEEPING MARY BAPTIST CHURCH BEFORE.
- 20 A I'M SORRY. REPHRASE THAT.
- 21 Q DID YOU HAVE ANY INFORMATION THAT TERRY HAD EVER BEEN
- 22 TO WEEPING MARY BAPTIST CHURCH BEFORE THE NIGHT OF MAY
- 23 3RD?
- 24 A ONLY STATEMENT BY THE VICTIM SAYING THAT HE MUST'VE
- 25 KNOWN WHERE IT WAS.

CHRIS BOMAR - CROSS BY MR. LEMEL

451

1 Q OKAY. NO ONE AROUND THAT CHURCH REPORTED HEARING ANY
2 SCREAMING.

3 A YOU TALKING ABOUT FROM THE DIXIE DINER OR ANY OTHER -
4 --

5 Q AT THE CHURCH, FROM THE AREA AROUND THE CHURCH?

6 A NO. NO, SIR.

7 Q OR --- I GUESS THE DIXIE DINER WAS RELATIVELY CLOSE,
8 SO NOBODY AT DIXIE DINER REPORTED HEARING ANY SCREAMING.

9 A NO, SIR.

10 Q NO ONE AROUND THE CHURCH, IN FACT, REPORTED ANY
11 DISTURBANCE UNTIL MS. HILL CAME TO THE DIXIE DINER.

12 A PRETTY ISOLATED AREA.

13 Q OKAY. AND YOU WENT TO THE SIGHT ON THE 3RD.

14 A YES, SIR.

15 Q AND THERE WERE NO FURROWS IN THE GROUND OF THE GRASS.

16 A FURROWS.

17 Q FURROWS. DRAG MARKS.

18 A I CAN'T TESTIFY ON THAT. I DIDN'T SEE ANY.

19 Q OKAY, YOU DIDN'T SEE ANY THERE. AND YOU WERE THERE.

20 A I --- YES, I WAS THERE, BUT I DIDN'T SURVEY THE WHOLE
21 SCENE.

22 Q DID NOT SEE ANY HEEL MARKS WHEN YOU WERE THERE?

23 A NO, SIR.

24 Q SCUFF MARKS ON THE GRASS?

25 A I WASN'T OBSERVING THAT TOO CLOSELY TO VIEW THOSE

CHRIS BOMAR - CROSS BY MR. LEMEL

452

1 THINGS.

2 Q SO YOU DIDN'T NOTE ANY SORT OF PHYSICAL DISTURBANCE
3 IN THE EARTH.

4 A I WOULD NOT BE A GOOD PERSON TO TESTIFY ON THAT ONE.

5 Q OKAY. NOW, THE FIRST POLICE OFFICER ON THIS CASE WAS
6 DEPUTY CHILDERS. RIGHT?

7 A YES, SIR.

8 Q AND HE DID THE FIRST INTERVIEW WITH MS. HILL.

9 A HE DID THE WHAT?

10 Q THE FIRST INTERVIEW WITH MS. HILL?

11 A YES, SIR.

12 Q AND ONE OF THOSE DUTIES THAT HE HAS IN THAT SITUATION
13 IS FINDING ABOUT ANY PHYSICAL EVIDENCE THAT MIGHT BE
14 RELEVANT?

15 A HE'S THERE TO COLLECT FACTS, YES, SIR.

16 Q OKAY, WHICH WOULD INCLUDE IMMEDIATE PHYSICAL
17 EVIDENCE.

18 A YES, SIR.

19 Q OKAY. THE --- ONE OF WHICH WOULD BE HER BANDANNA.

20 A YES, SIR.

21 Q WHICH HAS PREVIOUSLY BEEN INTRODUCED AS STATE'S
22 NUMBER 5.

23 A YES, SIR.

24 Q OKAY. AND THAT WAS NOTABLE FOR THE POTENTIAL FOR DNA
25 EVIDENCE.

CHRIS BOMAR - CROSS BY MR. LEMEL

453

1 A YES, SIR.

2 Q HE ALSO TOOK A REPORT OF ANY ITEMS THAT WOULD'VE BEEN
3 MISSING AT THAT POINT IN TIME.

4 A YES, SIR.

5 Q AND THE ITEM THAT WAS REPORTED MISSING BY MS. HILL
6 WAS HER PURSE.

7 A YES, SIR.

8 Q SHE, FOR EXAMPLE, NEVER INDICATED ANY JEWELRY WAS
9 MISSING.

10 A I BELIEVE THAT WAS MENTIONED LATER.

11 Q OKAY. BUT AT THE TIME NEVER MENTIONED ANYTHING ABOUT
12 EARRINGS?

13 A THAT I CAN'T TESTIFY WHETHER THAT WAS MENTIONED TO
14 HIM OR NOT.

15 Q OKAY. BRACELETS?

16 A HERE AGAIN, I CAN'T TESTIFY TO THAT.

17 Q OKAY. NONE OF THE CLOTHING THAT YOU OBSERVED FROM
18 HER THAT WAS TAKEN FROM HER WAS RIPPED.

19 A AS FAR AS I CAN RECOLLECT.

20 Q OKAY. TORN.

21 A AS FAR AS I CAN RECOLLECT.

22 Q STRETCHED.

23 A AS FAR AS I CAN RECOLLECT.

24 Q NONE OF HER CLOTHING HAD ANY BLOOD STAINS ON IT.

25 A I DON'T RECALL THERE BEING ANY.

CHRIS BOMAR - CROSS BY MR. LEMEL

454

- 1 Q THE ITEMS THAT WERE COLLECTED THERE BY THE FORENSICS
2 UNIT, THOSE HAVE NEVER BEEN I.D.'D BY MS. HILL.
3 A I CAN'T STATE THAT FOR CERTAIN.
4 Q OKAY. THEY'VE NEVER BEEN TESTED FOR HER
5 FINGERPRINTS.
6 A NO, SIR.
7 Q OR HER DNA.
8 A NO, SIR.
9 Q SHE NEVER GAVE ANY DESCRIPTION OF THEM TO YOU?
10 A TO ME, NO.
11 Q OKAY. NEVER INVENTORIED HER BELONGINGS WITH HER?
12 A NO, SIR.
13 Q SHE NEVER BROUGHT YOU A MATCHING EARRING?
14 A NOT TO ME.
15 Q OKAY. NOW, YOU --- AS YOU INDICATED YOU MET WITH
16 TERRY THAT SAME DAY.
17 A YES, SIR.
18 Q ROUGHLY FOUR HOURS AFTER THE FIRST TIME YOU MET MS.
19 HILL.
20 A YES, SIR.
21 Q AND HE WAS BASICALLY STILL WEARING THE SAME CLOTHES.
22 A YES, SIR.
23 Q STILL DRIVING THE SAME CAR.
24 A YES, SIR.
25 Q AND YOU WERE ABLE TO SEIZE THE VEHICLE AT THAT POINT

CHRIS BOMAR - CROSS BY MR. LEMEL

455

- 1 IN TIME OR IT WAS SEIZED.
- 2 A YES, SIR.
- 3 Q AND NOTHING WAS DISTURBED IN THE VEHICLE BASICALLY
- 4 FROM THAT POINT WHEN NORTH CAROLINA SEIZED HIM UP TO THE
- 5 POINT WHEN Y'ALL PROCESSED THE VEHICLE. RIGHT?
- 6 A AS FAR AS I KNOW.
- 7 Q OKAY. DID YOU PARTICIPATE AT ALL IN THE SEARCH OF
- 8 THE VEHICLE?
- 9 A NO, SIR.
- 10 Q OKAY. ARE YOU AWARE OF ANYTHING THAT WAS FOUND IN
- 11 THE VEHICLE?
- 12 A I WAS MADE AWARE OF IT LATER AS PART OF THE FORENSICS
- 13 REPORT.
- 14 Q OKAY. SO FROM YOUR --- THAT PART OF THE
- 15 INVESTIGATION AGAIN, NO EVIDENCE OF BLOOD STAINS IN THE --
- 16 - IN THE VEHICLE?
- 17 A I WASN'T MADE AWARE OF ANY.
- 18 Q OKAY. NO NOTATION OF ANY RIPS, TEARS, ANYTHING IN
- 19 THE FABRIC LIKE THAT.
- 20 A NO, SIR.
- 21 Q OKAY. AND THAT, IN FACT, NO PURSE WAS FOUND.
- 22 A NO, SIR.
- 23 Q OR ANY ITEM THAT WAS TRACED BACK TO MS. HILL.
- 24 A NO, SIR.
- 25 Q THERE WAS ONE FINGERPRINT ON THE OUTSIDE OF THE CAR

CHRIS BOMAR - CROSS BY MR. LEMEL

456

1 THAT WAS TRACED BACK TO MS. HILL.

2 A I BELIEVE THAT'S CORRECT.

3 Q OKAY. AND YOU WERE INVOLVED WHEN TERRY WAS SPEAKING
4 WITH THE NORTH CAROLINA DETECTIVE, THE DETECTIVE TOLSON.
5 YOU WERE OBSERVING I GUESS WOULD BE THE BEST WAY TO PUT
6 IT.

