

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Case No. 2004-CP-02-1520

Ernest Pressley, #289489,

Respondent,

v.

State of South Carolina,

Petitioner.

APPENDIX

Volume 1 of 3

South Carolina Commission on Indigent
Defense

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3 STATE OF SOUTH CAROLINA

4 IN THE COURT OF GENERAL SESSIONS

5 COUNTY OF AIKEN

6
7 THE STATE,

8 V.

9 EARNEST PRESSLEY,

10 DEFENDANT.

11
12 B E F O R E : THE HONORABLE WILLIAM P. KEESLEY, JUDGE; AND A JURY.

13
14 A P P E A R A N C E S :

15 FOR THE STATE: BRENDA BRISBIN, ASSISTANT SOLICITOR

16 BILL WEEKS, DEPUTY SOLICITOR

17 FOR THE DEFENDANT: P. ANDREW ANDERSON, ESQUIRE

18
19 COURT REPORTER: SMOKEY PERRY

20
21 INDICTMENT #02-GS-02340

22
23 WEEK OF 12-10-02

24
25

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1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN OF THE JURY PANEL.
2 YOU'VE BEEN BROUGHT IN TODAY TO POSSIBLY SERVE ON A JURY AND AS I TOLD
3 YOU YESTERDAY, WHAT WE WILL DO IS WE WILL TURN FROM THE MORE GENERAL
4 THINGS THAT WE DID YESTERDAY TO MORE SPECIFIC THINGS RELATED TO A
5 SPECIFIC CASE.

6 I ALWAYS LIKE TO EXPLAIN A LITTLE BIT ABOUT THIS PROCESS TO THE
7 JURY ONE TIME BEFORE WE BEGIN. I WON'T GO THROUGH IT EVERY TIME THIS
8 WEEK. JUST THIS ONCE. SO JUST UNDERSTAND THIS APPLIES TO EVERY CASE. THE
9 FIRST THING YOU NEED TO UNDERSTAND IS THAT WHAT WILL HAPPEN IS I WILL
10 POSE TO YOU QUESTIONS AND THESE QUESTIONS ARE DESIGNED TO OBTAIN FROM
11 YOU ANY POSSIBLE CONNECTION YOU MAY HAVE WITH THE CASE OR ANY OF THE
12 PEOPLE IN IT OR THE SUBJECT MATTER OF THE CASE, WHAT THE CASE IS ALLEGED
13 TO BE ABOUT. IF YOU HAVE ANY INTEREST, BIAS OR PREJUDICE THAT IN ANY WAY
14 AFFECTS YOUR ABILITY TO SERVE ON THE JURY FAIRLY AND IMPARTIALLY, THOSE
15 KINDS OF THINGS, IF YOU KEEP IN MIND THE GOAL OF ALL THIS IS TO HAVE A JURY
16 CHOSEN WHICH IS FAIR AND IMPARTIAL, I THINK THE QUESTIONS WILL MAKE
17 SENSE TO YOU.

18 NOW YOU NEED TO UNDERSTAND THAT AS FAR AS THIS PROCESS IS
19 CONCERNED EVERYTHING WE DO IS ON THE RECORD. SO MS. PERRY DOWN HERE
20 TO MY LEFT SHE TAKES DOWN EVERYTHING THAT'S SAID IN THE COURTROOM.
21 REMEMBER THAT YOU'RE STILL UNDER OATH. THE OATH THAT I PLACED YOU
22 UNDER YESTERDAY CONTINUES THROUGH THE WEEK. UNDERSTAND, PLEASE,
23 THAT IF ONE OF THESE QUESTIONS APPLIES TO YOU OR YOU HAVE ANY DOUBT
24 ABOUT WHETHER IT APPLIES TO YOU, YOU WILL NEED TO STAND. WHEN I CALL
25 UPON YOU, BECAUSE WE HAVE TO MAKE A RECORD, THE FIRST THING I'M GOING

1 TO DO IS GET YOU TO IDENTIFY YOURSELF FOR THE RECORD SO WE KNOW WHO'S
2 TALKING. OTHERWISE THE RECORD WON'T MAKE ANY SENSE. SO THE FIRST
3 THING I'M GONNA DO IS HAVE YOU SAY WHO YOU ARE AND YOUR JUROR NUMBER
4 IF YOU KNOW YOUR JUROR NUMBER. IF YOU DON'T KNOW YOUR JUROR NUMBER,
5 WE WILL LOOK IT UP. JUST TRY TO LISTEN OUT FOR IT SO THE NEXT TIME, IF THERE
6 IS A NEXT TIME, YOU CAN TELL ME THE JUROR NUMBER AND IT'LL GO A LITTLE
7 QUICKER. YOU THEN HAVE TO GIVE ME TIME TO FLIP TO THE PAGE ON WHICH
8 YOU'RE LISTED ON THESE MATERIALS THAT WE HAVE UP HERE SO THAT I CAN
9 MAKE NOTES ABOUT WHAT YOU TELL ME AND IF WE DO HAVE OTHER TRIALS
10 DURING THE WEEK, THAT WILL MAKE THOSE PROCESSES GO QUICKER BECAUSE A
11 LOT OF THE QUESTIONS FROM CASE TO CASE WILL OVERLAP.

12 NOW IF I EVER ASK YOU ANYTHING THAT YOU WOULD PREFER TO DISCUSS
13 MORE PRIVATELY, COME DOWN AND WE'LL TALK ABOUT IT ON THE SIDE JUST
14 LIKE WE SAID YESTERDAY. AND ALSO, LADIES AND GENTLEMEN, IT'S REALLY
15 IMPORTANT THAT YOU LISTEN CAREFULLY TO THE QUESTION THAT I POSE TO YOU
16 AND ANSWER THAT QUESTION. SOME PEOPLE ARE TOO CLOSED-MOUTH AND
17 SOME PEOPLE ARE TOO LONGWINDED AND THEY TELL ME TOO MUCH. I WANT
18 YOU TO DISCLOSE FULLY AND I DON'T WANT YOU TO SIT THERE WONDERING
19 WHETHER SOMETHING APPLIES TO YOU. IF YOU'VE GOT A DOUBT ABOUT IT, IT'S
20 ALWAYS BETTER TO TALK TO ME AND LET ME RESOLVE THE DOUBT. SO ERR ON
21 THE SIDE OF DISCLOSURE.

22 NOW I MAY TELL YOU FROM TIME TO TIME THAT WE'RE GONNA DISCUSS
23 THIS ON THE SIDE AND I NEED FOR YOU TO UNDERSTAND THAT IT'S REALLY
24 IMPORTANT THAT YOU NOT STAND UP AND DO THINGS LIKE ENDORSE ANYONE OR
25 CONDEMN ANYONE IN FRONT OF THE WHOLE JURY POOL. IF YOU HAVE FEELINGS

1 OR OPINIONS LIKE THAT YOU NEED TO SHARE THEM WITH ME YOU NEED TO TELL
2 ME YOU WANNA COME DOWN FRONT AND WE'LL TALK ABOUT IT. TO GIVE YOU
3 REAL EXAMPLES OF WHAT'S HAPPENED TO ME, IN EVERY CASE I HAVE TO ASK
4 JURORS IF THEY HAVE A CONNECTION WITH CERTAIN PEOPLE, AND I'VE HAD
5 JURORS IN RESPONSE TO THAT TELL ME WHAT A WONDERFUL PERSON AND
6 BELIEVABLE PERSON JOHN DOE IS AND I'VE HAD JURORS STAND UP AND TELL ME
7 IN FRONT OF THE WHOLE JURY POOL WHAT A HORRIBLE PERSON JOHN DOE IS,
8 AND THINGS OF THAT NATURE. IF YOU HOLD THOSE FEELINGS YOU NEED TO LET
9 ME KNOW ABOUT IT, BUT DON'T SAY IT IN FRONT OF THE WHOLE JURY POOL SO
10 THAT IT TAINTS ALL THE OTHER JURORS. IF YOU GET SET ASIDE ON A CASE,
11 THAT'S FINE. WE'VE GOT OTHER CASES. MAYBE YOU'LL GET TO SIT ON ONE, BUT
12 DON'T MAKE IT WHERE I CAN'T TRY THE CASE BECAUSE YOU'VE TAINTED THE
13 JURY POOL. OKAY.

14 NOW THE FIRST CASE CALLED FOR TRIAL IS A CASE THAT IS CAPTIONED
15 THE STATE OF SOUTH CAROLINA -VS- EARNEST PRESLEY. MR. PRESLEY IS
16 CHARGED WITH THE CRIME OF CRIMINAL SEXUAL CONDUCT WITH A MINOR IN
17 THE SECOND DEGREE. IN THIS INDICTMENT IT IS ALLEGED THAT EARNEST
18 PRESLEY DID IN AIKEN COUNTY ON OR ABOUT JULY THE 12TH 2001 COMMIT THE
19 CRIME OF CRIMINAL CONDUCT WITH A MINOR IN THE SECOND DEGREE IN THAT HE
20 ENGAGED IN SEXUAL BATTERY, SPECIFICALLY, SEXUAL INTERCOURSE UPON
21 P. A. H. A MINOR WHO WAS 15 YEARS OF AGE AT THE TIME OF THE
22 INCIDENT, THE DEFENDANT BEING OLDER THAN THE VICTIM. THAT IS ALLEGED TO
23 BE A VIOLATION OF THE CODE SECTION CITED IN THE INDICTMENT.

24 NOW UPON HIS ARRAIGNMENT ON THIS CHARGE MR. PRESLEY HAS
25 ENTERED A PLEA OF NOT GUILTY. HE IS PRESUMED TO BE INNOCENT. IT IS

1 INCUMBENT UPON THE STATE OF SOUTH CAROLINA HAVING BROUGHT THIS
2 CHARGE AGAINST MR. PRESLEY TO PROVE HIM GUILTY BEYOND A REASONABLE
3 DOUBT, AND IT'S REQUIRED THAT THE STATE PROVE EVERY ESSENTIAL ELEMENT
4 OF THE CHARGE BEYOND A REASONABLE DOUBT. MR. PRESLEY HAS NO
5 OBLIGATION TO PROVE ANYTHING AT ALL. AN INDICTMENT IS NOT EVIDENCE.
6 THIS INDICTMENT IS NOTHING MORE THAN A CHARGING PAPER. IT IS THE FORMAL
7 MEANS BY WHICH SOMEONE IS CHARGED AND BROUGHT TO TRIAL, AND YOU MAY
8 NOT ACCORD IT ANY EVIDENTIARY VALUE. I'LL BE ASKING YOU A SERIES OF
9 QUESTIONS. IF ANY OF THEM APPLY TO YOU, PLEASE, STAND AND FOLLOW THE
10 PROCEDURE THAT I OUTLINED EARLIER.

11 NOW IS EARNEST PRESLEY IN THE COURTROOM?

12 MR. ANDERSON: YES, SIR, YOUR HONOR.

13 THE COURT: MR. PRESLEY, I NEED FOR YOU TO STAND, PLEASE, AND FACE
14 TOWARD THE JURY PANEL SO THAT THEY CAN SEE YOU. THANK YOU, SIR. YOU
15 MAY BE SEATED. IS THERE ANY MEMBER OF THE JURY PANEL WHO IS RELATED BY
16 BLOOD OR MARRIAGE OR CONNECTED BY EMPLOYMENT WITH THE DEFENDANT IN
17 THE CASE EARNEST PRESLEY? IF SO, PLEASE, STAND. MR. PRESLEY WILL BE
18 REPRESENTED BY MR. ANDY ANDERSON. OKAY. THANK YOU.

19 NOW, LADIES AND GENTLEMEN, THE FOLLOWING POTENTIAL WITNESSES
20 HAVE BEEN LISTED FOR THE STATE AND IF THEY ARE PRESENT NOW, I NEED FOR
21 THAT INDIVIDUAL TO STAND AND FACE THE JURY PANEL. P. H. FACE
22 THAT WAY FOR ME, PLEASE, MA'AM. TURN AROUND A LITTLE BIT MORE. THANK
23 YOU. YOU MAY BE SEATED. S. MOMENT. THANK YOU, MA'AM. LENORA
24 H. THANK YOU, MA'AM. MARIA MULKEY. DR. STEVEN GRANT. MARGARET
25 WHYTE WHO'S A REGISTERED NURSE. OFFICER DWAYNE DERRICK WITH THE

1 BURNETTOWN POLICE DEPARTMENT. SHERRY BROWN WHO WORKS WITH SLED.
2 KATIE DELOACH CORLEY WHO WORKS WITH SLED. AND LILLIAN GALLMAN WHO
3 WORKS WITH SLED. ARE ANY OF YOU CONNECTED BY EMPLOYMENT OR RELATED
4 BY BLOOD OR MARRIAGE WITH ANY OF THE POTENTIAL WITNESSES FOR THE
5 STATE? IF SO, PLEASE, STAND. YOUR NAME, PLEASE?

6 THE JUROR: LISA BYRAK. 79.

7 THE COURT: OKAY. MS. BYRAK, WHAT'S YOUR SITUATION, PLEASE?

8 THE JUROR: I'M AWARE OF THE VICTIMS THROUGH EMPLOYMENT.

9 THE COURT: YOU'RE AWARE OF WHAT?

10 THE JUROR: OF THE VICTIMS.

11 THE COURT: OKAY.

12 THE JUROR: THROUGH EMPLOYMENT.

13 THE COURT: HAVE YOU HAD ANY KIND OF DISCUSSIONS ABOUT THIS CASE
14 WITH ANYONE?

15 THE JUROR: NO.

16 THE COURT: OKAY. DO ONE OF THESE YOUNG LADIES ATTEND SCHOOL
17 WHERE YOU TEACH?

18 THE JUROR: I'M AN ATTENDANT SUPERVISOR AND SOCIAL WORKER.

19 THE COURT: OH, I'M SORRY. YOU'RE AN ATTENDANT SUPERVISOR. HAVE
20 YOU DEALT WITH ANYONE IN THIS CASE ON ANY MATTER THAT MAY ALLEGEDLY
21 HAVE ARISEN FROM THE CASE?

22 THE JUROR: NOT FROM THIS CASE THAT I'M AWARE OF.

23 THE COURT: OKAY. JUST ANSWER THESE QUESTIONS YES OR NO. IF YOU
24 NEED TO GO BEYOND THAT, COME DOWN FRONT, PLEASE. IS THERE ANYTHING AT
25 ALL ABOUT YOUR RELATIONSHIP WITH THESE INDIVIDUALS OR YOUR POSITION,

1 YOUR EXPERIENCES THAT WOULD IN ANY WAY AFFECT YOUR ABILITY TO BE A
2 FAIR AND IMPARTIAL JUROR IN THIS CASE?

3 THE JUROR: YES.

4 THE COURT: OKAY. I'LL SET YOU ASIDE ON THIS CASE. MS. BYRAK, WHAT I
5 NEED FOR YOU TO DO IS HAVE A SEAT ON THE BACK ROW ON MY RIGHT, PLEASE.
6 79 IS SET ASIDE ON THE FIRST TRIAL. ALL RIGHT. THE STATE OF SOUTH CAROLINA
7 WILL BE REPRESENTED BY MEMBERS OF THE SOLICITOR'S OFFICE MS. BRENDA
8 BRISBON, MR. BILL WEEKS. THANK YOU.

9 NOW, FOLKS, DO ANY OF YOU KNOW ANYTHING AT ALL ABOUT THE
10 UNDERLYING FACTUAL MATTERS ALLEGED IN THIS CASE? IF YOU KNOW
11 ANYTHING AT ALL ABOUT THE CASE, HAVE YOU HAD ANY DISCUSSIONS OF ANY
12 KIND, HAVE YOU HEARD, SEEN OR READ ANYTHING ABOUT IT THROUGH THE
13 MEDIA; DO YOU KNOW ANYTHING AT ALL ABOUT THIS MATTER? SOMETIMES
14 WHEN WE MAKE MENTION OF KNOWING ABOUT A CASE, SOME PEOPLE CONSTRUE
15 THAT TOO NARROWLY. I'M NOT TALKIN' IN A LEGAL SENSE ABOUT A LEGAL
16 CHARGE. I'M TALKIN' ABOUT THE ENTIRE MATTER. DO YOU KNOW ANYTHING AT
17 ALL ABOUT THE ALLEGATIONS, ABOUT THE MATTER OTHER THAN WHAT YOU'VE
18 HEARD ME SAY IN THE COURTROOM TODAY? IF SO, PLEASE, STAND. ALL RIGHT.

19 NOW TO THE BEST OF MY KNOWLEDGE I HAVE INTRODUCED TO YOU MR.
20 PRESLEY; I'VE INTRODUCED TO YOU THE POTENTIAL WITNESSES FOR THE STATE;
21 I'VE INTRODUCED THE ATTORNEYS TO YOU, AND WHAT I NEED FOR YOU TO DO
22 NOW IS THIS: IF YOU HAVE ANY CONNECTION OF ANY KIND WITH ANY OF THESE
23 PEOPLE OR ANY OF THESE ENTITIES LIKE SLED OR THE BURNETTOWN POLICE
24 DEPARTMENT. IF YOU ARE CURRENT OR FORMER CLIENTS OF ANY OF THE
25 ATTORNEYS OR ANYONE WITH WHOM THEY'RE AFFILIATED; IF YOU'VE EVER BEEN

1 ON THE OPPOSITE SIDE OF A CASE REPRESENTED BY ONE OF THESE ATTORNEYS OR
2 ANY ENTITY WITH WHICH THEY'RE AFFILIATED WHICH WOULD INCLUDE THE
3 SOLICITOR'S OFFICE, ANY LAW FIRMS; IF YOU'RE NEIGHBORS; IF YOU'RE FRIENDS;
4 IF YOU'RE ATTENDING THE SAME CHURCH OR CIVIC CLUBS OR HAVE EVER
5 ATTENDED THE SAME CHURCH OR CIVIC CLUBS AS ANY OF THESE PEOPLE, IF YOU
6 SUPPLY ANYTHING TO THE POLICE DEPARTMENT OR TO SLED OR HAVE ANY
7 CONNECTION WITH THEM; IF YOU'VE GOT ANY CONNECTION OF ANY KIND WITH
8 ANY OF THESE PEOPLE, ANY OF THESE ENTITIES, YOU NEED TO DISCLOSE IT TO US,
9 AND IF AGAIN, THAT ALSO WOULD INCLUDE IF YOU'RE A CURRENT OR FORMER
10 PATIENT OF ANY DOCTOR OR NURSE. WHAT'S YOUR NAME, PLEASE, MA'AM?

11 THE JUROR: BRANDI ENGLISH #83.

12 THE COURT: OKAY. MS. ENGLISH IS LISTED AS BYRD ON OUR MATERIALS.
13 AND WHAT'S YOUR SITUATION, MA'AM?

14 THE JUROR: MR. ANDERSON WAS MY EX-HUSBAND'S LAWYER.

15 THE COURT: OKAY. IS THAT MATTER ENDED?

16 THE JUROR: YES, SIR.

17 THE COURT: IS THERE ANYTHING AT ALL ABOUT THAT EXPERIENCE, YOUR
18 RELATIONSHIP WITH MR. ANDERSON OR WITH YOUR EX-HUSBAND THAT WOULD
19 IN ANY WAY AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS
20 CASE?

21 THE JUROR: NO.

22 THE COURT: IS THERE ANY DOUBT IN YOUR MIND ABOUT THAT?

23 THE JUROR: NO.

24 THE COURT: OKAY. THANK YOU. MS. ENGLISH IS JUROR #83. SHE'S
25 ELIGIBLE TO SERVE. ON THE FRONT ROW YOUR NAME, SIR?

1 THE JUROR: (INAUDIBLE) MIMS 55.

2 THE COURT: ALL RIGHT. MR. MIMS IS JUROR #55. WHAT'S YOUR
3 SITUATION, PLEASE?

4 THE JUROR: ME AND MR. PRESLEY WERE HIGH SCHOOL CLASSMATES.

5 THE COURT: AND YOU'RE 55 YEARS OLD? IS THAT RIGHT?

6 THE JUROR: NO, SIR. THAT'S MY JUROR NUMBER.

7 THE COURT: WELL, THEY'VE GOT YOUR AGE WRONG 'CAUSE - YOU WERE
8 BORN IN 1965?

9 THE JUROR: YES, SIR. THAT'S CORRECT.

10 THE COURT: OKAY. APPARENTLY THE COMPUTER CAN'T ADD. OR EITHER
11 I'M LOOKING AT A NUMBER WRONG. HAVE YOU BEEN AROUND MR. PRESLEY ANY
12 SINCE HIGH SCHOOL?

13 THE JUROR: YES, SIR.

14 THE COURT: RECENTLY?

15 THE JUROR: NOTHING THAT I CAN RECALL. BY RECENTLY YOU MEAN 5 OR
16 6 MONTHS?

17 THE COURT: WELL, WHAT ABOUT IN THE LAST 5 YEARS?

18 THE JUROR: YES, SIR.

19 THE COURT: YOU HAVE? HAVE YOU HAD ANY DISCUSSIONS WITH HIM
20 ABOUT THIS MATTER?

21 THE JUROR: NO, SIR, I HAVEN'T.

22 THE COURT: DID YOU KNOW ANYTHING AT ALL ABOUT HIM BEING
23 CHARGED WITH THIS CASE?

24 THE JUROR: NO, SIR, I DIDN'T.

25 THE COURT: ALL RIGHT. HOW WOULD YOU DESCRIBE YOUR

1 RELATIONSHIP? ARE YOU ACQUAINTANCES, FRIENDS OR HOW WOULD YOU
2 DESCRIBE IT?

3 THE JUROR: I'D SEE HIM IN THE HALLWAY, SPEAK TO HIM, SEE HIM AT
4 BASKETBALL GAMES.

5 THE COURT: YOU'D SEE HIM AT SPORTS EVENTS?

6 THE JUROR: YES, SIR.

7 THE COURT: IS THERE ANYTHING AT ALL ABOUT YOUR RELATIONSHIP
8 WITH MR. PRESLEY THAT WOULD IN ANY WAY AFFECT YOUR ABILITY TO BE A FAIR
9 AND IMPARTIAL JUROR IN THE CASE?

10 THE JUROR: YES.

11 THE COURT: OKAY. HAVE A SEAT ON THE BACK ROW ON MY RIGHT,
12 PLEASE. MR. MIMS IS JUROR #55. HE WILL BE SET ASIDE ON THIS FIRST CASE. NOW
13 LET'S SEE, YOUR NAME, PLEASE, MA'AM?

14 THE JUROR: SADIE OAKMAN JUROR #118.

15 THE COURT: OKAY. MS. OAKMAN, WHAT'S YOUR SITUATION, PLEASE?

16 THE JUROR: I USED TO WORK WITH MR. WEEKS WHEN HE WAS BACK IN
17 THE SOLICITOR'S OFFICE.

18 THE COURT: HOW LONG AGO DID YOU WORK THERE?

19 THE JUROR: I WORKED THERE FROM 1985 TO 1990.

20 THE COURT: OKAY. IS THERE ANYTHING AT ALL ABOUT YOUR
21 RELATIONSHIP WITH MR. WEEKS OR OTHER SOLICITORS' OFFICE OR YOUR
22 EXPERIENCES THERE THAT WOULD IN ANY WAY AFFECT YOUR ABILITY TO BE A
23 FAIR AND IMPARTIAL JUROR IN THIS CASE?

24 THE JUROR: NO, SIR.

25 THE COURT: YOU HAVE ANY DOUBT IN YOUR MIND ABOUT THAT?

1 THE JUROR: NO.

2 THE COURT: THANK YOU. MS. OAKMAN IS JUROR #118. SHE'S ELIGIBLE TO
3 SERVE. YOUR NAME, PLEASE, MA'AM, OVER HERE?

4 THE JUROR: BETTY TOLLISON #66.

5 THE COURT: ALL RIGHT. MS. TOLLISON, WHAT'S YOUR SITUATION,
6 PLEASE?

7 THE JUROR: YOUR HONOR, I'M RELATED TO ONE OF THE INVESTIGATORS
8 FOR THE SOLICITOR.

9 THE COURT: WHO IS THAT?

10 THE JUROR: NORWOOD BODIE. HE'S MY SON-IN-LAW. ALSO, MY
11 DAUGHTER IS THE PROGRAM DIRECTOR FOR JUVENILE COURT HERE

12 THE COURT: JUVENILE ARBITRATION?

13 THE JUROR: THE NEW DRUG COURT THAT'S GONNA START IN JANUARY.

14 THE COURT: THE JUVENILE DRUG COURT. OKAY. IS THERE - ALL RIGHT. IS
15 MR. BODIE INVOLVED IN THIS CASE IN ANY WAY?

16 MS. BRISBIN: YES, SIR. HE'S THE INVESTIGATOR ON THE CASE.

17 THE COURT: MS. TOLLISON, I'M GONNA SET YOU ASIDE. HAVE A SEAT ON
18 THE RIGHT OVER HERE, PLEASE. THAT'S 66. SHE'S SET ASIDE AS A RELATIVE OF
19 THE PROSECUTING ENTITY. YES, SIR? YOUR NAME, PLEASE?

20 THE JUROR: KARL PATTON #142. I ATTENDED HIGH SCHOOL WITH—

21 THE COURT: HOLD ON JUST A MINUTE. MR. PATTON IS 142.

22 THE JUROR: I WENT TO HIGH SCHOOL WITH MR. WEEKS AND WE'VE BEEN
23 FRIENDS THROUGH THE YEARS.

24 THE COURT: CAN YOU TELL ME ROUGHLY WHEN WAS THE LAST TIME YOU
25 MAY HAVE SEEN HIM - BEEN WITH HIM.

1 THE JUROR: IT'S BEEN A COUPLE YEARS.

2 THE COURT: OKAY. IS THERE ANYTHING AT ALL ABOUT YOUR
3 RELATIONSHIP WITH HIM OR EXPERIENCES WITH MR. WEEKS THAT WOULD IN ANY
4 WAY AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

5 THE JUROR: NO, SIR.

6 THE COURT: DO YOU HAVE ANY DOUBT IN YOUR MIND ABOUT THAT?

7 THE JUROR: NO, SIR.

8 THE COURT: SO IF YOU'RE ON THIS CASE AND YOU'RE ASKED TO DECIDE,
9 YOU CAN DECIDE IT WITHOUT REGARD TO WHAT MR. WEEKS MAY THINK OF YOUR
10 DECISION?

11 THE JUROR: YES, SIR.

12 THE COURT: THANK YOU.

13 MR. PATTON IS 142. HE'S ELIGIBLE TO SERVE. ALL RIGHT. NOW, LADIES
14 AND GENTLEMEN, I'M GONNA POSE A QUESTION. IT'S GONNA BE A MULTI-PART
15 QUESTION. WHEN I FINISH POSING THE QUESTION, IF IT APPLIES TO YOU OR YOU
16 HAVE ANY DOUBT ABOUT WHETHER IT APPLIES TO YOU, I'LL NEED FOR YOU TO
17 STAND, BUT WE'RE GONNA TALK ABOUT THIS DOWN HERE ON THE SIDE. WE'RE
18 NOT GONNA TALK ABOUT THESE THINGS OPENLY. ALL RIGHT? I'M GONNA TRY TO
19 ADDRESS IT FROM DIFFERENT ANGLES. IF ANY OF YOU, ANY OF YOUR IMMEDIATE
20 FAMILY MEMBERS OR ANY OF YOUR CLOSE PERSONAL FRIENDS HAVE EVER BEEN
21 THE VICTIM OF ANY CRIME OF A SEXUAL NATURE OR IF ANY OF YOU, ANY OF
22 YOUR IMMEDIATE FAMILY, ANY OF YOUR CLOSE PERSONAL FRIENDS HAVE EVER
23 BEEN ACCUSED OF HAVING COMMITTED SUCH A CRIME, I NEED FOR YOU TO
24 STAND. THAT WOULD BE WHETHER ANY FORMAL CHARGE WAS EVER BROUGHT
25 OR NOT. I'M NOT HINGING THAT ON WHETHER SOMEONE WAS ACTUALLY

1 CHARGED BY A POLICE AGENCY OR ANYTHING, BUT IF YOU. ANY FAMILY
2 MEMBER, ANY CLOSE PERSONAL FRIEND HAVE EVER BEEN THE VICTIM OF
3 SEXUAL OFFENSE OR ANY OFFENSE THAT'S SEXUAL IN NATURE OR HAVE EVER
4 BEEN ACCUSED OF SUCH, FORM A LINE OVER HERE ON THE RIGHT FOR ME,
5 PLEASE. THE PARTIES MAY JOIN ME ON THE SIDE. MR. PRESLEY MAY AS WELL IF
6 HE'D LIKE. (THE FOLLOWING OCCURRED IN THE ABSENCE OF THE HEARING OF
7 THE AUDIENCE OF THE COURTROOM, BUT ON THE RECORD.) YES, SIR? YOUR
8 NAME, PLEASE?

9 THE JUROR: JEFFREY BROWN #81

10 THE COURT: WHAT'S YOUR SITUATION?

11 THE JUROR: I JUST RECENTLY HAD A COUSIN SECOND OR THIRD COUSIN—

12 THE COURT: WHAT ABOUT YOUR COUSIN?

13 THE JUROR: WITH A SEXUAL WITH A MINOR.

14 THE COURT: CHARGED WITH IT?

15 THE JUROR: YES.

16 THE COURT: WAS THAT IN AIKEN COUNTY?

17 THE JUROR: YES, SIR.

18 THE COURT: IS THAT CASE STILL PENDING?

19 THE JUROR: ABOUT 2 MONTHS AGO.

20 THE COURT: IT WAS MADE ABOUT 2 MONTHS AGO?

21 THE JUROR: I THINK LIKE—

22 THE COURT: IT WAS TRIED 2 MONTHS AGO?

23 THE JUROR: UH-HUH.

24 THE COURT: IS THERE ANYTHING ABOUT YOUR RELATIONSHIP WITH YOUR
25 COUSIN OR EXPERIENCE THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND

1 IMPARTIAL JUROR IN THIS CASE?

2 THE JUROR: NO, SIR.

3 THE COURT: YOU UNDERSTAND THAT IF THAT OCCURRED IN AIKEN
4 COUNTY AND IF THE SAME PROSECUTING ATTORNEYS OR OFFICE WOULD HAVE
5 DEALT WITH THIS CASE.

6 THE JUROR: I DON'T KNOW THEM.

7 THE COURT: DO YOU UNDERSTAND THAT CONCEPT?

8 THE JUROR: YES, SIR.

9 THE COURT: IS THERE ANYTHING ABOUT THAT THAT WOULD AFFECT YOUR
10 ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

11 THE JUROR: NO, SIR.

12 THE COURT: ANY DOUBT IN YOUR MIND?

13 THE JUROR: NO, SIR.

14 THE COURT: WHAT'S YOUR COUSIN'S NAME?

15 THE JUROR: MORRIS TYLER.

16 THE COURT: MR. BROWN IS 81. HE'S ELIGIBLE TO SERVE. YES, MA'AM?
17 WHAT'S YOUR NAME, PLEASE?

18 THE JUROR: BRANDI ENGLISH #83.

19 THE COURT: WHAT'S YOUR SITUATION?

20 THE JUROR: MY GRANDMOTHER WAS RAPED.

21 THE COURT: HOW LONG AGO ARE WE TALKIN' ABOUT?

22 THE JUROR: 1935 OR 1940. SOMEWHERE IN THAT AREA.

23 THE COURT: DO YOU KNOW IF CHARGES WERE MADE ON THAT?

24 THE JUROR: NO, IT WASN'T. IT WAS HUSH-HUSH.

25 THE COURT: IS THERE ANYTHING ABOUT THAT RELATIONSHIP OR

1 EXPERIENCE THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
2 JUROR IN THIS CASE?

3 THE JUROR: YES.

4 THE COURT: MS. ENGLISH IS 83. SHE'LL BE SET ASIDE ON THE FIRST CASE.
5 YES, MA'AM?

6 THE JUROR: SHEILA NEWMAN 116.

7 THE COURT: WHAT'S YOUR SITUATION?

8 THE JUROR: I HAD A FIRST COUSIN THAT WAS RAPED LAST SUMMER.

9 THE COURT: WAS THAT IN AIKEN COUNTY?

10 THE JUROR: NO, SIR. AUGUSTA.

11 THE COURT: DO YOU KNOW IF CRIMINAL CHARGES WERE BROUGHT?

12 THE JUROR: NO, SIR, THEY DID NOT FIND HIM.

13 THE COURT: AND IS THERE ANYTHING ABOUT THAT EXPERIENCE OR
14 RELATIONSHIP WITH YOUR COUSIN THAT WOULD AFFECT YOUR ABILITY TO BE A
15 FAIR AND IMPARTIAL JUROR IN THIS CASE?

16 THE JUROR: NO, SIR.

17 THE COURT: ANY DOUBT?

18 THE JUROR: NO, SIR.

19 THE COURT: MS. NEWMAN IS 116. SHE'S ELIGIBLE TO SERVE. YES, MA'AM?

20 THE JUROR: DIANE IRVIN 92.

21 THE COURT: WHAT'S YOUR SITUATION?

22 THE JUROR: MY NEPHEW IS IN PRISON FOR CRIMINAL SEXUAL ASSAULT.

23 THE COURT: IS HE CHARGED IN AIKEN COUNTY?

24 THE JUROR: YES.

25 THE COURT: IS THERE ANYTHING ABOUT THAT SITUATION OR YOUR

1 RELATIONSHIP WITH YOUR NEPHEW THAT WOULD AFFECT YOUR ABILITY TO BE A
2 FAIR AND IMPARTIAL JUROR IN THIS CASE?

3 THE JUROR: HONESTLY, YES.

4 THE COURT: MS. IRVIN IS JUROR #92. SHE'S SET ASIDE. YES, SIR?

5 THE JUROR: (INAUDIBLE) SANFORD 126.

6 THE COURT: WHAT'S YOUR SITUATION?

7 THE JUROR: I HAD A COUSIN WHO WAS SEXUALLY ASSAULTED AND
8 MURDERED.

9 THE COURT: WAS THAT IN AIKEN COUNTY?

10 THE JUROR: NEW YORK CITY.

11 THE COURT: DID THEY CHARGE ANYBODY WITH IT?

12 THE JUROR: NO, SIR.

13 THE COURT: WAS IT A SEXUAL ASSAULT?

14 THE JUROR: YES.

15 THE COURT: IS THERE ANYTHING ABOUT THAT EXPERIENCE OR YOUR
16 RELATIONSHIP WITH YOUR COUSIN THAT WOULD AFFECT YOUR ABILITY TO BE A
17 FAIR AND IMPARTIAL JUROR IN THIS CASE?

18 THE JUROR: YES.

19 THE COURT: MR. SANFORD IS 126; HE'S SET ASIDE ON THIS CASE. YES, SIR?

20 THE JUROR: JASON GREEN 99.

21 THE COURT: 96.. WHAT'S YOUR SITUATION?

22 THE JUROR: MY BROTHER-IN-LAW WAS CHARGED WITH SEXUAL ASSAULT
23 BUT IT NEVER WENT BACK TO TRIAL. SHE NEVER SHOWED BACK TO COURT. I
24 FELT LIKE HE WAS WRONGLY ACCUSED. HE HAD JAIL TIME AND I DON'T THINK HE
25 SHOULD'VE.

1 THE COURT: WOULD THAT EXPERIENCE AFFECT YOUR ABILITY TO BE A
2 FAIR AND IMPARTIAL JUROR IN THIS CASE?

3 THE JUROR: YES.

4 THE COURT: MR. GREEN IS 96. HE'S SET ASIDE ON THE FIRST CASE.

5 THE JUROR: LEVI BROOKS #12.

6 THE COURT: WHAT'S YOUR SITUATION?

7 THE JUROR: I GOT A DAUGHTER HER DADDY MOLESTED HER.

8 THE COURT: WERE ANY CRIMINAL CHARGES MADE ON THAT?

9 THE JUROR: YES.

10 THE COURT: WAS THAT IN AIKEN COUNTY?

11 THE JUROR: AIKEN AND BARNWELL.

12 THE COURT: WHAT HAPPENED TO HER FATHER?

13 THE JUROR: HE'S IN JAIL.

14 THE COURT: IS THERE ANYTHING ABOUT THAT EXPERIENCE OR
15 RELATIONSHIP THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
16 JUROR IN THIS CASE?