7 A THAT AND ALSO ON THE ROAD, YES, SIR.

8 Q OKAY. WHEN YOU SPOKE WITH HIM AT THAT POINT IN TIME
9 YOU DIDN'T HAVE THE DNA RESULTS.

10 A NO, SIR.

11 Q YOU DID NOT HAVE THE VIDEO-TAPE.

12 A NO, SIR.

13 Q YOU BASICALLY HAD AT THAT POINT IN TIME MS. HILL'S
14 STATEMENTS.

15 A YES, AND HIS.

16 Q OKAY. BEFORE YOU GOT HIS STATEMENT ---

17 A YES, SIR.

18 Q AND HE DID, IN FACT, ENDED UP SPEAKING FREELY WITH
19 THE DETECTIVES.

20 A EVENTUALLY, YES, SIR.

21 Q (INDICATING YES) HE WAS TOLD WHY HE WAS BEING
22 QUESTIONED.

23 A YES, SIR.

24 Q OKAY. IT WASN'T JUST TELL US ANYTHING ABOUT
25 ANYTHING.

CHRIS BOMAR - CROSS BY MR. LEMEL

457

- 1 A THAT'S CORRECT.
- 2 Q YOU IDENTIFIED TO HIM ---
- 3 A THE ALLEGATIONS ---
- 4 Q THE ALLEGATIONS AGAINST HIM. THANK YOU. AND HE TOLD
- 5 YOU THAT HE'D BEEN THERE AT THE STORE THAT DAY.
- 6 A YES, SIR.
- 7 Q OKAY. HE TOLD YOU THAT MS. HILL HAD APPROACHED HIM.
- 8 A I BELIEVE SO, YES, SIR.
- 9 Q OKAY. WHICH IS CERTAINLY CONSISTENT WITH WHAT WE SAW
- 10 ON THE VIDEO-TAPE?
- 11 A I DIDN'T SEE HER APPROACH HIM. NO, SIR.
- 12 Q BUT WE DID --- WE DID SEE HIM NOT GOING NEAR HER AT
- 13 THE ---
- 14 A THAT'S CORRECT.
- 15 Q OKAY. HE ADMITTED THAT THEY HAD SMOKED CRACK
- 16 TOGETHER.
- 17 A YES, SIR.
- 18 Q NOT JUST ONE PUFF BUT ABOUT FOUR ROCKS OF CRACK
- 19 COCAINE.
- 20 A THAT WAS HIS STATEMENT, YES, SIR.
- 21 Q OKAY. AND HE ADMITTED THAT THEY HAD HAD SEX.
- 22 A YES, SIR.
- 23 Q TOLD YOU THAT HE HAD SEX WITH A PROSTITUTE.
- 24 A THAT'S WHAT HE SAID, YES, SIR.
- 25 Q ADMITTED SEVERAL CRIMES TO YOU OVER THE COURSE OF

CHRIS BOMAR - CROSS BY MR. LEMEL

458

1 THAT STATEMENT.

2 A CRIMES?

3 Q (INDICATING YES) PROSTITUTION IS A CRIME.

4 A NO, SIR.

5 Q PROSTITUTION IS NOT A CRIME?

6 A OH, PROSTITUTION? HE DIDN'T --- HE JUST SAID THAT
7 THEY SMOKED AND HAD SEX.

8 Q OKAY. DIDN'T HE ADMIT THAT HE'D ALSO PAID TWENTY
9 DOLLARS TO HER FOR SEX?

10 A YES, SIR.

11 Q OKAY. THAT'S PROSTITUTION. RIGHT?

12 A RIGHT, BUT I --- I DON'T KNOW WHERE --- YOU HAVE TO
13 UNDERSTAND THE JURISDICTION PART.

14 Q AND AGAIN, JURISDICTIONALLY ASIDE, PROSTITUTION'S A
15 CRIME. IT'S A CRIME IN NORTH CAROLINA; IT'S A CRIME IN
16 SOUTH CAROLINA.

17 A YES, SIR.

18 Q ADMITTED THAT HE HAD POSSESSED CRACK COCAINE AT SOME
19 POINT IN TIME.

20 A YES, SIR.

21 Q WHICH IS A CRIME EVERYWHERE IN THE UNITED STATES.

22 A IF YOU CATCH THEM, YES, SIR.

23 Q IF YOU CATCH THEM. IT'S A CRIME REGARDLESS OF BEING
24 CAUGHT OR NOT.

25 A RIGHT.

CHRIS BOMAR - CROSS BY MR. LEMBL

459

1 Q OKAY. BUT HE INSISTED FROM THE VERY START THAT HE
2 HAD NOT RAPED ANYONE.

3 A YES, SIR.

4 Q THAT THE SEX WAS CONSENSUAL.

5 A YES, SIR.

6 Q AND HE HAD NOT HIT OR KICKED MS. HILL AT ANY POINT IN
7 TIME.

8 A THAT'S HIS STATEMENT, YES, SIR.

9 Q RIGHT. AND THIS IS JUST FOUR HOURS AFTER YOU FIRST
10 ENCOUNTERED HER, JUST A FEW HOURS AFTER THE FIRST TIME
11 THEY EVER GOT IN TOUCH WITH EACH OTHER.

12 A YES, SIR.

13 Q OKAY. NOW, YOU NOTED THAT THE SKIN OVER HIS KNUCKLE
14 WAS SPLIT. CORRECT?

15 A THAT'S CORRECT.

16 Q I'M GOING TO SHOW YOU A PICTURE THAT I HAD USED
17 EARLIER THAT WAS MARKED AS DEFENDANT'S EXHIBIT NUMBER 1
18 FOR IDENTIFICATION PURPOSES.

19 A YES, SIR.

20 Q OKAY? NOW, SUBSEQUENT TO MY USE OF THAT, THERE WAS
21 INTRODUCED 13(B) FROM THE STATE --- THAT 13(B) WAS
22 ACTUALLY INTRODUCED. THOSE AREN'T THE SAME PICTURES.
23 RIGHT?

24 A YES, SIR.

25 Q OKAY. THERE'S NO DIFFERENCE BETWEEN THOSE TWO.

CHRIS BOMAR - CROSS BY MR. LEMEL

460

- 1 A NO, SIR.
- 2 Q OKAY. SO WHEN I WAS REFERRING TO DEFENDANT'S 1 FOR
- 3 IDENTIFICATION PURPOSES, SAME THING IS WHAT WE SEE ---
- 4 A YES, SIR.
- 5 Q --- ON STATE'S 13. OKAY. AND HE TOLD YOU WHERE THAT
- 6 CAME FROM.
- 7 A YES, SIR.
- 8 Q SAID HE'D BEEN IN AN EARLIER FIGHT ---
- 9 A YES, SIR.
- 10 Q --- ABOUT MIDNIGHT ---
- 11 A YES, SIR.
- 12 Q --- OVER SOME DRUGS.
- 13 A YES, SIR.
- 14 Q NOW, YOU TESTIFIED THAT YOU OBSERVED TERRY'S PENIS.
- 15 A YES, SIR, WHEN THEY WERE REMOVING THE CLOTHING.
- 16 Q AND THAT IT HAD BUMPS ON IT.
- 17 A YES, SIR.
- 18 Q BUT YOU DIDN'T DOCUMENT THIS ANYWHERE IN YOUR
- 19 REPORTS.
- 20 A NO, SIR.
- 21 Q IT'S NOT IN AN INCIDENT REPORT?
- 22 A NO, SIR.
- 23 Q NOT IN A CASE SUMMARY?
- 24 A NO, SIR.
- 25 Q YOU DIDN'T TAKE A PICTURE?

CHRIS BOMAR - CROSS BY MR. LEMEL

461

- 1 A NO, SIR, I DIDN'T.
- 2 Q DIDN'T ASK THAT A SKETCH BE DRAWN ---
- 3 A NO, SIR.
- 4 Q --- OF THESE BUMPS?
- 5 A NO, SIR.
- 6 Q AND YOU DIDN'T SAY WHERE THE BUMPS WERE.
- 7 A NO, SIR, I DIDN'T.
- 8 Q HOW MANY?
- 9 A NO, SIR.
- 10 Q HOW LARGE?
- 11 A NO, SIR.
- 12 Q AND MS. HILL YOU SAID SAID BUMPS.
- 13 A YES, SIR.
- 14 Q BUT YOU DIDN'T KNOW HOW MANY?
- 15 A NO, SIR.
- 16 Q SAY HOW LARGE?
- 17 A NO, SIR.
- 18 Q WHERE THEY WERE?
- 19 A JUST THAT THEY WERE ON THE PENIS.
- 20 Q RIGHT. BUT THAT --- ON THE SHAFT OF THE PENIS?
- 21 A RIGHT. WE DIDN'T GET THERE.
- 22 Q ON THE HEAD OF THE PENIS?
- 23 A NO, SIR.
- 24 Q OKAY. NOW, IN YOUR CAPACITY AS A DETECTIVE AND JUST
- 25 IN LAW --- IN THIRTEEN YEARS OF LAW ENFORCEMENT YOU'VE

CHRIS BOMAR - CROSS BY MR. LEMEL

462

1 DEALT WITH PROSTITUTION BEFORE.

2 A. NOT MUCH.

3 Q NOT MUCH. BUT YOU'RE FAMILIAR WITH IT IN YOUR
4 EXPERIENCE AS A LAW ENFORCEMENT OFFICER.

5 A YES, SIR.

6 Q OKAY. WITHIN PROSTITUTION, FOR LACK OF A BETTER WORD
7 AGAIN, I'M GOING TO CALL IT, THERE IS A HIERARCHY AMONG
8 PROSTITUTES.

9 A IF YOU SAY SO.

10 Q OKAY.

11 MS. LIPINSKI - I'M GOING TO OBJECT. OBVIOUSLY,
12 IT'S GOING BEYOND THIS DETECTIVE'S KNOWLEDGE IF HIS
13 RESPONSE IS IF YOU SAY SO. THAT'S NOT ---

14 THE COURT - WELL, LET'S DON'T HAVE AN IF SAY SO.
15 JUST SAY I DON'T KNOW.

16 A I DON'T KNOW.

17 THE COURT - BECAUSE HE'S NOT TESTIFYING. YOU'RE
18 TESTIFYING, ASKING QUESTIONS AND --- YOU HAVE TO TAKE HIS
19 ANSWERS. DON'T COMMENT ON HIS ANSWERS; JUST ACCEPT THEM
20 AS THEY'RE GIVEN.

21 Q ARE YOU FAMILIAR WITH THE FACT THAT THERE ARE
22 PROSTITUTES WHO WOULD BE CONSIDERED MORE HIGH-CLASS CALL
23 GIRLS TYPES?

24 A NO, SIR.

25 Q ARE YOU FAMILIAR WITH THE TYPE OF CALL GIRLS THAT UN-

CHRIS BOMAR - CROSS BY MR. LEMEL

463

1 DID (SIC) SAY GOVERNOR SPITZER UP IN NEW YORK? FAMILIAR
2 WITH THOSE --- THAT SITUATION?

3 A NO, SIR.

4 Q WHAT ABOUT THE HIGH-CLASS CALL GIRLS THAT --- THE
5 RING THEY BUSTED UP IN NORTH CAROLINA THAT HAD MILLIONS OF
6 DOLLARS IN IT RECENTLY JUST UP IN CHARLOTTE?

7 A I WATCH THE NEWS.

8 MS. LIPINSKI - YOUR HONOR, I'M GOING TO OBJECT
9 TO RELEVANCE AT THIS POINT.

10 THE COURT - I SUSTAIN. I THINK WE'VE GONE INTO
11 THIS. I SUSTAIN THE OBJECTION.

12 MR. LEMEL - OKAY.

13 Q THERE ARE OTHER PROSTITUTES WHO WORK THE STREET. ARE
14 YOU FAMILIAR WITH THAT?

15 A YES, SIR.

16 Q AND SOME OF THOSE PROSTITUTES THAT WORK THE STREET
17 ARE BASICALLY AT THE LOWER END ECONOMICALLY IN THAT
18 SITUATION.

19 A I DON'T KNOW.

20 Q ARE YOU FAMILIAR WITH THE PROSTITUTES WHO TEND TO
21 WORK THE STREET, TEND TO HAVE DRUG PROBLEMS?

22 A I HAVE KNOWN OF SOME, YES.

23 Q HAVE YOU KNOWN THEM TO BE UNSTABLE?

24 A I DON'T KNOW.

25 Q HAVE YOU KNOWN THEM TO HAVE SORT OF A ROUGH AND BLEAK

CHRIS BOMAR - CROSS BY MR. LEMEL

464

1 EXISTENCE?

2 A SOME, YES.

3 Q NOW, DETECTIVE BOMAR, A LARGE NUMBER OF ITEMS WERE
4 PLACED INTO EVIDENCE IN THIS CASE.

5 A YES, SIR.

6 Q THEY WERE PLACED IN EVIDENCE BACK IN MAY OF 2007.

7 A YES, SIR.

8 Q AND THAT WAS ABOUT TWO YEARS AGO NOW.

9 A YES, SIR.

10 Q THE VAST MAJORITY OF THE EVIDENCE THAT WAS COLLECTED
11 HAS STAYED AT THE SHERIFF'S OFFICE EVIDENCE CUSTODIAN'S
12 OFFICE SINCE THAT TIME.

13 A YES, SIR.

14 Q WHICH WOULD INCLUDE ALL OF MS. HILL'S CLOTHES.

15 A YES, SIR.

16 Q ALL OF TERRY'S CLOTHES.

17 A YES, SIR.

18 Q ALL THE ITEMS COLLECTED FROM WEEPING MARY BAPTIST
19 CHURCH.

20 A YES, SIR.

21 Q THE BANDANNA THAT MS. HILL GAVE TO DEPUTY CHILDERS.

22 A YES, SIR.

23 Q ALL THESE THINGS HAVE BEEN SITTING THERE AND THEY
24 HAVEN'T BEEN PROCESSED AT ALL.

25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

465

1 Q NONE OF THESE THINGS WERE ACTUALLY TAKEN OUT OF THE
2 EVIDENCE SECTION UNTIL YOU WENT AND GOT THEM EARLIER IN
3 THIS TRIAL.

4 A FAR AS MY KNOWLEDGE, YES, SIR.

5 Q AND IT WOULD SHOW UP ON THE EVIDENCE LOG IF THEY HAD
6 BEEN TAKEN AWAY.

7 A YES, SIR.

8 Q AND NONE OF THAT INDICATES THAT ANYTHING WAS EVER
9 TAKEN OUT OF THE EVIDENCE ROOM.

10 A YES, SIR.

11 Q STATE'S NUMBER 3 IS PART OF MS. HILL'S CLOTHING?

12 A YES, SIR.

13 MR. LEMEL - BEGGING THE COURT'S INDULGENCE WHILE
14 I FIND THAT.

15 Q AND DETECT --- YOU MAY WANT --- I BELIEVE THE STATE'S
16 NUMBER 3 IS THIS ONE. YOU MAY WANT TO PUT ON SOME --- I'M
17 GOING TO ASK YOU TO TAKE SOME OF THAT STUFF --- AND,
18 AGAIN, BEFORE YOU OPEN THAT OPEN, THAT WAS PLACED INTO
19 EVIDENCE WHEN?

20 A I PLACED THIS --- WELL, IT WAS GIVEN TO ME ON --- OH,
21 EXCUSE ME. THIS WAS ENTERED INTO EVIDENCE ON 5/3 '07.
22 APPROXIMATELY 3:09 IN THE AFTERNOON.

23 Q AND WHEN WAS THE NEXT TIME IT WAS TAKEN OUT OF
24 EVIDENCE?

25 A TAKEN OUT ON THE 31ST OF MARCH AT 0815.

CHRIS BOMAR - CROSS BY MR. LEMEL

466

- 1 Q YESTERDAY.
- 2 A YES, SIR.
- 3 Q IF YOU CAN OPEN THAT UP.
- 4 A (WITNESS COMPLIES)
- 5 Q ARE YOU AWARE OF WHAT THAT ITEM IS?
- 6 A THIS IS PART OF OUR SANE KIT.
- 7 Q OKAY. AND THE ITEM THAT YOU TOOK OUT OF THE BAG THAT
- 8 WAS PART OF THE SANE KIT ---
- 9 A YES, SIR.
- 10 Q --- IS WHAT?
- 11 A APPEARS TO BE UNDERGARMENTS.
- 12 Q OKAY. WHOSE UNDERGARMENTS?
- 13 A MISTI HILL'S.
- 14 Q OKAY. AND THAT WAS TAKEN INTO EVIDENCE BACK ON MAY
- 15 3RD. IT WAS NOT CHECKED FOR BLOOD AT ANY POINT IN TIME?
- 16 A NOT TO MY KNOWLEDGE.
- 17 Q OR SEMEN?
- 18 A NO, SIR.
- 19 Q YOU CAN GO AHEAD AND PUT THAT BACK.
- 20 A (WITNESS COMPLIES)
- 21 Q AND THE REST OF HER CLOTHES WHICH IS STATE'S NUMBER
- 22 2, I'M NOT GOING TO BE ABLE TO OPEN --- OPEN THIS ONE UP,
- 23 BUT THIS IS THE REST OF THE CLOTHING TAKEN FROM MS. HILL?
- 24 A YES, SIR.
- 25 Q AND, AGAIN, THEY HAVEN'T BEEN PROCESSED IN ANY WAY?

CHRIS BOMAR - CROSS BY MR. LEMEL

467

- 1 A NO, SIR.
- 2 Q THEY WEREN'T CHECKED FOR BLOOD?
- 3 A NO, SIR.
- 4 Q EITHER HER BLOOD ---
- 5 A NO, SIR.
- 6 Q --- OR TERRY'S BLOOD?
- 7 A NO, SIR.
- 8 Q TERRY'S CLOTHES WERE TAKEN INTO EVIDENCE ---
- 9 A YES, SIR.
- 10 Q --- IN THIS LARGER BAG ---
- 11 A YES, SIR.
- 12 Q --- RIGHT HERE.
- 13 A YES, SIR.
- 14 Q WHAT HAS BEEN MARKED AS STATE'S NUMBER 14. AGAIN,
- 15 THIS SAT IN THE EVIDENCE ROOM FROM MAY 3RD UNTIL YOU
- 16 CHECKED IT OUT YESTERDAY?
- 17 A YES, SIR.
- 18 Q AND THERE IS A SPOT ON HIS PANTS THAT WAS
- 19 PHOTOGRAPHED.
- 20 A YES, SIR.
- 21 Q DRAWING YOUR ATTENTION TO NUMBER 13 I BELIEVE IT WAS.
- 22 A YES, SIR.
- 23 Q 13(C) SPECIFICALLY AND 13(A) IT APPEARS ON BOTH OF
- 24 THOSE PICTURES.
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

468

- 1 Q THERE'S A SMALL RED SPOT ON HIS PANTS.
- 2 A YES, SIR.
- 3 Q THAT I THINK YOU ASSUMED WAS BLOOD?
- 4 A YES, SIR.
- 5 Q THAT'S ONE OF THE REASONS WHY YOU PHOTOGRAPHED IT.
- 6 A YES, SIR.
- 7 Q YOU NEVER VERIFIED THAT THAT WAS, IN FACT, BLOOD.
- 8 A NO, SIR.
- 9 Q OR WHOSE BLOOD IT WAS.
- 10 A NO, SIR.
- 11 Q THE ITEMS THAT WERE FOUND AT THE CHURCH WERE NEVER
- 12 ANALYZED.
- 13 A NOT TO MY KNOWLEDGE.
- 14 Q THEY WERE PLACED INTO EVIDENCE BACK ON MAY 3RD.
- 15 A YES, SIR.
- 16 Q WERE AVAILABLE TO YOU STARTING FROM THAT POINT FORWARD.
- 17 A YES, SIR.
- 18 Q AND NOTHING WAS EVER DONE WITH THEM.
- 19 A NO, SIR.
- 20 Q EVEN THE BANDANNA THAT WAS HANDED TO DEPUTY CHILDERS
- 21 THERE THAT NIGHT ---
- 22 A YES, SIR.
- 23 Q --- WAS CHECKED INTO THE EVIDENCE ROOM BACK ON MAY
- 24 3RD ---
- 25 A YES, SIR.