17 THE JUROR: IT WOULD BE.

18 THE COURT: THANK YOU, SIR. #12 MR. BROOKS IS SET ASIDE ON THE FIRST
19 CASE.

20 THE JUROR: LEE PRITCHARD #122.

21 THE COURT: WHAT'S YOUR SITUATION?

22 THE JUROR: I HAVE BEEN A VICTIM OF SEXUAL ABUSE AND I HAVE 3
23 OTHER FAMILY MEMBERS AS WELL.

24 THE COURT: WERE ANY CHARGES MADE IN YOUR CASE?

25 THE JUROR: NO, SIR.

1 THE COURT: ANYTHING ABOUT THAT EXPERIENCE THAT WOULD AFFECT
2 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

3 THE JUROR: YES, SIR.

4 THE COURT: MS. PRITCHARD IS 126. SHE'S SET ASIDE ON THE FIRST CASE.
5 YES, MA'AM?

6 THE JUROR: NORMAL JONES 43.

7 THE COURT: I PROTECTED YOU ON THURSDAY. I NEED TO SET YOU ASIDE.
8 MS. JONES IS 43. SHE'S PROTECTED TOMORROW.

9 THE JUROR: CHRIS HOBSON.

10 THE COURT: WHAT'S YOUR SITUATION?

11 THE JUROR: MY WIFE AND 2 CLOSE FEMALE FRIENDS HAVE BEEN
12 SEXUALLY ASSAULTED.

13 THE COURT: IS THERE ANYTHING ABOUT THOSE EXPERIENCES OR
14 RELATIONSHIPS THAT WOULD AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL
15 IN THIS CASE?

16 THE JUROR: YES, SIR.

17 THE COURT: HAVE A SEAT ON THE RIGHT OVER THERE. MR. HOBSON IS 101.
18 HE'S SET ASIDE ON THE FIRST TRIAL. (THE FOLLOWING OCCURRED WITHIN THE
19 HEARING OF EVERYONE IN THE COURTROOM.) NOW, OBVIOUSLY, FOLKS, IF I SET
20 YOU ASIDE ON THE FIRST TRIAL, YOU DON'T HAVE TO WORRY ABOUT ANY MORE
21 OF THESE QUESTIONS. OKAY? NOW IS THERE ANYBODY ON THE JURY POOL OVER
22 HERE THAT I HAVE PROTECTED ON THURSDAY. TOMORROW. ANYBODY I
23 PROTECTED ON FRIDAY? OKAY. HAVE ANY OF YOU FORMED OR EXPRESSED ANY
24 OPINIONS ABOUT THIS CASE? IF SO, PLEASE, STAND. ARE ANY OF YOU AWARE OF
25 ANY INTEREST, BIAS OR PREJUDICE THAT YOU MIGHT HAVE FOR OR AGAINST

1 ANYONE OR ANY ENTITY IN THE CASE INCLUDING ANY INTEREST, BIAS OR
2 PREJUDICE FOR OR AGAINST THE STATE OR FOR OR AGAINST THE DEFENDANT MR.
3 PRESLEY? IF SO, PLEASE, STAND. CAN EACH OF YOU GIVE BOTH THE STATE OF
4 SOUTH CAROLINA AND THE DEFENDANT EARNEST PRESLEY A FAIR AND
5 IMPARTIAL TRIAL? IF YOU KNOW OF ANY REASON WHY YOU CANNOT, PLEASE,
6 STAND NOW. FURTHER QUESTIONS FROM THE STATE?

7 MS. BRISBIN: NO, YOUR HONOR.

8 THE COURT: FURTHER QUESTIONS FROM THE DEFENSE?

9 MR. ANDERSON: YES, SIR.

10 THE COURT: OKAY. DID YOU HAND UP SOMETHING OR—

11 MR. ANDERSON: YES, SIR.

12 THE COURT: OH. HAVE ANY OF YOU EVER BEEN A FOSTER PARENT OR
13 HAVE ANY OF YOUR IMMEDIATE FAMILY MEMBERS EVER BEEN A FOSTER PARENT?
14 IF SO, PLEASE, STAND. IF ANY OF YOU HAVE EVER WORKED AS A TEACHER OR IN
15 A DAYCARE FACILITY, PLEASE, STAND. YOUR NAME AGAIN, PLEASE, MA'AM?

16 THE JUROR: SADIE OAKMAN JUROR 118.

17 THE COURT: OKAY, MS. OAKMAN, YOU INDICATED YOU'RE A CHILDCARE
18 GIVER AT MILLBROOK DAYCARE. IS THAT RIGHT?

19 THE JUROR: YES.

20 THE COURT: ANY OTHER RESPONSE TO THAT QUESTION?

21 THE JUROR: NO.

22 THE COURT: THANK YOU, MA'AM. THAT'S ALL I NEED TO KNOW. YOUR
23 NAME, PLEASE, MA'AM?

24 THE JUROR: BRIDGETT BALDWIN.

25 THE COURT: 32. MS. BALDWIN, WHAT'S YOUR SITUATION?

1 THE JUROR: I WORKED AT SUNSHINE DAY CARE 2 YEARS.
2 THE COURT: THANK YOU, MA'AM. ON MY RIGHT. YES, MA'AM?
3 THE JUROR: NUMBER 114 (INAUDIBLE) MILLER.
4 THE COURT: MS. MILLER? YOU RETIRED FROM THE AIKEN COUNTY PUBLIC
5 SCHOOLS. IS THAT CORRECT?
6 THE JUROR: YES, SIR.
7 THE COURT: ANY OTHER RESPONSE TO THAT QUESTION?
8 THE JUROR: NO, SIR.
9 THE COURT: THANK YOU, MA'AM. YES, MA'AM, YOUR NAME?
10 THE JUROR: ASHLEY RODDY. 125
11 THE COURT: OKAY. MS. RODDY, WHAT'S YOUR SITUATION, PLEASE?
12 THE JUROR: I WORKED AT 3 DAY CARES IN THE PAST.
13 THE COURT: THANK YOU, MA'AM. YES, MA'AM?
14 THE JUROR: ELAINE SLACK #62.
15 THE COURT: MS. SLACK, YOU INDICATED YOU'RE A TEACHER'S ASSISTANT
16 WITH THE AIKEN COUNTY PUBLIC SCHOOLS. IS THERE ANY OTHER RESPONSE TO
17 THAT QUESTION?
18 THE JUROR: NO, SIR.
19 THE COURT: THANK YOU, MA'AM. 62. HAVE ANY OF YOU EVER SERVED AS
20 A GUARDIAN AD LITEM FOR A MINOR? WHAT A GUARDIAN AD LITEM IS
21 BASICALLY AN ADULT WHO IS CHARGED WITH REPRESENTING THE BEST INTEREST
22 OF THE CHILD IN ANY TYPE OF LITIGATION OR ANY TYPE OF FAMILY COURT
23 ACTION INVOLVING CUSTODY OR VISITATION RIGHTS, THINGS LIKE THAT. IF
24 YOU'VE EVER BEEN DESIGNATED BY ANY COURT AS A GUARDIAN AD LITEM, OR IF
25 YOU WORK FOR ANY GUARDIAN AD LITEM PROGRAM, PLEASE, STAND. YOUR

1 NAME, PLEASE?

2 THE JUROR: SYBIL CLEMENS #18.

3 THE COURT: MS. CLEMENS, WHAT'S YOUR SITUATION, PLEASE?

4 THE JUROR: MY EX-HUSBAND AND I DIVORCED AND I WAS GRANTED

5 CARETAKER—

6 THE COURT: YOUR EX-HUSBAND AND YOU WHAT?

7 THE JUROR: I WAS GRANTED CARETAKER OF MY CHILDREN.

8 THE COURT: OKAY. YOU WERE GRANTED CUSTODY—

9 THE JUROR: YES.

10 THE COURT: — IN A DIVORCE PROCEEDING?

11 THE JUROR: YES.

12 THE COURT: OKAY. THAT'S REALLY NOT WHAT I'M TALKIN' ABOUT BUT
13 THAT'S — YOU DID THE RIGHT THING BY DISCLOSING IT. 18. WHAT I MEAN, AGAIN,
14 I KNOW THIS IS A FOREIGN CONCEPT TO MOST OF YOU. A GUARDIAN AD LITEM IS
15 SOMEBODY WHO IS DESIGNATED TO ACT IN THE BEST INTEREST OF THE CHILD
16 RELATED TO SOME SORT OF LEGAL PROCEEDING. IT MAY BE IN FAMILY COURT; IT
17 MAY BE IN CIRCUIT COURT; IT MAY BE SETTLING A WRECK WHERE A CHILD WAS
18 INJURED IN A WRECK. IT MAY BE TRYING TO DECIDE THE BEST INTEREST OF THE
19 CHILD AND PLACEMENT OF CUSTODY. IT MAY BE THE SAME THING WITH
20 VISITATION RIGHTS. IT'S AN ADULT WHO ACTS FOR THE CHILD. ANYBODY ELSE?
21 OKAY. ARE ANY OF YOU RELATED TO ANYONE WHO IS NOW OR FORMERLY A LAW
22 ENFORCEMENT OFFICER OR IF YOU WORK IN ANY CAPACITY IN THE FIELD OF LAW
23 ENFORCEMENT. PLEASE, STAND. ON THE FRONT ROW AGAIN.

24 THE JUROR: 116 SHEILA NEWMAN.

25 THE COURT: MS. NEWMAN, WHAT'S YOUR SITUATION?

1 THE JUROR: MY FATHER-IN-LAW IS A RETIRED CHIEF OF POLICE IN NORTH
2 AUGUSTA.

3 THE COURT: DO YOU FEEL THAT THAT IN ANY WAY WOULD AFFECT YOUR
4 ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

5 THE JUROR: NO.

6 THE COURT: ANY DOUBT IN YOUR MIND?

7 THE JUROR: NO.

8 THE COURT: THANK YOU. YOUR NAME OVER HERE, PLEASE, MA'AM?

9 THE JUROR: GAIL CROWDER #21.

10 THE COURT: OKAY. MS. CROWDER, WHAT'S YOUR SITUATION?

11 THE JUROR: I JUST HAVE A NEPHEW THAT IS A HIGHWAY PATROLMAN.

12 THE COURT: OKAY. DO YOU FEEL THAT IN ANY WAY WOULD AFFECT YOUR
13 ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS CASE?

14 THE JUROR: NO.

15 THE COURT: YOU HAVE ANY DOUBT IN YOUR MIND?

16 THE JUROR: NO, SIR.

17 THE COURT: THANK YOU, MA'AM. MS. CROWDER IS 21. SHE'S ELIGIBLE.
18 YES, MA'AM?

19 THE JUROR: I'M 91 DEBBIE DALTON. MY HUSBAND IS AN F.B.I. AGENT.

20 THE COURT: OKAY. MS. DALTON IS JUROR #91. HER HUSBAND WORKS FOR
21 THE F.B.I. WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO SERVE AS A FAIR
22 AND IMPARTIAL JUROR IN THIS CASE?

23 THE JUROR: NO.

24 THE COURT: ANY DOUBT IN YOUR MIND?

25 THE JUROR: NO.

1 THE COURT: THANK YOU, MA'AM. 91'S ELIGIBLE. YES, SIR?

2 THE JUROR: BOBBY OWENS. 119.

3 THE COURT: OKAY. MR. OWENS, WHAT'S YOUR SITUATION?

4 THE JUROR: I HAVE A COUSIN THAT WORKS AT SLED.

5 THE COURT: WHAT DOES HE DO FOR SLED? DO YOU KNOW?

6 THE JUROR: I HAVE SEEN HIM ABOUT TWICE IN THE LAST TEN YEARS. I
7 COULDN'T TELL YOU.

8 THE COURT: IS THERE ANYTHING AT ALL ABOUT THAT RELATIONSHIP THAT
9 WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THE CASE?

10 THE JUROR: NO.

11 THE COURT: ANYTHING ABOUT HIS RELATIONSHIP WITH SLED THAT
12 WOULD CAUSE YOU TO HAVE ANY FEELINGS FOR OR AGAINST THAT
13 ORGANIZATION?

14 THE JUROR: NO.

15 THE COURT: IF YOU'RE ON THE JURY AND YOU'RE ASKED TO DECIDE THE
16 CASE WOULD YOUR RELATIONSHIP WITH YOUR COUSIN AND HIS RELATIONSHIP
17 WITH SLED IN ANY WAY AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
18 JUROR?

19 THE JUROR: NO.

20 THE COURT: YOU CAN DECIDE THE CASE WITHOUT REGARD OF WHAT
21 ANYONE AT SLED OR SPECIFICALLY YOUR COUSIN MIGHT THINK ABOUT YOUR
22 DECISION?

23 THE JUROR: YES.

24 THE COURT: ANY DOUBT IN YOUR MIND ABOUT ANY OF THAT?

25 THE JUROR: NO.

1 THE COURT: THANK YOU. 119 IS ELIGIBLE. YES, SIR?

2 THE JUROR: JEFFREY BROWN 81.

3 THE COURT: OKAY. MR. BROWN, WHAT'S YOUR SITUATION, PLEASE?

4 THE JUROR: I'VE GOT A FIRST COUSIN THAT'S A SERGEANT IN PUBLIC
5 SAFETY.

6 THE COURT: YOUR FIRST COUSIN IS A SERGEANT?

7 THE JUROR: YES.

8 THE COURT: WITH AIKEN PUBLIC SAFETY?

9 THE JUROR: YES.

10 THE COURT: IS AIKEN PUBLIC SAFETY INVOLVED IN THIS CASE IN ANY
11 WAY?

12 MS. BRISBIN: NO, YOUR HONOR.

13 THE COURT: OKAY. MR. BROWN, IS THERE ANYTHING AT ALL ABOUT THAT
14 RELATIONSHIP THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
15 JUROR IN THIS CASE?

16 THE JUROR: NO, SIR.

17 THE COURT: ANY DOUBT IN YOUR MIND?

18 THE JUROR: NO, SIR.

19 THE COURT: THANK YOU. ALL RIGHT. I THINK I'M GONNA ASK THIS
20 QUESTION IN THE REVERSE. ANY OF YOU WHO HAVE NEVER HAD A BIOLOGICAL -
21 THAT'S NOT PROPER PHRASING. I'M GETTING MY MODIFIERS MIXED UP. ANY OF
22 YOU WHO ARE NOT THE BIOLOGICAL PARENT OF A CHILD WHETHER THE CHILD IS
23 LIVING OR DEAD. ANY OF YOU WHO HAVE NEVER HAD A CHILD, PLEASE, STAND.

24 MR. ANDERSON: JUDGE, YOU DON'T HAVE TO GO THROUGH THAT.

25 THE COURT: OKAY.

1 MR. ANDERSON: I APPRECIATE IT.

2 THE COURT: ALL RIGHT. HAVE A SEAT. IS THERE ANYTHING ABOUT THE
3 ALLEGATIONS IN THIS CASE WHICH, AS I SAID, THERE'S AN ALLEGATION THAT MR.
4 PRESLEY HAD SEXUAL INTERCOURSE WITH A 15-YEAR-OLD, ANYTHING ABOUT
5 THAT THAT WOULD PREVENT YOU FROM SERVING AS A FAIR AND IMPARTIAL
6 JUROR IN THE CASE? IF SO, PLEASE, STAND. ANYTHING AT ALL ABOUT -
7 OBVIOUSLY A TRIAL THAT INVOLVED SEXUAL - ALLEGATIONS OF SEXUAL
8 RELATIONS, THERE'S GONNA BE TESTIMONY ABOUT PRIVATE BODY PARTS
9 USUALLY. IS THERE ANYTHING AT ALL ABOUT THE ANTICIPATED TESTIMONY IN
10 THE CASE THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
11 JUROR IN THE CASE? DO ANY OF YOU HAVE ANY TYPE OF RELATIONSHIP
12 WHETHER IT'S PROFESSIONAL OR CIVIC OR ANY OTHER RELATIONSHIP WITH THE
13 TOWN OF BURNETTOWN, THE AIKEN REGIONAL MEDICAL CENTER OR SLED? IF SO,
14 PLEASE, STAND. MS. CROWDER IS 21. WHAT'S YOUR SITUATION?

15 THE JUROR: MY SON-IN-LAW IS A PARAMEDIC AND HE DEALS AT THE
16 AIKEN REGIONAL.

17 THE COURT: OKAY. IS THERE ANYTHING AT ALL ABOUT THAT
18 RELATIONSHIP THAT AFFECTS YOUR ABILITY TO BE A FAIR AND IMPARTIAL
19 JUROR?

20 THE JUROR: NO.

21 THE COURT: ANY DOUBT IN YOUR MIND? I'M SORRY?

22 THE JUROR: I'M SORRY. I DIDN'T HEAR--

23 THE COURT: ANY DOUBT IN YOUR MIND?

24 THE JUROR: NO DOUBT.

25 THE COURT: THANK YOU, MS. CROWDER. YES, SIR?

1 THE JUROR: WADE JOHNSON 106.

2 THE COURT: YOU WORK AS A PARAMEDIC. ALL RIGHT. MR. JOHNSON IS
3 JUROR #106. HE'S A PARAMEDIC IN AIKEN AND BAMBERG. ANYTHING ABOUT
4 THAT THAT WOULD AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
5 THIS CASE?

6 THE JUROR: NO.

7 THE COURT: ANY DOUBT IN YOUR MIND?

8 THE JUROR: NO, SIR.

9 THE COURT: THANK YOU. 106 IS ELIGIBLE. ALL RIGHT. ANYTHING
10 FURTHER FROM THE STATE?

11 MS. BRISBIN: NO, YOUR HONOR.

12 THE COURT: DEFENSE?

13 MR. ANDERSON: NO, THANK YOU, JUDGE.

14 THE COURT: THANK YOU. ALL RIGHT. THE JURY PANEL IS QUALIFIED.
15 NOW, LADIES AND GENTLEMEN, THE WAY WE SELECT JURORS IN CRIMINAL COURT
16 IS DIFFERENT THAN WE DO IN CIVIL COURT. SO IF YOU'VE EVER BEEN ON A CIVIL
17 JURY YOU WILL NOTICE THAT THIS IS A DIFFERENT PROCEDURE. WHAT WILL
18 HAPPEN IS THE CLERK WILL DRAW THE NAMES FROM THE HOPPER AND SHE WILL
19 DRAW A NAME AT RANDOM, CALL A NAME. YOU NEED TO GATHER UP YOUR
20 PERSONAL BELONGINGS AND COME DOWN FRONT. NOW THIS IS ANOTHER ONE OF
21 THOSE SILLY THINGS I'M GONNA TELL YOU BUT ONLY BECAUSE IT'S BEEN A
22 PROBLEM BEFORE. FOLKS, GO TO THE NEAREST AISLE. SOME JURORS FOR SOME
23 REASON THINK YOU HAVE TO COME TO THE CENTER AISLE. YOU DON'T.
24 WHICHEVER AISLE IS CLOSEST COME AROUND AND COME DOWN FRONT SO THAT
25 YOU WILL BE DIRECTLY IN FRONT OF ME RIGHT DOWN THERE AT THAT RAIL. AND

1 THEN WHAT I NEED FOR YOU TO DO IS TURN AROUND AND FACE BACK IN THE
2 DIRECTION YOU CAME FROM.

3 WHEN YOU GET UP HERE, THE CLERK WILL ASK QUESTIONS OF THE
4 STATE'S ATTORNEY AND THE DEFENSE ATTORNEY.

5 ANOTHER ONE OF THOSE THINGS I'LL TELL YOU JUST SO TO AVOID ANY
6 EMBARRASSMENT, A LOT OF JURORS IF I DON'T SAY THIS THEY THINK THE CLERK
7 IS TALKIN' TO THEM BECAUSE THEY'VE GOT THEIR BACK TURNED.

8 THE CLERK WILL NOT BE TALKING TO YOU; SHE'S TALKING TO THE
9 LAWYERS UNLESS SHE CALLS YOU SPECIFICALLY BY NAME OR I CALL YOU BY
10 NAME. SO YOU JUST STAND THERE AND WAIT UNTIL THE RESPONSES ARE GIVEN,
11 AND BASED ON THOSE RESPONSES THE CLERK WILL TELL YOU WHETHER TO
12 RETURN TO THE COURTROOM, BE SEATED IN THE COURTROOM OR HAVE A SEAT
13 OVER HERE IN THE JURY BOX.

14 THAT'S WHY YOU NEED TO BRING ANY PERSONAL BELONGINGS YOU MAY
15 HAVE BROUGHT TO COURT, BOOKS, POCKETBOOKS, ANYTHING YOU MAY HAVE
16 BROUGHT TO COURT BECAUSE YOUR NEXT STOP MAY BE OVER HERE. IF YOU ARE
17 EXCUSED ON THIS CASE, DON'T GO BACK TO YOUR SEAT OVER HERE. HAVE A
18 SEAT OVER THERE ON MY RIGHT IN THE BACK WHERE THOSE OTHER FOLKS ARE
19 THAT HAVE BEEN SET ASIDE. THAT'LL MAKE IT EASIER AND QUICKER AND
20 PEOPLE WON'T BE WALKING ACROSS ONE ANOTHER SO MUCH. ASSUMING THERE
21 IS NO OBJECTION TO THE CLERK DRAWING THEIR NAMES, WE'LL PROCEED TO
22 STRIKE. STRIKES ARE 5 FOR THE STATE; TEN FOR THE DEFENSE. MADAM CLERK,
23 GIVE US A JURY.

24 #53 PATRICIA STUKES - BLACK FEMALE - ACCEPTED

25 #132 BRIAN THELAN - WHITE MALE - EXCUSED BY DEFENSE

1 #4 JOSEPH BENDS - WHITE MALE - ACCEPTED

2 #106 WADE JOHNSON - WHITE MALE - ACCEPTED

3 #142 KARL PATTON - WHITE MALE - EXCUSED BY DEFENSE

4 #18 SYBIL CLEMENS - WHITE FEMALE - EXCUSED BY DEFENSE

5 #85 HOLLY CASEY - WHITE FEMALE - ACCEPTED

6 #134 RHETT WIDENER - WHITE MALE - ACCEPTED

7 #81 JEFFREY BROWN - BLACK MALE - EXCUSED BY STATE

8 #1 CLINTON BARNES - WHITE MALE - ACCEPTED

9 #120 NANCY PARK - WHITE FEMALE - EXCUSED BY DEFENSE

10 #44 CAROLINE KELLETT - WHITE FEMALE - EXCUSED BY DEFENSE

11 #57 JACKIE PARKER - BLACK MALE - EXCUSED BY STATE

12 #109 TONY LEWIS - WHITE MALE - ACCEPTED

13 #21 GAIL CROWDER - WHITE FEMALE - EXCUSED BY DEFENSE

14 #140 DELORES BURGO - WHITE FEMALE - EXCUSED BY DEFENSE

15 #124 GARY ROBERTS - WHITE MALE - ACCEPTED

16 #74 BARBARA WILLIAMS - BLACK FEMALE - ACCEPTED

17 #32 BRIDGET BALDWIN - BLACK FEMALE - ACCEPTED

18 #117 LAWRENCE NOEL - WHITE MALE - ACCEPTED

19 #136 BRAD WILLIAMS - WHITE MALE - ACCEPTED

20 ALTERNATE

21 #87 BARBARA RHODES - WHITE FEMALE - ACCEPTED

22 #34 KENNETH HANCOCK - WHITE MALE - ACCEPTED

23 THE COURT: ALL RIGHT. ARE THERE ANY MATTERS TO TAKE UP
24 INCLUDING COMPOSITION OF THE JURY PANEL PRIOR TO THE JURY BEING SWORN?
25 FROM THE STATE?

1 MS. BRISBIN: NO, YOUR HONOR.

2 THE COURT: DEFENSE?

3 MR. ANDERSON: NO, YOUR HONOR.

4 THE COURT: THANK YOU VERY MUCH.

5 MR. BENDS, YOU'RE GONNA BE THE FOREMAN OF THE JURY.

6 WHEN THE JURY COMES BACK IN, YOU NEED TO BE THE LAST ONE IN THE
7 COURTROOM TO COME OUT AND HAVE A SEAT ON THE FRONT ROW ON MY LEFT
8 ON THIS END SEAT.

9 THE TWO ALTERNATES, MS. RHODES, AND, MR. HANCOCK, YOU SAY IN
10 THOSE TWO SEATS THROUGHOUT THE TRIAL.

11 IT DOESN'T MATTER WHICH ONE, IN ONE OF THOSE TWO SEATS
12 THROUGHOUT THE TRIAL.

13 THE REST OF YOU FOLKS MAY SIT ANYWHERE YOU LIKE DURING THE TRIAL
14 IN THAT JURY BOX.

15 IF YOU'RE LIKE EVERY OTHER JURY I HAVE, SOME OF YOU WILL DEVELOP
16 A FAVORITE CHAIR. I THINK IT'S JUST HUMAN NATURE. IF YOU HAVE A FAVORITE
17 CHAIR, THAT'S FINE, BUT I'M GONNA ASK YOU, PLEASE, DON'T STEP ACROSS ONE
18 ANOTHER. WE HAD AN INCIDENT IN LEXINGTON WHERE A LADY BROKE HER
19 ANKLE. WE DON'T WANT THAT TO HAPPEN TO ANY OF YOU. SO IF YOU HAVE A
20 FAVORITE CHAIR JUST KINDA STEP TO THE SIDE. SPACE YOURSELF ACCORDINGLY
21 AND THEN ASK YOUR FELLOW JUROR IF YOU CAN SLIP IN AND GET YOUR
22 FAVORITE CHAIR. OKAY? OTHERWISE, PLEASE, DON'T STEP ACROSS ONE
23 ANOTHER. FILE ALL THE WAY DOWN TO THE END WHEN YOU COME IN. JUST
24 FOLLOW THE BAILIFF'S INSTRUCTIONS AND EVERYTHING SHOULD BE FINE. ALL
25 RIGHT. THE FIRST THING I NEED TO DO IS HAVE YOU SWORN. PLEASE, STAND,

1 RAISE YOUR RIGHT HAND. THE CLERK WILL ADMINISTER YOUR OATH.

2 (THE JURY WAS SWORN AT 11:23 A.M.) THANK YOU. ANY MEMBER OF THE
3 JURY NOT ABLE TO TAKE THAT OATH FOR ANY REASON? IF SO, RAISE YOUR HAND.
4 NO ONE DID RAISE THEIR HAND. ALL RIGHT. OKAY, FOLKS, WE'RE GOING TO GO
5 AHEAD AND START THE TRIAL THIS MORNING. THERE WILL BE SOME DELAY
6 WHILE WE'RE GETTING THINGS SET UP. NOT ENOUGH TO SEND YOU AWAY AND
7 BRING YOU BACK LATER. SO WE'LL JUST GO AHEAD AND HAVE YOU STEP IN THE
8 JURY ROOM IN JUST A MINUTE. DON'T DISCUSS THIS CASE IN ANY WAY. DON'T
9 TALK ABOUT THE PEOPLE INVOLVED IN IT; DON'T TALK ABOUT WHAT THE CASE IS
10 ALLEGED TO BE ABOUT. JUST DON'T DISCUSS THE CASE IN ANY WAY. YOU CAN
11 TALK ABOUT OTHER SUBJECTS, BUT DON'T TALK ABOUT THIS CASE. ALL RIGHT? IF
12 YOU'LL EXIT THROUGH THAT DOOR, PLEASE. (THE FOLLOWING OCCURRED IN THE
13 ABSENCE OF THE JURY.) WE'RE AT EASE. (THERE WAS A BRIEF RECESS.) STATE
14 READY FOR THE JURY?

15 MS. BRISBIN: YES, YOUR HONOR.

16 THE COURT: DEFENSE?

17 MR. ANDERSON: YOUR HONOR, I DO HAVE A MATTER OF LAW IF WE
18 COULD TAKE IT UP QUICKLY.

19 THE COURT: OKAY. WHAT IS IT?

20 MR. ANDERSON: YOUR HONOR, I'VE BEEN INFORMED BY THE PROSECUTOR
21 THAT THE NURSE THAT DREW MY CLIENT'S BLOOD, HE AGREED TO SUBMIT A
22 BLOOD SAMPLE TO TAKE TO SLED FOR D.N.A. ANALYSIS.

23 THE COURT: YES.

24 MR. ANDERSON: THE NURSE THAT ACTUALLY DREW THAT SAMPLE IS NOT
25 GONNA BE HERE TO TESTIFY, AND I WOULD MOVE TO EXCLUDE THE BLOOD

1 BECAUSE OF THE ABSENCE OF THAT CRITICAL COMPONENT IN THE CHAIN OF
2 CUSTODY. I UNDERSTAND THAT THE POLICE OFFICER WAS THERE THE WHOLE
3 TIME THAT THE BLOOD WAS DRAWN, BUT STILL I BELIEVE THAT THEY NEED THE
4 NURSE HERE TO TESTIFY REGARDING EXACTLY HOW IT WAS DONE AND THE
5 DETAILS OF THE DRAWING OF HIS BLOOD, YOUR HONOR.

6 THE COURT: AND THE STATE'S POSITION?

7 MS. BRISBIN: YOUR HONOR, THE STATE'S POSITION IS THAT THE OFFICER
8 WITNESSED THE DRAWING OF THE BLOOD. HE NEVER LEFT THE ROOM. THE
9 BLOOD NEVER LEFT HIS SIGHT. HE WAS HANDED - THE TUBES WERE HANDED
10 DIRECTLY FROM THE NURSE TO THE OFFICER AND HE TOOK 'EM TO SLED. THE
11 REST OF THE CHAIN OF CUSTODY IS INTACT, AND THE STATE'S POSITION IS THAT
12 THERE'S NO REASON TO EXCLUDE THE BLOOD ON THAT BASIS. IT'S NOT AS IF
13 THERE WERE ISSUES CONCERNING HOW THE BLOOD WAS DRAWN BECAUSE THIS
14 WAS FOR D.N.A ANALYSIS; NOT ALCOHOL CONTENT. SO THERE'S NO QUESTION
15 ABOUT WHETHER ALCOHOL SWABS WERE USED FOR EXAMPLE. IT'S JUST A
16 MATTER OF DID THAT BLOOD COME OUT OF THAT HUMAN BEING AND WAS IT SENT
17 DIRECTLY TO SLED, AND THERE'S NO QUESTION ABOUT THAT.

18 THE COURT: ALL RIGHT. THE MOTION'S DENIED. ASSUMING THERE'S A
19 PROPER CHAIN OF CUSTODY ESTABLISHED IN THE RECORD, THE MOTION IN LIMINE
20 IS DENIED.

21 MS. BRISBIN: THANK YOU, YOUR HONOR.

22 THE COURT: BOTH SIDES READY?

23 MR. ANDERSON: YES, SIR.

24 MS. BRISBIN: YES, SIR.

25 THE COURT: BRING THE JURY. (THE FOLLOWING OCCURRED IN THE

1 PRESENCE OF THE JURY.)

2 ALL RIGHT. LADIES AND GENTLEMEN, I'M GOING TO GIVE YOU SOME
3 INSTRUCTIONS THAT YOU HAVE TO FOLLOW THROUGHOUT THE TRIAL, AND THEN
4 WE'LL PROCEED TO START THE TRIAL ITSELF.

5 THE OATH THAT YOU TOOK JUST A FEW MOMENTS AGO IS ONE IN WHICH
6 YOU PROMISED US THAT YOU WILL DECIDE THE CASE BASED ON THE EVIDENCE
7 AND THE LAW.

8 SO YOU NEED TO KNOW WHERE THOSE THINGS ARE GONNA COME FROM.
9 THE EVIDENCE COMES FROM THE SWORN TESTIMONY OF WITNESSES. IT MAY
10 COME ALSO IN THE FORM OF EXHIBITS. AN EXHIBIT MAY BE SOMETHING LIKE A
11 PHOTOGRAPH, A MAP, A CHART, ANYTHING THAT'S TANGIBLE THAT'S MARKED IN
12 THE RECORD OF THE CASE. IF SOMETHING IS AN EXHIBIT IT WILL GO BACK WITH
13 YOU IN THE JURY ROOM WHEN YOU DECIDE THE CASE. THE REASON I'M TELLING
14 YOU THAT IS BECAUSE IT'S NOT UNUSUAL FOR AN ATTORNEY TO HAVE
15 SOMETHING THAT'S AN EXHIBIT THAT'S EVIDENCE AND SHOW IT TO YOU FROM A
16 DISTANCE OR ACTUALLY HAND IT INTO THE JURY BOX AND HAVE YOU CIRCULATE
17 IT AROUND WHILE YOU'RE TRYING TO LOOK AT THAT THING AND THEN FOCUS ON
18 WHAT'S GOING ON UP HERE AS WELL. SO JUST UNDERSTAND THAT ALL THE
19 EXHIBITS WILL BE IN THE JURY ROOM WHEN YOU DECIDE THE CASE.

20 NOW THAT'S NOT TO SAY THAT EVERYTHING THAT WILL BE SHOWN TO
21 YOU WILL BE AN EXHIBIT. SOMETIMES THE LAWYERS DO THINGS FOR
22 DEMONSTRATIVE PURPOSES TO DEMONSTRATE SOMETHING. TYPICALLY THAT
23 MIGHT BE SOMETHING LIKE A BLOWUP OF AN AERIAL PHOTOGRAPH OR
24 SOMETHING TO SHOW LOCATION OF CERTAIN THINGS THAT ARE ALLEGED. SO I
25 DO WANT YOU IF YOU'RE UNABLE TO SEE THINGS TO TRY TO GET OUR ATTENTION

1 SO THAT WE CAN LET YOU SEE THOSE THINGS DURING THE COURSE OF THE TRIAL.
2 ALSO I DON'T KNOW ANY OF THE PEOPLE THAT ARE INVOLVED AS POTENTIAL
3 WITNESSES IN THIS CASE. I HAVE NO IDEA ABOUT WHETHER THEY SPEAK LOUDLY
4 OR THEY SPEAK SOFTLY. IF YOU CANNOT HEAR A WITNESS IF YOU'LL GIVE ME
5 SOME SORT OF SIGNAL, CUP YOUR HAND BEHIND YOUR EAR OR GET THE BAILIFF'S
6 ATTENTION, WE'LL TRY TO GET THE WITNESSES TO SPEAK UP.

7 NOW, FOLKS, AGAIN WITHOUT KNOWING ANYTHING ABOUT THESE PEOPLE
8 I WILL TELL YOU THAT MY EXPERIENCE WITH GETTING WITNESSES TO SPEAK UP
9 SOMETIMES IS GOOD AND SOMETIMES IS NOT SO GOOD, BUT I'LL DO THE BEST I
10 CAN TO HAVE THEM SPEAK SO YOU CAN HEAR. THEY HAVE A GOOD SYSTEM IN
11 THIS COURTROOM. THE ACOUSTICS ARE GOOD, AND IF THE PEOPLE WOULD JUST
12 SPEAK UP, YOU SHOULD BE ABLE TO HEAR THEM WITHOUT DIFFICULTY.

13 NOW WHAT THE LAWYERS SAY IS NOT EVIDENCE. I WANT YOU TO PAY
14 ATTENTION TO THE LAWYERS, BUT WHAT COMES OUT OF THEIR MOUTHS IS NOT
15 EVIDENCE. THERE'S ONE EXCEPTION TO THAT RULE. IF WE COME UPON IT I WILL
16 TELL YOU ABOUT IT. OTHERWISE I WON'T BURDEN YOU WITH IT. SO THE
17 EVIDENCE IS GONNA COME FROM THE EXHIBITS AND THE TESTIMONY. THE LAW
18 COMES FROM ME. IT'S MY JOB TO DECIDE THE LAW IN THE CASE AND TO TELL
19 YOU THE LAW AT THE END OF THE TRIAL. AND YOU WILL PROBABLY SEE DURING
20 THE COURSE OF THE TRIAL, I WILL BE WORKING ON THIS LAP TOP COMPUTER UP
21 HERE. THAT'S WHERE I DO THE PREPARATION FOR THE LAW. SO IF YOU CANNOT
22 GET MY ATTENTION BECAUSE I'M LOOKING DOWN AT THE COMPUTER SCREEN, I
23 PROMISE YOU I'M LISTENING, BUT IF YOU CAN'T GET MY ATTENTION, GET THE
24 BAILIFF'S ATTENTION.

25 NOW, LADIES AND GENTLEMEN, IT'S IMPORTANT THAT YOU REALIZE

1 THERE ARE TWO JUDGES.

2 I'M THE JUDGE OF THE LAW. I TOLD YOU THAT I'LL TELL YOU THE LAW AT
3 THE END OF THE CASE. I RULE ON LEGAL ISSUES; I PRESIDE OVER THE TRIAL.
4 YOU'RE THE OTHER JUDGE.