CHRIS BOMAR - CROSS BY MR. LEMEL

469

1 Q --- AFTER SHE HAD TOLD YOU THAT IT --- OR TOLD HIM
2 THAT IT HAD DNA ON IT ---

3 A YES, SIR.

4 Q --- AND YOU KNEW THAT.

5 A YES, SIR.

6 Q AND IT WAS NEVER ANALYZED.

7 A NO, SIR.

8 Q BASICALLY ONCE THESE ITEMS WERE PLACED INTO EVIDENCE,
9 AS FAR AS THEY WERE CONCERNED THE INVESTIGATION STOPPED.

10 A NO, SIR.

11 Q OKAY. WHAT ELSE WAS DONE WITH THESE ITEMS THAT WE'VE
12 BEEN TALKING ABOUT?

13 A THEY JUST REMAINED THERE UNLESS WE NEEDED TO ANALYZE
14 THEM.

15 Q OKAY. NONE OF WHICH HAS HAPPENED AND WE'RE HERE
16 TODAY AT TRIAL.

17 A YES, SIR.

18 Q SO IN TERMS OF ACTUAL INVESTIGATION, NOTHING ELSE HAS
19 HAPPENED WITH THEM SINCE MAY 3RD.

20 A AS FAR AS THOSE ITEMS CONCERNED.

21 Q OKAY.

22 A YES, SIR.

23 Q AND REGARD --- WITH REGARD TO FOLLOW-UP, NO OTHER
24 WITNESSES WERE TALKED TO AFTER THAT DAY?

25 A NOT BY ME.

CHRIS BOMAR - CROSS BY MR. LEMBL

470

- 1 Q OKAY. NO ANALYSIS OF THIS VIDEO WAS DONE?
- 2 A AS FAR AS ---
- 3 Q ANYTHING.
- 4 A JUST VIEWING IT.
- 5 Q OKAY. ANY ANALYSIS OF IT?
- 6 A I'M SORRY, I DON'T KNOW WHAT YOU MEAN BY ANALYSIS.
- 7 Q WELL, DID YOU TRY --- DID YOU LOOK AND SEE IF YOU
- 8 COULD IDENTIFY THINGS, BLOW THEM UP, SHARPEN THEM AT ALL?
- 9 A GOT ABOUT AS GOOD AS WE COULD GOT HERE IN THE
- 10 COURTROOM.
- 11 Q YOU NEVER ATTEMPTED TO IDENTIFY ANY OF THE MEN THAT
- 12 MS. HILL APPROACHED THAT NIGHT.
- 13 A NO, SIR.
- 14 Q NEVER TRIED TO ASK THEM WHAT SHE'D BEEN TALKING ABOUT
- 15 WITH THEM.
- 16 A NO, SIR.
- 17 Q YOU OBTAINED THE WARRANTS FOR TERRY'S ARREST LESS
- 18 THAN SEVEN HOURS ---
- 19 A YES, SIR.
- 20 Q --- FROM THE TIME YOU FIRST SPOKE WITH MS. HILL.
- 21 A YES, SIR.
- 22 Q WATCHED THE VIDEO-TAPE AFTER THAT.
- 23 A YES, SIR.
- 24 Q AND HAVEN'T ASKED FOR ANY OF THIS STUFF TO BE
- 25 PROCESSED.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

471

1 A NO, SIR.

2 MR. LEMEL - I DON'T HAVE ANY OTHER QUESTIONS,
3 YOUR HONOR.

4 RE-DIRECT EXAMINATION

5 BY MS. LIPINSKI -

6 Q DETECTIVE BOMAR, I KNOW WE'VE GONE OVER THE VIDEO
7 WITH YOU FRAME-BY-FRAME FOR A PRETTY GOOD --- BOTH MR.
8 LEMEL AND I HAVE AS WELL. WE HAVEN'T LISTENED TO ANY
9 AUDIO.

10 A NO, SIR.

11 Q ARE YOU AWARE --- IS THERE ANY AUDIO?

12 A NOT THAT I KNOW OF.

13 Q SO YOUR ABILITY TO HEAR WHO IS SAYING WHAT TO WHOM
14 YOU CAN'T DISCERN FROM THAT VIDEO.

15 A NO.

16 Q AND IS THAT TYPICAL OF CONVENIENCE STORES THAT FOR
17 MOST PART WHAT YOU SEE AND NOT NECESSARILY WHAT YOU HEAR?

18 A THAT'S CORRECT.

19 Q AND MOST OF --- THE FRONT VIEW CAMERA, AT LEAST GOING
20 DOWN THAT ICE COOLER WHERE THE NEWSPAPERS ARE, FAIR TO SAY
21 WE'RE TALKING ABOUT A SPAN OF A FEW PARKING SPACES.

22 A THAT'S CORRECT.

23 Q SO WOULD IT BE ALSO FAIR TO SAY THAT YOU COULD HAVE
24 A CONVERSATION ACROSS THESE PARKING SPACES WITHOUT HAVING
25 GET ON TOP OF ONE ANOTHER TO HAVE THAT CONVERSATION?

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

472

1 A THAT'S CORRECT.

2 Q SO WERE YOU ABLE TO DISCERN WHO SHOUTED OUT TO WHO OR
3 WHO CALLED OUT TO WHO ON ANY OF THOSE OCCASIONS?

4 A NO.

5 Q AND, MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT WHY YOU
6 DIDN'T GO BACK AND TRY TO FIND THESE --- THESE PEOPLE AND
7 QUESTION THEM. FROM THE VIDEO WAS THERE SUFFICIENT DETAIL
8 THERE FOR YOU TO EVER SAY THE GUY IN THE TIE-DYED SHIRT
9 DROVE A CAR WITH SUCH AND SUCH TAG THAT MIGHT LEAD YOU TO
10 BE ABLE TO IDENTIFY HIM EVEN TO QUESTION HIM?

11 A NO.

12 Q NOW, MR. LEMEL ASKED YOU SOME QUESTIONS REGARDING THE
13 CLOTHING THAT MR. DUNOVANT HAS ON IN THE VIDEO. CORRECT?

14 A THAT'S CORRECT.

15 Q AND IT --- I DON'T WANT TO MAKE YOU PUT YOUR GLOVES
16 ON AND PUT IT BACK ON AGAIN AND I WON'T, BUT YOU SHOWED IT
17 TO THE JURY YESTERDAY. IT'S A BLACK SLEEVELESS T-SHIRT
18 WITH SOME KIND OF WRITING ON IT.

19 A THAT'S CORRECT.

20 Q NOW, MR. LEMEL ASKED YOU IF THIS IS WHAT'S COMMONLY
21 REFERRED TO AS A WIFE-BEATER. ARE YOU FAMILIAR WITH THAT
22 TERM?

23 A I'VE HEARD THAT TERM BEFORE.

24 Q DOES THAT REFER TO ALL SLEEVELESS SHIRTS OR DOES THAT
25 REFER TO KIND OF A TWO STRAP TANK TOP THAT MEN SOMETIMES

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

473

1 WEAR AS AN UNDERSHIRT?

2 A I --- THE LATTER PART WHAT YOU JUST DISCUSSED AS AN
3 UNDERSHIRT.

4 Q AND DID MISTI HILL DESCRIBE TO YOU --- AND IF YOU
5 NEED TO REFER TO YOUR INTERVIEW NOTES AS WELL --- THAT HE
6 WAS WEARING A WHITE T-SHIRT AND NOT A BLACK T-SHIRT?

7 I BELIEVE AT THE BOTTOM WHERE SHE GIVES THE PHYSICAL
8 DESCRIPTION IN THAT SECOND PARAGRAPH THE THIRD LINE
9 STARTING VICTIM.

10 A RIGHT. VICTIM STATED SUBJECT HAD TAN BOOTS, WHITE T-
11 SHIRT, HUNTER GREEN PANTS, SHORT HAIR.

12 Q SO SHE --- SO WHITE T-SHIRT, NOT BLACK T-SHIRT.

13 A THAT'S CORRECT.

14 Q SO HE LEAVES MISTI HILL --- FOR THE MOST PART SHE
15 CALLS 9-1-1 AROUND 6:30 IN THE MORNING.

16 A THAT'S CORRECT.

17 Q WHAT TIME DO THE DETECTIVES IN NORTH CAROLINA FIND
18 HIM, IF YOU RECALL?

19 A SOME TIME AFTER 10:00, SOMEWHERE AROUND THERE.

20 Q SO MR. DUNOVANT HAD AT LEAST A COUPLE HOURS BETWEEN
21 THE TIME --- OR MAYBE EVEN FOUR HOURS, TWO TO FOUR HOURS
22 AT LEAST, BETWEEN THE TIME HE DROPS OFF MS. HILL IN THE
23 VICINITY OF WEEPING MARY BAPTIST CHURCH AND THE TIME HE'S
24 APPREHENDED.

25 A THAT'S CORRECT.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

474

1 Q SO HE HAD THE OPPORTUNITY, WOULD IT BE FAIR TO SAY,
2 TO DISPOSE OF A WHITE T-SHIRT THAT MAY HAVE SOMETHING ELSE
3 ON IT.

4 A HE DID.

5 Q AND IF INDEED EITHER HER PURSE IS STOLEN FROM HIM IN
6 HIS CAR WHEN SHE LEAVES HIM, HE HAD THE OPPORTUNITY TO
7 DISPOSE OF THAT, AS WELL.

8 A HE DID.

9 Q AND WE'RE NOT TALKING A SMALL KIND OF CLUTCH WALLET
10 PURSE, SHE HAD A PURSE THAT'S NOTICEABLE IN THAT VIDEO.

11 A THAT'S CORRECT.

12 Q NOW, YOU STATED THAT YOU WERE TAKING SOME NOTES AS
13 MISTI HILL WAS SPEAKING. CORRECT?

14 A THAT'S CORRECT.

15 Q BUT YOU DON'T EVER GO BACK AND GET HER TO REVIEW YOUR
16 NOTES.

17 A NO, MA'AM.

18 Q SIGN A STATEMENT OF ANY KIND.

19 A NO, MA'AM.

20 Q NOT AWARE THAT THE SANE NURSE EVER DID THAT EITHER.

21 A NO, MA'AM.

22 Q AND SHE NEVER DESCRIBES TO YOU THAT --- TO YOU WHEN
23 YOU'RE MEETING WITH HER --- AND YOU KNEW --- SHE GIVES YOU
24 SIGNIFICANTLY MORE DETAIL THAN THE SANE NURSE POSSESSED.

25 WOULD THAT BE FAIR TO SAY?

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

475

1 A YES.

2 Q AND SHE NEVER TELLS YOU ABOUT HIM FORCING HIMSELF TO
3 PERFORM ORAL SEX ON HER.

4 A NO.

5 Q CONSISTENT WITH WHAT THE SAME NURSE MAY HAVE CHECKED
6 ON THE REPORT.

7 A THAT'S CORRECT.

8 Q HE NEVER TELLS YOU HE PERFORMED ORAL SEX ON HER.

9 A NO.

10 Q SO OTHER THAN THAT CHECK MARK, YOU DON'T HEAR THAT
11 ANYWHERE ELSE IN THE INVESTIGATION.

12 A THAT'S CORRECT.

13 Q NOW, MR. LEMEL ASKED SOME QUESTIONS ABOUT HER
14 POSSIBLY SMOKING CRACK THAT I BELIEVE NURSE CARRINGER MAY
15 HAVE INDICATED AT 2:00 A.M. DO YOU RECALL THAT TESTIMONY
16 OF MR. LEMEL QUESTIONING REGARDING THAT?

17 A I RECALL SOMETHING SIMILAR TO THAT, YES.

18 Q BUT FOR THE MOST PART THE VIDEO SHOWS THEY GOT
19 TOGETHER ABOUT 5:30.

20 A THAT'S CORRECT.

21 Q NOW, TURNING TO MR. DUNOVANT'S STATEMENT, HE SAYS
22 THEY GET TOGETHER BETWEEN 2:30 AND 4:30.

23 A THAT'S CORRECT.

24 Q SO HE EVEN BACKS UP THAT TIME.

25 A THAT'S CORRECT.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 Q MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT WHETHER OR
2 NOT YOU WERE EVER ABLE TO TIE MISTI HILL --- OR TERRY
3 DUNOVANT TO THE WEEPING MARY BAPTIST CHURCH. WERE YOU
4 EVER ABLE TO TIE EITHER ONE OF THEM TO THE WEEPING MARY
5 BAPTIST CHURCH?

6 A NO, WE WERE NOT.

7 Q AND MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT WHETHER
8 OR NOT ANYBODY AT THE DIXIE DINER WOULD'VE HEARD ANY
9 SCREAMING FROM THE WEEPING MARY BAPTIST CHURCH AREA. IS
10 IT POSSIBLE THAT SHE COULD'VE SCREAMED AND BECAUSE OF THE
11 DISTANCE OF THE TWO BUILDINGS THEY DIDN'T HEAR HER?

12 A IT'S PRETTY ISOLATED, YES.

13 Q AND WERE YOU ALSO HERE WHEN THE TESTIMONY THAT SHE
14 ACTUALLY HAD SOME BROKEN RIBS? THAT WAS SOMETHING YOU
15 LEARNED IN YOUR INVESTIGATION?

16 A THAT'S CORRECT.

17 MS. LIPINSKI - COURT'S INDULGENCE ONE MOMENT.

18 Q WERE YOU THERE WHEN MISTI HILL POINTS OUT THE AREA
19 APPROXIMATELY WHERE THEY PARKED?

20 A I WAS NOT THERE WHEN SHE DID, NO.

21 Q DID THE OTHER OFFICER SAY FOR THE MOST PART SHE
22 POINTED US IN THIS GENERAL AREA?

23 A THE FSU UNITS DID, YES.

24 Q AND I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
25 STATE'S EXHIBIT NUMBER 9(A), (B), (C), (D), (K), (N) AND

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 (0) AND ASK YOU IF THESE ARE PICTURES OF THE CHURCH IN
2 THAT GRASSY AREA WHERE SHE DIRECTED OFFICERS PER WHAT
3 EVIDENCE SHE TOLD YOU.

4 A THIS IS A PICTURE OF THE WEEPING MARY CHURCH HERE AND
5 THEN THIS IS THE AREA OF WHAT FSU STATED THAT --- WAS
6 STATED TO THEM WHERE THE INCIDENT LOCATION TOOK PLACE.

7 Q FAIR TO SAY THE GRASS IN THIS GRAVEYARD IS NOT GOLF
8 COURSE QUALITY.

9 A THAT'S CORRECT.

10 Q SO WHETHER THERE WAS FURROWS OR DRAG MARKS OR
11 ANYTHING OF THAT NATURE, WOULD IT NECESSARILY EVEN HAD
12 BEEN LEFT THERE IF A STRUGGLE OCCURRED, IF YOU CAN SAY?

13 A I CAN'T SAY, BUT THE GROUND WAS PRETTY TOUGH.

14 Q NOW, MR. LEMEL HAS ASKED YOU SOME QUESTIONS REGARDING
15 MISTI HILL TELLING HIM THAT HE WAS A STRANGER OR VERSUS AN
16 ACQUAINTANCE. IS THERE A BRIGHT LINE BETWEEN STRANGER AND
17 ACQUAINTANCE FOR YOU AS AN OFFICER?

18 A THERE IS NON --- JUST IT'S AN OFFICER'S DISCRETION TO
19 DETERMINE. FOR ME, MR. LEMEL AND I WOULD BE CONSIDERED
20 STRANGERS, BUT I KNOW HIM BECAUSE I'VE SEEN --- HEARD HIS
21 NAME MENTIONED. I CAN TESTIFY TO WHAT HE LOOKS LIKE, BUT
22 WE'RE STILL STRANGERS.

23 Q IN THIS PARTICULAR CASE WAS MISTI HILL ABLE TO
24 PROVIDE THE CORRECT NAME OF THE DEFENDANT?

25 A THE CORRECT NAME? NO.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 Q SHE SAID SHE KNEW HIM TONY.

2 A THAT'S CORRECT.

3 Q WAS SHE ABLE TO PROVIDE A LAST NAME OF ANY KIND?

4 A NO.

5 Q SO FAIR TO SAY EVEN IF SHE WAS AN ACQUAINTANCE, SHE
6 DID NOT HAVE --- SHE DID NOT HAVE AS MUCH KNOWLEDGE AS YOU
7 HAVE OF MR. LEMEL, YOU KNOW HIS FULL NAME.

8 A THAT'S CORRECT.

9 Q MR. LEMEL ASKED YOU SOME QUESTIONS REGARDING MR.
10 DUNOVANT'S STATEMENT WHEREIN YOU STATE HE ADMITTED TO YOU
11 THAT HE TRADED SEX FOR CRACK ON THE NIGHT IN QUESTION,
12 GAVE HER FOUR TWENTY DOLLARS ROCKS --- OR SMOKED FOUR
13 TWENTY DOLLAR ROCKS WITH HER AND ALSO GAVE HER TWENTY ---
14 TWENTY DOLLARS.

15 A YES.

16 Q SO IN ESSENCE IT WAS MR. DUNOVANT'S TESTIMONY THAT HE
17 PAID HER APPROXIMATELY A HUNDRED DOLLARS FOR THE SEX ACT
18 SHE WOULD'VE PERFORMED FOR HIM THAT NIGHT.

19 A THAT'S --- YES, ACCORDING TO HIS STATEMENT.

20 Q AND MR. LEMEL POINTED OUT THAT IN ESSENCE HE WAS
21 CONFESSING TO YOU THAT HE COMMITTED THE CRIME OF
22 PROSTITUTION.

23 A THAT'S CORRECT.

24 Q NORTH CAROLINA, SOUTH CAROLINA, RAPE UP HERE,
25 PROSTITUTION DOWN HERE.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 A THAT'S CORRECT.

2 Q ONE VERY SIGNIFICANT CRIME, ONE VERY MINOR CRIME.

3 A THAT'S CORRECT.

4 Q NO INDICATION BY MR. DUNOVANT OR MISTI HILL THAT HE
5 EVER USED A CONDOM.

6 A THAT'S CORRECT.

7 Q AND MR. LEMEL POINTED OUT THAT HE ADMITTED ABOUT
8 ENGAGING IN THE PROSTITUTION. HE ALSO ADMITS TO BUYING
9 CRACK EARLIER IN THE NIGHT.

10 A THAT'S CORRECT.

11 Q AND ALSO STATED THAT HE GOT INTO A SCUFFLE WITH
12 SOMEONE WHO GYPPEd HIM ON SOME WEIGHT.

13 A THAT'S CORRECT.

14 Q SO HE ADMITTED TO YOU THAT WHEN HE DIDN'T GET WHAT HE
15 WANTED FROM THIS CRACK DEALER THAT HE GOT INTO A SCUFFLE
16 WITH HIM.

17 A THAT'S CORRECT.

18 Q AND THAT'S HOW HE ALLEGEDLY GOT THE INJURIES ON HIS
19 HAND.

20 A THAT'S CORRECT.

21 Q AND THAT HE SAYS OCCURRED EARLIER THE NIGHT THAN THE
22 SEXUAL ASSAULT.

23 A THAT'S CORRECT.

24 Q HE ALSO TELLS YOU THAT THE INJURIES THAT MISTI HILL
25 HAD, SHE HAD ON HER WHEN HE PICKED HER UP.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 A THAT'S CORRECT.

2 Q AND HE NONETHELESS ENGAGED IN THAT SEX FOR CRACK DEAL
3 WITH HER.

4 A THAT'S CORRECT.

5 Q NOW, MR. LEMEL ASKED YOU ABOUT WHAT MS. HILL WAS ABLE
6 TO DESCRIBE IN TERMS OF THE SPECIAL --- THE SPECIFIC
7 THINGS ABOUT MR. DUNOVANT'S PENIS.

8 A THAT'S CORRECT.

9 Q BASED ON YOUR READING OF HER INTERVIEW WITH YOU, WHAT
10 SHE ALLEGED TO HAVE OCCURRED, IS SHE GETTING A BRIGHT VIEW
11 OF HIS PENIS?

12 A I WOULDN'T THINK SO, NO.

13 Q THE LIGHTING OUT AT THE CHURCH PROBABLY NOT THAT GOOD
14 AT 5:30 IN THE MORNING.

15 A THAT'S CORRECT.

16 Q AND THEIR ENCOUNTER FOR THE MOST PART SURROUNDING
17 THIS CAR.

18 A THAT'S CORRECT.

19 Q SO WAS SHE ABLE TO GIVE YOU SPECIFIC DETAIL BEYOND
20 THAT?

21 A NO.

22 Q MATTER OF FACT I BELIEVE DETECTIVE TOLSON EVEN ASKED
23 HIM IF HE WAS PIERCED.

24 A THAT'S CORRECT.

25 Q SHE WASN'T ABLE TO IDENTIFY THE ORIGIN OF THE BUMPS.

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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- 1 A THAT'S CORRECT.
- 2 Q BUT WHEN YOU WERE DOING THE --- WHEN YOU WERE PRESENT
- 3 FOR THE EVIDENCE COLLECTION IN NORTH CAROLINA THEY TURNED
- 4 THE STUFF OVER TO YOU.
- 5 A THAT'S CORRECT.
- 6 Q YOU DID OBSERVE THOSE BUMPS.
- 7 A I DID OBSERVE SOME BUMPS.
- 8 Q AND WERE THEY AT THE TIP, AT THE BASE, ALONG THE
- 9 SIDES? DO YOU RECALL?
- 10 A THESE WOULD BE --- IT WOULD NOT BE AT THE TIP. THE
- 11 BUMPS THAT I SAW WERE ON THE SHAFT.
- 12 Q ON THE SHAFT. NOW, YOU PREVIOUSLY TESTIFIED THAT
- 13 EITHER YOU OR LIEUTENANT TOLSON OR SOMEONE WORKING WITH
- 14 YOU DIRECTED THAT THE SEXUAL ASSAULT KIT WAS SENT TO SLED.
- 15 A THAT'S CORRECT.
- 16 Q AND WITHOUT GOING INTO THE RESULTS, SLED NONETHELESS
- 17 SENDS YOU THOSE RESULTS BACK.
- 18 A THAT'S CORRECT.
- 19 Q AND IF THE RESULTS AT BEEN INCONCLUSIVE OR WE DIDN'T
- 20 FIND ANYTHING, YOU --- WOULD YOU --- HAVE YOU EVER ON
- 21 OCCASION THEN SENT THIS OTHER ADDITIONAL EVIDENCE TO SLED
- 22 TO SEE IF IT MIGHT BE FOUND THERE?
- 23 A THAT'S CORRECT.
- 24 Q AND WAS THE RESULTS OF THAT SLED ANALYSIS THE REASON
- 25 WHY OR SOME OTHER REASON YOU DIDN'T SEND ANY OTHER

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 ADDITIONAL EVIDENCE FOR TESTING?