5 AND IT'S REALLY IMPORTANT THAT YOU UNDERSTAND THAT YOU ARE THE
6 ONLY JUDGE OF THE FACTS. ONLY YOU GET TO DECIDE SUCH THINGS AS TO
7 WHETHER EVIDENCE IS BELIEVABLE OR NOT. ONLY YOU GET TO DECIDE WHAT
8 WEIGHT, IF ANY, EVIDENCE SHOULD HAVE. THAT'S ENTIRELY YOUR
9 PREROGATIVE, AND YOU NEED TO UNDERSTAND THAT WE HAVE DIFFERENT
10 ROLES, AND I WILL NOT INVADE YOUR PROVINCE. TO EXPLAIN THAT TO YOU IN A
11 LITTLE MORE DETAIL, I WANT TO MAKE SURE THAT YOU UNDERSTAND THAT FROM
12 TIME TO TIME ONE OF THESE ATTORNEYS MAY FEEL THAT THE OTHER SIDE IS
13 TRYING TO PUT EVIDENCE BEFORE YOU THAT'S NOT ADMISSIBLE. IF THE
14 ATTORNEY FEELS THAT WAY, THEN THAT ATTORNEY HAS TAKEN THAT OATH JUST
15 LIKE YOU AND I HAVE TAKEN OATHS, AND THEY HAVE AN OBLIGATION TO STAND
16 UP AND RAISE AN OBJECTION AND HAVE ME RULE UPON THAT OBJECTION.

17 NOW I MAY SEND YOU OUT OF THE COURTROOM WHILE I DO THIS, AND IF I
18 DO I PROMISE YOU IT'S BECAUSE I BELIEVE IT WILL GO QUICKER IF WE DO IT THAT
19 WAY. IF I HAVE TO SEND YOU OUT OF THE COURTROOM A LOT, JUST CHALK IT UP
20 TO GOOD EXERCISE AND DON'T WORRY ABOUT WHAT WE'RE DOING OUT HERE. I
21 PROMISE YOU THAT WE WILL NOT BE SITTING AROUND DRINKING COFFEE AND
22 TELLING JOKES. THAT WILL NOT HAPPEN. WE WILL BE WORKING. IF I SUSTAIN AN
23 OBJECTION, THAT IS, IF I DO NOT ALLOW SOMETHING TO COME BEFORE YOU, THEN
24 YOU MUST DISREGARD THAT MATTER, THAT THING TOTALLY BECAUSE IT'S NOT
25 PROPER EVIDENCE. IF I DO OVERRULE AN OBJECTION AND I DO ALLOW IT TO

1 COME BEFORE YOU, I WANT TO MAKE SURE YOU UNDERSTAND THAT I AM NOT
2 PASSING ON THE FACTS OF THE CASE. I HAVE NOT THOUGHT ABOUT WHETHER
3 THAT THING IS BELIEVABLE OR NOT 'CAUSE THAT'S NOT MY JOB. I HAVE NOT
4 THOUGHT ABOUT WHETHER YOU SHOULD GIVE IT ANY WEIGHT BECAUSE THAT'S
5 NOT MY JOB. I JUST DECIDE WHETHER THE THING FITS WITHIN THE RULES FOR
6 YOU TO CONSIDER AND IF I THINK IT DOES, THEN YOU DECIDE WHETHER IT'S
7 BELIEVABLE AND YOU DECIDE WHETHER OR NOT TO GIVE IT ANY WEIGHT.

8 NOW, FOLKS, WHILE YOU PROMISED US YOU WILL DECIDE THE CASE
9 BASED ON THE EVIDENCE AND THE LAW, AND THAT'S WHAT YOU HAVE TO DO, I'M
10 NOT TELLING YOU TO LEAVE YOUR COMMON SENSE AT HOME.

11 WE WANT YOU TO USE YOUR COMMON SENSE DURING THIS TRIAL OR
12 DURING YOUR DELIBERATIONS AND DECISION MAKING PROCESS.

13 IT JUST MAKES GOOD COMMON SENSE THAT YOU KEEP AN OPEN MIND
14 ABOUT THE CASE AND THAT YOU DON'T MAKE UP YOUR MIND UNTIL YOU KNOW
15 ALL THE EVIDENCE AND YOU'VE BEEN TOLD THE LAW. SO WE INSIST ON A RULE
16 THAT'S VERY HARD TO FOLLOW. YOU MUST FOLLOW IT. DO NOT DISCUSS THIS
17 CASE AMONG YOURSELVES UNTIL I TELL YOU TO. DON'T TALK ABOUT THE
18 PEOPLE, THE SUBJECT MATTER, ANYTHING ABOUT THE CASE. WHEN I TELL YOU TO
19 BEGIN YOUR DELIBERATIONS, WE WILL WAIT ON YOU. DON'T DISCUSS THIS CASE
20 WITH ANYBODY ELSE UNTIL THIS CASE IS COMPLETELY OVER. SO FOR EXAMPLE
21 IF YOU HAVE A BREAK AND YOU'RE ALLOWED TO GO AWAY FROM THE
22 COURTHOUSE AND YOU RUN INTO FAMILY MEMBERS, FRIENDS OR SOMEONE, IT'S
23 FINE FOR YOU TO TELL THEM YOU'RE ON A JURY BUT YOU CANNOT TELL THEM
24 THE TYPE OF CASE, WHO'S INVOLVED OR ANYTHING ABOUT THE CASE UNTIL THIS
25 CASE IS DECIDED AND OVER.

1 NOW IF THERE IS ANY MEDIA COVERAGE OF THE TRIAL, GET AWAY FROM
2 IT. DON'T LET YOURSELVES BE EXPOSED TO IT ANYMORE AND THEN REPORT TO
3 ME WHAT YOU SAW, READ OR HEARD THROUGH THE MEDIA. IF ANYBODY
4 ATTEMPTS TO CONTACT YOU AND DISCUSS THE CASE WITH YOU, REPORT THAT TO
5 ME SO I CAN DEAL WITH IT.

6 NOW, LADIES AND GENTLEMEN, THE LAST THING I'M GOING TO TELL YOU
7 IS THANK YOU. IT'S VERY EASY TO FIND YOURSELF IN A DISPUTE LIKE THIS. I
8 KNOW THAT THIS IS THE LAST COMPELLED PUBLIC SERVICE SINCE THE MILITARY
9 DRAFT HAS BEEN ABOLISHED. I ALSO KNOW THAT YOU 14 PEOPLE DID NOT TRY TO
10 DODGE YOUR DUTY, AND IF YOU'RE EVER IN A DISPUTE LIKE THIS YOU WILL BE
11 VERY GRATEFUL THAT 14 PEOPLE LIKE YOU TOOK TIME AWAY FROM THEIR DAY,
12 THEIR FAMILIES, THEIR OBLIGATIONS, ALL THE THINGS THAT THEY HAVE TO DO SO
13 THAT THIS MATTER CAN BE DECIDED AND WE CAN GO ON. SO THANK YOU VERY
14 MUCH. MY PROMISE TO YOU IS THAT IF YOU'RE EVER WAITING ON US, WE WILL BE
15 WORKING. TO HONOR MY COMMITMENT TO YOU, IT'S TIME FOR ME TO BE QUIET.
16 FIRST THING YOU WILL HEAR IS THE OPENING STATEMENTS OF THE ATTORNEYS.
17 MS. BRISBIN, ARE YOU GOING TO PRESENT THE ONE FOR THE STATE?

18 MS. BRISBIN: YES, YOUR HONOR.

19 THE COURT: YOU'RE RECOGNIZED FOR YOUR OPENING STATEMENT.

20 MS. BRISBIN: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

21 THE COURT: YES, MA'AM.

22 MS. BRISBIN: MR. ANDERSON. LADIES AND GENTLEMEN OF THE JURY,
23 EARNEST PRESLEY IS CHARGED WITH SEXUALLY ASSAULTING A 15-YEAR-OLD
24 GIRL P. PRES - H. EXCUSE ME IF I CALL HER P. PRESLEY.
25 THATS ELVIS PRESLEY'S WIFE, AND I APOLOGIZE IF THE NAMES GET MIXED UP

1 TOGETHER. I'LL PROBABLY DO IT AGAIN BEFORE IT'S OVER.

2 P. WAS 15 YEARS OLD AT THE TIME.

3 SHE WAS AND IS A LEARNING DISABLED YOUNG LADY WHO WAS VERY
4 VULNERABLE AND AN EASY TARGET.

5 MR. PRESLEY IS THE HUSBAND OF P. GODMOTHER.

6 AND ON JULY 12TH OF 2001 P. AND HER SISTER STEPHANIE WERE
7 SPENDING THE NIGHT AT THEIR GODMOTHER'S HOUSE.

8 THEIR GODMOTHER WENT TO WORK THE NIGHTSHIFT AND LEFT P.
9 AND STEPHANIE HOME WITH MR. PRESLEY AND HIS TWO CHILDREN WHO WERE
10 ABOUT 9 AND 12 AT THE TIME.

11 MR. PRESLEY TOLD P. SHE WAS TO SLEEP IN THE LIVING
12 ROOM ON THE COUCH, AND ALL OF THE OTHERS WERE TO SLEEP IN THE
13 BEDROOMS.

14 SOMETIME DURING THE NIGHT MR. PRESLEY CAME INTO THE LIVING ROOM
15 WITH NO CLOTHES ON, HELD HIS HAND OVER P. MOUTH TO KEEP HER
16 FROM SCREAMING, PULLED HER CLOTHES OFF AND SEXUALLY ASSAULTED HER.
17 HE TOLD HER SHE BETTER NOT TELL ANYBODY. SHE TRIED TO WAKE HER SISTER
18 UP, BUT WAS UNABLE TO. THE NEXT MORNING SHE WAS STILL CRYING, SHE DID
19 TELL HER SISTER AND HER COUSIN AND THEY CALLED - THERE WAS NO PHONE IN
20 THE HOUSE - WELL, THERE WAS A PHONE BUT IT WASN'T WORKING. THE
21 PRESLEY HOUSE. HER SISTER WENT NEXT DOOR AND CALLED THEIR MOTHER,
22 AND WHEN MR. PRESLEY'S WIFE GOT HOME FROM WORK AND FROM GOING TO
23 TAKE A CHILD TO THE DOCTOR AFTER THAT, P. MR. PRESLEY'S WIFE
24 WHAT HAPPENED AS WELL. MR. PRESLEY'S WIFE THEN CALLED P.
25 MOTHER AS WELL AND SHORTLY AFTER THAT P. MOTHER CAME AND

1 CALLED THE POLICE AND TOLD - AND ALSO TOOK P. TO THE
2 EMERGENCY ROOM FOR A SEXUAL ASSAULT EXAMINATION.

3 YOU WILL HEAR FROM THE DOCTOR WHO EXAMINED HER AT THE
4 HOSPITAL;

5 YOU WILL HEAR FROM SLED AGENTS WHO ANALYZED SOME OF THE
6 EVIDENCE.

7 AND YOU WILL HEAR FROM P. HERSELF. SHE'S 17 NOW. THIS
8 HAPPENED ABOUT 17 MONTHS AGO, BUT SHE HASN'T FORGOTTEN AND WILL
9 NEVER FORGET WHAT EARNEST PRESLEY DID TO HER WHEN SHE WAS 15 YEARS
10 OLD. DESPITE HER LEARNING DISABILITY - SHE CAN BARELY READ; SHE CAN'T
11 TELL TIME. SHE'S GONNA DO SOMETHING THAT WOULD BE EXTREMELY
12 DIFFICULT FOR ANY ADULT. SHE'S GONNA GET UP ON THAT STAND IN FRONT OF
13 ALL OF YOU AND ALL THE PEOPLE IN THIS COURTROOM AND IN FRONT OF THE
14 DEFENDANT AND TELL YOU ALL THE DISGUSTING DETAILS OF WHAT THIS MAN
15 DID TO HER. I ASK ONLY THAT YOU LISTEN CLOSELY TO ALL OF THE TESTIMONY.
16 YOU ARE THE SOLE WITNESS - EXCUSE ME - THE SOLE JUDGE OF THE
17 CREDIBILITY OF THE WITNESSES. I ASK THAT YOU LISTEN CLOSELY TO EACH OF
18 THE WITNESSES AND TO ALL OF THE EVIDENCE AND ASK YOURSELF WHO HAS A
19 MOTIVE TO LIE IN THIS CASE. THANK YOU.

20 THE COURT: THANK YOU. LADIES AND GENTLEMEN, I NEED TO ASK YOU
21 TO STEP OUT OF THE JURY ROOM - INTO THE JURY ROOM JUST A MOMENT.
22 PLEASE.. DON'T DISCUSS THE CASE. (THE FOLLOWING OCCURRED IN THE
23 ABSENCE OF THE JURY.) MR. PRESLEY, GIVE ME YOUR ATTENTION, PLEASE. I
24 REALIZE THAT WHEN SOMEONE IS CHARGED WITH THIS OFFENSE THAT IT'S
25 ALWAYS A SITUATION WHERE IT'S A VERY EMOTIONAL MATTER, BUT I CAN'T

1 HAVE YOU OVER THERE SHAKING YOUR HEAD AND MAKING ALL THOSE FACIAL
2 EXPRESSIONS YOU'RE MAKING. YOU GOTTA STOP THAT. IF YOU DON'T STOP THAT
3 YOU'RE SUBJECT TO CONTEMPT POWERS. YOU CAN GET 6 MONTHS IN PRISON
4 WITHOUT A JURY TRIAL AND A YEAR IN PRISON WITH A JURY TRIAL, AND I GET TO
5 DECIDE WHETHER YOU HAVE A JURY TRIAL OR NOT, AND YOU WILL BASE THAT
6 FOR EACH INCIDENT THAT MAY BE CONTEMPTUOUS BEHAVIOR. SO, PLEASE,
7 DON'T SHAKE YOUR HEAD AND, PLEASE, DON'T BE OVER THERE MAKING FACES
8 LIKE YOU WERE MAKING WHILE AGO. BRING THE JURY BACK IN.

9 MR. ANDERSON: JUDGE, I'M SORRY ABOUT IT.

10 THE COURT: WELL, HE WAS DOING IT VERY QUIETLY, BUT HE WAS DOING
11 IT A LOT. BRING THE JURY IN. (THE FOLLOWING OCCURRED IN THE PRESENCE OF
12 THE JURY.) ALL RIGHT. MR. ANDERSON, YOU'RE RECOGNIZED FOR YOUR OPENING
13 STATEMENT.

14 MR. ANDERSON: THANK YOU, YOUR HONOR. MAY IT PLEASE THE COURT?

15 THE COURT: YES, SIR.

16 MR. ANDERSON: WE GOT SOME PROBLEMS WITH THIS CASE. NOW THIS
17 ISN'T A FUN CASE. SHE SEEMS LIKE A NICE GIRL. SHE'S ALREADY CRYING RIGHT
18 NOW. I DON'T LIKE CRYIN' GIRLS AND I DON'T LIKE CRYING WOMEN. IT MAKES
19 ME FEEL BAD. IT MAKES EVERYBODY FEEL BAD. THIS IS NOT A FUN DAY.
20 NOBODY'S GONNA HAVE FUN TODAY. BUT EARNEST IS SITTING HERE INNOCENT
21 AND HE REMAINS INNOCENT. HE'S PRESUMED INNOCENT UNLESS THEY CAN
22 PROVE HIM GUILTY BEYOND A REASONABLE DOUBT. THIS CONCEPT DOESN'T
23 MEAN THAT WHEN ALL THE EVIDENCE IS IN AND YOU GO BACK TO THE JURY
24 ROOM TO DELIBERATE THAT YOU DECIDE WHO'S TELLIN' THE TRUTH. THAT'S THE
25 EASY WAY. 'CAUSE EARNEST IS GONNA TESTIFY THAT HE DIDN'T DO IT. AND

1 SHE'S OBVIOUSLY GONNA TESTIFY THAT HE DID. IT'S NOT THAT EASY. WHAT YOU
2 HAVE TO DO IS YOU HAVE TO WEIGH THE EVIDENCE; WEIGH THE BELIEVABILITY
3 OR THE CREDIBILITY OF THE WITNESSES; LOOK AT THE EVIDENCE THAT'S THERE,
4 BUT ALSO LOOK AT THE EVIDENCE THAT ISN'T THERE, AND YOU DON'T SAY WHO
5 DO WE BELIEVE. THAT'S PART OF YOUR JOB. BUT WHAT YOU DO IS YOU SAY DID
6 THEY CARRY THEIR BURDEN OF PROOF. NOT DO WE BELIEVE THE DEFENDANT,
7 BUT DID THE STATE CARRY THEIR BURDEN OF PROOF. AND THAT BURDEN OF
8 PROOF IS A GREAT BURDEN OF PROOF. THEY MUST PROVE HIM GUILTY BEYOND A
9 REASONABLE DOUBT. BEYOND A REASONABLE DOUBT THE JUDGE IS GONNA TELL
10 YOU AT THE END OF THE TRIAL IS THE KINDA DOUBT THAT WOULD CAUSE A
11 REASONABLE PERSON TO HESITATE TO ACT.

12 NOW THE LAWYERS IN THIS COURTROOM, THE JUDGE, THE LAW CLERK,
13 THE COURT REPORTER, THE CLERK'S OFFICE, WE USE THE TWO WORDS
14 REASONABLE DOUBT HUNDREDS OF TIMES IN THIS COURTROOM.

15 WE USE THE WORDS AND WE FEEL LIKE WE KNOW WHAT THEY MEAN, BUT
16 NONE OF US CAN EXPRESS - DEFINE WHAT THOSE WORDS MEAN. BUT PLEASE
17 JUST REMEMBER THAT THE BURDEN OF PROOF BEYOND A REASONABLE DOUBT IS
18 A GREAT BURDEN OF PROOF AND THERE'S TWO KINDS A CASES THAT GET TRIED
19 IN THIS COURTROOM: THOSE ARE CIVIL CASES AND CRIMINAL CASES. AND IN A
20 CIVIL CASE THE BURDEN OF PROOF IS BY A PREPONDERANCE OF THE EVIDENCE
21 WHICH MEANS THAT THE PREVAILING PARTY JUST NEEDS TO TIP THE SCALES. 51
22 PERCENT; 49 PERCENT. PREPONDERANCE JUST MEANS MORE THAN THE OTHER.
23 AND IN A CRIMINAL CASE WE DON'T HAVE THAT BURDEN. WE'VE GOT THE GREAT
24 BURDEN: BEYOND A REASONABLE DOUBT. THE KINDA DOUBT THAT'LL CAUSE A
25 REASONABLE PERSON TO HESITATE TO ACT. ALL THAT STUFF. BUT WHAT I'M

1 GETTING AT IS IT'S NOT ABOUT WHEN EARNEST TESTIFIES DO YOU BELIEVE HIM.
2 IT'S DID THEY CARRY THE BURDEN OF PROOF

3 NOW YOU'RE GONNA HEAR TESTIMONY FROM A LOTTA WITNESSES TODAY,
4 AND I DO NEED TO INTRODUCE YOU -- THIS IS EARNEST OBVIOUSLY.

5 YOU'RE GONNA HAVE TESTIMONY FROM THE POLICE OFFICER WHO'S IN
6 CHARGE OF THE INVESTIGATION OF THIS CASE. HE'S NOT HERE YET, BUT HE'LL BE
7 HERE SHORTLY.

8 YOU'RE GONNA HAVE TESTIMONY FROM A DOCTOR WHO TOOK SOME
9 EVIDENCE; A NURSE WHO TOOK SOME EVIDENCE.

10 THEN SOME PEOPLE AT SLED WHO DID SOME SCIENTIFIC WORK WITH THE
11 PIECES OF EVIDENCE, AND OBVIOUSLY THERE'S STUFF THAT I DON'T LIKE THAT
12 YOU'RE GONNA BE TOLD, BUT OBVIOUSLY THERE'S GONNA BE SOME THINGS THAT
13 I'M GONNA BRING UP THAT MAYBE THEY DIDN'T DO RIGHT; MAYBE THEY LEFT
14 SOME THINGS OUT.

15 BUT WHEN IT ALL COMES TO THE END, IT'S NOT ABOUT WHAT YOU THINK
16 HAPPENED. IT'S ABOUT DID THEY CARRY THEIR BURDEN OF PROOF. AND AT THE
17 END OF THIS CASE THE JUDGE IS GONNA TELL YOU THE LAW. AND THE LAW IS
18 WHAT HE SAYS; NOT WHAT ANY OF US MIGHT SAY. IT'S WHAT HE SAYS. AND THE
19 LAW IS PRETTY SIMPLE IN THIS CASE REALLY. THE LAW IS IF THEY CARRY THEIR
20 BURDEN OF PROOF THAT HE HAD SEX WITH THIS YOUNG LADY -- YOU KNOW,
21 THOSE ARE HEINOUS ACCUSATIONS. THERE'S NOBODY THAT'S FOR THAT. IT'S
22 NOT ABOUT WHETHER YOU'RE LIBERAL OR CONSERVATIVE. NOBODY IS FOR
23 THAT. IF IT HAPPENED, IT'S HORRIBLE. OKAY? IF IT HAPPENED, IT'S HORRIBLE.
24 BUT IF IT DIDN'T HAPPEN, IT'S HORRIBLE FOR EARNEST BECAUSE HE'S SITTTN' IN
25 HERE PRESUMED INNOCENT. AND HE DENIES THAT HE DID IT. SO I'D JUST ASK

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 YOU TO KEEP AN OPEN MIND, AND AT THE END OF THE CASE TAKE ALL THE
2 EVIDENCE AND THE LACK OF EVIDENCE. TAKE THE CONCEPT OF BURDEN OF
3 PROOF AND THE CONCEPT OF THE PRESUMPTION OF INNOCENCE, AND APPLY IT TO
4 THIS CASE AND COME BACK WITH A VERDICT NOT ABOUT WHAT YOU THINK
5 MIGHTA HAPPENED, BUT A VERDICT THAT SPEAKS THE TRUTH ABOUT THE BURDEN
6 OF PROOF AND PRESUMPTION OF INNOCENCE. THANK YOU.

7 THE COURT: THANK YOU, MR. ANDERSON. THE STATE WILL CALL ITS FIRST
8 WITNESS, PLEASE.

9 MS. BRISBIN: THE STATE CALLS P. H.

10 P. BEING DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. BRISBIN

14 Q P. CAN YOU STATE YOUR NAME, PLEASE.

15 A MY NAME IS P. H.

16 Q SPELL H.

17 A H.

18 Q P. HOW OLD ARE YOU NOW?

19 A I'M 17 YEARS OLD.

20 Q WHAT YEAR IS YOUR DATE OF BIRTH?

21 A SEPTEMBER 20TH 1985.

22 Q ARE YOU IN SPECIAL ED IN SCHOOL?

23 A YES, MA'AM.

24 Q OKAY. WHY IS THAT?

25 A BECAUSE I HAVE A LEARNIN' DISORDER.

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 Q CAN YOU READ WELL?

2 A NO, MA'AM.

3 Q CAN YOU TELL TIME?

4 A NO, MA'AM.

5 Q DO YOU KNOW EARNEST PRESLEY?

6 A YES.

7 Q HOW DO YOU KNOW HIM?

8 A HE'S RELATED TO MY DADDY. ON MY DADDY'S SIDE OF THE FAMILY.

9 (UNINTELLIGIBLE) (CRYING.)

10 Q LET'S TAKE A BREAK FOR JUST A MINUTE.

11 THE COURT: LADIES AND GENTLEMEN OF THE JURY, STEP INTO THE JURY
12 ROOM. PLEASE, DON'T DISCUSS THE CASE. (THE FOLLOWING OCCURRED IN THE
13 ABSENCE OF THE JURY.) YOU MAY STEP DOWN BUT YOU CANNOT DISCUSS YOUR
14 TESTIMONY WITH ANYONE. WE'RE AT EASE. (THERE WAS A BRIEF RECESS.) (THE
15 FOLLOWING OCCURRED IN THE PRESENCE OF THE JURY.) YOU MAY CONTINUE.

16 MS. BRISBIN: THANK YOU, YOUR HONOR.

17 Q P. YOU SAID THAT YOU THINK MR. PRESLEY IS YOUR FATHER'S
18 COUSIN.

19 A UH-HUH.

20 Q DO YOU ALSO KNOW HIM SOMEHOW ANOTHER WAY?

21 A YEAH. MY GODMAMMA THAT'S HER HUSBAND.

22 Q OKAY. AND DID YOU SEE HIM ON JULY 12, 2001?

23 A YES, MA'AM.

24 Q OKAY. WHERE WERE YOU THAT DAY?

25 A I WAS OUTSIDE WITH THE REST OF THE KIDS. WE WERE OUTSIDE PLAYIN'

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 ONE AFTERNOON.

2 Q AT WHOSE HOUSE?

3 A AT TRISHAN (PHONETIC) MY GODMOTHER'S HOUSE. WE WERE OUTSIDE
4 PLAYIN' THE WHOLE DAY UNTIL NIGHTTIME. WE WENT OUT - WE HAD TO GO
5 INSIDE EARLY.

6 Q OKAY. NOW WHO WAS THERE PLAYING WITH YOU?

7 A IT WAS MY SISTER AND THE OTHER KIDS.

8 Q WHOSE KIDS?

9 A MY GODMOTHER'S KIDS.

10 Q OKAY.

11 A AND WE WERE OUTSIDE JUMPIN' ON A TRAMPOLINE AND STUFF LIKE THAT.
12 JUST PLAYIN' AROUND HAVIN' FUN. SO WE STAYED OUT THERE TILL NIGHT. SO
13 WE HAD--

14 Q HOW OLD - EXCUSE ME A MINUTE - HOW OLD WERE HIS KIDS?

15 A WELL, I COULDN'T SAY. AROUND 8 - SOMETHIN' LIKE THAT, 8. BUT--

16 Q THEY WERE YOUNGER THAN YOU?

17 A THEY WERE YOUNGER THAN ME.

18 Q OKAY. AND WAS ANYBODY ELSE THERE?

19 A NO.

20 Q OKAY. WHERE WAS YOUR GODMOTHER?

21 A MY GODMOTHER WENT TO WORK. SHE TOLD ME TO SIT AT THE HOUSE
22 WITH THE REST OF THE KIDS. THE YOUNGER TWO. 'CAUSE THAT'S WHAT I
23 USUALLY DO WHEN I GO OVER THERE, WATCH HER KIDS FOR HER TILL SHE GET
24 OFF A WORK, BUT HER HUSBAND WAS THERE AND I DIDN'T KNOW HE WAS GONNA
25 BE THERE OR NOT 'CAUSE I USUALLY BE THERE WITH THE KIDS.

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q OKAY.
- 2 A JUST WATCHIN' 'EM.
- 3 Q SO IT WAS MR. PRESLEY AND YOU AND—
- 4 A HIS OTHER TWO KIDS.
- 5 Q HIS OTHER TWO KIDS AND YOUR SISTER WAS THERE?
- 6 A YES, MA'AM.
- 7 Q WERE THERE ANY OTHER ADULTS THERE?
- 8 A NO, MA'AM.
- 9 Q OKAY. AND DID YOU SPEND THE NIGHT THERE?
- 10 A YES, MA'AM.
- 11 Q OKAY. WHERE DID YOU SLEEP?
- 12 A ON THE COUCH.
- 13 Q WHERE IS THE COUCH? WHAT ROOM?
- 14 A IT WAS IN THE LIVIN' ROOM.
- 15 Q OKAY. AND WHERE DID THE OTHER CHILDREN SLEEP?
- 16 A IN THE ROOM. HE TOLD — HE TOLD HIM THAT HE WAS ALLOWIN' ME TO
- 17 SLEEP ON THE COUCH AND ALL THE REST OF 'EM WERE GOIN' TO BED TO SLEEP.
- 18 Q OKAY. DID THEY DO THAT?
- 19 A YEAH.
- 20 Q OKAY. DID HIS WIFE COME HOME AT ALL THAT NIGHT?
- 21 A NO.
- 22 Q SO DID YOU SLEEP ON THE COUCH IN THE LIVING ROOM?
- 23 A YES, MA'AM.
- 24 Q OKAY. AND WHAT HAPPENED AFTER YOU WENT TO SLEEP?
- 25 A WELL, WHEN I WENT TO SLEEP AND I WAS LAYIN' DOWN, HE CAME OVER

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 THERE (UNINTELLIGIBLE) (CRYING) HE SAID DON'T TELL NOBODY AND HE TOOK
2 OFF MY BRITCHES AND I WAS TRYIN' (UNINTELLIGIBLE) SLEEP—

3 Q WAIT A MINUTE. I'M SORRY. WE CAN'T HEAR YOU, HONEY.

4 THE COURT REPORTER: I CAN'T UNDERSTAND HER.

5 A MY SISTER—

6 Q THIS LADY HAS TO TYPE DOWN EVERYTHING YOU SAY SO TRY TO TAKE IT
7 SLOW. TAKE A DEEP BREATH.

8 A MY SISTER AND THEM WERE ALL ASLEEP.

9 Q YOUR SISTER WHAT?

10 A MY SISTER AND THEM WERE ALL ASLEEP. AND I WAS ON THE COUCH
11 HOLLERIN' AND SCREAMING FOR SOMEBODY TO HELP ME (UNINTELLIGIBLE) AND
12 IT HURTED SO BAD.

13 Q OKAY. WHAT HURT SO BAD?

14 A WHEN HE STUCK HIS PRIVATE PART IN ME.

15 Q OKAY. HOLD ON A MINUTE. LET ME SHOW YOU A DIAGRAM OF A GIRL'S
16 BODY. AND I JUST WANT YOU TO POINT OUT WHERE HE STUCK HIS PRIVATE IN
17 YOU. WOULD YOU COME DOWN AND DO THAT.

18 A RIGHT THERE.

19 Q OKAY. AND IT HURT?

20 A YES, MA'AM.

21 Q OKAY. WAS IT INSIDE YOUR PRIVATE PART?

22 A YES, MA'AM.

23 Q DID YOU HAVE ANY BLEEDING AFTERWARD?

24 A YES, MA'AM. I WAS HURTIN' SO BAD. I TRIED TO LAY DOWN AND GET ME
25 SOME SLEEP BUT I STAYED WITH MY EYES OPEN KEPT 'EM OPEN 'CAUSE I

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 COULDN'T SLEEP THAT WHOLE NIGHT. IT WAS KINDA LIKE MORNIN' TIME I WENT
2 IN THE ROOM AND WOKE MY SISTER UP. I SAYS S. WAKE UP
3 PLEASE. MY SISTER SHE WENT RIGHT BACK TO SLEEP. IT WAS AT NIGHT AND I
4 TOLD HER AND SHE WENT RIGHT BACK TO SLEEP. SO I WAITED IN THE MORNIN' TO
5 TELL HER.

6 Q YOU TRIED TO TELL HER THAT NIGHT.

7 A YEAH. I TRIED TO TELL HER THAT NIGHT WHEN IT ALL OCCURRED BUT SHE
8 FELL BACK ASLEEP.

9 Q OKAY. AND LET ME ASK YOU, GO BACK A LITTLE BIT. DID MR. PRESLEY
10 SAY ANYTHING TO YOU?

11 A HE TOLD ME NOT TO TELL NOBODY.

12 Q BUT YOU DID TELL OUR SISTER.

13 A YES, MA'AM.

14 Q DID YOU TELL ANYONE ELSE?

15 A I TOLD HIS WIFE SOON AS SHE CAME THROUGH THE DOOR.

16 Q THAT WAS THE NEXT MORNING?

17 A YES, MA'AM.

18 Q AND WHAT DID SHE DO?

19 A SHE SAID SHE WAS GONNA CALL—

20 MR. ANDERSON: OBJECTION, YOUR HONOR.

21 THE COURT: HOLD ON JUST A MOMENT. YOU WISH TO BE HEARD?

22 MS. BRISBIN: I DON'T KNOW WHAT THE OBJECTION IS.

23 THE COURT: WELL, SHE -- HER WORDS WERE SHE SAID.

24 MS. BRISBIN: OKAY.

25 Q DON'T SAY WHAT SHE SAID.

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A OKAY.
- 2 MS. BRISBIN: I DIDN'T HEAR THAT. I'M SORRY.
- 3 THE COURT: OKAY.
- 4 Q WHAT DID SHE DO?
- 5 A WELL, MY PARENT WAS CALLED.
- 6 Q OKAY. YOUR MOTHER WAS CALLED?
- 7 A (NODDED YES.)
- 8 Q AND DID ANYBODY ELSE CALL YOUR MOTHER?
- 9 A UH-UH.
- 10 Q YOU DON'T REMEMBER ANYBODY ELSE CALLING YOUR MOTHER?
- 11 A (NODDED NO.)
- 12 Q OKAY. AND THEN WHAT HAPPENED?
- 13 A THEN THE POLICE CAME AND THEY ASKED ME A LOTTA QUESTIONS. I
- 14 GAVE 'EM ALL THE QUESTIONS THEY TOLD ME TO TELL 'EM. AND WHEN I DID
- 15 THAT THEY TOOK ME TO THE HOSPITAL AND RAN TESTS ON ME.
- 16 Q ALL RIGHT. HOLD ON JUST A MINUTE. WAS THERE ANYBODY ELSE AT THE
- 17 PRESLEY HOUSE THAT NIGHT AT ALL?
- 18 A NO, MA'AM.
- 19 Q JUST MR. PRESLEY AND--
- 20 A ONLY MR. PRESLEY--
- 21 Q --THE KIDS.
- 22 A JUST THE KIDS.
- 23 Q NO OTHER ADULTS.
- 24 A NO.
- 25 Q WERE THERE ANY OTHER ADULTS THERE THAT DAY?

P. | H. | - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A WELL, IN THE AFTERNOON EVERYBODY WAS AT HIS MOTHER'S, HIS
2 MOTHER'S HOUSE TRISHAN'S MOTHER'S HOUSE.
- 3 Q OKAY.
- 4 A AND THEY WERE DRINK—
- 5 Q BUT THERE WAS NOBODY ELSE AT THE PRESLEY HOUSE.
- 6 A NO.
- 7 Q OKAY. STOP THERE. OKAY. WHAT WAS MR. PRESLEY WEARING WHEN HE
8 CAME IN THE LIVING ROOM THAT NIGHT?
- 9 A NOTHIN'.
- 10 Q HE WAS WEARING NOTHING. WHAT WERE YOU WEARING?
- 11 A I HAD ON SOME SLEEPER PANTS AND A LONG SHIRT.
- 12 Q OKAY. AND A SHIRT?
- 13 A UH-HUH.
- 14 Q OKAY. AND WHAT HAPPENED TO YOUR CLOTHES?
- 15 A THEY GOT PULLED OFF ME.
- 16 Q BY WHO?
- 17 A EARNEST.
- 18 Q OKAY. HAVE YOU EVER HAD SEX WITH ANYONE ELSE?
- 19 A NO, MA'AM.
- 20 Q WAS IT TIME FOR YOUR PERIOD?
- 21 A NO, 'CAUSE I JUST HAD MY PERIOD.
- 22 Q OKAY. SO WHEN DID THE BLEEDING START?
- 23 A IT STARTED RIGHT AFTER THE ASSAULT HAPPENED.
- 24 Q OKAY. WHEN - A FEW WEEKS LATER DID YOU HAVE TO GO IN THE
25 HOSPITAL?

P. H. - DIRECT EXAMINATION BY MS. BRISBIN

1 A YES, MA'AM.

2 Q OKAY. DO YOU REMEMBER THE NAME OF THE HOSPITAL?

3 A AIKEN REGIONAL.

4 Q OKAY. WAS IT THE PSYCHIATRIC PART?

5 A UH-HUH. AURORA.

6 Q AURORA. OKAY. WHY DID YOU HAVE TO GO IN THE HOSPITAL?

7 A BECAUSE I TOOK A OVERDOSE 'CAUSE I COULDN'T TAKE IT. THE
8 PRESSURE. AND I TRIED TO HURT MYSELF.

9 Q WHAT DID YOU TAKE AN OVERDOSE OF?

10 A I CAN'T REMEMBER.

11 Q SOME KINDA PILLS?

12 A YEAH, SOME KINDA PILLS.

13 Q OKAY. HOW LONG DID YOU STAY AT AURORA?

14 A I STAYED FOR ABOUT A WEEK.

15 Q WAS MR. PRESLEY NICE TO YOU BEFORE THIS HAPPENED?

16 A YEAH. IT WASN'T NOTHIN' LIKE THAT. I THOUGHT GOOD OF MY COUSIN
17 YOU KNOW, AND I THOUGHT THAT HE WAS A, YOU KNOW, THE TYPE OF PERSON I
18 COULD GET ALONG WITH, NOT TRY TO HURT ME OR DO ANYTHING LIKE THAT.