2 A THAT AND THE TESTIMONIES THAT THEY HAD SEX, YES.

3 Q BECAUSE MR. DUNOVANT AGREES THEY HAVE SEX.

4 A THAT'S CORRECT.

5 Q SO UNLIKE OTHER SEXUAL CASES WE'RE NOT TRYING TO
6 PROVE THEY HAD SEX ANYMORE?

7 A THAT'S CORRECT.

8 Q YOU'VE WORKED ON A NUMBER OF SEX CASES.

9 A I HAVE.

10 Q WHAT IS, IF YOU CAN SAY, THE PERCENTAGE THAT ACTUALLY
11 RESULT IN DNA RESULTS?

12 A VERY LITTLE.

13 Q NOW, MR. LEMEL --- AND AGAIN, WE'RE NOT GOING TO GET
14 HIS CLOTHES BACK OUT --- BUT HE ASKED YOU ABOUT THERE WAS
15 POSSIBLY A BLOOD STAIN ON HIS PANTS.

16 A THAT'S CORRECT.

17 Q HIS PANTS.

18 A THAT'S CORRECT.

19 Q ARE YOU ABLE TO DATE BLOOD?

20 A I AM NOT.

21 Q WOULD SLED BE ABLE TO? I MEAN WOULD THEY BE ABLE TO
22 SAY, YOU KNOW WHAT THIS BLOOD STAIN CAME FROM MAY 3RD AT
23 5:30 IN THE MORNING?

24 A NO.

25 Q SO IF WE DID TEST HIS PANTS FOR BLOOD, WOULD THAT

CHRIS BOMAR - RE-DIRECT BY MS. LIPINSKI

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1 HAVE ADDED ANYTHING FURTHER TO YOUR INVESTIGATION?

2 A NO.

3 Q SIMILARLY WITH THE JEWELRY OR THE UNDERWEAR OR THE
4 BANDANNA, WOULD THAT HAVE ADDED ANYTHING TO FURTHER
5 SUBSTANTIATE YOUR INVESTIGATION?

6 A NO. PICTURES WERE SHOWN TO THE VICTIM AND I BELIEVE
7 FROM THAT WITH LIEUTENANT TOLSON, THAT'S PROBABLY WHERE
8 THE IDENTIFICATION OF THAT STUFF CAME FROM.

9 Q RIGHT, BUT --- IF THE SEXUAL ASSAULT KIT RESOLVES THE
10 DNA QUESTION ---

11 A THAT'S CORRECT.

12 Q --- WOULD FINDING EITHER HER OR HIS DNA ON HER
13 JEWELRY IMPACT YOUR INVESTIGATION IN ANY WAY?

14 A NO.

15 Q WOULD FINDING EITHER HER OR HIS DNA ON HER UNDERWEAR
16 IMPACT YOUR INVESTIGATION?

17 A NO.

18 Q HER BANDANNA?

19 A NO.

20 Q AND I UNDERSTAND THE VIDEO IS SOMEWHAT GRAINY, BUT
21 DOES MS. HILL HAVE ANY --- APPEAR TO HAVE ANY DIFFICULTY
22 IN MOBILITY?

23 A NONE THAT I CAN TELL.

24 Q DOES SHE APPEAR TO STAGGER SIMILAR TO WHAT YOU'VE
25 SEEN ON DUI VIDEOS?

CHRIS BOMAR -- RE-DIRECT BY MS. LIPINSKI

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1 A NO.

2 Q MR. LEMEL ASKED YOU ABOUT ANY OTHER WITNESSES THAT
3 MAY HAVE BEEN QUESTIONED. DID EITHER MR. DUNOVANT OR MS.
4 HILL INDICATE TO YOU THAT THERE WAS ANYONE ELSE PRESENT
5 DURING THE SEXUAL ENCOUNTER, WHETHER CONSENSUAL OR NON-
6 CONSENSUAL?

7 A NO.

8 Q SO WHILE MR. LEMEL'S PUSHING YOU DIDN'T QUESTION
9 ANYBODY ELSE, DID YOU IDENTIFY ANYBODY ELSE THAT NEEDED
10 QUESTIONING?

11 A NO.

12 Q AND AS TO --- ARE YOU AWARE WHETHER THERE'S A PAY
13 PHONE AT THAT GAS STATION?

14 A I'M NOT AWARE.

15 Q ARE YOU AWARE WHETHER OR NOT MISTI HILL COULD'VE EVEN
16 CALLED A CAB FROM THAT GAS STATION?

17 A I'M NOT AWARE.

18 Q SHE JUST TOLD YOU SHE WAS WAITING ON ONE.

19 A THAT'S CORRECT.

20 Q MR. LEMEL ASKED YOU SOME QUESTIONS ABOUT MS. HILL
21 RAISING UP HER FINGERS. YOU WEREN'T ABLE TO DISCERN WHAT
22 SHE WAS DOING.

23 A THAT'S CORRECT.

24 Q COULD'VE BEEN SMOKING A CIGARETTE.

25 A COULD BE.

CHRIS BOMAR - RE-CROSS BY MR. LEMEL

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1 Q AND IF YOU COULD, WHEN YOU SPOKE TO MS. HILL, WHAT
2 WAS HER DEMEANOR?

3 A AT THE HOSPITAL? VERY EMOTIONAL. APPEARED TO BE IN
4 PAIN. SHE WAS CRYING, DISTRESSED AND --- BUT OTHER THAN
5 THAT SHE WAS COHERENT, ABLE TO GIVE US ANSWERS AND GIVE US
6 A GREAT AMOUNT OF DETAIL ABOUT WHAT HAD OCCURRED AND WHO
7 THE PERSON WAS.

8 MS. LIPINSKI - THOSE ARE ALL WE HAVE.

9 RE-CROSS EXAMINATION

10 BY MR. LEMEL -

11 Q YOU SAID IT WOULDN'T HELP YOU IF YOU FOUND TERRY'S
12 DNA ON HER UNDERPANTS. WOULD IT AFFECT YOUR INVESTIGATION
13 IF YOU'D FOUND ANYBODY ELSE'S DNA ON THE UNDERPANTS?

14 A NO.

15 Q YOU SAID THAT YOU WERE NEVER ABLE TO TIE EITHER ONE
16 OF THESE PARTIES TO WEEPING MARY BAPTIST CHURCH.

17 A THAT'S CORRECT.

18 Q WHAT EFFORTS DID YOU MAKE TO TRY TO TIE EITHER ONE OF
19 THESE PEOPLE TO WEEPING MARY BAPTIST CHURCH?

20 A OTHER BESIDES THE QUESTIONS THAT WE ASKED?

21 Q YOU ASKED THE QUESTIONS ---

22 A TO THESE TWO. THAT'S CORRECT.

23 Q NEVER TALKED WITH ANYBODY AT WEEPING MARY BAPTIST
24 CHURCH TO SEE IF THEY KNEW EITHER OF THESE PARTIES?

25 A NOT I, MAYBE SOMEONE ELSE.

CHRIS BOMAR - RE-CROSS BY MR. LEMEL

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1 Q AND YOU'RE THE LEAD INVESTIGATOR ON THIS CASE.

2 A I AM. YES.

3 Q IF SOMEBODY HAD TALKED TO THEM, YOU SHOULD KNOW ABOUT
4 IT. RIGHT?

5 A SHOULD.

6 Q YOU SAID THAT YOU WEREN'T ABLE TO OBTAIN SUFFICIENT
7 DETAIL TO IDENTIFY THE OTHER CUSTOMERS THERE. NOW, WE SAW
8 THE CUSTOMERS GO INSIDE THE STORE. RIGHT?

9 A THAT'S CORRECT.

10 Q DID YOU EVER GO TO THE STORE TO CHECK TO SEE IF MAYBE
11 ONE OF THOSE CUSTOMERS USED A CREDIT CARD AT THAT TIME?

12 A NO, SIR.

13 Q IF YOU HAD GOTTEN A NAME FROM A CREDIT CARD, WOULD
14 THAT HAVE BEEN ENOUGH FOR YOU TO AT LEAST PURSUED TO TRY
15 TO TALK TO THEM?

16 A I DIDN'T FEEL LIKE IT WAS RELEVANT TO OUR CASE.

17 Q OKAY. ALSO, YOU WERE ASKED THAT THERE WASN'T ANY
18 AUDIO ON THE VIDEO TO TELL WHAT THE CONVERSATION BETWEEN
19 MS. HILL AND THESE GENTLEMEN WAS.

20 A THAT'S CORRECT.

21 Q BUT MS. HILL DIDN'T EVEN TELL YOU THAT SHE HAD A
22 CONVERSATION WITH ANYBODY ELSE, DID SHE?

23 A NO.

24 THE COURT - YOU THROUGH?

25 MR. LEMEL - YES, SIR.

1 THE COURT - YOU CAN STEP DOWN AND BE EXCUSED.
2 WELL, YOU'RE THE CASE AGENT, SO YOU'LL STAY IN. WE'RE
3 GOING TO BREAK FOR LUNCH UNTIL 2:45, NOT QUITE AN HOUR AND
4 A HALF, BUT WE'RE GOING TO GET BACK SO WE CAN BE STARTED
5 AS PROMPTLY AS WE CAN AT 2:45. HAVE A PLEASANT LUNCH AND
6 WE'LL SEE YOU THEN.

7 (JURY EXITS THE COURTROOM)

8 THE COURT - WE'LL BE AT EASE UNTIL 2:45.

9 (LUNCH RECESS TAKEN)

10 THE COURT - THANK YOU. TAKE YOUR SEATS. WE'VE
11 GOT A NOTE FROM THE JURY, IT SAYS --- JUROR --- IT SAYS
12 QUESTION ABOUT A WITNESS NOT YET TESTIFIED, SCOTT ALLEN
13 WHO'S JUROR NUMBER 5, STORE MANAGER AT AUTO ZONE, WIFE'S
14 A TEACHER AT ROCK HILL HIGH. I'M GOING TO ASK HIM TO COME
15 IN AND ASK HIM WHAT THE SITUATION IS.

16 MS. LIPINSKI - OKAY.

17 THE COURT - BRING IN MR. ALLEN.

18 MR. LEMEL - WHAT DID HE SAY ABOUT ---

19 THE COURT - IT JUST SAYS QUESTION ABOUT A
20 WITNESS NOT YET TESTIFIED, SCOTT ALLEN.

21 (JUROR ENTERS THE COURTROOM)

22 THE COURT - YOU CAN JUST STAND RIGHT THERE. I
23 GOT YOUR ---

24 JUROR - YES, SIR. THERE'S A --- WHEN YOU READ
25 THE LIST OF NAMES I WASN'T --- I DIDN'T HEAR ANY THAT I

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1 RECOGNIZED. COMING IN FROM LUNCH TODAY I SAW A GUY THAT
2 I RECOGNIZED, BUT IT WOULDN'T HAVE ANY BEARING ON MY
3 DECISION.

4 THE COURT - ALL RIGHT. WHO WAS IT? YOU
5 RECOGNIZED HIM, BUT YOU DON'T KNOW HIS NAME.

6 JUROR - I KNOW HE USED TO BE A --- HE'S A FORMER
7 POLICEMAN, FORMER COUNTY. HE ACTUALLY GOES TO MY CHURCH,
8 BUT I DON'T KNOW HIM THAT WELL TO BE HONEST WITH YOU. I
9 JUST WANTED TO LET YOU KNOW BECAUSE I WAS GOING THROUGH,
10 I SAW HIM, SAID HEY TO HIM, AND I WENT, HUH-OH.

11 THE COURT - WELL, WE'VE GOT OTHER --- IT MAY END
12 UP THAT HE'S NOT ACTUALLY IN THIS CASE BECAUSE WE'VE GOT
13 A CASE GOING ON NEXT DOOR, TOO, BUT YOU'RE TELLING ME, AS
14 I UNDERSTAND IT, THAT REGARDLESS OF --- EVEN IF HE
15 TESTIFIED THAT IT WOULD NOT AFFECT ---

16 JUROR - BECAUSE I --- I SAID, HEY, HOW YOU
17 DOING, I THOUGHT YOU RETIRED; HE SAID, YES, I'M HERE TO
18 TESTIFY. I SAID OH ---

19 THE COURT - WELL ---

20 JUROR - AND IF HE DOES --- AND IT WOULDN'T HAVE
21 ANY BEARING ON MY DECISION ---

22 THE COURT - YOU'D STILL BE ABLE TO BE FAIR AND
23 IMPARTIAL?

24 JUROR - OH, YES, SIR. THAT WOULDN'T HAVE ANY
25 BEARING. I JUST WANTED SOMEONE TO ---

1 THE COURT - WELL, YOU DID. YOU DID THE RIGHT
2 THING. WE'LL LET YOU GOT BACK TO YOUR JURY ROOM. THANK
3 YOU.

4 JUROR - OKAY, SIR.

5 (JUROR EXITS THE COURTROOM)

6 (DOCUMENT MARKED AS COURT'S EXHIBIT NUMBER 1)

7 THE COURT - ALL RIGHT, ANYTHING, ANY COMMENTS?
8 SOUNDS LIKE HE WOULD BE FAIR AND IMPARTIAL.

9 MS. LIPINSKI - YOUR HONOR, I THINK MR. LEMEL AND
10 I AGREE, IT'S OBVIOUSLY NOT THE SLED AGENT. GARY ROLLINS
11 IS A RETIRED OFFICER. HE NOW TRANSPORTS STUFF TO SLED.
12 HE'S GOING TO BE ON THE STAND ALL OF FIVE MINUTES TO SAY
13 I DID THAT, SO I DON'T THINK ONE WAY OR THE OTHER IT
14 WOULD, YOU KNOW, TO THAT --- THAT WOULD BE THE LIMIT OF
15 HIS INVOLVEMENT IN THIS CASE, SO IF IT IS HIM, I THINK
16 THAT'S PROBABLY WHO WE'RE TALKING ABOUT.

17 MR. LEMEL - IF HE'S ON THE STAND FIVE MINUTES,
18 I THINK WE'RE DOING SOMETHING WRONG, JUDGE. I AGREE WITH
19 MS. HERVEY. I DON'T HAVE ANY MOTIONS TO MAKE WITH REGARD
20 TO THIS JUROR. I DON'T THINK IT WILL HAVE ANY IMPACT ON
21 THIS CASE.

22 THE COURT - I FIND THAT HE WAS FORTHRIGHT IN
23 LETTING US KNOW. I ALWAYS SORT OF TAKE THE POSITION IF
24 SOMEBODY CONSCIENTIOUS ENOUGH TO LET US KNOW, IF THEY'RE
25 HONEST ENOUGH TO DO THAT, THEY'RE HONEST ENOUGH TO TELL

GARY ROLLINS - DIRECT BY MS. LIPINSKI

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1 WHETHER THEY WERE AFFECTED OR NOT. HE SAID IT WON'T.
2 HE'S A COLLEGE-EDUCATED INDIVIDUAL AND I'M GOING TO ALLOW
3 HIM TO REMAIN ON THE JURY. ALL RIGHT, BRING IN THE JURY.

4 (JURY RETURNS TO THE COURTROOM)

5 THE COURT - WE'RE GOOD TO GO. ALL RIGHT, CALL
6 YOUR NEXT WITNESS.

7 MS. LIPINSKI - YOUR HONOR, THE STATE CALLS GARY
8 ROLLINS TO THE STAND.

9 GARY ROLLINS, AFTER BEING FIRST DULY SWORN,
10 TESTIFIES AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MS. LIPINSKI -

13 Q IF YOU COULD, STATE YOUR FULL NAME FOR THE RECORD.

14 A MY FULL NAME IS GARY ROLLINS.

15 Q WITH WHOM ARE YOU EMPLOYED?

16 A SHERIFF'S DEPARTMENT IN THE EVIDENCE ROOM.

17 Q AND WHAT DO YOU DO FOR THE SHERIFF'S DEPARTMENT?

18 A I TRANSPORT EVIDENCE TO AND FROM SLED.

19 Q AND OTHER THAN TRANSPORTING EVIDENCE, DO YOU DO ANY
20 ANALYSIS OR ANYTHING LIKE THAT?

21 A NO, I DON'T.

22 Q AND SO DO YOU GO TO THE PROPERTY AND EVIDENCE ROOM TO
23 PICK UP WHAT THEY HAVE SELECTED OUT FOR YOU?

24 A YES, I DO.

25 Q AND THEN DRIVE IT TO SLED IN COLUMBIA.

GARY ROLLINS - DIRECT BY MS. LIPINSKI

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1 A (INDICATING YES)

2 Q AND DO YOU ALSO PICK UP EVIDENCE AND BRING IT BACK?

3 A YES, I DO.

4 Q AND ARE YOU FAMILIAR WITH THE YORK COUNTY PROPERTY
5 AND EVIDENCE SHEETS THAT THEY USE TO TRACK THE MOVEMENT OF
6 THOSE EVIDENCE?

7 A YES, I AM.

8 Q LET ME SHOW YOU THESE TWO SHEETS. THEY'RE STAPLED
9 TOGETHER HERE. THIS FIRST ONE AND SECOND ONE AND ASK YOU
10 IF YOU'RE FAMILIAR WITH THOSE DOCUMENTS?

11 A YES, I AM. MY SIGNATURE'S ON THEM.

12 Q AND DOES IT INDICATE THAT YOU TRANSPORTED A SEXUAL
13 ASSAULT KIT TO SLED? I BELIEVE IT'S THE NUMBER ONE ON
14 THAT FIRST PAGE. SECOND PAGE. YOU'RE RIGHT. I WENT
15 BACKWARDS ON YOU. I APOLOGIZE FOR THAT.

16 A YES, I DID.

17 Q AND DOES IT ALSO HAVE A CASE NUMBER ON IT? UP AT THE
18 TOP PERHAPS?

19 A YES, MA'AM, IT DOES.

20 Q AND WHAT IS THAT?

21 A THE LAST FIVE NUMBERS IS 14181.

22 Q AND DID YOU ALSO TAKE A MOUTH SWAB AND OTHER ITEMS
23 FROM THE DEFENDANT ON THE FIRST PAGE?

24 A YES, I DID.

25 Q WHAT IS THE DESCRIPTION OF THE EVIDENCE THAT YOU

GARY ROLLINS - CROSS BY MR. LEMEL

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1 TRANSPORTED TO SLED ON THE FIRST PAGE?

2 A HAIR AND PUBLIC (SIC) HAIR AND MOUTH SWAB AND THEY
3 WERE ALL IN THE WHITE ENVELOPE.

4 Q AND WHILE THESE PIECES OF EVIDENCE WERE IN YOUR
5 POSSESSION, DID YOU TAMPER WITH THEM IN ANY WAY?

6 A NO, I DID NOT.

7 Q ALTER THEM IN ANY WAY?

8 A NO.

9 Q AND FOR THE MOST PART THEY ACTUALLY ARE SEALED WHEN
10 YOU PICKED THEM UP?

11 A YES.

12 Q AND THEN WHEN YOU GET TO SLED, SLED WOULD SEAL THEM
13 WITHIN THEIR OWN PACKAGING?

14 A YES, THEY DO.

15 MS. LIPINSKI - THAT'S ALL WE HAVE OF MR.
16 ROLLINS.

17 CROSS EXAMINATION

18 BY MR. LEMEL -

19 Q MR. ROLLINS, BASICALLY YOU TELL US THAT YOU TAKE
20 STUFF BACK AND FORTH TO SLED. RIGHT?

21 A THAT'S CORRECT.

22 Q YOU DON'T CHOOSE WHAT GETS SENT DOWN TO SLED.

23 A NO, I DON'T.

24 Q SOMEBODY ELSE TELLS YOU WHAT TO TAKE DOWN THERE.

25 A THAT'S RIGHT.

DAVID EAGERTON - DIRECT BY MR. MAINES

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1 MR. LEMEL - OKAY. NOTHING FURTHER.