19 Q OKAY. WERE YOU ANGRY WITH HIM BEFORE THIS HAPPENED?

20 A NO.

21 Q FOR ANYTHING?

22 A (NODDED NO.)

23 Q DO YOU SEE EARNEST PRESLEY IN THE COURTROOM TODAY?

24 A YES.

25 Q WOULD YOU POINT HIM OUT FOR THE JURY.

P. | H. | - CROSS-EXAMINATION BY MR. ANDERSON

1 A RIGHT THERE.

2 MS. BRISBIN: LET THE RECORD REFLECT THAT SHE'S POINTING TO THE
3 DEFENDANT.

4 THE COURT: SO NOTED.

5 Q NO FURTHER QUESTIONS. PLEASE ANSWER ANY MR. ANDERSON HAS,

6 P. |

7 THE COURT: Y'ALL WANNA STAY OR GO? MR. ANDERSON.

8 MR. ANDERSON: THANK YOU, YOUR HONOR.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON

11 Q P. | YOU REMEMBER ME? I INTRODUCED MYSELF EARLIER—

12 A YES, SIR.

13 Q YOU SAID THAT YOUR SISTER IS JUST A LITTLE YOUNGER THAN YOU. IS
14 THAT RIGHT?

15 A UH-HUH.

16 Q AND THEN EARNEST'S DAUGHTER AND SON WERE THERE.

17 A UH-HUH.

18 Q AND THE DAUGHTER'S ABOUT THE SAME AGE AS YOUR SISTER. ROUGHLY.

19 A YES, SIR.

20 Q AND THEN THE SON IS A LITTLE BIT YOUNGER.

21 A YES, SIR.

22 Q OKAY. SO HE WAS ABOUT 10, 11 AND SHE'S ABOUT 12 OR 13? SOMETHIN'
23 LIKE THAT?

24 A UH-HUH.

25 Q OKAY. AND YOU WERE ACTUALLY BABYSITTING THE KIDS OFTEN? YOU

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

1 DID THAT?

2 A YES, SIR.

3 Q HOW FAR IS EARNEST AND HIS WIFE'S BEDROOM FROM THE LIVIN' ROOM?

4 A IT'S NOT THAT FAR. IT'S CLOSER TO THE KITCHEN.

5 Q HOW MANY ROOMS ARE THERE IN THE HOUSE?

6 A 3.

7 Q WHAT ARE THOSE ROOMS?

8 A THE ROOMS -- LET'S SEE. THE TWO KIDS' ROOM, THE DEN ROOM IS IN THE
9 BACK AND THE GIRLS ROOM IS CLOSER TO THE FRONT WHERE THE LIVIN' ROOM
10 IS.

11 THE COURT: SPEAK UP A LITTLE BIT, PLEASE.

12 A THE ROOM IS CLOSER TO THE FRONT.

13 THE COURT: OKAY.

14 Q WELL, YOU SAID THERE WERE 3 ROOMS IN THE HOUSE. THAT'S MORE
15 THAN 3, ISN'T IT?

16 A JUST 3 ROOMS.

17 Q WELL, YOU GOT -- HOW MANY BEDROOMS?

18 A THE BEDROOMS? 3.

19 Q 3 BEDROOMS. OKAY. SO THE GIRL HAD A ROOM; THE BOY HAD A ROOM
20 AND EARNEST HAD A ROOM.

21 A UH-HUH.

22 Q OKAY. THEN THERE'S THE LIVIN' ROOM.

23 A THAT'S WHAT I SAID THE LIVIN' ROOM.

24 Q OKAY. AND WAS THAT A BIG LIVIN' ROOM OR A SMALL LIVIN' ROOM?

25 A SMALL.

P. | H. | - CROSS-EXAMINATION BY MR. ANDERSON

1 Q OKAY. AND ARE ALL 3 BEDROOMS RIGHT OFF OF THAT LIVIN' ROOM?

2 A NO.

3 Q ALL RIGHT. ARE ANY OF 'EM OFF THAT LIVIN' ROOM?

4 A UH-UH.

5 THE COURT: TRY TO SAY YES OR NO, PLEASE, INSTEAD OF UH-HUH AND UH-

6 UH.

7 Q HOW DO YOU GET TO THE KIDS' ROOMS?

8 A YOU WALK TO THE BACK.

9 Q OKAY. HOW DO YOU GET TO THE BACK? IS THERE A HALLWAY?

10 A YES, SIR.

11 Q OKAY. ABOUT HOW MANY STEPS IS IT FROM THE LIVIN' ROOM TO THE
12 KIDS' BEDROOM?

13 A ABOUT 5 OR 3 STEPS.

14 Q ABOUT HOW MANY?

15 A ABOUT 5 OR 3 STEPS.

16 Q OKAY. NOW YOU - WE HEARD THAT YOU MIGHT NOT BE ABLE TO TELL
17 TIME. IS THAT TRUE?

18 A YES, SIR.

19 Q SO YOU CAN'T TELL TIME. YOU CAN'T TELL US WHAT TIME IT IS RIGHT
20 NOW.

21 A I DON'T KNOW WHAT TIME IT IS. I CAN'T TELL TIME PERIOD.

22 Q YOU SEE THAT CLOCK BACK THERE. YOU CAN'T TELL US WHAT THAT
23 CLOCK SAYS.

24 A I DON'T KNOW WHAT TIME IT IS.

25 Q CAN YOU SEE THE CLOCK?

P. | H. | - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A I CAN SEE IT BUT I DON'T KNOW WHAT TIME IT IS.
- 2 Q OKAY. DO YOU KNOW WHETHER IT'S DAYTIME OR NIGHTTIME?
- 3 A YES, SIR.
- 4 Q WHAT IS IT?
- 5 A DAYTIME.
- 6 Q OKAY. COULD THIS BE CALLED MAYBE LUNCHTIME?
- 7 A PROBABLY.
- 8 Q OKAY. SO HOW DO YOU KEEP TRACK OF GENERAL PERIODS OF TIME WHEN
- 9 YOU'RE TALKIN' TO PEOPLE?
- 10 A BY BEIN' UP AND BEIN' AROUND THE SURROUNDIN'S.
- 11 Q OKAY. DO YOU THINK OF THINGS IN TERMS OF MORNING, AFTERNOON,
- 12 NIGHT?
- 13 A YES, SIR.
- 14 Q AND LATE NIGHT. DO YOU KNOW THAT 12:30 IS AROUND LUNCHTIME BY
- 15 HEARIN' OTHER PEOPLE TALK ABOUT IT?
- 16 A YES, SIR.
- 17 Q OKAY. AND DO YOU KNOW THAT 6:30 IN THE MORNIN' AS EARLY
- 18 BREAKFAST TIME?
- 19 A YES, SIR.
- 20 Q AND DO YOU KNOW THAT SUPPER - WHAT TIME IS SUPPERTIME?
- 21 A ABOUT 7?
- 22 Q OKAY. THAT'S RIGHT. THAT'S GOOD. SO 7 P.M. IS SUPPERTIME. I HAVE TO
- 23 ASK YOU A PERSONAL QUESTION. IT'S A LITTLE EMBARRASSING. OKAY?
- 24 A UH-HUH.
- 25 Q TALKIN' ABOUT THE BLEEDIN'. OKAY? AFTER YOU WERE BLEEDING, DID

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

1 YOU DO ANYTHING ABOUT THAT?

2 A AFTER I WAS BLEEDIN' AND STUFF, I DIDN'T DO NOTHIN' ABOUT IT 'CAUSE
3 I WAS GONNA GET MY PARENTS AND THROUGHOUT THAT NIGHT I WAS HURTIN'
4 BUT I DIDN'T NOHIN' WITH ME TO DO NOTHIN' WITH. AND I JUST WAIT TILL MY
5 MAMMA AND THEM GOT AROUND.

6 Q AND THEN WHAT DID YOU DO?

7 A WE CALL THE POLICE.

8 Q OKAY. WHEN YOUR MOM AND THEM GOT AROUND DID YOU DO ANYTHING
9 ABOUT THE BLEEDING THEN?

10 A I WENT TO THE EMERGENCY ROOM.

11 Q YOU DIDN'T DO ANYTHING ELSE?

12 A (NODDED NO.)

13 Q AND YOU NEVER TOOK A BATH OR CLEANED OR ANYTHING LIKE THAT?

14 A NO.

15 Q OKAY. AND THERE WASN'T A WHOLE LOTTA BLOOD, WAS THERE? YOU
16 GOTTA SAY YES OR NO. OKAY?

17 A YES, IT WAS.

18 Q OH, IT WAS. OKAY. I HAVE TO ASK YOU WHERE DID THAT BLOOD END UP?

19 A ON MY VAGINA.

20 Q OKAY. BUT IT DIDN'T GO ANYWHERE ELSE.

21 A UH-UH.

22 Q OKAY. I MEAN IT COULDN'T HAVE BEEN A WHOLE BUNCH. HAVE YOU
23 EVER CUT YOUR HAND?

24 A YEAH, BUT IT WAS KINDA HEAVY BUT NOT AS HEAVY, BUT HEAVY.

25 Q OKAY. WAS IT LIGHT BLEEDING THAT YOU HAD WITH YOUR MENSTRUAL

P. | H. | - CROSS-EXAMINATION BY MR. ANDERSON

1 CYCLE? WAS IT LIKE THAT?

2 A LIGHT.

3 Q OKAY. NOW KEEP IN MIND WHAT YOU'VE TOLD US ABOUT AND HOW YOU
4 KEEP TRACK OF TIME AND HOW YOU IDENTIFY TIME. WHEN - WHAT TIME OF DAY
5 DID THE POLICEMAN COME TO TALK TO YOU?

6 A IN THE AFTERNOON.

7 Q OKAY. WHEN DID YOU - WHEN DID YOU TELL YOUR MOTHER?

8 A IT WAS IN THE MORNIN' RIGHT AFTER I HAD WOKE UP AND TALKED TO MY
9 SISTER.

10 Q WHAT DID Y'ALL DO FROM THE TIME YOU TOLD YOUR SISTER AND YOU
11 TALKED TO YOUR MOM AND ALL THAT IN THE MORNIN' UNTIL WHEN THE POLICE
12 GOT THERE?

13 A WELL, WHERE I BE AT I STAYED AWAKE A WHOLE MORNING UNTIL
14 SOMEBODY CAME. AND THEN TRISHANE - I CAN'T SAY THE NAME - WELL,
15 (UNINTELLIGIBLE) WIFE CAME IN AND I TOLD HER.

16 Q WELL, I MEAN WHAT DID Y'ALL DO? DID Y'ALL JUST SIT AROUND?

17 A NO.

18 Q WHAT DID Y'ALL DO?

19 A POLICE WAS CALLED AND THEY BROUGHT ME TO THE EMERGENCY ROOM
20 IMMEDIATELY.

21 Q WELL, IF THE POLICE DIDN'T COME TILL THE AFTERNOON, WHAT DID
22 Y'ALL DO FROM THE MORNING TILL THE AFTERNOON?

23 A I STAYED AWAKE.

24 Q ALL RIGHT. DID Y'ALL TALK ABOUT ANYTHING.

25 A YEAH.

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q DID YOU DO ANYTHING?
- 2 A YES, WE TALKED ABOUT IT AND MY SISTER WAS LIKE WHENEVER I SEEN
- 3 MOMMA SHE WAS GONNA LET HER KNOW.
- 4 Q WAS IT A LONG TIME FROM WHEN YOU TOLD YOUR SISTER TILL THE
- 5 POLICE CAME OR WAS IT A SHORT TIME OR—
- 6 A SHORT TIME.
- 7 Q IT WAS A SHORT TIME. OKAY. AND WHEN YOU GOT -- WHEN YOU WOKE
- 8 UP -- DID YOU EVER GO TO SLEEP?
- 9 A NO. I COULDN'T.
- 10 Q IN THE MORNIN' TIME WHEN PEOPLE STARTED WAKIN' UP EVERYBODY --
- 11 ALL THE ADULTS WERE GONE. CORRECT?
- 12 A YES.
- 13 Q OKAY. HOW LONG HAD YOU BEEN -- I MEAN WERE YOU AWAKE WHEN
- 14 EARNEST WENT TO WORK?
- 15 A NO.
- 16 Q YOU SAID YOU NEVER WENT TO SLEEP.
- 17 A I DIDN'T GO TO SLEEP, BUT I WAS IN JUST UP. I COULDN'T GO BACK TO
- 18 SLEEP.
- 19 Q WELL, DID YOU SEE EARNEST GO TO WORK?
- 20 A NO, I DID NOT.
- 21 Q WHY NOT?
- 22 A I DID NOT SEE THAT MAN GO TO WORK. I WAS UP ALL NIGHT. I DID NOT
- 23 SEE HIM GO TO WORK AT ALL.
- 24 Q OKAY.
- 25 A I'LL JUST LEAVE IT AT THAT.

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

1 Q OKAY. DID YOU EAT BREAKFAST IN THE MORNING?

2 A NO.

3 Q DID YOU EAT LUNCH?

4 A NO.

5 Q DID YOU EVER HAVE ANY FOOD THAT DAY?

6 A NO.

7 Q OKAY. DID YOU EVER GET ANY FEMININE PRODUCTS THAT YOU USED?

8 A NO.

9 Q OKAY. NOW YOU TESTIFIED A LITTLE EARLIER WITH MS. BRISBIN TODAY
10 THAT YOU WERE HOLLERIN' AND SCREAMIN' BUT THAT NOBODY WOKE UP. IS
11 THAT WHAT YOU SAID?

12 A YES, SIR.

13 Q OKAY. AND IS THAT TRUE?

14 A YES, SIR.

15 Q OKAY. AFTER THE POLICE CAME HOW LONG WERE THEY WITH YOU
16 BEFORE THEY TOOK YOU TO THE HOSPITAL?

17 A IT WAS JUST TWO POLICES.

18 Q HOW LONG WERE THEY WITH YOU BEFORE THEY TOOK YOU TO THE
19 HOSPITAL?

20 A THEY DROPPED ME OFF AND THEY LEFT AND I GOT CHECKED UP.

21 Q SO HOW LONG DID THEY STAY AT THE HOUSE? A SHORT TIME, LONG TIME
22 OR MIDDLE?

23 A A GOOD LITTLE WHILE.

24 Q ALL RIGHT. LET ME ASK YOU THIS: YOU NEVER TOLD THE POLICE THAT
25 EARNEST TOLD YOU NOT TO TELL ANYBODY. DID YOU?

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A NO.
- 2 Q WHY DIDN'T YOU TELL THE POLICE THAT?
- 3 A I HAD FORGOT.
- 4 Q OKAY. HOW DID YOU REMEMBER THAT?
- 5 A HOW DID I REMEMBER IT? BECAUSE I WOULD KEEP HAVIN' FLASHBACKS.
- 6 Q OKAY.
- 7 A OF EVERYTHING.
- 8 Q ISN'T IT ALSO TRUE THAT WHEN YOU TALKED TO THE POLICE THE FIRST
- 9 TIME YOU TOLD THEM THAT IT HAPPENED AROUND 6 O'CLOCK?
- 10 A I DIDN'T KNOW WHAT TIME IT HAPPENED.
- 11 Q OKAY. BUT YOU TESTIFIED A FEW MINUTES AGO THAT YOU KNEW THAT
- 12 SUPPERTIME WAS AT 7 O'CLOCK. OKAY? DID YOU THINK IT WAS AFTER
- 13 SUPPERTIME?
- 14 A NO. 'CAUSE IT WAS LATER THAN THAT.
- 15 Q OKAY. WELL, WHY DID YOU SAY 6 O'CLOCK?
- 16 A I DON'T KNOW THE TIME. I JUST WROTE ANY TIME 'CAUSE I DON'T KNOW
- 17 THE TIME.
- 18 Q ALL RIGHT. BUT YOU'VE ALREADY SAID THAT YOU KNOW PERIODS OF
- 19 TIME.
- 20 A I KNOW THE PERIODS OF TIME. HOW CAN I PUT IT? I DON'T KNOW THE
- 21 TIME, BUT I UNDERSTAND WHAT DAY, WHAT DAY IT IS AND IN THE MORNIN' WHEN
- 22 I WAKE UP, BUT OTHER THAN THAT I DON'T KNOW WHICH PERIOD OF TIME, NONE
- 23 OF THAT FOOLISHNESS. ALL I KNOW IT WAS MORNIN' AND DAY AND AFTERNOON
- 24 AND NIGHT.
- 25 Q WELL, AND SUPPERTIME, DINNERTIME. RIGHT?

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

1 A UH-HUH.

2 Q OKAY. SO WHAT YOU TOLD THE POLICE YOU KNEW WASN'T TRUE. YOU
3 DIDN'T THINK IT WAS IMPORTANT TO TELL THE RIGHT--

4 MS. BRISBIN: OBJECTION, YOUR HONOR. SHE SAID SHE DIDN'T KNOW
5 WHAT TIME IT WAS.

6 THE COURT: STATE YOUR QUESTION AGAIN, PLEASE.

7 MR. ANDERSON: WHEN YOU TOLD THE POLICE THE TIME YOU DIDN'T
8 THINK IT WAS IMPORTANT TO TELL THEM THE RIGHT TIME IS ESSENTIALLY WHAT I
9 ASKED.

10 THE COURT: OVERRULED.

11 A TRULY, I DON'T KNOW TIME FROM A CAN A PAINT.

12 Q OKAY.

13 A I JUST - ALL OF A SUDDEN I WAS - WHENEVER I WAS WRITIN'
14 EVERYTHING, I DIDN'T KNOW WHAT TIME IT HAPPENED AND NOTHIN' LIKE THAT. I
15 JUST WROTE ANY TIME.

16 Q LET ME ASK YOU THIS: YOU ACTUALLY WROTE - YOU WROTE DOWN--

17 A YEAH.

18 Q TO WHO?

19 A TO THE POLICE.

20 Q ARE YOU SURE ABOUT THAT?

21 A YEAH.

22 Q HOW MUCH DID YOU WRITE?

23 A ENOUGH.

24 Q WELL, HOW MUCH IS THAT? WAS IT A PAGE, 2 PAGES, A HALF A PAGE?

25 A ONE PAGE.

P. H. - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q ONE PAGE?
- 2 A (NODDED YES.)
- 3 Q A PAGE LIKE THIS?
- 4 A UH-HUH.
- 5 Q AND YOU WROTE IT YOURSELF?
- 6 A I CAN'T SPELL. I HAD TO HAVE HELP.
- 7 Q OKAY. SO YOU DIDN'T WRITE ANYTHING.
- 8 A UH-UH.
- 9 Q ALL RIGHT. ALL RIGHT. HAVE YOU EVER HAD A BOYFRIEND?
- 10 A YES.
- 11 Q HOW OLD WERE YOU WHEN YOU HAD YOUR FIRST BOYFRIEND?
- 12 A 15.
- 13 Q OKAY. AND HAVE YOU ALWAYS HAD ONE FOR THE MOST PART?
- 14 A UH-UH.
- 15 Q DO YOU HAVE A BOYFRIEND NOW?
- 16 A UH-UH.
- 17 Q HOW MANY BOYFRIENDS HAVE YOU HAD?
- 18 A ONE.
- 19 Q JUST ONE. WHEN YOU WERE 15?
- 20 A UH-HUH.
- 21 Q HOW LONG DID YOU HAVE HIM?
- 22 A IT DIDN'T LAST THAT LONG BECAUSE HE WANTED SEX AND I WAS LIKE NO.
- 23 I'M TOO YOUNG FOR THAT. IF YOU WANNA DO THAT GO SOMEWHERE ELSE.
- 24 Q OKAY. AND WAS THAT ANYWHERE AROUND THE TIME THAT ALL THIS
- 25 STUFF HAPPENED?

P. [] H. [] - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A UH-UH.
- 2 Q WAS IT BEFORE OR AFTER?
- 3 A AFTER.
- 4 Q OKAY. SO ISN'T IT TRUE THAT SHORTLY AFTER ALL THIS YOU TURNED 16?
- 5 A UH-HUH.
- 6 Q SO HOW OLD WERE YOU WHEN YOU HAD THE BOYFRIEND?
- 7 A 17.
- 8 Q 17. SO YOU GOT THE BOYFRIEND—
- 9 A HOLD ON.
- 10 Q ALL RIGHT.
- 11 A I DON'T HAVE NO BOYFRIEND NO MORE.
- 12 Q I UNDERSTAND THAT. WHEN DID YOU HAVE A BOYFRIEND?
- 13 A WHEN I WAS 15.
- 14 Q OKAY. BUT YOU SAID IT WAS AFTER ALL THIS HAPPENED.
- 15 A IT WAS BEFORE THIS HAPPENED REALLY. I'M GETTING MIXED UP BECAUSE
- 16 OF THE WAY YOU TELLIN' ME, BUT I'M TELLIN' YOU THAT IT HAPPENED AFTER
- 17 THIS BUT I DIDN'T HAVE NO BOYFRIEND AT ALL. I BROKE UP WITH MY BOYFRIEND
- 18 BEFORE THIS EVEN OCCURRED.
- 19 Q OKAY. ALL RIGHT, MS [] P. [] THANK YOU, MA'AM. THAT'S ALL THE
- 20 QUESTIONS I HAVE.
- 21 THE COURT: REDIRECT?
- 22 MS. BRISBIN: NO, YOUR HONOR.
- 23 THE COURT: YOU MAY STEP DOWN NOW. THANK YOU. CALL YOUR NEXT
- 24 WITNESS.
- 25 MS. BRISBIN: STATE CALLS [] S. [] M. []

S. M. - DIRECT EXAMINATION BY MS. BRISBIN

S. M. BEING DULY SWORN,

TESTIFIES AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BRISBIN

Q SPELL YOUR LAST NAME.

A M.

Q HOW OLD ARE YOU?

A I'M 15.

Q AND WHAT GRADE ARE YOU IN?

A 7TH.

Q HOW ARE YOU RELATED TO P. H.

A WE SISTERS.

Q WHERE WERE YOU ON JULY 12TH OF 2001?

A I WAS AT MY GODMOTHER'S HOUSE.

Q AND WHO'S YOUR GODMOTHER?

A TRISHANN.

Q TRISHANN WHO?

A PRESLEY.

Q OKAY. AND HOW DO YOU KNOW EARNEST PRESLEY?

A BECAUSE MY GODMOTHER WAS MARRIED TO EARNEST PRESLEY.

Q OKAY. WHO ELSE WAS AT THE PRESLEY HOUSE ON JULY 12TH?

A THEIR KIDS J. AND D.

Q DO YOU KNOW HOW THEY ARE?

A D. I THINK HE WAS LIKE 9 AND J. SHE WAS AROUND MY AGE SO I

THINK SHE WAS LIKE 12.

S. | M. | - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q YOU WERE ABOUT 12 THEN?
- 2 A YES.
- 3 Q OKAY. AND WHO ELSE WAS THERE?
- 4 A MY SISTER AND THAT'S IT--
- 5 Q WERE THERE ANY ADULTS THERE?
- 6 A NOT AT THAT TIME. WELL, YES, IT WAS. MY GODMAMMA WAS THERE
- 7 BEFORE SHE WENT TO WORK.
- 8 Q OKAY. AFTER SHE LEFT WHO ELSE WAS THERE?
- 9 A NOBODY.
- 10 Q THERE WERE NO ADULTS WITH YOU?
- 11 A TILL LATER ON AT NIGHT.
- 12 Q SO LATER ON THAT NIGHT WHO WAS THERE?
- 13 A EARNEST PRESLEY.
- 14 Q EARNEST PRESLEY?
- 15 A YEAH.
- 16 Q ANYBODY ELSE?
- 17 A NO.
- 18 Q WERE THERE EVER ANY OTHER ADULTS THAT WHOLE DAY OTHER THAN
- 19 MR. AND MRS. PRESLEY?
- 20 A NO.
- 21 Q OKAY. WHERE WAS MRS. PRESLEY? YOU SAID SHE WAS THERE AND THEN
- 22 SHE LEFT.
- 23 A YEAH.
- 24 Q DO YOU KNOW WHERE SHE WENT?
- 25 A WORK. SHE WENT TO WORK.

S. M. - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q OKAY. WHAT WERE Y'ALL DOING THAT DAY?
- 2 A WELL, THAT DAY WE WAS JUST OUTSIDE HAVIN' FUN. THEN WE HAD TO GO
- 3 IN EARLY. FOR WHAT REASON I REALLY DON'T KNOW, BUT MR. PRESLEY TOLD US
- 4 WE HAD TO GO INSIDE. AND I SAW HIM DRINKIN' THAT DAY. SO WE DIDN'T
- 5 REALLY MAKE A FUSS ABOUT IT. WE JUST WENT INSIDE. AND IT WAS TIME TO GO
- 6 TO SLEEP AND ME AND J. WANTED TO SLEEP IN THE LIVIN' ROOM WITH
- 7 P. BUT HE INSISTED THAT P. SLEEP IN THE LIVIN' ROOM ON THE
- 8 COUCH BY HERSELF. AND ME AND J. GO IN THE ROOM AND GO TO SLEEP.
- 9 Q SO IS THAT WHAT YOU DID?
- 10 A YES.
- 11 Q OKAY. DID YOU SLEEP THROUGH THE NIGHT OR DID YOU WAKE UP AT ALL
- 12 DURIN' THE NIGHT?
- 13 A I WOKE UP WHEN P. CAME IN SHE TRIED TO WAKE ME UP BUT SHE
- 14 DIDN'T WAKE ME UP ALL THE WAY. I WENT BACK TO SLEEP.
- 15 Q YOU'RE A PRETTY HEAVY SLEEPER?
- 16 A YES.
- 17 Q OKAY. DO YOU KNOW IF ANY OF THE OTHER KIDS WOKE UP?
- 18 A NONE OF THE OTHER KIDS WOKE UP.
- 19 Q THAT YOU KNOW OF.
- 20 A THAT I KNOW OF, NO.
- 21 Q WHAT HAPPENED THE NEXT MORNING WHEN YOU WOKE UP?
- 22 A THE NEXT MORNING MY SISTER WAS CRYIN' AND SAKIN' —
- 23 THE COURT REPORTER. AND WHAT?
- 24 A SAKING.
- 25 Q SHAKING?

S. | M. | DIRECT EXAMINATION BY MS. BRISBIN

1 A YES. AND I ASKED HER WHAT WAS WRONG. SHE TOLD ME--

2 Q OKAY. YOU CAN'T -- LET ME JUST ASK YOU THIS: DID SHE TELL YOU THAT
3 SHE HAD BEEN SEXUALLY ASSAULTED?

4 A YES.

5 Q PARDON ME?

6 A YES, MA'AM, SHE DID. SEXUALLY ASSAULTED. HER WORDS WERE SHE
7 HAD GOT RAPED.

8 Q AND THEN WHAT HAPPENED. DON'T TELL ME ANYMORE ABOUT WHAT SHE
9 SAID. WHAT HAPPENED AFTER THAT?

10 A AFTER THAT I WENT NEXT DOOR WITH MY GODMOTHER'S MOTHER'S
11 HOUSE.

12 Q YOUR GODMOTHER'S MOTHER LIVES NEXT DOOR?

13 A YES.

14 Q OKAY.

15 A I CALLED MY MOM AND I TOLD HER SOMETHIN' WAS WRONG WITH

16 P. | AND--

17 Q AND THEN WHAT HAPPENED?

18 A AFTER THAT ME, MR. PRESLEY'S KIDS AND P. | WAS JUST SITIN' IN
19 THE FRONT ROOM WAITIN' ON MY GODMAMMA TO COME HOME FROM WORK, AND
20 WHEN SHE CAME HOME SHE ALSO CALLED MY MOTHER, AND THEN MY MOTHER
21 CAME OVER THERE AND MY MOTHER CALLED THE POLICE FROM TRISHANN'S
22 HOUSE ON HER CELL PHONE.

23 Q DID THE POLICE COME PRETTY QUICKLY OR NOT?

24 A YES.

25 Q AND THEN WHAT HAPPENED?

S. M. - CROSS-EXAMINATION BY MR. ANDERSON

1 A THE POLICE WERE ASKIN' ME AND J. QUESTIONS AND THEY TOOK
2 PILLOWS OFF THE SOFA AND—

3 Q WHAT HAPPENED WITH P.

4 A THEY TOOK P. TO THE HOSPITAL.

5 Q OKAY. I DON'T HAVE ANY FURTHER QUESTIONS. PLEASE, ANSWER ANY
6 MR. ANDERSON HAS.

7 THE COURT: CROSS-EXAMINATION.

8 MR. ANDERSON: THANK YOU.

9 CROSS-EXAMINATION

10 BY MR. ANDERSON

11 Q S. YOU DIDN'T HEAR ANY YELLIN' AND SCREAMIN' THAT NIGHT,
12 DID YOU?

13 A NO, BECAUSE MY UNDERSTANDIN' IS MR. PRESLEY WAS HOLDIN'

14 P. MOUTH SO I COULDN'T HEAR HER SCREAMING. SHE PROBABLY WAS
15 TRYING.

16 Q OKAY. AND WHO TOLD YOU THAT?

17 A P.

18 Q WHEN DID SHE TELL YOU THAT?

19 A WHERE?

20 Q WHEN DID SHE TELL YOU THAT?

21 A THE FOLLOWIN' MORNIN' AFTER IT HAPPENED.

22 Q SHE TOLD YOU THE FOLLOWING MORNING?

23 A YEAH, WHEN I WOKE UP.

24 Q OKAY. NOW YOU TESTIFIED THAT YOU WOKE UP, BUT ISN'T IT TRUE THAT
25 YOU NEVER DID WAKE UP THAT NIGHT?

S. M. CROSS-EXAMINATION BY MR. ANDERSON

1 A I DIDN'T WAKE UP THAT NIGHT UNTIL SHE CAME AND WOKE ME UP AND I
2 FELL BACK ASLEEP. I WAS NOT ALL THE WAY WOKE.

3 Q DID SHE WAKE YOU UP OR NOT?

4 A YES, SHE WOKE ME UP BUT—

5 Q YOU REMEMBER THAT OR DID SHE TELL YOU THAT?

6 A I REMEMBER HER WAKIN' ME UP AND I REMEMBER FALLIN' BACK ASLEEP.
7 SO I DIDN'T REALLY UNDERSTAND WHERE IT WAS GOIN' ON.

8 Q LET ME ASK YOU, IF YOUR SISTER WAS CRYING AND UPSET AND YOU'RE
9 AWAKE, WOULDN'T YOU SAY WHAT'S WRONG?

10 A SHE WASN'T CRYING WHEN SHE CAME AND WAKE ME UP THE FIRST TIME.

11 Q OKAY. AND HOW OLD ARE YOU?

12 A I'M 15.

13 Q YOU KNOW HOW TO TELL TIME.

14 A YES.

15 Q ALL RIGHT. ABOUT WHAT TIME DID ALL OF YOU GUYS GET OVER THERE
16 THE DAY BEFORE?

17 A I WOULD SAY WE MADE IT OVER THERE ABOUT 10 IN THE AFTERNOON — 10
18 IN THE MORNIN'. I'M SORRY.

19 Q OKAY. AND THERE WERE — STRIKE THAT. IT WAS THE KIDS AND MRS.
20 PRESLEY.

21 A YES.

22 Q OKAY. WHAT TIME DID MRS. PRESLEY LEAVE? ABOUT.

23 A ABOUT 1, 2.

24 Q WHEN SHE LEFT WHO WAS IN CHARGE?

25 A MR. PRESLEY.

S. M. CROSS-EXAMINATION BY MR. ANDERSON

1 Q WELL, WHEN MRS. PRESLEY LEFT--

2 A P. WAS IN CHARGE WHEN MRS. PRESLEY LEFT.

3 Q OKAY. AND ABOUT WHAT TIME DID MR. PRESLEY GET HOME?

4 A I DON'T EXACTLY REMEMBER ABOUT WHAT TIME HE CAME HOME. I KNOW
5 BEFORE HE CAME INTO THE HOUSE HE WAS NEXT DOOR AT MY GODMOTHER'S
6 MOTHER'S HOUSE AND HE WAS DRINKIN'.

7 Q UH-HUH.

8 A AND--

9 Q YOU SAW THAT?

10 A YES. AFTER THAT HE CAME IN.

11 Q WAS IT NIGHTTIME OR STILL DAYTIME?

12 A IT WAS STILL DAYTIME.

13 Q OKAY. WAS IT -- WERE Y'ALL ALONE WITH P. IN CHARGE FOR A
14 LONG TIME OR A SHORT TIME?

15 A SHE WAS IN CHARGE I WOULD SAY ABOUT 4 OR 5 HOURS.

16 Q OKAY. AND THEN THE NEXT MORNING WERE YOU AWAKE WHEN EARNEST
17 LEFT TO GO TO WORK?

18 A YES.

19 Q YOU WERE AWAKE THEN.

20 A YES.

21 Q ABOUT WHAT TIME WAS THAT?

22 A THAT WAS ABOUT 6, 7.

23 Q AND WHAT WAS P. DOING THEN?

24 A P. WAS SITTING ON THE COUCH WITH ME AND J.

25 Q THAT'S MR. PRESLEY'S--

S. M. CROSS-EXAMINATION BY MR. ANDERSON

- 1 A DAUGHTER.
- 2 Q —DAUGHTER?
- 3 A YES, DAUGHTER.
- 4 Q AND WAS P. CRYING AT THAT TIME?
- 5 A NO.
- 6 Q DID SHE APPEAR UPSET?
- 7 A YES.
- 8 Q SHE DID?
- 9 A YES.
- 10 Q HAD SHE ALREADY TOLD YOU WHAT SHE SAID HAPPENED?
- 11 A YES. WHEN I WOKE UP SHE TOLD ME AS SOON AS I WOKE UP SHE TOLD ME.
- 12 BUT SHE WASN'T CRYING. SHE WAS UPSET. WHO WOULDN'T BE?
- 13 Q BUT THE 3 OF YOU WERE JUST SITTING ON THE COUCH?
- 14 A YES.
- 15 Q AND DID YOU SAY ANYTHING TO EARNEST WHEN HE LEFT?
- 16 A NO. WHEN HE LEFT WE STARTED TALKING.
- 17 Q OKAY. DID Y'ALL EAT ANY BREAKFAST?
- 18 A WE HAD CEREAL.
- 19 Q ALL OF YOU HAD CEREAL?
- 20 A YES.
- 21 Q OKAY. P. HAD CEREAL?
- 22 A P. WOULDN'T EAT.
- 23 Q OKAY. SO SHE DIDN'T HAVE ANYTHING.
- 24 A NO.
- 25 Q HOW LONG WERE Y'ALL AWAKE BEFORE EARNEST LEFT?

S. M. - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A BEFORE HE LEFT?
- 2 Q UH-HUH.
- 3 A ABOUT 20 MINUTES.
- 4 Q OKAY. DID YA'LL EAT BEFORE HE LEFT OR AFTER HE LEFT?
- 5 A WE ATE AFTER HE LEFT.
- 6 Q OKAY. DID HE EAT BREAKFAST?
- 7 A I DON'T KNOW.
- 8 Q DID YOU SEE HIM EAT BREAKFAST?
- 9 A NO.
- 10 Q DID HE SAY ANYTHING TO Y'ALL WHEN HE WENT TO WORK?
- 11 A NO. HE JUST LEFT. HE DIDN'T SAY ANYTHING. HE JUST GOT HIS STUFF AND
- 12 LEFT.
- 13 Q ISN'T IT TRUE THAT THAT NIGHT MR. PRESLEY CAUGHT Y'ALL OVER THERE
- 14 WITH D. HIS SON PUTTIN' MAKEUP ON HIM?
- 15 A ACTUALLY WE WEREN'T HOLDIN' HIM DOWN. D. HAD SAID HE WANTED
- 16 TO WEAR MAKEUP SO J. STARTED PUTTIN' MAKEUP ON HIM, AND MY
- 17 SISTER, YOU KNOW, WE WERE PLAYIN' SHE SAID IF YOU WANNA PUT MAKEUP ON
- 18 HIM WE OUGHTA PUT LIPSTICK ON HIM TOO. SO ALL OF US WERE PUTTIN' MAKEUP
- 19 D.
- 20 Q OKAY. AND Y'ALL WERE CUTTIN' UP THAT NIGHT.
- 21 A YES.
- 22 Q AND DID EARNEST HAVE TO COME OUT OF HIS ROOM AND FUSS AT Y'ALL
- 23 FOR CUTTIN' UP?
- 24 A NO.
- 25 Q HE NEVER CAME OUT OF THE ROOM AND FUSSED AT Y'ALL BECAUSE THE

S. M. CROSS-EXAMINATION BY MR. ANDERSON

1 TV WAS ON OR ANYTHING LIKE THAT?

2 A HE CAME OUT ONE TIME, YEAH.

3 Q AND WHAT'D HE TELL Y'ALL?

4 A HE TOLD US TO CALM DOWN. THAT'S WHAT WE DID.

5 Q AND WHEN Y'ALL WENT TO SLEEP, WHEN Y'ALL WENT TO BED, EARNEST
6 WAS ALREADY IN BED. WASN'T HE?

7 A WHEN WE WENT TO BED WAS HE ALREADY IN BED?

8 Q UH-HUH.

9 A NO. HE WASN'T.

10 Q HE WASN'T?

11 A NO.

12 Q WHERE WAS HE?

13 A HE WAS IN THE ROOM BUT HE WAS NOT ASLEEP. HE WAS SITTING ON THE
14 BED.

15 Q WAS THE DOOR OPEN?

16 A YES.

17 Q OKAY. WHAT WAS HE DOING IN THERE?

18 A I DON'T KNOW.

19 Q OKAY.

20 A THE LIGHT WAS ON. HE WAS JUST SITTING THERE.

21 Q AND THEN Y'ALL WENT TO BED.

22 A WE DIDN'T GO STRAIGHT TO BED. WE WENT IN THE ROOM AND - WELL, I
23 WANTED TO SLEEP IN THE FRONT ROOM, ME AND J. AND HE INSISTED ON
24 ME AND J. GOING IN J. ROOM.

25 Q UH-HUH.

S. M. - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A SO P. SHE STAYED IN THERE FOR ABOUT 5 MINUTES AND SHE
2 CAME IN THE ROOM AND SAID SHE DID NOT WANT TO BE IN THERE. AND WE
3 COULDN'T DO ANYTHING ABOUT IT. SO WE JUST WENT TO SLEEP.
- 4 Q AND SHE LEFT THE ROOM?
- 5 A WHAT ROOM?
- 6 Q SHE LEFT THE ROOM WHERE Y'ALL WERE?
- 7 A YES.
- 8 Q AND WENT BACK OUT THERE?
- 9 A YES.
- 10 Q WAS THERE ANYBODY THAT STOPPED HER FROM JUST SLEEPIN' IN THAT
11 ROOM WITH Y'ALL?
- 12 A YES.
- 13 Q WHO?
- 14 A MR. PRESLEY.
- 15 Q SO HE CAME IN THERE AND SPECIFICALLY SAID THAT?
- 16 A YES.
- 17 Q WHEN SHE WAS IN THE ROOM?
- 18 A YES.
- 19 Q HE DID. AND WHAT DID SHE SAY?
- 20 A SHE TRIED TO PERSUADE HIM TO NOT LET HER SLEEP IN THE FRONT ROOM
21 BUT HE WAS - SINCE HE HAD BEEN DRINKIN' I GUESS. I DON'T KNOW. HE MADE
22 HER SLEEP ON THE COUCH. AND HE WAS LIKE YOU WANNA BE ABLE TO COME
23 VISIT DON'T YOU. AND SINCE P. IS MENTALLY DISABLED, HE WON. SO
24 SHE SLEPT ON THE COUCH.
- 25 Q HAVE YOU EVER KNOWN YOUR SISTER TO MAKE THINGS UP? TO TELL

S. | M. | - CROSS-EXAMINATION BY MR. ANDERSON

1 FIBS?

2 A NO, NOT ABOUT SERIOUS MATTERS.

3 Q OKAY. AND Y'ALL GET ALONG REALLY WELL?

4 A NOT REALLY, BUT, YOU KNOW, WE'RE SISTERS, SO--

5 Q OKAY. ABOUT WHAT TIME DID YOUR MOTHER COME OVER TO THE HOUSE
6 THE NEXT DAY?

7 A MY MOM CAME ABOUT I WOULD SAY 9 THE NEXT MORNIN', THE NEXT DAY,
8 9.

9 Q WHAT TIME DID MRS. PRESLEY--

10 A SHE CAME LIKE -- SHE GOT OFF WORK SO THAT WAS--

11 THE COURT: YOU'RE GONNA HAVE TO SPEAK UP MORE 'CAUSE THE AIR
12 CONDITIONER'S RUNNIN' OR THE HEAT OR WHATEVER THEY'VE GOT RUNNIN'.

13 A OH, OKAY.

14 THE COURT: SPEAK UP, PLEASE.

15 A MRS. PRESLEY CAME AS SOON AS SHE GOT OFF WORK. SO THAT WAS
16 AROUND 5 OR 6 IN THE MORNING.

17 Q SHE GOT HOME BEFORE EARNEST LEFT FOR WORK?

18 A DID SHE GET HOME BEFORE HE LEFT? NO.

19 Q OKAY. AFTER Y'ALL ATE BREAKFAST?

20 A YES, AFTER WE ATE BREAKFAST. LITTLE BIT AFTER.

21 Q HOW LONG WERE Y'ALL HOME ALONE FROM WHEN EARNEST LEFT UNTIL
22 MRS. PRESLEY CAME HOME?

23 A ABOUT 20 MINUTES.

24 Q OKAY. AND THEN AFTER THAT, HOW LONG UNTIL THE POLICE CAME?

25 A IT WAS LIKE AROUND 12 WHEN THE POLICE CAME.

S. M. CROSS-EXAMINATION BY MR. ANDERSON

1 Q AND THEN AFTER THAT HOW LONG BEFORE THEY TOOK HER TO THE
2 HOSPITAL?

3 A IT WAS ALMOST 1, AROUND 12.

4 Q WHAT DID Y'ALL DO FROM THE TIME THAT YOUR MOM GOT THERE AND
5 THE POLICE CAME AT 12?

6 A WHAT DID WE DO FROM THE TIME MY MOM GOT THERE?

7 Q UH-HUH.

8 A I MEAN WE WAS JUST SITTIN' THERE ASKIN' P. QUESTIONS. SHE
9 DIDN'T REALLY WANNA TALK TILL MY MOM GOT THERE. AND SO WE JUST SOT -
10 WE WERE JUST SITTIN' THERE.

11 Q ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU, MA'AM.
12 THE COURT: REDIRECT?

13 MS. BRISBIN: NOTHIN', YOUR HONOR.

14 THE COURT: THANK YOU. YOU MAY STEP DOWN. WHAT TIME DO Y'ALL
15 WANT TO START BACK AFTER LUNCH? 2:15 OR 2:30?

16 MS. BRISBIN: 2:15 IS GOOD.

17 THE COURT: LADIES AND GENTLEMEN, YOU'LL BE ON YOUR OWN FOR
18 LUNCH NOW UNTIL 2:15. I NEED YOU IN THE JURY ROOM AT 2:15. THE BAILIFF WILL
19 SHOW YOU HOW TO REPORT BACK THERE. PLEASE, DON'T COME THROUGH THE
20 COURTROOM WHEN YOU COME BACK. I HOPE YOU HAVE A PLEASANT LUNCH.
21 DON'T DISCUSS THE CASE. YOU'RE IN RECESS UNTIL 2:15. THANK YOU. (THE
22 FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.) ALL RIGHT. LADIES AND
23 GENTLEMEN, AS YOU LEAVE HERE TODAY BE VERY CAREFUL THAT YOU DON'T
24 HAVE ANY CONVERSATIONS THAT COULD BE OVERHEARD BY THE JURY THAT IN
25 ANY WAY RELATE TO THIS CASE. DON'T TALK ABOUT ANYTHING THAT HAPPENED

1 IN THE COURTROOM UNTIL YOU'RE SAFELY CLEAR OF ANYWHERE THE JURY MAY
2 BE. IF YOU GO TO LUNCH, MAKE VERY CERTAIN THAT YOU'RE NOT AROUND A
3 JUROR THAT CAN OVERHEAR ANY CONVERSATIONS ABOUT THE CASE IF YOU'RE
4 TALKIN' ABOUT THE CASE IN ANY WAY. UNDERSTAND THAT EVEN THOUGH THEY
5 USE DIFFERENT EXITS, THEY USE MUCH THE SAME MEANS OF ENTERING THE
6 BUILDING THAT YOU DO AND THEY MAY WELL BE OUT IN THE LOBBY OR PARKING
7 LOT WHEN YOU LEAVE HERE TODAY. SO BE CAREFUL.

8 COURT'S IN RECESS UNTIL 2:15. MR. PRESLEY, I HAVE TO MAKE DECISIONS
9 IN EVERY CASE ABOUT WHETHER SOMEBODY GOES INTO CUSTODY OR NOT. I'LL
10 MAKE THOSE DECISIONS THROUGHOUT EACH CASE. SO THEY CHANGE
11 SOMETIMES AS THEY GO ALONG. SOMETIMES THEY CHANGE ONE WAY,
12 SOMETIMES THEY CHANGE THE OTHER AND CHANGE BACK. I'M GONNA ALLOW
13 YOU TO REMAIN ON YOUR OWN AT LUNCH BUT I HAVE TO TELL YOU SOME THINGS.
14 FIRST, YOU UNDERSTAND THAT IF YOU'RE NOT HERE AT 2:15 THIS CASE IS GONNA
15 PROCEED WITHOUT YOU. YOU UNDERSTAND THAT?

16 THE DEFENDANT: (NODDED YES.)

17 THE COURT: YOU HAVE TO ANSWER OUT LOUD. YOU UNDERSTAND THAT?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: ALL RIGHT. AND YOU UNDERSTAND IF YOU DON'T SHOW
20 BACK UP YOU CAN BE CHARGED WITH A SEPARATE OFFENSE FOR NOT APPEARING.
21 YOU UNDERSTAND?

22 THE DEFENDANT: YES, SIR.

23 THE COURT: ALL RIGHT. COURT'S IN RECESS UNTIL 2:15.

24 MR. ANDERSON: THANK YOU, YOUR HONOR. (THERE WAS A LUNCH
25 RECESS.)

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

1 THE COURT: STATE READY FOR THE JURY?

2 MS. BRISBIN: WE ARE ALTHOUGH WE'VE GOT A COUPLE WITNESSES WE
3 HAVE TO BRING IN FROM OUTSIDE.

4 THE COURT: DEFENSE READY?

5 MR. ANDERSON: YES, SIR, JUDGE. THANK YOU.

6 THE COURT: BRING THE JURY. (THE FOLLOWING OCCURRED IN THE
7 PRESENCE OF THE JURY.) CALL YOUR NEXT WITNESS.

8 MS. BRISBIN: STATE CALLS DR. STEVEN GRANT.

9 THE COURT: COME AROUND TO THE CLERK, PLEASE.

10 DR. STEVEN GRANT, BEING DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. BRISBIN

14 Q DR. GRANT, WHERE ARE YOU EMPLOYED?

15 A AIKEN REGIONAL MEDICAL CENTER.

16 Q HOW LONG HAVE YOU BEEN EMPLOYED THERE?

17 A ABOUT 11 AND A HALF YEARS.

18 Q WHAT'S YOUR POSITION THERE?

19 A I'M AN EMERGENCY ROOM PHYSICIAN.

20 Q AND ARE YOU CERTIFIED IN THAT SPECIALTY?

21 A YES.

22 Q WHAT'S YOUR EDUCATIONAL BACKGROUND?

23 A I WENT TO COLLEGE AT GEORGETOWN UNIVERSITY; ATTENDED MEDICAL
24 SCHOOL AT GEORGETOWN UNIVERSITY IN WASHINGTON D.C.; I DID A
25 TRADITIONAL INTERNSHIP AT ST. JOSEPH'S HOSPITAL IN PHOENIX AND THEN AN

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

1 EMERGENCY RESIDENCY IN NEW YORK CITY AT LONG ISLAND JEWISH HOSPITAL. I
2 DID A CHIEF RESIDENCY AT LONG ISLAND JEWISH AND THEN MOVED TO AIKEN IN
3 1991.

4 Q DO YOU HAVE ANY TRAINING IN SEXUAL ASSAULT EXAMINATION?

5 A YES. IT'S PART OF THE TRAINING FOR EMERGENCY MEDICINE.

6 Q OKAY. IS IT PART OF YOUR JOB DESCRIPTION TO PERFORM SEXUAL
7 ASSAULT EXAMINATIONS?

8 A YES.

9 Q CAN YOU ESTIMATE APPROXIMATELY HOW MANY SEXUAL ASSAULT
10 EXAMINATIONS YOU'VE DONE IN YOUR CAREER.

11 A I AVERAGE A COUPLE A MONTH. SO OVER TEN YEARS IT WOULD BE A
12 COUPLE HUNDRED AT LEAST.

13 MS. BRISBIN: YOUR HONOR--

14 Q A COUPLE HUNDRED OR A COUPLE A DAY?

15 A NO, A COUPLE HUNDRED.

16 Q OKAY.

17 MS. BRISBIN: YOUR HONOR, AT THIS TIME I WOULD ASK THAT DR. GRANT
18 BE QUALIFIED AS AN EXPERT IN THE FIELD OF EMERGENCY MEDICINE.

19 THE COURT: DOES THE DEFENSE COUNSEL WISH TO VOIR DIRE THE
20 WITNESS OR HAVE ANY POSITION?

21 MR. ANDERSON: I WOULD JUST ASK IF HE IS BOARD CERTIFIED IN
22 EMERGENCY MEDICINE.

23 A YES, I AM BY THE AMERICAN BOARD OF EMERGENCY MEDICINE.

24 MR. ANDERSON: I HAVE NO OBJECTION, JUDGE.

25 THE COURT: ALL RIGHT. HE IS SO RECOGNIZED.

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q DID YOU HAVE THE OPPORTUNITY TO EXAMINE P. ON JULY 13TH OF
2 2001?
- 3 A YES. I DON'T HAVE MY NOTES IN FRONT OF ME, BUT, YES.
- 4 Q WHAT WAS THE PURPOSE OF THAT EXAMINATION?
- 5 A IT WAS AN ALLEGED SEXUAL ASSAULT.
- 6 Q AND WHAT TYPE OF EXAMINATION DID YOU PERFORM?
- 7 A WE DID A PELVIC EXAMINATION.
- 8 Q WAS A SEXUAL ASSAULT KIT OBTAINED?
- 9 A YES.
- 10 Q WHAT'S INVOLVED IN A SEXUAL ASSAULT KIT?
- 11 A WELL, IT'S A KIT THAT'S PRODUCED BY THE STATE AND DISTRIBUTED TO
12 THE EMERGENCY DEPARTMENT. IT HAS A NUMBER OF CONTAINER SWABS, GLASS
13 SLIDES AND ENVELOPES IN 'EM. AND IT'S TO BASICALLY COLLECT EVIDENCE
14 FROM THE VICTIM INCLUDING HAIRS FROM THE HEAD, PUBIC HAIRS, TO TAKE
15 SWABS OF THE VAGINA, RECTAL AREA IF INDICATED, THE CERVIX AND ANY
16 OTHER AREAS WHERE YOU THINK THERE MIGHT BE EVIDENCE ON THE VICTIM.
17 AND THE KIT IS - I DO SOME OF THIS WORK AND THE NURSE DOES SOME OF IT,
18 AND THEN IT'S PUT TOGETHER AND GIVEN OVER TO LAW ENFORCEMENT.
- 19 Q AND IN THIS CASE DID YOU OBTAIN SWABS?
- 20 A YES.
- 21 Q AND DO YOU RECOGNIZE THIS FORM?
- 22 A YES.
- 23 Q IS THIS A RECORD KEPT IN THE REGULAR COURSE OF BUSINESS AT THE
24 EMERGENCY ROOM?
- 25 A THIS IS - THIS PAGE IS ACTUALLY FROM THE SEXUAL ASSAULT KIT

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

1 PAPERWORK. AND WE KEEP A COPY OF IT AND THAT'S MY - YES.

2 Q OKAY.

3 MS. BRISBIN: I WOULD ASK AT THIS TIME THAT THIS BE ADMITTED INTO
4 EVIDENCE, STATE'S EXHIBIT 3.

5 MR. ANDERSON: NO OBJECTION.

6 THE COURT: THANK YOU. MARK IT IN EVIDENCE, PLEASE, MA'AM.

7 (STATE'S EXHIBIT #3 RECEIVED IN EVIDENCE.)

8 Q WHAT WERE THE FINDINGS IN THIS EXAM? YOU MAY NEED TO REFRESH
9 YOUR MEMORY.

10 A ON EXAMINATION THE - WE FOUND BRUISING IN THE POSTERIOR
11 FORECHETTE OF THE VAGINA ON P. H. (SIC). THE FOURCHETTE IS
12 WHERE BEHIND THE VAGINA THE SKIN COMES TOGETHER AND HELPS FORM THE
13 POSTERIOR WALL OF THE VAGINA AND THEN KINDA TURNS OUTWARDS. AND SO
14 THIS WOULD BE THE AREA IMMEDIATELY BEHIND THE VAGINAL OPENING. AND
15 THERE WAS BRUISING IN THAT AREA. ON THE INTERNAL EXAM THERE WAS A
16 SMALL AMOUNT OF BLOOD IN THE VAGINA. A SMALL AMOUNT OF BLOOD FROM
17 THE CERVIX AND THAT WAS - THOSE WERE THE SIGNIFICANT FINDINGS.

18 Q WHAT ABOUT THE HYMEN? WHAT IS A HYMEN FIRST OF ALL?

19 A THE HYMEN IS A PIECE OF SKIN THAT PARTIALLY COVERS THE VAGINA. IN
20 THIS CASE ALL WE SAW WERE SOME REMNANTS OF THE HYMEN.

21 Q OKAY. YOU SAID YOU COLLECTED THE SWABS FROM THE VAGINA?

22 A YEAH. AS PART OF THE EXAM I DO SWAB - I DO SWABS OF THE OUTSIDE
23 PART OF THE VAGINA, THE VAGINA ITSELF AND THEN THE CERVICAL AREA.

24 Q WHAT DO YOU DO WITH THE SWABS AFTER YOU COLLECT THEM?

25 A AFTER I SWAB THEM I HAND THEM TO THE NURSE AND THEN THEY AIR DRY

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

- 1 AND THEN THEY'RE PLACED IN THE KIT.
- 2 Q WHAT'S THE PURPOSE OF THE SWABS?
- 3 A TO COLLECT POSSIBLE EVIDENCE.
- 4 Q OKAY, WHAT--
- 5 A EVIDENCE OF SEMEN FOR EXAMPLE OR ANY D.N.A. TRACES THAT MIGHT
- 6 BE--
- 7 Q DID YOU COLLECT SUSPECTED SEMEN FROM THE VICTIM?
- 8 A THERE WERE AREAS THAT WE SWABBED, YES.
- 9 Q OKAY. WERE THEY - WAS ONE OF THE SWABS LABELED AS SUSPECTED
- 10 SEMEN?
- 11 A YES.
- 12 Q AND YOU ALSO COLLECTED ONE FROM THE VAGINA.
- 13 A YES.
- 14 Q IN YOUR OPINION WOULD BRUISING OF THE FOURCHETTE OR THE
- 15 POSTERIOR FOURCHETTE AS YOU CALLED IT WHICH IS THE AREA NEAR THE
- 16 VAGINA, WOULD THAT BE CONSISTENT OR INCONSISTENT WITH A RECENT
- 17 FORCIBLE SEXUAL ASSAULT?
- 18 A IT WOULD BE CONSISTENT WITH RECENT FORCIBLE SEXUAL ASSAULT.
- 19 Q JUST TO CLARIFY THE LOCATION OF THE POSTERIOR FOURCHETTE, DID
- 20 YOU SAY IT'S JUST BELOW THE VAGINA?
- 21 A YEAH, WELL, YOU HAVE TO ANATOMICALLY IF THE WOMAN IS LYING ON
- 22 HER BACK IN FRONT OF YOU HER LEGS ARE ON EITHER SIDE, BELOW CLOSER TO
- 23 THE TABLE IS THE AREA OF POSTERIOR FOURCHETTE. SO IT WOULD BE BEHIND
- 24 THE VAGINA.
- 25 Q DO YOU RECALL WAS YOUR EXAMINATION DONE UNDER ANESTHESIA?

DR. GRANT - DIRECT EXAMINATION BY MS. BRISBIN

1 A I DON'T HAVE THE MEDICAL RECORD, BUT WHAT I SAW OF MY DICTATION
2 WE DID USE ANESTHESIA.

3 Q WHY WOULD YOU DO THAT?

4 A TO HELP THE PATIENT RELAX SO WE'RE ABLE TO DO A MORE COMPLETE
5 EXAM. IF THE PATIENT WAS UPSET OR CRYING OR, YOU KNOW, TOO TENSE TO GO
6 THROUGH THE EXAMINATION WE USUALLY USE A SEDATIVE SO WE'RE ABLE TO
7 DO A MORE COMPLETE EXAM.

8 MS. BRISBIN: BEG THE COURT'S INDULGENCE.

9 THE COURT: YES, MA'AM.

10 Q I DON'T HAVE ANY FURTHER QUESTIONS. PLEASE, ANSWER ANY MR.
11 ANDERSON HAS.

12 CROSS-EXAMINATION

13 BY MR. ANDERSON

14 Q DR. GRANT, I'VE GOT SOME QUESTIONS FROM THE REST OF THE FORMS
15 THAT YOU HAD DONE THAT NIGHT.

16 A SURE.

17 MR. ANDERSON: JUDGE, WHILE SHE'S (SIC) DOIN' THAT--

18 THE COURT: YES?

19 MR. ANDERSON: SHOULD WE MARK 'EM AS PART OF THIS EXHIBIT OR DO
20 YOU WANT US TO DO IT AS DEFENSE EXHIBIT #1?

21 THE COURT: IT DOESN'T MATTER TO ME.

22 MR. ANDERSON: IT'S PART OF THE REPORT.

23 MS. BRISBIN: WE CAN INCLUDE THAT - YOU WANT TO GET THAT IN
24 EVIDENCE? WE CAN INCLUDE THAT WITH EXHIBIT 3.

25 THE COURT: ALL RIGHT.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S #3. DOES THAT HAVE 8
2 PAGES? I WANNA MAKE SURE WE HAVE EVERYTHING.
- 3 A I HAVE 6 PAGES.
- 4 Q WE'RE MISSIN' 2. LET ME LOOK AND SEE WHAT WE'RE MISSIN'. SO THAT'S
5 RIGHT. DOCTOR, I TURNED TO THE FIRST PAGE. THE FIRST PAGE IS ACTUALLY
6 PAGE 5 OF YOUR RAPE KIT. ISN'T THAT TRUE? I DON'T KNOW THAT IT MATTERS.
- 7 A YEAR, THIS FIRST PAGE. WELL, THIS IS PAGE 4.
- 8 Q THAT'S OUT OF THE ONE—
- 9 A THAT I FILLED OUT, RIGHT.
- 10 Q COULD WE TURN TO WHAT WOULD BE PAGE ONE?
- 11 A SURE.
- 12 Q WHAT TIME WAS [REDACTED] P. ADMITTED TO THE HOSPITAL?
- 13 A ACCORDING TO WHAT'S WRITTEN HERE, 17:25. 5:25 P.M.
- 14 Q OKAY. IF YOU COULD LOOK HALF WAY DOWN AS DURING ALLEGED
15 ASSAULT THE SECOND LINE UNDERNEATH THAT. ASSAILANT EXPERIENCED
16 EJACULATION. IT HAS WHAT CHECKED?
- 17 A IT HAS YES CHECKED.
- 18 Q DO YOU KNOW HOW THE ALLEGED VICTIM WAS ABLE TO SAY YES OR NO
19 TO THAT?
- 20 A I DON'T. I DIDN'T FILL OUT THIS PAPER.
- 21 Q OKAY. YOU DIDN'T FILL THIS FORM OUT.
- 22 A I DIDN'T FILL THIS FORM OUT. NO. I CAN TELL YOU WHICH PARTS OF THIS I
23 FILLED OUT IF THAT WOULD BE HELPFUL.
- 24 Q WELL, I'M GONNA GO THROUGH IT ALL AND YOU TELL ME IF YOU CAN'T
25 ANSWER IT.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 A OKAY.

2 Q YOU ARE RECORD CUSTODIAN. YOU'VE ALREADY STATED THAT. AND
3 THESE ARE RECORDS YOU HANDLE DURING THE ORDINARY COURSE OF YOUR
4 POSITION.

5 A I'M NOT SURE WHAT YOU MEAN BY RECORD CUSTODIAN, BUT I -- YEAH,
6 I MEAN THE PARTS THAT I FILL - SOME OF THIS IS FILLED OUT BY THE NURSING
7 STAFF AND SOME OF IT IS FILLED OUT BY THE DOCTOR.

8 Q AND AS P. DOCTOR YOU'RE FAMILIAR WITH IT.

9 A YEAH, I'M FAMILIAR WITH THE RECORD. UH-HUH.

10 Q OKAY. IT DOES HAVE DID ASSAILANT WEAR A CONDOM AND IT HAS NOT
11 KNOWN. THAT'S CHECKED. IS THAT CORRECT?

12 A CORRECT.

13 Q OKAY. THEN THE NEXT SECTION DOWN IT SAYS WERE ANY MEDICATIONS
14 ETC. - AND THEN BENEATH THAT IT HAS WAS ANY COERCION USED. ALL OF THAT
15 IS BLANK. IS THAT CORRECT?

16 A IT LOOKS BLANK ON THIS, YES.

17 Q AND THE OPTIONS ARE KNIFE, GUN, CHOKE, FISTS, VERBAL THREATS,
18 OTHER AND ALL THAT IS LEFT BLANK.

19 A YES.

20 MS. BRISBIN: YOUR HONOR, I THINK THIS IS THE WRONG WITNESS TO BE
21 ASKING THESE QUESTIONS. HE DIDN'T FILL OUT ANY OF THAT HE SAID.

22 THE COURT: YES, MA'AM, BUT IF IT'S IN EVIDENCE IT CAN BE ASKED
23 ABOUT.

24 Q THE NEXT LINE DOWN IT HAS MEDICAL. 2 LINES DOWN. I'M
25 STRIKE THAT. THIRD LINE DOWN. MEDICAL HISTORY.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A UH-HUH.
- 2 Q IT SAYS DATE OF LAST MENSES. WHAT'S THE DATE?
- 3 A 7-4-2001.
- 4 Q YOU TESTIFIED A FEW MINUTES AGO THAT THERE WAS BLOOD FOUND IN
- 5 THE VAGINA?
- 6 A YES.
- 7 Q AND WAS IT - HOW MUCH BLOOD ARE WE TALKIN' ABOUT?
- 8 A SMALL ABOUT.
- 9 Q OKAY.
- 10 A I BELIEVE I QUANTIFIED IT AS SLIGHT.
- 11 Q ALL RIGHT. THEN NEXT IS PAGE 2. COULD YOU LOOK AT THE TOP OF THAT
- 12 PAGE. IT HAS DESCRIPTION OF OUTWARD APPEARANCE AND IT LISTS P.
- 13 CLOTHES. WHITE SPORTS BRA, WHITE PANT OF SHORTS, WHITE T-SHIRT, SHORTS,
- 14 HAVE BLOOD. DO YOU RECALL HOW MUCH BLOOD?
- 15 A AGAIN, I DID NOT EXAMINE HER CLOTHES.
- 16 Q SO YOU DON'T KNOW HOW MUCH.
- 17 A SO I COULD NOT.
- 18 Q COULD YOU READ THEN HAS PANTIES AND COULD YOU READ THAT PART
- 19 ABOUT PANTIES.
- 20 A IT SAYS SHORTS HAD BLOOD COMMA PANTIES HAD SANITARY NAPKIN
- 21 WITH BLOOD.
- 22 Q OKAY. THANKS. NOW DESCRIPTION OF EMOTIONAL STATE. COULD YOU
- 23 READ THAT?
- 24 A QUIET, COOPERATIVE, CALM. 15-YEAR-OLD WITH APPARENT DELAYED
- 25 DEVELOPMENT.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q OKAY. NOW THE NEXT IS A BIG BOX AND IT'S TALKIN' ABOUT DEBRIS
2 COLLECTION. IS THAT CORRECT? EVIDENCE COLLECTION. RIGHT HERE.
- 3 A YES. OKAY.
- 4 Q OKAY. THEN THE NEXT LINE DOWN IT TELLS YOU WHAT TO DO. COULD
5 YOU -- WHO WOULD BE IN CHARGE OF COLLECTING THIS STUFF?
- 6 A THAT WOULD BE THE NURSE WHO WAS DOIN' THE KIT.
- 7 Q IS THAT GONNA BE NURSE WHITE WHO'S IN THE COURTROOM?
- 8 A I BELIEVE HER NAME WAS ON THE CHART. YES. ON PAGE #6 MARGARET
9 WHITE, R.N.
- 10 Q SO YOU AND NURSE WHITE WERE LIKE A TEAM IN THIS?
- 11 A I DON'T HAVE AN INDEPENDENT RECOLLECTION OF WHICH NURSE DID
12 THIS EXAM WITH ME THAT DAY 'CAUSE IT'S 18 MONTHS AGO. BUT HER NAME'S
13 SIGNED ON THE CHART.
- 14 Q OKAY. WOULD YOU BE TAKIN' PART IN ANY OF THESE NEXT THINGS THAT
15 ARE LISTED ON THE FORM?
- 16 A NOT ON PAGE 2 OR PAGE 3.
- 17 Q OKAY. TO YOUR KNOWLEDGE WERE THE THINGS THE COLLECTION OF
18 EVIDENCE THAT ARE LISTED ON PAGE 2 AND 3, I GUESS THE TOP HALF OF PAGE
19 AND THE BOTTOM HALF OF PAGE 2 -- I DIDN'T ASK THAT VERY WELL. THE
20 COLLECTION OF EVIDENCE THAT'S FOUND ON THE BOTTOM HALF OF PAGE 2 AND
21 THE TOP HALF OF PAGE 3 WERE YOU INVOLVED IN ANY OF THOSE ACTIVITIES?
- 22 A NO.
- 23 Q OKAY. THEN THE NEXT THING DOWN ON PAGE 3 IS THE PHYSICAL
24 EXAMINATION. IS THAT CORRECT?
- 25 A CORRECT.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 Q AND THAT'S GONNA BE YOU.

2 A YEAH, THIS ISN'T WHERE I DOCUMENT MY PART OF THE PHYSICAL EXAM. I
3 USUALLY DO THAT ON THE RECORD. AND WHEN I SAY PHYSICAL EXAM I MEAN
4 ARMS AND LEGS AND HEAD AND LOOKING FOR ANY INJURIES.

5 Q ALL RIGHT. BUT ON THAT PART OF THE PHYSICAL EXAMINATION WHAT
6 DOES IT SAY?

7 A IT SAYS THERE'S AN OLD SCAR NOTED ON HER BACK LOOKS LIKE THE
8 RIGHT FLANK AREA. OTHER THAN THAT IT SAYS NO BRUISES, SCRATCHES, BITE OR
9 SUCH MARKS OR REDNESS NOTED.

10 Q OKAY. AND ALL OF THOSE THINGS ARE THINGS YOU LOOK FOR FOR A
11 VICTIM OF A SEXUAL ASSAULT. ARE THEY NOT?

12 A YES.

13 Q AND BASED ON YOUR EXAMINATION YOU DON'T CONTRADICT THAT. DO
14 YOU?

15 A AGAIN, I DON'T HAVE MY TYPED RECORD IN FRONT OF ME, BUT I READ IT
16 LAST NIGHT, AND I DON'T REMEMBER INJURIES APART FROM THE ONES THAT
17 WERE IN THE GENITAL AREA.

18 Q OKAY. THEN PAGE 5. YOU READ PAGE 5.

19 A THAT'S FOR PART OF THE MALE KIT. SO WE WOULDN'T BE DOIN' THAT.

20 Q SO IF WE GO BACK TO PAGE 4. YOU SAID THERE WAS BRUISING IN THE
21 POSTER - HOW DO YOU PRONOUNCE THAT?

22 A FOURCHETTE.

23 Q FOURCHETTE. YOU TESTIFIED THAT'S CONSISTENT WITH SEXUAL ABUSE,
24 BUT ISN'T IT CONSISTENT WITH ANY NUMBER OF OTHER THINGS TOO?

25 A NOT REALLY. I MEAN IT'S A RELATIVELY PROTECTED AREA BECAUSE IT'S

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 BETWEEN THE LEGS, AND THEN NORMALLY IT'S COVERED BY THE LABIA MAJORA
2 WHICH ARE THE TWO LARGE MOUNDS OF TISSUE THAT FORM THE COVERING OF
3 THE OPENING OF THE VAGINA. SO IT'S NOT AN AREA THAT WOULD BE EASILY
4 BRUISED.

5 Q SO THE ONLY WAY IT CAN BE BRUISED IS THROUGH SEX?

6 A NO. IF SOMEBODY TOOK A BLUNT OBJECT AND PUSHED IT DOWN THERE.
7 THAT'S A POSSIBILITY. THE ONLY OTHER THING WOULD BE A STRADDLE INJURY.
8 IF YOU WERE TO FALL FROM SOME KIND OF A HEIGHT ONTO A METAL BAR YOU
9 COULD GET A STRADDLE INJURY. BUT THAT'S REALLY THE ONLY WAYS YOU'RE
10 GONNA GET TO THAT AREA. SO IT'S RELATIVELY UNCOMMON TO SEE IT.

11 Q HOW ABOUT BRUISING? HOW LONG DOES IT TAKE FOR BRUISING TO
12 APPEAR?

13 A DEPENDING ON THE AMOUNT OF FORCE APPLIED IT CAN BE ANYWHERE
14 FROM, YOU KNOW, A LITTLE LESS THAN AN HOUR TO UP TO 24 HOURS.

15 Q WOULD IT BE OBVIOUS THAT THE MORE FORCE THE QUICKER THE
16 BRUISING WOULD APPEAR?

17 A DEPENDING ON A LOTTA THINGS. WE ALL KNOW OLDER PEOPLE HAVE
18 VERY THIN SKIN AND YOU CAN ALMOST LOOK AT IT AND IT BRUISES IN FRONT OF
19 YOU.

20 Q AND YOUNGER?

21 A YOUNGER ONE IT DEPENDS ON THE PART OF THE BODY AND HOW MUCH
22 FORCE.

23 Q WELL, WE'RE TALKIN' ABOUT THIS BRUISE.

24 A UH-HUH.

25 Q AND IS IT POSSIBLE THAT THAT BRUISING WAS MORE THAN 12 HOURS OLD?

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 A IT WOULD BE DIFFICULT TO PUT THAT PRECISE A TIME ON IT. I MEAN I CAN
2 TELL IT WAS RELATIVELY FRESH BRUISING AND THAT IT WASN'T YELLOWED.

3 Q UH-HUH.

4 A AND IT HADN'T AGED IN THAT WAY. BRUISES TURN YELLOW AND GREEN
5 AS THEY DISAPPEAR. SO IT WAS RELATIVELY FRESH MEANING IN THE FIRST ONE
6 OR TWO DAYS.

7 Q OKAY.

8 A I MEAN I CAN'T GIVE YOU EXACT TIMES FOR IT.

9 Q NOW ON THE LEFT SIDE OF THAT PAGE YOU HAVE VAGINA NEGATIVE
10 SLIGHT BLOOD IN CERVIX. SLIGHT BLOOD FROM OZ?

11 A FROM OZ. THAT'S THE OPENING OF THE CERVIX. THE OPENING OF THE
12 CERVIX THAT GOES UP INTO THE UTERUS.

13 Q OKAY. IT HAS UTERUS NEGATIVE.

14 A RIGHT.

15 Q WHAT DOES THAT MEAN?

16 A THAT WOULD JUST MEAN THAT THE UTERUS WASN'T ENLARGED AND
17 WASN'T TENDER.

18 Q IS THAT SIGNIFICANT IN ANY WAY?

19 A NO.

20 Q WHY IS THAT EVEN ON THE FORM?

21 A WELL, I SUPPOSE IT'S ON THE FORM JUST FOR COMPLETENESS IN A PELVIC
22 EXAM. IN OTHER WORDS, IF YOU HAD AN ENLARGED UTERUS, THE PATIENT WAS
23 PREGNANT, YOU'D WANT TO MAKE A NOTE OF THAT.

24 Q THE NEXT WORD I'M NOT EVEN GONNA PRONOUNCE. TRY TO PRONOUNCE.

25 A ADNEXA.

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 Q WHAT DOES THAT MEAN?

2 A THAT REFERS TO THE SIDE ORGANS OF THE FEMALE GENITALIA. WHAT
3 PEOPLE CALL THE TUBES AND THE OVARIES.

4 Q OKAY. AND THAT WAS NOT APPLICABLE.

5 A NOT APPLICABLE.

6 Q THEN THE NEXT IS HYMEN AND--

7 A REMNANTS.

8 Q WHAT DOES THAT MEAN?

9 A THAT MEANS, AGAIN, THE HYMEN IS A PARTIAL -- IT'S NOT A COMPLETE
10 COVER OF THE VAGINA. IT'S NEVER A COMPLETE HYMEN EXCEPT IN RARE BIRTH
11 DEFECTS. BUT BASICALLY IT'S A THIN LAYER OF SKIN THAT IS ABOUT A THIRD OF
12 THE WAY INTO THE VAGINA. THE OPENING. AND THERE IS USUALLY A PARTIAL
13 OPENING AND IF SOMETIMES FROM SEXUAL ACTIVITY, SOMETIMES FROM NORMAL
14 DEVELOPMENT OR NORMAL ACTIVITY OF A CHILD, THE HYMEN GETS ENLARGED
15 OR TEARS A LITTLE BIT AND JUST KINDA SHRINKS BACK TOWARD THE WALL OF
16 THE VAGINA. YOU CAN JUST SEE LITTLE REMNANTS OF IT. IT'S LIKE LITTLE SKIN
17 TAGS AROUND THE RIM.