2 THE COURT - ALL RIGHT, YOU CAN STEP DOWN AND BE
3 EXCUSED. WE APPRECIATE YOUR TIME. THANK YOU.

4 MR. ROLLINS - THANK YOU.

5 THE COURT - CALL YOUR NEXT WITNESS.

6 MS. LIPINSKI - THANK YOU, YOUR HONOR.

7 MR. MAINES - STATE CALLS DAVID EAGERTON.

8 THE COURT - IF YOU'LL STEP UP HERE, PUT YOUR
9 LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT.

10 DAVID EAGERTON, AFTER BEING FIRST DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. MAINES -

14 Q GOOD AFTERNOON. DR. EAGERTON, COULD YOU PLEASE GIVE
15 US YOUR FULL NAME?

16 A DAVID H. EAGERTON.

17 Q OKAY. AND HOW ARE YOU EMPLOYED?

18 A I'M THE CHIEF TOXICOLOGIST AT THE SOUTH CAROLINA LAW
19 ENFORCEMENT DIVISION, COMMONLY KNOWN AS SLED.

20 Q AND WHAT EDUCATION AND TRAINING HAVE YOU HAD TO
21 BECOME A FORENSIC TOXICOLOGIST?

22 A I HAVE A BS IN BIOLOGY, A PHD IN PHARMACOLOGY AND
23 THEN AFTER I GRADUATED WITH MY PHD I STARTED TO WORK AT
24 SLED AND WENT THROUGH THE TRAINING AND FORENSIC TOXICOLOGY
25 AND THAT TRAINING LASTED APPROXIMATELY A YEAR,

DAVID EAGERTON - DIRECT BY MR. MAINES

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1 SPECIFICALLY FOR FORENSIC TOXICOLOGY AND THEN SINCE THEN
2 I'VE BEEN A FORENSIC TOXICOLOGIST FOR SIXTEEN YEARS AND
3 THE PAST NINE I'VE BEEN THE CHIEF TOXICOLOGIST.

4 Q ARE YOU BOARD CERTIFIED?

5 A I AM.

6 Q HAVE YOU PERFORMED ANY LECTURES OR CLASSES ON THE
7 SUBJECT OF TOXICOLOGY?

8 A YES, SIR, I HAVE. I'VE BEEN OFF AND ON OVER THE
9 YEARS SINCE I GRADUATED BEEN AN ADJUNCT PROFESSOR AT THE
10 UNIVERSITY OF SOUTH CAROLINA WITH THE COLLEGE OF PHARMACY.
11 I'VE TAUGHT COURSES IN TOXICOLOGY AND PHARMACOLOGY THERE,
12 AND I'VE ALSO TAUGHT VARIOUS CLASSES AND WORKSHOPS IN
13 TOXICOLOGY AND PHARMACOLOGY AT DIFFERENT PLACES.

14 Q AND HAVE YOU PREVIOUSLY PERFORMED CHEMICAL TESTS ON
15 BLOOD SAMPLES TO DETERMINE ALCOHOL CONCENTRATION OR THE
16 PRESENCE OF OTHER ILLICIT DRUGS LIKE CRACK COCAINE?

17 A YES, SIR, I HAVE.

18 Q AND HAVE YOU EVER PREVIOUSLY TESTIFIED IN COURT AS AN
19 EXPERT IN FORENSIC TOXICOLOGY?

20 A YES, SIR, I HAVE.

21 MR. MAINES - YOUR HONOR, THE STATE REQUEST TO
22 PROFFER DR. EAGERTON AS AN EXPERT IN TOXICOLOGY.

23 THE COURT - ANY VOIR DIRE?

24 MR. LEMEL - NO, SIR, YOUR HONOR. NO OBJECTION.

25 THE COURT - I FIND HE IS QUALIFIED.

DAVID EAGERTON - DIRECT BY MR. MAINES

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1 Q OKAY... DR. EAGERTON, I SEE YOU HOLDING SOMETHING IN
2 YOUR HAND.

3 A YES, SIR.

4 Q DO YOU HAPPEN TO HAVE A BLOOD TEST RESULT TAKEN FROM
5 THE VICTIM IN THIS CASE, MISTI HILL?

6 A YES, SIR, I DO.

7 Q AND WAS THAT TEST PERFORMED BY YOU OR SOMEONE ELSE?

8 A SOMEONE ELSE.

9 Q AND CAN YOU TELL US WHO TOOK --- WHO PERFORMED THAT
10 TEST?

11 A YES, SIR, IT WAS PERFORMED BY HEATHER DALEY. SHE IS
12 AN EMPLOYEE OF THE SLED TOXICOLOGY DEPARTMENT, AND SHE
13 WORKS FOR ME BASICALLY.

14 Q SO SHE IS A SUBORDINATE OF YOURS?

15 A YES, SIR.

16 Q AND IS SHE ALSO QUALIFIED TO TEST BLOOD SAMPLES FOR
17 PRESENCE OF NARCOTICS OR ALCOHOL?

18 A YES, SIR, SHE IS.

19 Q AND WHERE IS SHE TODAY?

20 A SHE'S ON MATERNITY LEAVE. SHE JUST HAD A BABY GIRL.

21 Q AND ARE YOU HERE IN HER PLACE?

22 A I GUESS SO.

23 Q HAVE YOU EVER TESTIFIED ABOUT THE BLOOD TEST RESULTS
24 FROM SUBORDINATE EMPLOYEES?

25 A YES, SIR, I HAVE.

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1 Q AND REFERRING TO THEN, SPECIFICALLY, THE TEST RESULTS
2 FROM THIS CASE, CAN YOU PLEASE TELL US WHAT --- WHAT TIME
3 THE BLOOD SAMPLE WAS TAKEN FROM MISTI HILL?

4 A ACCORDING TO THE LABEL ON THE TUBE OF BLOOD THAT WAS
5 TESTED, THE BLOOD SAMPLE WAS TAKEN AT 12:30.

6 Q AND CAN YOU TELL US WHAT THE RESULT --- WHAT THE
7 BLOOD ALCOHOL CONCENTRATION WAS AT THAT SPECIFIC TIME?

8 A IT WAS A 0.042 PERCENT.

9 Q THAT'S 0.042 PERCENT. IS THAT CORRECT?

10 A YES, SIR, THAT'S CORRECT.

11 Q AND ARE YOU FAMILIAR WITH THE TERM RETROGRADE
12 EXTRAPOLATION?

13 A YES, SIR, I AM.

14 Q CAN YOU PLEASE TELL THE JURY WHAT THAT MEANS?

15 A WELL, BASICALLY, ALCOHOL AND REALLY ANY OTHER DRUG IN
16 YOUR BODY ONCE YOU INGEST IT OR TAKE IT HOWEVER YOU'RE
17 GOING TO TAKE IT, IT DOESN'T STAY THERE. IT'S --- YOUR
18 BODY'S GOING THROUGH SEVERAL PROCESSES ALL AT ONCE. IN
19 PHARMACOLOGY THERE ARE FOUR PROCESSES, ABSORPTION, WHERE
20 YOU GET IT INTO YOUR BODY, DISTRIBUTION, IT'S GOING TO
21 DISTRIBUTE THROUGHOUT YOUR BODY BASED ON ITS CHEMICAL
22 PROPERTIES, WHETHER IT LIKES WATER, WHETHER IT LIKES FAT,
23 THINGS LIKE THAT. IT'S ALSO GOING TO BE METABOLIZED OR
24 CHANGED, AND THAT'S THE NEXT STEP IS METABOLISM.
25 BASICALLY, YOUR BODY SEES THESE COMPOUNDS AS FOREIGN

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1 COMPOUNDS AND IT WANTS TO GET RID OF THEM, SO IT HAS A
2 PROCESS OF WHERE IT CHEMICALLY CHANGES IT INTO SOMETHING
3 ELSE SO THAT IT'D BE MORE READILY ELIMINATED FROM THE
4 BODY. AND THE FINAL STAGE IS ELIMINATION WHERE IT'S
5 ACTUALLY ELIMINATED OR EXCRETED FROM THE BODY. IN THIS
6 CASE ALCOHOL DISTRIBUTES THROUGHOUT WHEREVER YOUR WATER IS
7 AND IT'S CHANGED TO ANOTHER SUBSTANCE, AND IT'S ELIMINATED
8 FROM YOUR BODY FAIRLY QUICKLY. IT'S ELIMINATED PRIMARILY
9 IN YOUR URINE, BUT IT ALSO GOES ANYWHERE ELSE THAT WATER
10 GOES, LIKE YOUR SWEAT, YOUR SALIVA, YOUR BREATH, SOME'S
11 EXPELLED IN YOUR BREATH, THINGS LIKE THAT, SO ALCOHOL IS
12 A FLEETING SUBSTANCE IN YOUR BODY. IT DOESN'T STAY THERE
13 VERY LONG AND IT'S --- SO IT'S GOING TO LEAVE. STUDIES
14 HAVE BEEN DONE AT THE RATE OF ELIMINATION AND THE
15 LITERATURE REPORTS THAT AN AVERAGE RATE OF ELIMINATION OF
16 ALCOHOL FROM THE BODY FROM A NORMAL OR AVERAGE DRINKER IS
17 ABOUT 0.015 PERCENT PER HOUR. AND SO USING THAT RATE OF
18 ELIMINATION OR THAT AVERAGE RATE OF ELIMINATION, YOU CAN
19 CALCULATE BACK AND ESTIMATE WHAT A BLOOD ALCOHOL LEVEL WAS
20 AT A TIME PREVIOUS TO A TIME THAT IT'S ACTUALLY MEASURED,
21 AND THAT'S WHAT RETROGRADE --- RETROGRADE IS JUST THE
22 BACKWARD ESTIMATION OF BLOOD ALCOHOL LEVEL GIVEN A
23 MEASURED LEVEL.

24 Q ARE YOU CAPABLE OF DOING THAT TEST YOURSELF? CAN YOU
25 --- CAN YOU MAKE A ESTIMATE USING RETROGRADE EXTRAPOLATION