18 Q WHAT DOES THAT MEAN IN THE CONTEXT OF THIS CASE?

19 A NOTHING REALLY.

20 Q OKAY. DID YOU INQUIRE OF THE GIRL IF SHE'D BEEN SEXUALLY ACTIVE
21 BEFORE?

22 A I DON'T REMEMBER ASKING THAT AND I DON'T HAVE A NOTE TO THAT
23 EFFECT THAT I HAD TAKEN A SEXUAL HISTORY.

24 Q DID YOU FIND ANYTHING FROM YOUR EXAMINATION TO GIVE YOU AN
25 OPINION AS TO WHETHER OR NOT SHE HAD BEEN SEXUALLY ACTIVE?

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 A NOT REALLY.

2 Q EITHER WAY OR--

3 A EITHER WAY. I MEAN I JUST DIDN'T - I WAS THERE BASICALLY TO
4 DOCUMENT WHAT THE FINDINGS WERE AT THAT TIME AND TO COLLECT THE
5 EVIDENCE.

6 Q IS IT SAFE TO SAY SHE COULD'VE BEEN SEXUALLY ACTIVE AND SHE
7 COULD NOT HAVE BEEN SEXUALLY ACTIVE?

8 MS. BRISBIN: OBJECTION, YOUR HONOR. IT CALLS FOR SPECULATION.
9 THE COURT: SUSTAINED.

10 Q NEXT ON THAT PAGE 4 IT HAS SWABS AND SPHERES (PHONETIC)
11 COLLECTION PROCEDURE.

12 A YES.

13 Q AND ABFC DO NOT MOSITEN, DO NOT STAIN AND IT IS IMPERATIVE THAT
14 THEY'RE KEPT COMPLETELY AIR DRIED FOR REPACKAGING. DID YOU COMPLY
15 WITH THAT?

16 A AGAIN, I DON'T AIR DRY THEM. I HAND THEM TO THE NURSE AND SHE HAS
17 A WOODEN BOARD THAT WE STICK THEM UP, COTTON TIP UP, STEM DOWN TO LET
18 THEM AIR DRY. BUT I'M NOT THE ONE THAT FINALLY PUTS THEM INTO THE KIT.

19 Q OKAY. SOMEWHERE IN THIS - DOESN'T IT TELL YOU TO MARK EXACTLY
20 WHERE YOU GOT YOUR SWABS? AREN'T YOU SUPPOSED TO--

21 A I MEAN I DON'T SEE THAT WRITTEN.

22 Q I DON'T SEE IT RIGHT THERE, BUT AREN'T YOU SUPPOSED TO GIVE SOME
23 INDICATION AS TO WHERE--

24 A USUALLY IN THE ENVELOPES IN THE KIT--

25 Q OFF OF P. WHERE DID YOU GET THE SWABS?

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A I WAS SWABBING THE GENITAL AREA.
- 2 Q ALL RIGHT. THERE IS ONE THAT YOU SAID WAS A SUSPECTED SEMEN?
- 3 A RIGHT.
- 4 Q WHERE DID YOU GET THAT?
- 5 A FROM THE EXTERNAL GENITALIA WHEN I DID THE EXAM.
- 6 Q OKAY.
- 7 A I WASN'T SWABBING HER LOWER LEG OR BELLY OR CHEST OR ANYTHING
- 8 LIKE THAT.
- 9 Q BUT THE EXTERNAL GENITALIA. YOU KNOW THAT OR THAT'S WHAT YOU
- 10 THINK?
- 11 A I KNOW THAT BECAUSE I DON'T SWAB ANY OTHER AREAS WHEN I DO
- 12 THESE EXAMS. I MEAN WHEN I COME IN TO DO THE EXAM THE PATIENT IS IN THE
- 13 LOPHOTOMY (PHONETIC) POSITION MEANING UP IN THE PELVIC EXAM TABLE, AND
- 14 I TAKE SWABS OF THE EXTERNAL AREA. AND I GO IN AND I TAKE VAGINAL SWABS
- 15 AND I TAKE SURGICAL SWABS.
- 16 Q WHAT I'M GETTING AT WHEN YOU TOOK SWABS OF THE EXTERNAL AREA
- 17 IS THAT WHERE YOU GOT THE SWAB OF SUSPECTED SEMEN?
- 18 A YEAH, I COULDN'T HAVE GOTTEN IT ANYWHERE ELSE.
- 19 Q OKAY. WHY IS THAT?
- 20 A 'CAUSE I DON'T DO IT -- THE NURSE DOES THE COLLECTION EXCEPT FOR
- 21 THE PELVIC EXAMINATION.
- 22 Q OKAY. WELL, DO YOU KNOW MAYBE THE NURSE GOT THE SWAB OF THE
- 23 SUSPECTED SEMEN?
- 24 A AGAIN, I'M NOT THE ONE THAT PUTS IT IN THE FINAL KIT BUT IF THERE WAS
- 25 A SUSPECTED SEMEN IN ONE OF THE ENVELOPES FROM THE EXTERNAL GENITALIA,

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 I WOULD'VE BEEN THE ONE THAT COLLECTED IT.

2 Q ALL RIGHT. MAYBE YOU'RE MISSIN' MY POINT. YOU DON'T INDICATE
3 ANYWHERE IN YOUR RECORDS WHERE THE SWAB WAS TAKEN FROM.

4 A UH-HUH.

5 Q HOW DO WE KNOW WHERE IT WAS TAKEN FROM? THERE WAS A SWAB OF
6 SUSPECTED SEMEN.

7 A RIGHT.

8 Q WHERE WAS THAT TAKEN FROM?

9 A I'M NOT SURE.

10 Q OKAY.

11 A I MEAN I CAN'T TELL YOU WHERE IT WAS TAKEN FROM. I CAN JUST TELL
12 YOU THAT THE SWABS I TAKE ARE FROM THE EXTERNAL GENTILIA, THE VAGINA,
13 THE CERVICAL AREA.

14 Q OKAY. AND YOU DON'T KNOW WHICH ONE OF YOU TOOK THE SWAB OF
15 THE SUSPECTED SEMEN.

16 A I DON'T SEE ANY NOTES THAT THEY WERE TAKEN FROM ANYWHERE ELSE.
17 I MEAN NORMALLY IF IT WAS TAKEN FROM SOME OTHER PART OF HER BODY THAT
18 WOULD BE NOTED IN THE RECORD.

19 Q I UNDERSTAND, BUT THERE'S NOTHING NOTED IN THE RECORD FOR YOUR
20 PART OF THE EXAMINATION. IT COULD'VE BEEN ON THE OUTSIDE, JUST BARELY
21 ON THE INSIDE OR ON THE INSIDE.

22 A AGAIN, WHEN I DO THESE I HAND THEM TO THE NURSE. THESE ARE THE
23 VAGINAL ONES, THESE ARE THE CERVICAL ONES AND THEY'RE AIR DRIED. THE
24 WOODEN BOX HAS A ROW FOR THE VAGINAL ONES, A ROW FOR THIS AND A ROW
25 FOR THAT. AND THEN THEY'RE PUT INTO THE ENVELOPES AND PUT INTO THE KIT

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 AFTER THEY AIR DRY.

2 Q I UNDERSTAND. AND I'M NOT TRYIN' TO TRICK YOU.

3 A I'M JUST TRYIN' TO EXPLAIN HOW WE DO IT. I MEAN THERE'S A NUMBER
4 OF ROWS ON THIS BLOCK AND THERE'S A NUMBER OF SWABS AND I GO THROUGH
5 A PROCEDURE.

6 Q AND ONE OF THOSE ROWS IS FOR EXTERNAL.

7 A YEAH.

8 Q OKAY. EXTERNAL COULD BE RIGHT ON THE OUTSIDE OR IT COULD BE
9 DOWN ON THE PERJNEUM OR IT COULD BE IN THAT AREA. OKAY. SO YOU DON'T
10 KNOW EXACTLY WHERE THAT SUSPECTED SEMEN SWAB WAS TAKEN FROM.

11 A RIGHT.

12 Q AND YOU DON'T KNOW IF YOU TOOK IT OR THE NURSE TOOK IT.

13 A IF IT WAS A GENITALIA SWAB THOSE ARE THE ONES THAT I DO.

14 Q OKAY. SO IS IT SAFE TO SAY THAT YOU PROBABLY TOOK THAT SWAB?

15 A YEP.

16 Q OKAY. IF YOU COULD LOOK AT PAGE 6.

17 A GOT IT.

18 Q ABOUT A THIRD OF THE WAY DOWN, IT HAS WAS VICTIM GIVEN
19 PREGNANCY PREVENTION DRUG.

20 A UH-HUH.

21 Q WHAT DOES THAT SAY?

22 A IT SAYS ON CYCLE MEANING SHE WAS ACTIVELY BLEEDING AT THE TIME.

23 Q THAT WAS THE BLOOD—

24 A THE OZ I NOTED EARLIER.

25 Q ARE YOU STATING SHE WAS HAVING HER MENSTRUATION THERE?

DR. GRANT - CROSS-EXAMINATION BY MR. ANDERSON

1 A WELL, BASICALLY THAT SHE WAS HAVING VAGINAL BLEEDING.

2 Q WELL—

3 A I THOUGHT SHE WAS BLEEDING TO THE POINT THAT IT WAS NOT POSSIBLE
4 FOR HER TO GET PREGNANT AT THAT POINT.

5 Q OKAY. FROM HER CYCLE?

6 A UH-HUH. 'CAUSE THE BLOOD I WAS SEEING WAS COMING FROM THE OZ,
7 THE OPENING OF THE CERVIX.

8 Q SO THAT MEANS SHE COULD'VE BEEN HURT BACK THERE FROM THE
9 SEXUAL ASSAULT?

10 A SHE COULD'VE BEEN. YOU JUST COULDN'T TELL EITHER WAY. I MEAN IN
11 OTHER WORDS THE BLOOD - SHE HAD BLOOD COMING FROM HER OZ. THAT'S
12 NOT COMING FROM THE SEXUAL ASSAULT.

13 Q OKAY.

14 A IT DOESN'T MEAN THAT BLOOD LOWER DOWN IN THE VAGINA WAS THE
15 SAME BLOOD THAT I WAS SEEING AT THE OZ.

16 Q THERE'S NO QUESTION THAT IT'S YOUR POSITION SHE WAS HAVING HER
17 MENSTRUAL CYCLE.

18 A BASED ON WHAT I SAW ON EXAM.

19 Q OKAY. THAT'S ALL THE QUESTIONS I HAVE.

20 MR. ANDERSON: THANK YOU, YOUR HONOR.

21 THE COURT: REDIRECT?

22 REDIRECT EXAMINATION

23 BY MS. BRISBIN

24 Q THE BLOOD GOING BACK TO THE RECORD THAT HE HAD YOU READ
25 EARLIER ABOUT LAST MENSTRUAL PERIOD, WHAT WAS THE DATE OF THE LAST

DR. GRANT - REDIRECT EXAMINATION BY MS. BRISBIN

1 MENSTRUAL PERIOD?

2 A 7-4-01.

3 Q AND THE DATE OF YOUR EXAMINATION WAS WHAT?

4 A 7-13-01.

5 Q SO IT WOULD NOT BE - SHE WOULD NOT BE EXPECTED TO HAVE ANOTHER
6 MONTHLY PERIOD NORMALLY ON THE 13TH.

7 A IF HER PERIODS WERE ALWAYS NORMAL.

8 Q RIGHT.

9 A WHICH FOR SOMEBODY - FOR A YOUNG GIRL SOMETIMES IT TAKES YEARS
10 TO GET ESTABLISHED IN A NORMAL PATTERN AND SOME WOMEN NEVER GET IN A
11 NORMAL PATTERN.

12 Q WOULD YOU AGREE THAT YOU COULD NOT DETERMINE WHETHER THAT
13 BLEEDING STARTED BEFORE OR AFTER THE ALLEGED SEXUAL ASSAULT?

14 A I CAN'T DETERMINE THAT.

15 Q BUT YOU DID - YOU CAN SAY THERE WAS BLOOD IN THE VAGINA.

16 A YES.

17 Q AND ON THE SWABS THAT WAS A LITTLE CONFUSING. YOU DID COLLECT
18 ALL THE SWABS THAT WERE COLLECTED YOURSELF.

19 A IF A NURSE WERE TO COLLECT A SWAB ON A PATIENT FROM SUSPECTED
20 SEMEN, THAT WOULD BE LABELED. I MEAN THAT WOULD BE HIGHLY UNUSUAL
21 AND HIGHLY LABELED.

22 Q OKAY. SO ON THE SUSPECTED SEMEN SWAB YOU COLLECTED THAT AND
23 THE ONLY PLACE YOU COLLECT THOSE FROM IS THE EXTERNAL GENITAL AREA.
24 CORRECT?

25 A AS A PHYSICIAN THAT'S WHAT I DO, YES.

MARGARET WHYTE - DIRECT EXAMINATION BY MS. BRISBIN

1 Q OKAY. AND THE VAGINAL SWAB I GUESS THIS SOUNDS LIKE A STUPID
2 QUESTION, BUT WAS THE VAGINAL SWAB COLLECTED FROM INSIDE THE VAGINA?

3 A UH-HUH. YES.

4 Q THANK YOU.

5 THE COURT: RECROSS?

6 MR. ANDERSON: NO THANK YOU, JUDGE.

7 THE COURT: THANK YOU, DOCTOR. YOU MAY STEP DOWN. IS HE FREE TO
8 LEAVE?

9 MS. BRISBIN: FINE WITH THE STATE, YOUR HONOR.

10 THE COURT: YOU'RE FREE TO GO, SIR. CALL YOUR NEXT WITNESS.

11 MS. BRISBIN: STATE CALLS MARGARET WHYTE.

12 MARGARET WHYTE, BEING DULY SWORN, TESTIFIES

13 AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MS. BRISBIN

16 Q MS. WHYTE, WHERE ARE YOU EMPLOYED?

17 A AT AIKEN REGIONAL MEDICAL CENTER.

18 Q HOW LONG HAVE YOU WORKED THERE?

19 A ABOUT 14 YEARS.

20 Q AND WHAT DEPARTMENT DO YOU WORK IN?

21 A THE EMERGENCY DEPARTMENT.

22 Q WERE YOU EMPLOYED THERE ON THE EVENING OF JULY 13TH 2001?

23 A YES.

24 Q DID YOU HAVE OCCASION TO PARTICIPATE IN A SEXUAL ASSAULT
25 EXAMINATION ON P. H.

MARGARET WHYTE - DIRECT EXAMINATION BY MS. BRISBIN

1 A I'M PRESUMING THAT I DID IF MY NAME IS ON THAT---

2 Q WOULD IT REFRESH YOUR MEMORY TO SEE THE RECORDS?

3 A UH-HUH.

4 Q SHOWING YOU STATE'S EXHIBIT #3 WHICH IS ALREADY IN EVIDENCE. IS
5 THIS YOUR SIGNATURE?

6 A YES, IT IS.

7 Q DOES THAT SIGNATURE INDICATE THAT YOU AIDED IN A SEXUAL ASSAULT
8 EXAMINATION THAT WAS DONE ON THAT PATIENT?

9 A YES, IT DOES.

10 Q OKAY. AND AS THE NURSE PARTICIPATING IN THAT SEXUAL ASSAULT
11 EXAMINATION, WHAT ARE YOUR DUTIES?

12 A TO TALK WITH THE PATIENT, TO PREPARE THEM FOR THE EXAM, TO OPEN
13 THE KIT, TO DO ALL OF THE INITIAL EVIDENCE COLLECTION OTHER THAN THE
14 GENITALIA. TO CLOSE THE KIT ONCE IT'S - ALL THE EVIDENCE HAS BEEN
15 COLLECTED AND TO SECURE THE KIT AND HOLD IT UNTIL IT'S PICKED UP BY A
16 LAW ENFORCEMENT PERSON.

17 Q AND SO YOU WOULD HAVE ACTUALLY BEEN THE PERSON WHO SEALED
18 THE KIT AND HANDED IT TO THE LAW ENFORCEMENT OFFICER?

19 A THAT'S CORRECT.

20 Q THANK YOU. WHEN YOU - ARE YOU ACTUALLY THE PERSON THAT PUT
21 THE SWABS IN THE KIT OR DID DR. GRANT DO THAT?

22 A NO, I DID.

23 Q YOU DID THAT.

24 A YES.

25 Q OKAY. AND DO YOU ALSO SEAL THE KIT ITSELF AFTER YOU PUT THEM IN

MARGARET WHYTE - DIRECT EXAMINATION BY MS. BRISBIN

1 THERE?

2 A THAT'S CORRECT.

3 Q AND DO YOU INITIAL THAT?

4 A I DO.

5 Q AND ARE YOU ABLE TO SAY THAT THERE WAS NO TAMPERING WITH THAT

6 KIT FROM THE TIME YOU SEALED IT UNTIL THE TIME YOU HANDED IT TO THE

7 OFFICER?

8 A THAT'S CORRECT.

9 Q THANK YOU.

10 MS. BRISBIN: I DON'T HAVE ANY FURTHER QUESTIONS AT THIS TIME, YOUR

11 HONOR.

12 THE COURT: ALL RIGHT.

13 MS. BRISBIN: I WOULD ASK THAT SHE REMAIN IN THE COURTROOM.

14 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

15 MR. ANDERSON: THANK YOU, YOUR HONOR.

16 CROSS-EXAMINATION

17 BY MR. ANDERSON

18 Q NURSE WHYTE, YOU'VE BEEN AT THAT HOSPITAL FOR ABOUT 12 YEARS?

19 A 14.

20 Q 14 YEARS. SO YOU HEARD DR. GRANT TESTIFY THAT HE'S DONE HUNDREDS
21 OF THESE.

22 A UH-HUH.

23 Q PROBABLY SIMILAR FOR YOU?

24 A YES.

25 Q YOU THINK YOU PRETTY MUCH HAVE IT DOWN AS TO WHAT YOU'RE

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 SUPPOSED TO DO?

2 A YES.

3 Q OKAY. WOULD YOU SAY YOU'RE IN CHARGE OF IT OR DR. GRANT'S IN
4 CHARGE OF IT?

5 A THE PHYSICIAN, THE EMERGENCY ROOM PHYSICIAN IN CHARGE OF THE
6 PATIENT.

7 Q RIGHT.

8 A HE DOES ORDERS OR INDICATES A PROCEDURE AND I CARRY THOSE OUT.

9 Q OKAY. AND YOU'RE THE ONE ACTUALLY DOIN' MOST OF THE STUFF IN IT.

10 A THAT'S CORRECT.

11 Q KINDA LIKE MY SECRETARY. I MIGHT TELL HER WHAT TO DO, BUT SHE'S
12 THE ONE DOIN' ALL THE WORK.

13 A UH-HUH.

14 Q DO YOU REMEMBER

P.	H.
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15 A NO, SIR, I DON'T.

16 Q OKAY. DO YOU REMEMBER THIS INCIDENT?

17 A NO, SIR, I DON'T.

18 Q BUT YOU'VE SEEN THE RECORDS—

19 A NO, I HAVEN'T SEEN THE RECORDS.

20 Q YOU KNOW WHY YOU'RE HERE TODAY.

21 A YES, I DO KNOW WHY I'M HERE.

22 Q LET ME SHOW YOU WHAT'S MARKED AS STATE'S #3.

23 A OKAY.

24 Q THOSE ARE THE RECORDS WE WERE LOOKING AT WITH DR. GRANT.

25 A OKAY.

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q DO THEY LOOK FAMILIAR?
- 2 A YES, THEY DO.
- 3 Q OKAY. EVERY TIME YOU DO ONE OF THESE ALLEGATIONS YOU HAVE TO
- 4 GO THROUGH THESE FORMS.
- 5 A THAT'S CORRECT.
- 6 Q AND DO WHAT THEY'RE ASKING YOU TO DO.
- 7 A THAT'S CORRECT.
- 8 Q AND YOU UNDERSTAND HOW IMPORTANT IT IS THAT EVERYTHING IS DONE
- 9 RIGHT.
- 10 A YES.
- 11 Q OKAY. YOU HEARD DR. GRANT TESTIFY THAT A LOT OF THE NOTES ON A
- 12 LOT OF THESE PAGES WERE TAKEN BY YOU.
- 13 A THAT'S CORRECT.
- 14 Q AND IS THAT TRUE?
- 15 A YES, IT IS.
- 16 Q OKAY. COULD YOU LOOK ON WHAT'S PAGE ONE, AND IT'S NOT THE FIRST
- 17 PAGE.
- 18 A ALL RIGHT.
- 19 Q JUST GO ABOUT ALMOST 2 THIRDS OF THE WAY DOWN.
- 20 A UH-HUH.
- 21 Q TO WAS ANY COERCION USED.
- 22 A UH-HUH.
- 23 Q DO YOU HAVE AN EXPLANATION FOR WHY THAT'S -- THERE'S NO
- 24 COERCION USED MARKED?
- 25 A YES, BECAUSE THERE WASN'T INDICATED THAT THERE WAS ANY

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 COERCION USED.

2 Q OKAY. THE OPTIONS ARE KNIFE, GUN, CHOKE, FIST, VERBAL THREATS OR
3 OTHER?

4 A THAT'S CORRECT.

5 Q OKAY. AND COERCION JUST MEANS INFLUENCE OR FORCE. IS THAT
6 CORRECT?

7 A THAT'S CORRECT.

8 Q IF YOU COULD, LOOK ON PAGE 2. WOULD IT HAVE BEEN YOU THAT
9 HANDLED HER CLOTHES?

10 A YES.

11 Q AND WOULD YOU LOOK ON THE SECOND LINE THE LIST OF CLOTHES THAT
12 SHE HAD ON.

13 A YES.

14 Q WHAT WAS IN HER UNDERWEAR?

15 A IT SAYS THAT SHE HAD A SANITARY NAPKIN WITH BLOOD ON IT.

16 Q OKAY. NOW IF YOU WOULD GO - YOU SEE THIS BIG BOX?

17 A YES.

18 Q AND THAT'S KINDA DIRECTIONS ON HOW TO DO THE NEXT STEP.

19 A THAT'S CORRECT.

20 Q AND THAT STEP IS PROBABLY - I DON'T WANT TO PUT WORDS IN YOUR
21 MOUTH BUT THIS IS PROBABLY THE HARDEST PART OF WHAT YOU HAVE TO DO AS
22 FAR AS WORK-WISE?

23 A MEANING WHAT? I DON'T UNDERSTAND WHAT YOU'RE TALKIN' ABOUT.

24 Q THE MOST TIME INTENSIVE AND THE MOST TEDIOUS PART OF WHAT YOU
25 HAVE TO DO WITH ONE OF THESE CASES.

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A IS TO DO WHAT?
- 2 Q THIS NEXT PART THAT WE'RE GONNA TALK ABOUT. UNDERNEATH THAT
- 3 BOX.
- 4 A OH, UNDERNEATH THE BOX. YEAH, IT'S INTENSIVE, YES.
- 5 Q THIS IS WHERE YOU COLLECT--
- 6 A THAT'S CORRECT.
- 7 Q --POSSIBLE EVIDENCE.
- 8 A THAT'S CORRECT.
- 9 Q OKAY. AND JUST FOR SPEED I'M DOIN' A PARAPHRASE OF STUFF IN THE
- 10 BOX. OKAY?
- 11 A UH-HUH.
- 12 Q WET OR DAMP CLOTHING SHOULD THAT BE AIR DRIED. OKAY, THE VICTIM
- 13 IS NOT WEARING THE CLOTHING AT THE TIME OF THE ALLEGED ASSAULT.
- 14 COLLECT ONLY THE ITEMS THAT ARE IN DIRECT CONTACT WITH THE GENITAL
- 15 AREA. IF VICTIM CHANGED CLOTHING AFTER ASSAULT, INFORM OFFICER IN
- 16 CHARGE SO THAT THE CLOTHING THAT WAS WORN AT THE TIME COULD BE
- 17 COLLECTED. DO NOT CUT THROUGH ANY HOLES, RIPS OR STAINS. DO NOT SHAKE
- 18 OUT THE CLOTHING OR MICROSCOPIC EVIDENCE WILL BE LOST. IF ADDITIONAL
- 19 CLOTHING BAGS ARE REQUIRED USE ONLY NEW PAPER GROCERY TYPE BAGS.
- 20 A UH-HUH.
- 21 Q AND THAT'S BECAUSE EVERY LITTLE PIECE OF EVIDENCE THAT YOU'RE
- 22 COLLECTING COULD BE CRITICAL.
- 23 A THAT'S CORRECT.
- 24 Q COULD BE CRITICAL FOR THE STATE OR THE DEFENSE.
- 25 A THAT'S CORRECT.

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 Q NOW WHAT'D YOU DO FIRST. UNDERNEATH THAT BOX. I'LL JUST LET YOU
2 TELL THE JURY IN YOUR OWN WORDS. WHAT DO YOU DO?

3 A THE FIRST THING YOU DO IS TO HAVE THE PATIENT DISROBE.

4 Q OKAY.

5 A WE SPREAD A SHEET ON THE FLOOR AND THEN THERE IS A FOLDED PAPER
6 SHEET WE TAKE OUT OF THE KIT AND WE PLACE THAT OVER THE SHEET ON THE
7 FLOOR. AND THEN WE HAVE THE PERSON DISROBE.

8 Q OKAY. OVER THAT.

9 A OVER THE PAPER SHEET THAT COMES OUT OF THE KIT.

10 Q AND THAT'S OBVIOUSLY SO ANY EVIDENCE THAT'S ON THE CLOTHES WILL
11 BE SAVED.

12 A THAT'S CORRECT.

13 Q OKAY. SO THEN WHAT DO YOU DO NEXT?

14 A AFTER THE PATIENT HAS DISROBED WE PUT - THERE'S A LARGE WHITE
15 PAPER BAG THAT THE PATIENT'S CLOTHING GOES INTO. THE PANTIES GO INTO A
16 SEPARATE BAG.

17 Q THE REASON FOR THAT IS THAT'S THE AREA CLOSEST TO THE GENITAL
18 AREA WHERE IMPORTANT EVIDENCE COULD BE FOUND.

19 A THAT'S CORRECT.

20 Q AND YOU UNDERSTAND HOW IMPORTANT IT IS THAT THAT EVIDENCE BE
21 PRESERVED.

22 A UH-HUH.

23 Q SO THE PANTIES ARE PROTECTED.

24 A YES, THEY ARE.

25 Q AND YOU BAG THEM UP.

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A YES.
- 2 Q OKAY. AND NEXT WHAT'D YOU DO?
- 3 A WELL, ONCE THE PATIENT IS DISROBED WE PUT THEM INTO A GOWN AND
- 4 WE HAVE THEM GET BACK ON THE GURNEY AND THEN WE BEGIN TO COLLECT THE
- 5 VARIOUS OTHER PIECES OF EVIDENCE. WE TAKE THE PAPER SHEET THAT THEY
- 6 UNDRESSED ON AND FOLD THAT CAREFULLY INWARDS SO THAT NOTHING SPILLS
- 7 OUT, AND SO AT THAT POINT WE HAVE THE CLOTHING BAG, THE PANTIES BAG AND
- 8 THE DEBRIS BAG. OF THE DEBRIS SHEET. AND THEN WE BEGIN TO COLLECT OTHER
- 9 PIECES OF EVIDENCE.
- 10 Q OKAY. AND THE NEXT BOX DOWN IS MISCELLANEOUS MATERIALS. READ
- 11 THAT NEXT IN PARENTHESIS. WHAT DOES THAT SAY?
- 12 A FOR COMPARISON OF DEBRIS FOUND AT CRIME SCENE OR ON THE
- 13 ASSAILANT'S BODY.
- 14 Q OKAY. AND THIS IS BASICALLY TO COLLECT ANY EVIDENCE ON HER BODY.
- 15 A YES.
- 16 Q AND THAT'S CHECKED. SO THAT MEANS YOU DID THAT.
- 17 A YES. WE CHECKED FOR THAT.
- 18 Q OKAY. THE NEXT IS KNOWN SALIVA. THAT MEANS YOU TAKE A SALIVA
- 19 SAMPLE.
- 20 A THAT'S CORRECT.
- 21 Q AND YOU DID THIS YOURSELF.
- 22 A YES.
- 23 Q OKAY. AND THAT'S JUST LIKE A BIG Q-TIP.
- 24 A IT'S A ROUND PIECE OF PAPER THAT'S POROUS. IT HAS A CIRCLE IN IT. IT'S
- 25 FOLDED IN HALF. AND YOU HAVE THE PATIENT PUT IT BETWEEN THEIR LIPS AND

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 SATURATE IT WITH THEIR SALIVA.

2 Q OKAY. AND YOU DID THAT.

3 A YES.

4 Q AND YOU PUT IT IN SOME PROTECTIVE--

5 A IT HAS ITS OWN ENVELOPE, BUT IT HAS TO AIR DRY.

6 Q THEN BLOOD IS TAKEN FROM P. |

7 A THAT'S CORRECT.

8 Q OKAY. AND THE NEXT THING IS FINGERNAIL SCRAPINGS.

9 A YES.

10 Q AND DID YOU DO FINGERNAIL SCRAPINGS?

11 A YES.

12 Q OKAY. AND THOSE IF SHE HAS ANYTHING UNDER HER NAILS.

13 A THAT'S CORRECT. THERE'S AN ENVELOPE FOR EACH HAND. THERE'S A
14 SCRAPER INSIDE THE ENVELOPE.

15 Q AND WHAT'S THE PURPOSE FOR COLLECTING FINGERNAIL SCRAPINGS?

16 A FOR EVIDENCE OF SKIN THAT AS THE - DID THE PATIENT SCRATCH THE
17 ASSAILANT. DEBRIS OF ANY KIND THAT MIGHT BE CONSISTENT WITH THE PLACE
18 WHERE THE ALLEGED ASSAILANT ABUSED THE PATIENT.

19 Q OKAY. THEN IF YOU COULD TURN TO PAGE 2. IT HAS SUSPECTED SEMEN
20 AND THAT'S A CHECK.

21 A UH-HUH.

22 Q IT IS RECOMMENDED THAT A U.V. LAMP BE USED IN THE FOLLOWING
23 PROCEDURE.

24 A UH-HUH.

25 Q Y'ALL DID THAT?

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A YES.
- 2 Q OKAY. THIS IS WHERE -- WHAT ARE YOU DOING HERE?
- 3 A WE TURN OFF THE LIGHT AND USE A WOOD SLAB WHICH IS A BLACK LIGHT
- 4 LAMP AND WE CHECK THE PATIENT'S BODY FOR WHITE GLOWING AREAS WHICH
- 5 USUALLY IS SEMEN.
- 6 Q OKAY.
- 7 A AND IF WE FIND ANY, THEN WE TAKE A MOISTENED Q-TIP AND ROLL IT
- 8 OVER THE AREA. AND THAT'S HOW WE COLLECT FOR SUSPECTED SEMEN.
- 9 Q OKAY. THERE WAS A SEMEN SWAB IN THIS CASE.
- 10 A I PRESUME SO. I WOULD HAVE TO LOOK AT THE ENVELOPE. THE CHECK
- 11 MARK MEANS THAT WE DID THAT. PERFORMED THAT PROCEDURE.
- 12 Q AND DOESN'T IT SAY IN THE DIRECTIONS NOTE LOCATION FROM WHICH
- 13 SAMPLES AND HAD THE S IN PARENTHESIS -- THE SAMPLE WAS TAKEN.
- 14 A UH-HUH.
- 15 Q AND THE ANATOMICAL DRAWINGS--
- 16 A YES.
- 17 Q --ON THE BACK OF THE ENVELOPE.
- 18 A YES, IT DOES.
- 19 Q OKAY. AND DO YOU KNOW WHERE THE SAMPLE WAS TAKEN FROM?
- 20 A NO, I DON'T.
- 21 Q OKAY. AND THE NEXT THING IS PUBIC HAIR EVIDENCE.
- 22 A RIGHT.
- 23 Q AND THAT SQUARE, WHAT DO YOU DO THERE?
- 24 A WE -- THERE'S A COMB INSIDE THE ENVELOPE, AND WE DO -- WE COLLECT
- 25 THE PUBIC HAIR BY COMBING THROUGH THE PUBIC AREA ONTO A PIECE OF PAPER

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 THAT'S ALSO IN THE ENVELOPE, AND THEN WE FOLD THAT UP AND WE PUT THAT
2 IN THE KNOWN OR IN THE UNKNOWN PUBIC HAIR.

3 Q OKAY.

4 A AND THEN WE ALSO COLLECT KNOWN PUBIC HAIR.

5 Q OKAY.

6 A AND THAT MEANS WE HAVE TO PLUCK IT.

7 Q AND THE PURPOSE OF THIS PUBIC HAIR THING IS THAT IF THERE'S -- THE
8 PERSON WAS ASSAULTED--

9 A YES.

10 Q --AND THE PERSON HAD HAD -- BEEN SEXUALLY ASSAULTED.

11 A YES.

12 Q AND THE CULPRIT HAD HAD SEX WITH THAT PERSON.

13 A YES.

14 Q IT'S ENTIRELY POSSIBLE THAT HIS PUBIC HAIR WOULD BE MIXED IN WITH
15 HER PUBIC HAIR.

16 A THAT'S CORRECT.

17 Q SO WHAT YOU WANT TO DO IS YOU WANT TO FIND ANY OF THE PUBIC
18 HAIRS FROM THE ALLEGED PERPETRATOR AND HAVE THEM LATER TESTED.

19 A YES.

20 Q OKAY. AND THAT WAS DONE IN THIS CASE.

21 A YES.

22 Q OKAY. AND DOWN AT THE BOTTOM THE PHYSICAL EXAMINATION. THE
23 DOCTOR THOUGHT MAYBE THAT WAS YOUR PROVINCE.

24 A YES. WHEN THE PATIENT HAS DISROBED AND BEFORE WE PUT THEM INTO
25 A GOWN, THEY TURN AROUND SO THAT WE CAN OBSERVE THEIR BODY FOR ANY

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 INJURIES.

2 Q OKAY. AND YOU MARKED ON THERE NO BRUISES, SCRATCHES OR BITES.

3 A UH-HUH. OR SUCK MARKS.

4 Q OKAY. KEEP READING.

5 A OR REDNESS NOTED.

6 Q OKAY.

7 A UH-HUH.

8 Q I DON'T HAVE ANY MORE QUESTIONS.

9 MR. ANDERSON: JUDGE, I WOULD ASK -- I DON'T HAVE ANY OBJECTION TO
10 HER BEING EXCUSED, BUT IF SHE COULD BE WHERE WE COULD REACH HER IF WE
11 NEEDED HER. I HATE FOR HER TO HAVE TO SIT HERE ALL DAY.

12 MS. BRISBIN: YOUR HONOR, I HATE TO BE THE BAD GUY, BUT I WOULD LIKE
13 TO ASK HER TO STICK AROUND FOR A WHILE UNTIL WE FINISH THE CHAIN OF
14 CUSTODY ISSUE.

15 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN BUT YOU NEED TO
16 REMAIN IN THE COURTROOM, PLEASE.

17 A ALL RIGHT.

18 MS. BRISBIN: COULD I REDIRECT JUST FOR A MOMENT?

19 THE COURT: OH, I'M SORRY. YES.

20 MS. BRISBIN: I'M SORRY.

21 A OKAY.

22 REDIRECT EXAMINATION

23 BY MS. BRISBIN

24 Q JUST TO CLARIFY A COUPLE OF THINGS. THE FACT THAT YOU DIDN'T
25 CHECK THAT HE USED A KNIFE OR GUN OR FIST OR ANYTHING DOESN'T

MARGARET WHYTE - REDIRECT EXAMINATION BY MS. BRISBIN

1 NECESSARILY MEAN THAT HE DIDN'T PUT HIS HAND OVER HER MOUTH TO KEEP
2 HER FROM SCREAMING.

3 A NO. UH-UH. IN MY EXPERIENCE, PEOPLE--

4 MR. ANDERSON: YOUR HONOR, I'M GOING TO OBJECT TO HER EXPERIENCE.
5 --

6 A OKAY.

7 MR. ANDERSON: WE'RE HERE ABOUT THIS CASE.

8 A OKAY.

9 THE COURT: HOLD ON JUST A MOMENT. I'LL MAKE THE RULING. SHE CAN
10 EXPLAIN WHY SHE FILLED THE FORM OUT IN THE FASHION SHE DID IF YOU WANT
11 TO HAVE HER DO THAT.

12 Q IF YOU COULD EXPLAIN THAT, PLEASE.

13 A WHAT IT INDICATES IS WHEN I ASKED THOSE QUESTIONS THAT THE
14 ANSWER WAS NO TO ALL OF THOSE QUESTIONS.

15 Q NO KNIFE, NO GUN, NO FIST.

16 A THAT'S CORRECT.

17 Q AND JUST TO CLARIFY ONE MORE POINT, YOU IN THIS CASE PLACED ALL OF
18 THE EVIDENCE THAT WAS COLLECTED INTO THE KIT.

19 A YES.

20 Q AND HANDED IT TO THE OFFICER.

21 A YES.

22 Q THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS AT THIS TIME.

23 THE COURT: RECROSS?

24 MR. ANDERSON: NO THANK YOU, JUDGE.

25 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN. ALL RIGHT.

MARGARET WHYTE - REDIRECT EXAMINATION BY MS. BRISBIN

1 LADIES AND GENTLEMEN, WE WILL TAKE A RECESS OF 10 TO 15 MINUTES AND
2 THEN I'LL SEND FOR YOU. PLEASE, DON'T DISCUSS THE CASE. PLEASE, GO BACK
3 IN THE JURY ROOM. (THE FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.)
4 WE'RE AT EASE. (THERE WAS A BRIEF RECESS.)

5 THE COURT: STATE READY?

6 MS. BRISBIN: YES, YOUR HONOR.

7 THE COURT: DEFENSE READY?

8 MR. ANDERSON: YES, SIR.

9 THE COURT: BRING THE JURY. (THE FOLLOWING OCCURRED IN THE
10 PRESENCE OF THE JURY.) ALL RIGHT. CALL YOUR NEXT WITNESS.

11 MS. BRISBIN: STATE WOULD LIKE TO RECALL MARGARET WHYTE.

12 THE COURT: COME AROUND, PLEASE. YOU'RE STILL UNDER OATH.

13 Q MS. WHYTE, JUST IN GENERAL TERMS DO YOU RECOGNIZE WHAT STATE'S
14 EXHIBIT #4 IS? IT'S BEEN MARKED STATE'S EXHIBIT #4 FOR IDENTIFICATION
15 PURPOSES?

16 A YES.

17 Q OKAY. AND YOU MAY NEED TO OPEN IT TO DETERMINE, BUT WOULD YOU
18 TELL ME IF YOU RECOGNIZE SPECIFICALLY THIS KIT FOR THIS CASE.

19 MR. ANDERSON: JUDGE, I'LL STIPULATE THAT THIS IS THE KIT FROM THIS
20 CASE.

21 A UH-HUH.

22 Q THANK YOU.

23 THE COURT: WELL, DO YOU ALL HAVE A STIPULATION OR NOT?

24 MR. ANDERSON: JUDGE, I'LL STIPULATE THAT THIS IS THE KIT FROM THIS
25 CASE.

SHERRY BROWN - DIRECT EXAMINATION BY MS. BRISBIN

1 THE COURT: I DON'T REALLY KNOW WHAT THAT MEANS. THE
2 STIPULATION IS THAT THE CONTENTS OF THIS PACKAGE WERE COLLECTED FROM
3 THAT YOUNG LADY AND WERE TRANSMITTED TO SLED?

4 MR. ANDERSON: THAT MS. WHYTE COLLECTED THE CONTENTS OF THIS
5 PACKAGE FROM THIS LADY AND GAVE IT TO OFFICER DERRICK. I'LL STIPULATE
6 TO THAT.

7 MS. BRISBIN: THEN THIS WITNESS CAN STEP DOWN, YOUR HONOR.

8 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, A STIPULATION OF
9 COUNSEL IS JUST THE MEANS BY WHICH PARTIES CAN AGREE THAT SOME ISSUE IS
10 A GIVEN; IT'S NOT IN DISPUTE. I TOLD YOU EARLIER THAT WHAT THE LAWYERS
11 SAY IS NOT EVIDENCE, AND THAT IF WE CAME ACROSS THAT EXCEPTION I WOULD
12 TELL YOU ABOUT IT. WELL, THE STIPULATION IS AN EXCEPTION. WHERE THERE IS
13 SOMETHING THAT'S A GIVEN, IT'S NOT IN DISPUTE, THE ATTORNEYS CAN LET US
14 KNOW THAT BY REACHING A STIPULATION AND THEN THE JURY TAKES IT AS A
15 GIVEN. OKAY? ALL RIGHT. CALL YOUR NEXT WITNESS.

16 MS. BRISBIN: STATE CALLS AGENT SHERRY BROWN.

17 SHERRY BROWN, BEING DULY SWORN, TESTIFIES AS

18 FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. BRISBIN

21 Q WHERE ARE YOU EMPLOYED, MS. BROWN?

22 A SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

23 Q HOW LONG HAVE YOU WORKED THERE?

24 A 8 YEARS.

25 Q AND WHAT'S YOUR POSITION THERE?

SHERRY BROWN - DIRECT EXAMINATION BY MS. BRISBIN

1 A I'M A FORENSIC D.N.A. TECHNICIAN.

2 Q AND WHAT ARE YOUR RESPONSIBILITIES IN THAT CAPACITY?

3 A ONE OF MY RESPONSIBILITIES IS COLLECTING, RECEIVING EVIDENCE AND
4 TRANSFERRIN' IT FROM BIN TO BIN AND MAKING REAGENTS FOR THE ANALYSTS
5 TO DO THEIR TEST.

6 Q DO YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S EXHIBIT #4 FOR
7 IDENTIFICATION PURPOSES?

8 A YES, I DO.

9 Q WHAT IS IT?

10 A IT'S A VICTIM'S KIT THAT WAS SUBMITTED.

11 Q IT'S A VICTIM SEXUAL ASSAULT KIT?

12 A YES.

13 Q AND DID YOU HAVE OCCASION TO HANDLE THIS KIT OR THIS ITEM?

14 A YES, I DO.

15 Q AND WHAT WAS YOUR ROLE IN THAT?

16 A AS A FORENSIC TECHNICIAN WHEN WE RECEIVE A VICTIM'S KIT AND IT'S
17 NOT ASSIGNED TO AN ANALYST THAT WOULD WORK UP AS A D.N.A. CASE, WE ARE
18 RESPONSIBLE TO OPEN THE POUCH UP AND RETRIEVE THE LIQUID BLOOD THAT IS
19 TAKEN AT THE HOSPITAL AND POUR IT ON CLOTH SO IT COULD AIR DRY 24 TO 72
20 HOURS.

21 Q AND WHOSE BLOOD WOULD THAT HAVE BEEN? THE VICTIM'S OR THE
22 DEFENDANT'S?

23 A THE VICTIM'S IN THIS CASE.

24 Q OKAY. AND HOW DO YOU KNOW FROM LOOKING AT THAT PACKAGE THAT
25 THAT WAS THE KIT THAT YOU HANDLED? ONCE I OPEN IT UP AND RESEAL IT MY

SHERRY BROWN - DIRECT EXAMINATION BY MS. BRISBIN

1 INITIALS GO OVER THE SEAL.

2 Q WHEN YOU RECEIVED THAT PACKAGE WAS THERE ANY EVIDENCE THAT
3 HAD BEEN TAMPERED WITH OR WAS IT STILL SEALED?

4 A IT WAS STILL SEALED.

5 Q OTHER THAN DOING WHAT YOU JUST DESCRIBED, DID YOU
6 SUBSTANTIALLY CHANGE THE KIT IN ANY WAY?

7 A NO, NOTHING WAS TAMPERED WITH.

8 Q AND DID YOU RESEAL IT AFTER YOU TOOK THE BLOOD OUT AS YOU
9 DESCRIBED?

10 A YES, I DID.

11 Q AND WHAT DID YOU DO WITH IT AT THAT POINT?

12 A AT THAT POINT IT WENT INTO ANOTHER SECURE LOCATION AT THE D.N.A.
13 DEPARTMENT. IT SAT THERE UNTIL WE GOT A CALL THAT SAID THAT THE CASE
14 NEEDED TO BE ASSIGNED.

15 Q OKAY. I'D LIKE TO ASK YOU WHERE DID YOU RECEIVE THIS KIT?

16 A WE HAVE TO GO DOWN TO OUR FIRST FLOOR LOG-IN AREA. AND WE HAVE
17 A LIKE A REFRIGERATOR THAT'S GOT LIKE A METAL DROP. THINGS CAN GO IN BUT
18 ONLY THE D.N.A. DEPARTMENT CAN RETRIEVE THE EVIDENCE OUT.

19 Q SO IT'S LOCKED ESSENTIALLY ONCE IT GOES IN THERE.

20 A YES.

21 Q NOBODY CAN GO IN AND GET IT BACK OUT. OKAY. AND YOU SAID THAT
22 YOU DELIVERED IT WHERE AFTERWARDS?

23 A AFTER I PICKED IT UP FROM THE D.N.A. BOX—

24 Q AFTER YOU DID YOUR PART.

25 A I TOOK IT TO A LOCATION WITHIN THE D.N.A. DEPARTMENT. IT'S A

SHERRY BROWN - DIRECT EXAMINATION BY MS. BRISBIN

1 FREEZER. IT'S JUST FOR A HOLDING BIN.

2 Q AND THEN WAS THAT THE LAST TIME YOU HANDLED IT?

3 A NO, IT WASN'T. THE NEXT DAY IT WENT TO - THE CASE WAS ASSIGNED TO
4 A D.N.A. ANALYST LILLIAN GALLMAN. SHE TOOK IT OUT OF THE FREEZER AND PUT
5 IT IN A D.N.A REFRIGERATOR WHICH SHE HAS A CERTAIN BIN THAT ANY EVIDENCE
6 THAT IS ASSIGNED TO HER GOES INTO THAT BIN.

7 Q THE BLOOD SAMPLE, THE VICTIM'S BLOOD SAMPLE THAT YOU DESCRIBED
8 DRYING OUT AND ALL THAT, DID YOU PUT THAT BACK INTO THAT SAME KIT?

9 A YES.

10 Q AND THEN YOU DID RESEAL IT?

11 A YES. THIS IS MY HANDWRITING ON THIS COIN ENVELOPE WHICH IS THE
12 DRY BLOOD STANDARD THAT THE VICTIM'S STANDARD WAS.

13 Q AND YOUR INITIALS ARE ON EVERYTHING YOU HANDLED?

14 A YES.

15 Q OKAY.

16 MS. BRISBIN: I DON'T HAVE ANYTHING FURTHER FOR THIS WITNESS, YOUR
17 HONOR.

18 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

19 MR. ANDERSON: THANK YOU, YOUR HONOR.

20 CROSS-EXAMINATION

21 BY MR. ANDERSON

22 Q SO, MS. BROWN, YOU - HOW MANY TIMES HAVE YOU HANDLED THIS
23 PACKAGE?

24 A 4 TIMES.

25 Q WHATCHU LOOKIN' AT?

SHERRY BROWN - CROSS-EXAMINATION BY MS. ANDERSON

- 1 A IT'S JUST MY PAPER CHAIN.
- 2 Q ON THIS CASE?
- 3 A UH-HUH. IT'S JUST ANOTHER WAY OF -- THIS IS THE COMPUTER
- 4 GENERATED WHICH THAT'S HANDWRITTEN. THIS IS A COMPUTER GENERATED.
- 5 Q THAT'S THE COMPUTER GENERATED IN THIS CASE?
- 6 A YES.
- 7 Q AND THAT SAYS EVERYTHING THAT WAS DONE TO THIS PACKAGE?
- 8 A UH-HUH.
- 9 Q SO--
- 10 A 'CAUSE I DIDN'T HAVE THE PAPER CHAIN WHEN I WAS ON MY WAY DOWN
- 11 HERE.
- 12 Q OKAY. COULD I LOOK AT THAT?
- 13 A IT SAYS THE SAME THING.
- 14 Q THAT'S THIS FORM. CORRECT?
- 15 A YES.
- 16 Q ALL RIGHT. HELP ME OUT HERE 'CAUSE I SEE YOU HANDLIN' IT 3 TIMES.
- 17 A WELL, COUNTIN' LIKE 1, 2, 3. THAT WOULD BE 3.
- 18 Q WHERE IS THE 4TH TIME?
- 19 A I COUNTED THE TOP LINE WHICH I SHOULDN'T A HAVE.
- 20 Q WHAT'S THE TOP LINE?
- 21 A THE OFFICER THAT BROUGHT IT IN AND HE PUT IT IN THE D.N.A. BOX.
- 22 Q WHAT'S THIS STUFF?
- 23 A THAT'S THE KIT. WHO EXAMINES THE KIT. ALL THOSE ITEMS WERE IN THE
- 24 KIT.
- 25 Q HOW DID THIS COMPUTER GENERATED FORM GET PREPARED?

SHERRY BROWN - CROSS-EXAMINATION BY MS. ANDERSON

- 1 A WE EACH ARE GIVEN A USER NAME AND A PASSWORD AND YOU LOOK IN
2 THE COMPUTER SLED'S COMPUTER. I CAN PULL THAT UP.
- 3 Q SO IT CAME IN ON THE 17TH.
- 4 A UH-HUH.
- 5 Q DO YOU KNOW WHERE IT WAS BEFORE THE 17TH?
- 6 A NO, I DO NOT.
- 7 Q WHY DOES IT MOVE AROUND SO MANY TIMES BEFORE ANYTHING IS
8 ACTUALLY DONE WITH IT?
- 9 A BECAUSE YOU MOVE IT FROM ONE BIN BECAUSE THEY ARE ALL SMALL
10 BINS. LIKE D.N.A. BOX CAN ONLY MAYBE HOLD MAYBE 25 PIECES OF EVIDENCE.
- 11 Q SO THE BOX GETS FULL.
- 12 A YES. 'CAUSE THAT ONE BOX HOLDS ALL THE EVIDENCE THAT COMES IN
13 THROUGHOUT THE STATE.
- 14 Q THIS IS EACH INDIVIDUAL ITEM IN THE BOX.
- 15 A YES.
- 16 Q SO EVERYTHING IS EXACTLY THE SAME.
- 17 A UH-HUH.
- 18 Q WHERE IS THE - IS IT PUBIC HAIR ONE THIS LAST PAGE MAYBE OR IT JUST
19 DOESN'T SAY?
- 20 A THIS IS ALL I HAVE. THIS IS WHAT I GET. I MEAN THAT KIT.
- 21 Q WAS THE PUBIC HAIR THING THE ONLY THING NOT MENTIONED ON YOUR
22 COMPUTER FORM?
- 23 A I'M NOT SURE.
- 24 Q COULD YOU LOOK REAL QUICK.
- 25 A IT'S NOT ON THIS BUT THIS IS JUST WHAT I TOUCH.

SHERRY BROWN - CROSS-EXAMINATION BY MS. ANDERSON

- 1 Q OKAY. SO YOU DON'T TOUCH THAT.
- 2 A I DON'T TOUCH THAT. ALL THESE ARE JUST WHAT I TRANSFERRED.
- 3 Q SO THE ONLY TWO PEOPLE THAT ACTUALLY TOUCHED THIS PACKAGE
- 4 WERE YOU AND MS. GALLMAN ONCE IT GOT TO SLED.
- 5 A YES.
- 6 Q EXCEPT FOR WHO WAS THAT? THAT PERSON THERE.
- 7 A I CANNOT READ THAT.
- 8 Q BUT AFTER MS. GALLMAN DID WHAT SHE DID SOMEBODY ELSE TOUCHED
- 9 IT.
- 10 A SOMEBODY ELSE, YEAH. AFTER IT WAS D.N.A. RETURNED SHE WOULD BE
- 11 ABLE TO—
- 12 Q OKAY. AND WHAT DID — SO NOBODY WOULD'VE TOUCHED ANYTHING
- 13 ELSE.
- 14 A CORRECT.
- 15 Q 'CAUSE ALL MS. GALLMAN DEALT WITH WAS WHAT?
- 16 A I DO NOT KNOW, SIR.
- 17 Q OKAY. ALL YOU TOUCHED INSIDE THAT PACKAGE WAS WHAT?
- 18 A I JUST OPENED UP THE WORK AND RETRIEVED THE BLOOD STANDARD
- 19 THAT WAS IN A ZIPLOC BAGGY.
- 20 Q OKAY. AND WHAT DID YOU DO WITH THE BLOOD STANDARD?
- 21 A I PRESERVED IT ON CLOTH. TOOK THE LIQUID AND MADE IT INTO A DRY
- 22 BLOOD STANDARD.
- 23 Q SO YOU POURED THE BLOOD ONTO THE CLOTH. DID YOU USE THE WHOLE
- 24 THING OF BLOOD?
- 25 A YES.

SHERRY BROWN - CROSS-EXAMINATION BY MS. ANDERSON

1 Q SO THAT'S GONE.

2 A UH-HUH.

3 Q SO—

4 A THE LABEL OFF THE TUBE IS REMOVED. SO THE BROWN COIN ENVELOPE —
5 RIGHT IN THE MIDDLE, SIR. RIGHT THERE.

6 Q I'M SORRY.

7 A IT'S RIGHT THERE. THIS WAS THE ZIPLOC BAG THAT HAD A TUBE OF BLOOD
8 IN IT.

9 Q OKAY.

10 A ALL I DID WAS WHEN I OPENED IT UP, I LOOKED IN IT AND RETRIEVED THIS
11 ONE BAG. TOOK MY COIN ENVELOPE AND THAT'S THE LABEL THAT WAS ON THE
12 TUBE. THE YELLOW LABEL. PUT THE LAB NUMBER ON IT, MY INITIALS ON IT TOO
13 ON THE LABEL.

14 Q OKAY.

15 A THEN I JUST STUCK THE ZIPLOC BAG INTO THE—

16 Q OKAY. THAT'S ALL YOU DID.

17 A YES.

18 Q OTHER THAN MOVE IT AROUND.

19 A RIGHT.

20 Q OKAY. DO YOU ACTUALLY DO D.N.A. TESTS?

21 A NO, I DON'T.

22 Q THAT'S ALL THE QUESTIONS I HAVE. THANK YOU VERY MUCH.

23 THE COURT: REDIRECT?

24 MS. BRISBIN: NONE, YOUR HONOR.

25 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN.

1 MS. BRISBIN: YOUR HONOR, THE STATE CALLS KATIE DELOACH CORLEY.

2 MR. ANDERSON: AND, JUDGE, I WILL STIPULATE TO THE FACT THAT SHE
3 MOVED WHAT IS PURPORTED TO BE MY CLIENT'S BLOOD INTO ANOTHER PLACE AT
4 SLED AND THERE IS THE CHAIN OF CUSTODY FORM UP THERE, AND I'LL STIPULATE
5 TO THAT LINK IN THE CHAIN. SHE MOVED THE ITEM.

6 MS. BRISBIN: AND THAT IS STATE'S EXHIBIT #5 FOR IDENTIFICATION
7 PURPOSES, YOUR HONOR.

8 THE COURT: ALL RIGHT. DO YOU NEED TO CALL HER?

9 MS. BRISBIN: NO, YOUR HONOR. WE WERE JUST GONNA CALL HER FOR
10 THE CHAIN OF CUSTODY.

11 THE COURT: THAT SHE MOVED STATE'S EXHIBIT #5 FOR IDENTIFICATION
12 PURPOSES FROM WHERE TO WHERE?

13 MS. BRISBIN: FROM THE DROP BOX, LOCK DROP BOX AT SLED TO - TO
14 UPSTAIRS REFRIGERATOR WHICH IS ALSO LOCKED AT SLED.

15 THE COURT: LADIES AND GENTLEMEN. THAT'S A STIPULATION. YOU TAKE
16 IT AS A GIVEN. CALL YOUR NEXT WITNESS.

17 MS. BRISBIN: WOULD HE ALSO STIPULATE THAT THAT WAS DONE WITHOUT
18 ALTERING OR TAMPERING IN ANY WAY?

19 MR. ANDERSON: I'LL STIPULATE THAT SHE WOULD TESTIFY THAT SHE
20 DIDN'T ALTER OR TAMPER IT. SHE'S TOLD ME THAT.

21 THE COURT: IT'S UP TO YOU WHAT YOU WANT TO DO. DO YOU WANT TO
22 CALL THE WITNESS OR NOT?

23 MS. BRISBIN: LET'S GO AHEAD AND CALL HER, YOUR HONOR, TO BE ON
24 THE SAFE SIDE.

25 THE COURT: COME AROUND, PLEASE, MA'AM.

KATIE CORLEY - DIRECT EXAMINATION BY MS. BRISBIN

KATIE DELOACH CORLEY, BEING DULY SWORN,

TESTIFIES AS FOLLOWS:

DIRECT EXAMINATION

BY MS. BRISBIN

Q MS. CORLEY, DID YOU HAVE A DIFFERENT NAME SOMETIME AGO WHEN
THIS TESTING WAS DONE?

A YES, MA'AM. I WAS KATIE DELOACH AT THAT TIME.

Q AND WHERE DO YOU WORK?

A FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

Q TRY TO SPEAK UP, PLEASE. SHE'S HAVING TROUBLE HEARING YOU.

A OKAY.

Q WHAT'S YOUR POSITION THERE?

A I'M A FORENSIC TECHNICIAN IN THE D.N.A. DEPARTMENT.

Q AND HOW LONG HAVE YOU WORKED THERE?

A A LITTLE OVER A YEAR.

Q AND WHAT TYPE OF DUTIES DO YOU DO THERE?

A I RETRIEVE EVIDENCE; I PROCESS EVIDENCE AND I TRANSFER EVIDENCE
FOR THE D.N.A. DEPARTMENT.

Q DO YOU RECOGNIZE WHAT'S BEEN MARKED STATE'S EXHIBIT #5 FOR
IDENTIFICATION PURPOSES?

A YES, MA'AM, I DO.

Q WHAT IS IT?

A IT IS A SUSPECT KIT.

Q A SUSPECT KIT?

A YES.

KATIE CORLEY - DIRECT EXAMINATION BY MS. BRISBIN

1 Q WHAT WOULD BE IN A SUSPECT KIT?

2 A USUALLY IT IS BLOOD AND SALIVA AND THAT'S WHAT IT WAS.

3 Q OKAY. AND HOW DO YOU KNOW THAT'S WHAT THAT IS, THAT THAT IS THE
4 SUSPECT KIT IN THIS CASE?

5 A BECAUSE THE CHAIN OF CUSTODY IS WITH IT. IT'S GOT MY INITIALS ON IT.

6 Q THERE IS YOUR INITIALS ON IT.

7 A RIGHT. YES, MA'AM.

8 Q OKAY. YOUR INITIALS DO THEY APPEAR ON THE KIT AS WELL?

9 A NO, MA'AM, BECAUSE I DID NOT OPEN THE POUCH.

10 Q OKAY. WHEN YOU RECEIVED THIS PACKET WAS THE SEAL INTACT?

11 A YES, MA'AM.

12 Q WAS THERE ANY EVIDENCE THAT IT HAD BEEN TAMPERED WITH IN ANY
13 WAY?

14 A NO, MA'AM.

15 Q AND DID YOU ALTER IT OR TAMPER WITH IT OR SUBSTANTIALLY CHANGE
16 IT IN ANY WAY?

17 A NO, MA'AM.

18 Q WHAT DID YOU DO WITH IT?

19 A I PICKED IT UP FROM THE D.N.A. BOX ON THE FIRST FLOOR AND I
20 TRANSFERRED IT FROM THERE TO THE D.N.A. REFRIGERATOR ON THE 4TH FLOOR
21 BECAUSE IT HAD ALREADY BEEN ASSIGNED TO LILLY GALLMAN.

22 Q OKAY. SO THAT'S ALL YOU DID JUST TRANSFER IT.

23 A YES, MA'AM.

24 Q FROM ONE PLACE TO ANOTHER.

25 A YES, MA'AM.

KATIE CORLEY - CORSS-EXAMINATION BY MR. ANDERSON

1 Q AND WHAT WAS THE PURPOSE OF THAT TRANSFER?

2 A BECAUSE IT HAD BEEN ASSIGNED I JUST TRANSFERRED IT FROM THE BOX
3 TO LILLIAN.

4 Q IT WAS ASSIGNED TO THE PERSON WHO WOULD BE TESTING IT?

5 A RIGHT.

6 Q OKAY. THANK YOU. I DON'T HAVE ANY FURTHER QUESTIONS.

7 THE COURT: CROSS-EXAMINATION.

8 CROSS-EXAMINATION

9 BY MR. ANDERSON

10 Q MA'AM, YOU NEVER OPENED THAT BAG?

11 A NO, SIR.

12 Q YOU DIDN'T DO ANYTHING - HAVE ANYTHING TO DO WITH THE TESTING,
13 DID YOU?

14 A NO, SIR.

15 Q NO FURTHER QUESTIONS. THANK YOU.

16 THE COURT: REDIRECT?

17 MS. BRISBIN: NO, YOUR HONOR.

18 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN.

19 MS. BRISBIN: STATE CALLS LILLIAN GALLMAN.

20 THE COURT: COME AROUND, PLEASE.

21 MR. ANDERSON: YOUR HONOR, WE HAVE A MATTER OF LAW IF WE COULD.

22 THE COURT: LADIES AND GENTLEMEN, I NEED TO ASK YOU TO STEP IN THE
23 JURY ROOM, PLEASE. DON'T DISCUSS THE CASE. (THE FOLLOWING OCCURRED IN
24 THE ABSENCE OF THE JURY.) YES, SIR?

25 MR. ANDERSON: YOUR HONOR, MS. GALLMAN IS THE SLED AGENT THAT

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 PERFORMED THE D.N.A. ANALYSIS IN THIS CASE AND MY MOTION IN LIMINE WAS I
2 OBJECTED TO THE CHAIN OF CUSTODY ON THE BLOOD WITHOUT THE PERSON THAT
3 DREW THE BLOOD, MY CLIENT'S BLOOD. AND I ASSUME SHE'S GOING TO BE
4 TESTIFYING REGARDING HER ANALYSIS IN THIS MATTER, AND I DON'T THINK SHE
5 CAN DO THAT TILL THE BLOOD'S IN EVIDENCE.

6 THE COURT: ALL RIGHT. WHAT'S THE STATE'S POSITION?

7 MS. BRISBIN: YOUR HONOR, THAT'S FINE. WE CAN CALL OFFICER DERRICK
8 IN THAT CASE SO THAT WE CAN COMPLETE THE CHAIN.

9 THE COURT: ARE THERE ANY OTHER ISSUES I NEED TO ADDRESS?

10 MS. BRISBIN: NOT FROM THE STATE, YOUR HONOR.

11 MR. ANDERSON: JUST ONE THING. I ASSUME THAT OFFICER DERRICK'S
12 GONNA TESTIFY WHAT HE DID WITH THE BLOOD AND I'M JUST GONNA - AND I
13 GOTTA OBJECT SOMETIME TO THE CHAIN WITHOUT THE NURSE WHO DREW THE
14 BLOOD. THAT'S THE ONLY OTHER THING AT THIS TIME.

15 THE COURT: ALL RIGHT. BRING THE JURY IN. (THE FOLLOWING OCCURRED
16 IN THE PRESENCE OF THE JURY.)

17 MS. BRISBIN: STATE CALLS OFFICER DWAYNE DERRICK.

18 OFFICER DWAYNE DERRICK, BEING DULY SWORN,

19 TESTIFIES AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. BRISBIN

22 Q OFFICER DERRICK, WHERE ARE YOU EMPLOYED?

23 A I'M CURRENTLY EMPLOYED WITH WACKENHUT SERVICES, INC., FULLTIME
24 AND THE BURNETTOWN POLICE DEPARTMENT PART-TIME.

25 Q OKAY. AND WHERE WERE YOU EMPLOYED AT THE TIME OF THIS INCIDENT

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 JULY 12TH AND 13TH 2001?

2 A I WAS EMPLOYED FULLTIME BY THE BURNETTOWN POLICE DEPARTMENT.

3 Q AND WHAT WAS YOUR POSITION THERE?

4 A I WAS A CAPTAIN IN CANINE PATROL.

5 Q CAPTAIN IN WHAT?

6 A CAPTAIN IN CANINE PATROL.

7 Q AND DID YOU DO INVESTIGATIONS AS PART OF YOUR POSITION THERE?

8 A THAT'S CORRECT.

9 Q WHAT - WERE YOU WORKING ALSO WITH THIS CASE?

10 A YES, MA'AM, I WAS.

11 Q AND HOW LONG HAVE YOU WORKED FOR BURNETTOWN POLICE
12 DEPARTMENT?

13 A 3 AND A HALF YEARS.

14 Q I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT #4 FOR
15 IDENTIFICATION PURPOSES. DO YOU RECOGNIZE THIS?

16 A YES, MA'AM, I DO.

17 Q HOW DO YOU RECOGNIZE THAT?

18 A IT HAS MY NAME ON THE EVIDENCE LABEL ON THE FRONT AS WELL AS THE
19 SEAL AT THE TOP OF IT.

20 Q AND WHAT IS THAT?

21 A THIS IS THE EVIDENCE COLLECTION KIT THAT WAS TAKEN TO SLED FOR
22 ANALYSIS.

23 Q WHICH CASE WAS IT? SUSPECT OR VICTIM?

24 A THIS ONE IS - CORRECTION - VICTIM KIT.

25 Q SO THAT'S THE SEXUAL ASSAULT KIT.

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A YES, MA'AM.
- 2 Q WHICH YOU TOOK - DID YOU SAY YOU TOOK -- WHO TOOK IT TO SLED?
- 3 A I TRANSPORTED IT TO SLED.
- 4 Q OKAY. LET'S GO BACK TO THE BEGINNING NOW. WHERE DID YOU GET
- 5 THIS KIT?
- 6 A I RECEIVED IT FROM THE STAFF AT AIKEN REGIONAL MEDICAL CENTER.
- 7 Q FROM WHO?
- 8 A THE NURSE THAT WAS ON DUTY AT THE TIME. I KNOW HER BY PEGGY
- 9 WHYTE. EXCUSE ME. PEGGY. IT WAS THE NURSE WHO WAS ON AT THE TIME.
- 10 Q THAT WAS PEGGY WHYTE?
- 11 A YES, MA'AM.
- 12 Q WHO WAS HERE TODAY?
- 13 A YES, MA'AM.
- 14 Q DID SHE PASS THIS DIRECTLY TO YOU?
- 15 A YES, MA'AM.
- 16 Q SO IT WAS SEALED WHEN YOU TOOK IT FROM HER?
- 17 A YES, MA'AM. IT WAS PLACED IN A BOX AND ALL OF IT WAS SEALED PRIOR
- 18 TO HANDING TO ME.
- 19 Q AND WHO DID THAT?
- 20 A MS. WHYTE DID IT.
- 21 Q AND SHE HANDED IT DIRECTLY TO YOU AFTER SEALING IT.
- 22 A CORRECT.
- 23 Q DID YOU - WHAT DID YOU DO WITH IT?
- 24 A I TRANSPORTED IT BACK TO OUR POLICE DEPARTMENT WHERE IT WAS
- 25 PLACED INSIDE A LOCKED ROOM INSIDE A EVIDENCE REFRIGERATOR WHICH WAS

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 SEaled WITH EVIDENCE TAPE.

2 Q AND DID YOU TAMPER WITH IT, ALTER IT OR SUBSTANTIALLY CHANGE IT IN
3 ANY WAY?

4 A NO, MA'AM.

5 Q OKAY. WHAT DID YOU DO WITH IT AFTER THAT?

6 A NEXT TIME I HAD MY HANDS ON IT WAS THE DAY I TOOK IT TO SLED. I
7 OPENED THE EVIDENCE REFRIGERATOR AFTER REMOVIN' THE SEAL, PLACED IT
8 INSIDE MY VEHICLE AND—

9 Q YOU SAID WHAT SEAL?

10 A THE SEAL AROUND THE REFRIGERATOR.

11 Q OKAY. NOT THE SEAL ON THE PACKET.

12 A NO, MA'AM.

13 Q OKAY.

14 A WHEN WE PUT IT IN THE REFRIGERATOR WE SEAL THE REFRIGERATOR AND
15 MAKE SURE NOBODY OPENS OR TAMPERS WITH THE REFRIGERATOR.

16 Q OKAY. AND WHEN YOU TOOK IT OUT OF THAT REFRIGERATOR WAS IT IN
17 SUBSTANTIALLY THE SAME CONDITION THAT YOU LEFT IT IN THAT
18 REFRIGERATOR?

19 A YES, MA'AM.

20 Q HAD THE SEAL BEEN BROKEN OR ANY ALTERATIONS BEEN MADE TO THAT?

21 A NO, MA'AM.

22 Q AND WHAT DID YOU DO WITH IT THEN?

23 A PLACED IT ON MY PERSON, TOOK IT OUT OF MY PATROL VEHICLE AND
24 TRANSPORTED IT TO SLED IN COLUMBIA.

25 Q AND WHAT DID YOU DO WITH IT AT SLED?

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 A MET WITH - I DON'T KNOW THEIR TITLE. IT'S THE PEOPLE WHO RECEIVE
2 EVIDENCE FOR OUR DEPARTMENTS. AT THAT TIME I HANDED IT TO HER AT HER
3 DESK.

4 Q WHERE DID YOU PLACE IT?

5 A I GAVE IT TO HER AND SHE STARTED TO DO THE PROCESS OF RECEIVING IT
6 IN EVIDENCE ON THEIR HALF.

7 Q SHE MARKED IT INTO EVIDENCE AT SLED.

8 A YES, MA'AM.

9 Q OKAY. WHO WAS IT THAT PHYSICALLY PUT IT IN THE DROP BOX AT SLED.
10 WAS THAT YOU?

11 A YES, MA'AM.

12 Q AND HAD IT BEEN OUT OF YOUR CUSTODY AND CONTROL AT ANY TIME
13 DURING THAT PERIOD?

14 A THE ONLY TIME IT WAS OUT OF MY CONTROL IS WHEN I HAND THE SEALED
15 BOX TO THEM. SLED - THAT PERSON OPENS IT UP AND PLACES IT IN THEIR SEALED
16 ENVELOPES. THEY SIGN IT IN MY PRESENCE. I SIGN THE SEAL IN THEIR PRESENCE,
17 AND I STEP UP AND PUT IT IN THEIR EVIDENCE REFRIGERATOR.

18 Q OKAY. SO IT'S NOT ACTUALLY OUT OF YOUR SIGHT.

19 A NO, MA'AM.

20 Q DO YOU RECOGNIZE WHAT'S BEEN MARKED STATE'S EXHIBIT #5 FOR
21 IDENTIFICATION PURPOSES?

22 A YES, MA'AM.

23 Q AND WHAT IS IT?

24 A IT'S A SUSPECT KIT ON MR. EARNEST PRESLEY.

25 Q SUSPECT KIT ON MR. EARNEST PRELEY.

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A YES, MA'AM.
- 2 Q AND WHAT WOULD BE INCLUDED IN THAT KIT?
- 3 A I COULDN'T TELL YOU, MA'AM. THAT'S ALL OBTAINED BY THE HOSPITAL. I
- 4 HAVE NO DEALINGS IN THAT PROCESS.
- 5 Q OKAY. WERE YOU PRESENT WHEN THAT WAS OBTAINED?
- 6 A YES, MA'AM.
- 7 Q DID YOU SEE WHAT WAS DONE AT THE HOSPITAL?
- 8 A YES, MA'AM.
- 9 Q TO THE SUSPECT.
- 10 A I WAS IN THERE FOR A PROCESS WHERE THEY HAD RETRIEVED PUBIC
- 11 HAIRS AND DREW BLOOD FROM HIM.
- 12 Q FROM THE SUSPECT?
- 13 A YES, MA'AM.
- 14 Q AND DID YOU SEE THEM DRAW THE BLOOD FROM THE SUSPECT?
- 15 A YES, MA'AM.
- 16 Q DID YOU SEE THEM OBTAIN THE PUBIC HAIRS?
- 17 A I WAS IN THE ROOM PRESENT. I WASN'T VISUALLY WATCHING AT THE
- 18 TIME.
- 19 Q OKAY. YOU SAW THEM—
- 20 THE COURT: YOU WERE WHAT?
- 21 A I WAS PRESENT IN THE ROOM.
- 22 THE COURT: AND WHAT ELSE DID YOU SAY?
- 23 A I WASN'T VISUALLY WATCHING THEM TAKE THEM.
- 24 Q WHEN THEY PULLED THE PUBIC HAIRS.
- 25 A CORRECT.

OFFICER DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 Q WERE YOU ACTUALLY WATCHING WHEN THEY DREW THE BLOOD FROM
2 THE SUSPECT?

3 A YES, MA'AM.

4 Q AND SUSPECT MEANING WHO?

5 A MR. PRESLEY.

6 Q THE DEFENDANT EARNEST PRESLEY.

7 A CORRECT.

8 Q OKAY. SO WHO DREW THE BLOOD FROM MR. PRESLEY?

9 A SCOTT AND THE NURSE AT AIKEN REGIONAL CENTER.

10 Q OKAY. YOU KNOW HIS LAST NAME? CAN'T REMEMBER?

11 A I'M NOT EXACTLY 100 PERCENT SURE.

12 Q BUT YOU DID SEE HIM DRAW THE BLOOD AND PLACE IT -- AND WHAT DID
13 HE DO WITH THE BLOOD?

14 A HE PLACED A LABEL ON IT AND INITIALED IT IN MY PRESENCE AND HE
15 PLACED IT INSIDE A SEALED ENVELOPE.

16 Q AND WHAT DID YOU DO WITH IT?

17 A I PLACED IT INSIDE THE BOX IN WHICH TURN HE SEALED THE BOX WITH
18 THE PAPERWORK AND TRANSFERRED IT OVER TO ME.

19 Q OKAY. SO YOU ACTUALLY WATCHED HIM STICK THE NEEDLE IN MR.
20 PRESLEY AND DRAW THE BLOOD OUT. IS THAT CORRECT?

21 A CORRECT.

22 Q AND HE HANDED YOU THE SEALED CONTAINER WITH THE BLOOD IN IT.

23 A CORRECT.

24 Q AND WHAT DID YOU DO WITH THE BLOOD AT THAT POINT?

25 A SAME PROCESS AS THE FIRST TIME. I TOOK IT BACK TO OUR POLICE

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 DEPARTMENT. IT WAS PLACED IN OUR EVIDENCE REFRIGERATOR AND SEALED
2 AND LOCKED.

3 Q AND YOU WRAPPED THE TAPE AROUND IT?

4 A YES, MA'AM.

5 Q DOES IT GO ALL THE WAY AROUND THE REFRIGERATOR?

6 A NO, IT JUST GOES AROUND THE SEALS.

7 Q AND WAS THAT PACKAGE THAT THE NURSE SEALED WAS THAT TAMPERED
8 WITH, OPENED, SUBSTANTIALLY CHANGED OR ALTERED IN ANY WAY AFTER THE
9 NURSE HANDED YOU THE SUSPECT KIT?

10 A NO, MA'AM.

11 Q OKAY. AFTER YOU PLACED IT IN THE REFRIGERATOR AND WRAPPED TAPE
12 AROUND IT, WHAT DID YOU DO NEXT?

13 A NEXT TIME I TOUCHED IT IS WHEN I REMOVED IT FROM THE REFRIGERATOR
14 AND TRANSPORTED IT TO SLED.

15 Q AND DID YOU ALTER IT IN ANY WAY AT THAT TIME?

16 A NO, MA'AM.

17 Q WAS THE SEAL STILL INTACT?

18 A YES, MA'AM.

19 Q AND SEALED. AND YOU TRANSPORTED IT TO SLED?

20 A YES, MA'AM.

21 Q WAS IT OUT OF YOUR CUSTODY AND CONTROL AT ANY TIME DURING THAT
22 PERIOD BEFORE IT ARRIVED AT SLED?

23 A NO, MA'AM.

24 Q AND WHAT DID YOU DO WITH IT AT SLED?

25 A I TRANSFERRED IT TO THE TECHNICIAN THERE WHERE WE TURN OVER OUR

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 EVIDENCE AND GAVE IT TO HIM.

2 Q IS THAT THE SAME PROCEDURE WHERE YOU PUT IT IN THAT DROP BOX?

3 A YES, MA'AM.

4 Q AND DID YOU PHYSICALLY PUT IT IN THE BOX - DROP BOX YOURSELF?

5 A YES, MA'AM.

6 Q AND THAT IS A SECURED DROP BOX THAT CAN'T BE REOPENED.

7 A YES, MA'AM. IT'S A DRAWER. ONCE YOU OPEN IT AND PUT IT IN THERE,
8 SHUT IT BACK, THERE'S A LIP IN THERE. YOU CAN'T RETRIEVE IT BACK.

9 MS. BRISBIN: THAT'S ALL THE QUESTIONS I HAVE OF THIS WITNESS AT THIS
10 POINT, YOUR HONOR. WE WOULD LIKE TO RECALL HIM AT A LATER TIME.

11 THE COURT: CROSS.

12 MR. ANDERSON: THANK YOU, YOUR HONOR.

13 CROSS-EXAMINATION

14 BY MR. ANDERSON

15 Q DO YOU HAVE THE CHAIN OF CUSTODY PAPER ON THE BLOOD?

16 MS. BRISBIN: AGAIN I HAVE IT.

17 Q YOU GOT THIS SAMPLE ON THE 30TH OF NOVEMBER. CORRECT?

18 A WHICH SAMPLE IS THAT, SIR?

19 Q THE BLOOD SAMPLE.

20 A OF WHO, SIR?

21 Q EARNEST'S BLOOD SAMPLE.

22 A IF YOU WOULD GIVE ME A SECOND TO LOOK THROUGH MY REPORT HERE.
23 11-30-01.

24 Q WHERE DID THE NURSE, NURSE SCOTT - THAT'S HIS FIRST NAME?

25 A CORRECT.

OFFICER DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 Q WHERE DID HE DRAW THE BLOOD FROM ON EARNEST?

2 A HIS ARM.

3 Q AND HAVE YOU LOOKED IN HERE?

4 A NO, SIR.

5 MR. ANDERSON: Y'ALL DON'T HAVE A PROBLEM WITH ME OPENIN' IT UP,
6 DO YOU?

7 Q YOU DIDN'T PUT IT IN THIS, DID YOU?

8 A NO, SIR.

9 Q WHAT DID YOU SEND IT TO SLED IN?

10 A IT WAS TAKEN IN THE BOX THAT WAS COLLECTED FROM THE HOSPITAL.

11 Q DO YOU SEE THAT BOX HERE?

12 A NO, SIR.

13 Q COULD SCOTT'S LAST NAME BE CUNNINGHAM?

14 A YES, SIR.

15 Q IS THIS YOURS?

16 A YES, SIR, THAT'S THE -- WHEN HE OBTAINED THE SAMPLES, HE INTIALS
17 'EM AS WELL AS ME BEIN' IN THE ROOM. I INTIAL THEM AND SIGN.

18 Q WHAT'S THIS?

19 A THAT IS SOME SORT OF EVIDENCE SEAL. I DON'T KNOW WHO--

20 Q WHO PUT THAT ON THERE?

21 A THAT WOULD PROBABLY BE THE HOSPITAL.

22 Q CAN YOU TELL -- IT LOOKS LIKE P.

23 A P.S.C.

24 Q DOES THAT MATCH UP TO ANY INITIALS ON THIS CHAIN OF CUSTODY?

25 A I CAN'T EVEN TELL IF THESE ARE INITIALS ON THIS.

OFFICER DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 MR. ANDERSON: JUDGE, I HATE TO DO THIS BUT DO YOU THINK WE CAN
2 HAVE JUST A MINUTE OUTSIDE THE PRESENCE OF THE JURY.

3 THE COURT: LADIES AND GENTLEMEN, PLEASE, STEP IN THE JURY ROOM.
4 DON'T DISCUSS THE CASE. (THE JURY RETIRED TO THE JURY ROOM.)

5 MS. BRISBIN: EDWARD SCOTT CUNNINGHAM. I CAN GET HER TO TESTIFY
6 TO THAT IF YOU. IS IT E? OH, P. P IS NOT EDWARD.

7 MR. ANDERSON: I WAS LOOKIN' FOR SOMETHIN' WITH HIS INITIALS ON IT
8 AND I DON'T SEE IT.

9 MS. WHYTE: IT'S PAUL.

10 MS. BRISBIN: OKAY. IT'S PAUL.

11 MR. ANDERSON: WHO'S EDWARD?

12 MS. BRISBIN: PAUL SCOTT CUNNINGHAM.

13 MR. ANDERSON: WHAT HAPPENED TO EDWARD?

14 MS. BRISBIN: SHE'S CONFUSED.

15 MS. WHYTE: HE GOES BY SCOTT. (THERE WAS A BRIEF RECESS.) (THE JURY
16 RETURNED TO OPEN COURT.) YOU MAY CONTINUE.

17 MR. ANDERSON: THANK YOU, JUDGE.

18 Q SO YOU JUST TESTIFIED YOU DIDN'T KNOW WHO PUT THESE STICKERS ON
19 THERE?

20 A YOU ASKED ME IF I KNEW WHOSE INITIALS THOSE WERE.

21 Q DO YOU KNOW WHOSE INITIALS THEY ARE?

22 A NO, SIR.

23 Q DO YOU KNOW WHO PUT THE STICKER ON?

24 A YES, SIR.

25 Q WHO PUT THE STICKER ON?

OFFICER DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A NURSE SCOTT CUNNINGHAM.
- 2 Q OKAY. YOU SAW HIM DO THAT?
- 3 A CORRECT.
- 4 Q OKAY. AND THIS WAS WHERE - WHAT WAS IN THIS?
- 5 A I BELIEVE IT'S WHERE THE WHOLE COLLECTION WENT WHEN IT WAS
- 6 DONE.
- 7 Q OKAY.
- 8 A IT'S BEEN A WHILE. I COULDN'T SAY FOR SURE.
- 9 Q OKAY. DOES THIS LOOK LIKE THIS IS PROBABLY THE PACKET FROM THE
- 10 SLED KIT?
- 11 A CORRECT.
- 12 Q OKAY. AND THEN YOU KNOW WHAT THIS IS?
- 13 A NO, SIR.
- 14 Q THAT WASN'T IN THERE WHEN YOU PUT IT IN THERE, WAS IT? I'M SORRY. I
- 15 GOTTA WORD THAT BETTER. THIS BROWN ENVELOPE WAS NOT IN THIS WHITE
- 16 ENVELOPE WHEN YOU SENT IT TO SLED, WAS IT?
- 17 A THAT'S THE FIRST TIME I'VE SEEN IT, SIR.
- 18 Q OKAY. SO YOU DON'T KNOW WHAT THAT BROWN ENVELOPE IS.
- 19 A NO, SIR.
- 20 Q AND THEN YOU KNOW WHAT THIS IS, THIS WHITE ENVELOPE.
- 21 A IT'S PART OF THE SUSPECT EVIDENCE COLLECTION KIT.
- 22 Q SAY THAT AGAIN.
- 23 A IT'S PART OF THE SUSPECT KIT DONE AT THE HOSPITAL.
- 24 Q WHAT'S IN IT?
- 25 A A SALIVA SAMPLE.

MARGARET WHYTE - DIRECT EXAMINATION BY MS. BRISBIN

1 Q OKAY. SO YOU DID SEND THIS.

2 A CORRECT.

3 Q AND WHAT'S THIS?

4 A IT'S A BAGGY THAT SAYS KNOWN BLOOD SAMPLE ON IT.

5 Q AND WHAT WAS IN THIS?

6 A THAT WOULD'VE BEEN THE VIAL OF BLOOD THAT HE WOULD HAVE
7 DRAWN AT THE HOSPITAL.

8 Q WAS THE VIAL IN THIS YOU RECKON?

9 A YES, SIR.

10 Q OKAY.

11 MR. ANDERSON: NO FURTHER QUESTIONS AT THIS TIME BUT I RESERVE
12 THE RIGHT TO RECALL HIM IF NECESSARY.

13 THE COURT: YES, SIR. ANYTHING FURTHER OF THE WITNESS?

14 MS. BRISBIN: NOT AT THIS TIME, YOUR HONOR.

15 THE COURT: THANK YOU. YOU MAY STEP DOWN BUT DON'T LEAVE.
16 ANYTHING FURTHER FROM THE STATE?

17 MS. BRISBIN: YES, YOUR HONOR. I'D LIKE TO RECALL MARGARET WHYTE
18 ONE MORE TIME.

19 THE COURT: COME AROUND, PLEASE, MA'AM. YOU'RE STILL UNDER OATH.

20 MARGARET WHYTE, HAVING BEEN DULY SWORN
21 EARLIER TESTIFIES AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MS. BRISBIN

24 Q MS. WHYTE, MR. ANDERSON WAS ASKING ABOUT THE INITIALS ON THE
25 SUSPECT KIT. DO YOU KNOW WHAT THE INITIALS P.S.C. STAND FOR?

MARGARET WHYTE - CROSS-EXAMINATION BY MR. ANDERSON

1 A PAUL SCOTT CUNNINGHAM. HE GOES BY HIS MIDDLE NAME.

2 Q AND HOW DO YOU KNOW THAT?

3 A BECAUSE I WORK WITH HIM AND WE HAVE TO REGISTER OUR INITIALS OF
4 HOW WE INITIAL ANY DOCUMENT WITH THE HOSPITAL AND HE REGISTERS HIS
5 THAT WAY.

6 Q THANK YOU. I HAVE NO FURTHER QUESTIONS.

7 THE COURT: CROSS.

8 CROSS-EXAMINATION

9 BY MR. ANDERSON

10 Q MA'AM, WHEN WE WERE ASKIN' WHOSE THOSE INITIALS WERE AFTER WE
11 SENT THE JURY OUT. YOU SAID EDWARD SCOTT.

12 A INITIALLY I DID.

13 Q WHO'S EDWARD?

14 A NO ONE.

15 Q WHERE DID YOU GET EDWARD FROM?

16 A I DON'T KNOW.

17 Q OKAY. BUT YOU NOW KNOW IT'S NOT EDWARD AND THAT IT'S PAUL?

18 A I KNOW THAT IT'S PAUL. YES.

19 Q OKAY. AND HE'S NOT HERE TODAY.

20 A NO. HE'S MOVED.

21 Q OKAY. THANK YOU. NO FURTHER QUESTIONS.

22 THE COURT: REDIRECT?

23 MS. BRISBIN: NONE, YOUR HONOR.

24 THE COURT: THANK YOU, MA'AM. YOU MAY STEP DOWN. CALL YOUR
25 NEXT WITNESS.

LILY SMALLS GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 MS. BRISBIN: STATE CALLS AGENT LILLIAN GALLMAN.

2 THE COURT: COME AROUND, PLEASE.

3 LILY SMALLS GALLMAN, BEING DULY SWORN,
4 TESTIFIES AS FOLLOWS:

5 MR. ANDERSON: YOUR HONOR, IF I COULD, MS. BRISBIN AND I AGREE FOR
6 HER TO BE EXCUSED IF THAT'S ALL RIGHT WITH THE COURT.

7 THE COURT: THANK YOU, MS. WHYTE. YOU'RE FREE TO GO. ALL RIGHT.
8 THERE'S NO NEED FOR A JONES; THERE'S NO NEED FOR ANY OTHER PRETRIAL
9 HEARING ON THIS ISSUE?

10 MS. BRISBIN: WHICH ISSUE?

11 THE COURT: I'M ASSUMING SHE'S GONNA TESTIFY ABOUT D.N.A.

12 MR. ANDERSON: I DO HAVE A MATTER, JUDGE.

13 THE COURT: LADIES AND GENTLEMEN, STEP IN THE JURY ROOM. (THE
14 FOLLOWING OCCURRED IN THE ABSENCE OF THE JURY.) ALL RIGHT.

15 MR. ANDERSON: YOUR HONOR, IF IT PLEASE THE COURT? I OBJECT TO THE
16 CHAIN OF CUSTODY ON MY CLIENT'S BLOOD AND I - THESE FACTS DON'T MEET -
17 THEY'RE NOT AS BAD AS THE FACTS IN THE STATE V. WILLIAMS CASES BUT I
18 WOULD CITE STATE V. PRIESTER WHICH IS 391 S.E. 2d 227 AND - TWO STATE V.
19 WILLIAMS CASES. JUDGE, DO YOU NEED MY CITATIONS OR JUST MY ARGUMENT?

20 THE COURT: I JUST NEED TO SEE THE CASES AND HEAR YOUR ARGUMENT.

21 MR. ANDERSON: AND I'M SORRY, BUT I DON'T HAVE BUT ONE COPY OF
22 EACH. JUDGE, IT APPEARS THAT THE STATE'S CASE IS GONNA BE HINGIN' ON THIS
23 D.N.A. I THINK MY CLIENT'S ENTITLED TO A PERFECT CHAIN OF EVIDENCE WITH
24 HIS BLOOD. AND THE FACT THAT THIS NOW NURSE PAUL SCOTT CUNNINGHAM
25 WHO THE WITNESS THOUGHT WAS EDWARD SCOTT CUNNINGHAM WHO'S NOT

LILY SMALLS GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 HERE TODAY WHO ACTUALLY DREW THE BLOOD, HIS ABSENCE I THINK SHOULD
2 NEGATE THE CHAIN AND EXCLUDE THIS EVIDENCE. NOW OBVIOUSLY THE OTHER
3 CASE THAT I HANDED UP TO THE COURT THE FACTS WERE WORSE THAN THIS, BUT
4 WHEN THE D.N.A. IS THE MOST IMPORTANT EVIDENCE THEY'RE GONNA PRESENT,
5 THEN MY CLIENT IS ENTITLED TO AS MUCH PROTECTION THAT THE COURT CAN
6 AFFORD IT. AND IT'S IN THE COURT'S DISCRETION AS TO THE SUFFICIENCY OF THE
7 CHAIN. AND WE WOULD ASK THAT THE COURT FIND THAT THE CHAIN IS
8 INSUFFICIENT.

9 THE COURT: ALL RIGHT. HAVE THIS WITNESS TESTIFY AS TO THE CHAIN OF
10 CUSTODY ISSUES ON HER PART.

11 MS. BRISBIN: YES, SIR.

12 DIRECT EXAMINATION

13 BY MS. BRISBIN

14 Q AGENT GALLMAN, WHERE ARE YOU EMPLOYED?

15 A SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

16 Q AND WHAT'S YOUR POSITION THERE?

17 A I'M EMPLOYED AS THE FORENSIC D.N.A. ANALYST.

18 Q AND HOW LONG HAVE YOU WORKED THERE?

19 A IN JANUARY IT'LL BE 13 YEARS.

20 Q AND WHAT ARE YOUR RESPONSIBILITIES AT SLED?

21 A I RECEIVE EVIDENCE FOR THE PURPOSE OF IDENTIFICATION.

22 Q CAN YOU IDENTIFY WHAT HAS BEEN LABELED STATE'S EXHIBIT #4 FOR
23 IDENTIFICATION PURPOSES?

24 A YES. THIS IS A C.S.C. KIT SUBMITTED FOR THE VICTIM IN THIS CASE.

25 Q HOW DO YOU KNOW THAT?

LILY SMALLS GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 A BY THE PACKAGING. BY THE PACKET AND WHAT'S IN THE PACKET AND
2 ALSO MY INITIALS ARE ON THE PACKET.

3 Q AND WHERE DID YOU RECEIVE THAT PACKET?

4 A IT WAS PLACED IN MY BIN IN THE D.N.A. REFRIGERATOR.

5 Q WAS IT WHEN YOU OBTAINED THAT PACKET WAS IT SEALED?

6 A YES, IT WAS.

7 Q WAS THERE ANY INDICATION IT HAD BEEN TAMPERED WITH OR ALTERED
8 IN ANY WAY?

9 A NO, IT WAS NOT.

10 Q AND DID YOU - WHAT DID YOU DO WITH THAT PACKET ONCE YOU
11 RECEIVED IT?

12 A WHEN THE EVIDENCE IS PLACED IN MY BIN IT'S ON THE COMPUTER IT SAYS
13 D.N.A.R. I TRANSFER THE EVIDENCE INTO MY CUSTODY STATING THAT I'M
14 PREPARED TO START WORK ON IT, ON THIS PARTICULAR EVIDENCE. THEN I
15 WOULD OPEN THE PACKET AND PERFORM TESTING ON THE EVIDENCE.

16 Q WAS THAT OUT OF YOUR CUSTODY AND CONTROL AT ANY TIME PRIOR TO
17 YOUR TESTING?

18 A NO, IT WAS NOT.

19 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT #5 FOR
20 IDENTIFICATION PURPOSES. DO YOU RECOGNIZE THAT?

21 A IT'S A SUSPECT KIT FOR THE DEFENDANT IN THIS CASE EARNEST PRESLEY.

22 Q AND HOW DO YOU KNOW WHAT THAT IS?

23 A I RECOGNIZED BY THE FACT THAT I KNOW WHAT'S IN THE SUSPECT KIT
24 FIRST OFF, AND THEN SECONDLY, THE BLOOD THAT WAS IN THIS PARTICULAR KIT I
25 REMOVED IT AND PLACED IT ON CLOTH TO DRY IT AND THEN PLACED THAT CLOTH

LILY SMALLS GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 IN THIS COIN ENVELOPE.

2 Q HOW DO YOU KNOW IT WAS YOU THAT DID THAT?

3 A MY INITIALS ARE ON THE PACKAGING.

4 Q AND WHERE DID YOU RECEIVE THAT KIT FROM?

5 A THIS WAS ALSO PLACED IN MY BIN IN THE D.N.A. REFRIGERATOR.

6 Q AND WAS IT SEALED WHEN YOU RECEIVED IT FROM THAT BIN?

7 A YES, IT WAS.

8 Q AND WAS THERE ANY INDICATION IT HAD BEEN ALTERED OR
9 SUBSTANTIALLY CHANGED IN ANY WAY?

10 A NO.

11 Q AND DID YOU -- WHAT DID YOU DO WITH IT? DID YOU PERFORM TESTS ON
12 THAT?

13 A YES, I DID.

14 Q AND WAS IT OUT OF YOUR CUSTODY AND CONTROL AT ANY TIME PRIOR TO
15 YOUR PERFORMING THE TESTING?

16 A NO, IT WAS NOT.

17 Q JUST FOR THE RECORD, WERE YOU THE PERSON WHO BROUGHT THESE
18 PACKETS, THE SUSPECT AND THE VICTIM SEXUAL ASSAULT KIT BACK FROM SLED
19 TODAY?

20 A YES, I WAS.

21 Q ALL RIGHT.

22 MR. ANDERSON: MAY I ASK HER A FEW QUESTIONS, JUDGE?

23 THE COURT: YES, SIR.
24
25

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

CROSS-EXAMINATIONBY MR. ANDERSON

Q MS. GALLMAN, IN THE VICTIM KIT, MS. BROWN DID THE BLOOD STANDARD.

A YES, SHE REMOVED THE LIQUID BLOOD FROM THE EVIDENCE KIT.

Q UH-HUH.

A AND PUT IT ON CLOTH TO DRY WHICH IS OUR POLICY TO PRESERVE THE BLOOD AND ONCE THE BLOOD WAS DRIED ON THE CLOTH, SHE PLACED IT IN A COIN ENVELOPE AND PUT IT BACK IN THE KIT.

Q OKAY. AND SHE DID THAT SHE SAID IT HAS TO DRY FOR 2 DAYS? IS THAT RIGHT?

A WELL, AT LEAST 24 HOURS.

Q OKAY. AND I DON'T THINK SHE SAID 2 DAYS IN HER CASE.

A YES.

Q AND I NOTICE THAT IN THE VICTIM PACKET - STRIKE THAT - IN THE DEFENDANT PACKET THERE IS NO VIAL.

A THAT'S CORRECT.

Q WHICH MEANS THE BLOOD WAS PUT ON A STANDARD LIKE IN THE VICTIM'S—

A PLACED ON A CLOTH, YES, TO DRY TO PRESERVE IT.

Q AND HOW DO YOU KNOW YOU'RE THE ONE WHO DID THAT? 'CAUSE HERE'S THE STANDARD, RIGHT?

A YES.

Q THIS BROWN ENVELOPE.

A YES.

Q HOW DO YOU KNOW THAT YOU'RE THE ONE THAT DID THAT?

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 A WELL, THIS IS MY HANDWRITING FOR ONE THING. AND THEN I ALSO PUT --
2 OUR POLICY IS TO REMOVE THE LABEL FROM THE TUBE AND PLACE IT ON A COIN
3 ENVELOPE. FOR ONE THING, THE LABEL IS NOT DESIGNED TO COME OFF. SO
4 SOMETIMES IT'S VERY DIFFICULT TO REMOVE. BUT WE NORMALLY WRITE OUR --
5 THE CASE NUMBER AND PLACE OUR INITIALS ON THAT PARTICULAR LABEL. AND
6 YOU CAN SEE ONLY PART OF MY INITIAL ON HERE. BUT I WAS THE ONE WHO DID
7 THAT. THIS IS THE CASE NUMBER L018343 AND PART OF MY INITIAL IS HERE, BUT IT
8 WAS RIPPED BECAUSE WHEN I WAS REMOVIN' THE LABEL THE LABEL RIPPED. BUT
9 THE EVIDENCE WAS IN MY CUSTODY THE WHOLE TIME AND ALSO--

10 Q AND THAT LAST MARK ON THE TOP RIGHT YOU'RE SAYIN' THAT'S PART OF
11 YOUR INITIALS.

12 A THAT'S PART OF MY INITIAL.

13 Q AND YOU DID THAT - WHEN DID YOU DO THAT? DID YOU DO IT WHEN YOU
14 TESTED THE BLOOD?

15 A I DID IT WHEN I OPENED THE KIT, SUSPECT KIT AND PLACED IT ON THE
16 CLOTH, PLACED THE BLOOD ON THE CLOTH.

17 Q LET ME AS YOU THIS: IF YOU HAD TO MAYBE WAIT AT LEAST A DAY, THAT
18 MEANS YOU WOULD'VE HAD TO GET THAT, OPEN UP AND THEN DO IT AND THEN SET
19 IT ASIDE AND LET IT DRY AND GET IT BACK LATER. WOULDN'T YOU?

20 A IT'S PLACED IN THE HOOD IN THE D.N.A. DEPARTMENT D.N.A. LAB TO AIR
21 DRY. OUR LAB IS SECURE.

22 Q WELL, WHAT'S THE HOOD?

23 A IT'S A HOOD. IT'S A AREA - IT'S A HOOD. IT HAS A COVERING OVER IT
24 AND YOU PUT THE SHEETING, COTTON SHEETING ON THE PANEL ON ANOTHER
25 PIECE OF - IT'S CALLED BENCH COAT (PHONETIC) AND AT THAT TIME YOU POUR

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 THE BLOOD ON THAT PARTICULAR SHEETING BUT ON THE SHEETING THAT YOU
2 USE YOU WRITE THE CASE NUMBER AND THE PERSON'S NAME ON THAT
3 PARTICULAR PIECE OF SHEETING.

4 Q OKAY. HOW MANY OF THOSE THINGS ARE IN THERE?

5 A THAT'S WHY YOU DEFINITELY GONNA WRITE THE NAME OF THAT
6 PARTICULAR PERSON AND THE CASE NUMBER ON THAT SHEETING SO THERE WILL
7 BE NO MIX-UP. ONCE THE BLOOD - BLOOD LOOKS LIKE BLOOD. SO ON THAT
8 PARTICULAR SHEETING IF THAT PERSON'S WHO THAT BLOOD BELONGS TO AND
9 THE CASE NUMBER THAT THAT PERSON BELONG TO.

10 Q I UNDERSTAND, BUT I ASKED YOU HOW MANY OTHER STANDARDS WERE IN
11 THERE?

12 A I DON'T KNOW. I DON'T REMEMBER. I DON'T REMEMBER WHAT WAS IN
13 THERE AT THE TIME.

14 Q WELL, HOW BIG IS THE HOOD?

15 A IT'S ABOUT THIS LONG. BUT IT DOESN'T NECESSARILY MEAN SINCE IT'S
16 THIS LARGE THAT THERE'S OTHER BLOOD IN THAT HOOD AT THAT PARTICULAR
17 TIME.

18 Q WELL, WAS THERE OTHER BLOOD IN THE HOOD?

19 A I DON'T REMEMBER.

20 Q WHAT'S THE MOST NUMBER OF STANDARDS THAT COULD'VE BEEN IN
21 THERE?

22 A FROM ONE TO FIVE.

23 Q IS THAT THE SAME PLACE WHERE MS. BROWN DID IT?

24 A NO. SHE WOULD DO IT ON THE THIRD FLOOR. WE HAVE LIKE A SECURITY
25 AREA WHERE THE BLOOD WOULD'VE BEEN POURED ON CLOTH.

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 Q SO WHEN YOU -- WHAT DATE DID YOU DO IT? WHAT DATE DID YOU POUR
2 THE BLOOD ON THAT CLOTH?

3 A IT WOULD'VE BEEN THE DATE THAT I TRANSFERRED IT FROM D.N.A.R. TO
4 MYSELF.

5 Q SO 11-6?

6 A IT WENT FROM D.N.A.R. TO ME 1-18.

7 Q OKAY.

8 A IT WENT FROM ME TO THE RETURN AREA ON 11-6. ALL OF THIS IS IN 2002.

9 Q SO YOU DID THE BLOOD ON JANUARY 18TH 2002.

10 A YES.

11 Q YOU LEFT IT IN THE HOOD FOR HOW LONG?

12 A FOR -- I NORMALLY LEAVE IT FOR 2 DAYS.

13 Q OKAY. AND WHY ISN'T THAT ON HERE?

14 A BECAUSE IT'S NOT BEING TRANSFERRED ANYWHERE.

15 Q OH, IT'S IN THE HOOD?

16 A THIS IS MY DESK; THIS IS THE HOOD. IT'S NOT BEING TRANSFERRED FROM
17 ME TO ANYONE ELSE OR TO ANY OTHER DESTINATION.

18 Q I THOUGHT YOU SAID EARLIER THAT THE HOOD WAS SOMEWHERE ELSE.

19 A IT'S IN THE D.N.A. LAB WHERE MY WORK BENCH IS.

20 Q AND IT STAYED THERE FOR HOW LONG? 2 DAYS?

21 A I NORMALLY DO IT TWO DAYS.

22 Q AND THEN WHAT DID YOU DO WITH IT?

23 A THEN I EITHER AT THAT PARTICULAR TIME I MAKE MY CUTTING FROM IT
24 OR I PACKAGE IT BACK UP UNTIL I CAN MAKE THE CUTTING.

25 Q WHAT DID YOU DO IN THIS CASE?

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A I PACKAGED IT BACK UP.
- 2 Q WHAT DATE?
- 3 A 2 DAYS AFTER I PLACED IT ON THE CLOTH.
- 4 Q ON 11-8 YOU PACKAGED IT BACK UP?
- 5 A NO.
- 6 Q I'M SORRY. 1-20.
- 7 A YES, I WOULD HAVE PACKAGED IT -- THE LEAST AMOUNT OF TIME I LEAVE
- 8 IT ON CLOTH IS 2 DAYS. THEN I WOULD PACKAGE IT BACK UP.
- 9 Q ARE YOU LOOKIN' AT SOMETHIN' THAT SAYS THAT'S WHAT YOU DID?
- 10 A WHAT I'M GOING BY IS YOU'RE ASKING ME WHAT DID I DO WITH IT NEXT.
- 11 WE PACKAGED IT BACK UP BECAUSE I DIDN'T START THE ANALYSIS ON IT UNTIL 2-
- 12 27-2002 TO THE EXTRACTION. ALL OF THIS IS IN THE SAME AREA. THERE'S NO
- 13 TRANSFER. THERE'S NOTHING MOVED OUT OF MY CUSTODY. EVERYTHING IS
- 14 STILL WITH ME.
- 15 Q IN THE LAB.
- 16 A IN THE LAB.
- 17 Q HOW MANY OTHER PEOPLE ARE IN THE LAB?
- 18 A WHAT I WOULD DO IS--
- 19 Q WOULD YOU ANSWER THAT, PLEASE.
- 20 A OH, HOW MANY OTHER PEOPLE?
- 21 Q YES, MA'AM.
- 22 A AT A GIVEN TIME?
- 23 Q THE MOST NUMBER OF PEOPLE THAT CAN GO THROUGH THAT LAB.
- 24 A IT WOULD HAVE TO BE MEMBERS OF THE D.N.A. DEPARTMENT, ANALYSTS.
- 25 WE HAVE 15 ANALYSTS.

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 Q OKAY. YOU'RE NOT THERE 24 HOURS 7 DAYS A WEEK.

2 A NO, I'M NOT. BUT ONCE I PUT THE BLOOD INSIDE THE POUCH, THEN I
3 SEALED IT AGAIN. YOU HAVE TO SEAL IT EACH TIME.

4 Q IN THIS POUCH?

5 A YES.

6 Q HOW DO YOU RESEAL THAT? BECAUSE I'VE LOOKED—

7 A WITH A HEAT SEALER.

8 Q OKAY. SO EVERY TIME YOU OPEN IT YOU RESEAL IT?

9 A YES, YOU HAVE TO.

10 Q AND CAN YOU LOOK AT THIS AND TELL ME HOW MANY TIMES IT'S BEEN
11 RESEALED.

12 A AT LEAST 3. SHE MADE ANOTHER CUTTING OUT HERE. AT LEAST 3 TIMES.

13 Q YOU WERE LOOKIN' AT SOMETHING WHEN I ASKED YOU WHEN YOU
14 PACKAGED IT BACK UP. AND YOU SAID I ALWAYS DO THAT AT LEAST 2 DAYS.

15 A THE LEAST AMOUNT OF TIME I LEAVE IT.

16 Q DO YOU HAVE A NOTE AS TO WHEN YOU RESEALED IT BACK UP?

17 A NO, I DON'T. I KNOW THAT I DIDN'T START MY ANALYSIS UNTIL FEBRUARY
18 THE 27TH, SO IT WOULD NOT HAVE BEEN IN THE HOOD UNTIL THEN. THAT
19 WOULD'VE BEEN A MONTH ALMOST A MONTH IN THE HOOD.

20 Q WHAT DO YOU MEAN IT WOULD NOT HAVE BEEN IN THE HOOD THAT LONG?
21 HOW LONG WOULD IT HAVE BEEN IN THE HOOD?

22 A THE LEAST AMOUNT OF TIME THAT -- I WOULDN'T KNOW HOW MANY DAYS
23 AFTER THAT. THE LEAST AMOUNT OF TIME I ALLOW IT TO DRY IS 2 DAYS.

24 Q OKAY.

25 A I DID NOT DOCUMENT THE DAY THAT I PACKAGED IT BACK UP.

LILY SMALLS GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 Q ALL RILGHT. AND THEN SOMETIME BETWEEN WHEN YOU GOT IT ON THE
2 18TH, YOU DON'T KNOW WHEN YOU DID THE BLOOD STANDARD; YOU DON'T KNOW
3 WHEN YOU PUT IT IN THE HOOD; YOU DON'T KNOW WHEN YOU TOOK IT OUT OF
4 THE HOOD.

5 A I PUT IT IN THE HOOD THE DAY I TRANSFERRED IT TO MYSELF.

6 Q OKAY.

7 A WE SAY GO FROM D.N.A.R. TO MYSELF.

8 Q SOMEWHAT AFTER THAT AT LEAST 2 DAYS LATER YOU TOOK IT OUT OF THE
9 HOOD AND YOU PUT IT IN THIS SMALL MANILA ENVELOPE THAT'S IN THE PACKET.
10 IS THAT RIGHT?

11 A THAT'S CORRECT.

12 Q AND THEN THAT PACKET SAT AROUND IN YOUR OFFICE IN THE LAB.

13 A IT'S PLACED BACK IN THE REFRIGERATOR.

14 Q OKAY. THE WHOLE PACKAGE PLACED BACK IN THE FRIDGE?

15 A IN MY BIN, YES.

16 Q IN YOUR BIN.

17 A YES.

18 Q WELL, IT'S NOT SIGNED OUT, IN AND OUT OF THE BIN.

19 A IT'S MY BIN. YOU DON'T SIGN IT IN AND OUT OF YOUR BIN.

20 Q OKAY. AND THEN IT SAT IN YOUR BIN UNTIL WHEN?

21 A UNTIL I STARTED THE EXTRACTIONS ON FEBRUARY 27TH.

22 Q THEN WHEN DID YOU ACTUALLY DO THE TEST? WHAT'S JUNE THE 14TH?

23 A THAT'S THE DATE THE REPORT WAS ISSUED.

24 Q ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE.

25 THE COURT: REDIRECT?

1 MS. BRISBIN: NOTHIN', YOUR HONOR.

2 THE COURT: ALL RIGHT. WHERE IS THE BREAK IN THE CHAIN?

3 MR. ANDERSON: THE FIRST BREAK IN THE CHAIN WOULD BE WHERE THIS
4 NURSE ISN'T HERE TO TESTIFY THAT HE DREW THE BLOOD. SO I WOULD ASSERT
5 THAT THAT'S A BREAK IN THE LINK OF THE CHAIN.

6 THE COURT: OKAY.

7 MR. ANDERSON: AND THEN THE SECOND ONE WOULD BE THE FACT THAT
8 IT'S SITTING IN THE LAB IN THE HOOD FOR AT LEAST 2 DAYS. SHE DOESN'T KNOW
9 FOR HOW LONG AND THEN IN HER BIN WHICH APPARENTLY IS HER DESK, A
10 REFRIGERATOR NEAR HER DESK FOR SHE'S NOT SURE HOW LONG. UNTIL SHE
11 DOES THE TEST. TO ME THAT DOESN'T -- THAT DOESN'T SEEM VERY SECURE TO
12 ME, JUDGE. IT DOESN'T SEEM LIKE THEY'VE PROVEN THAT NOBODY COULD'VE
13 TAMPERED WITH THIS EVIDENCE.

14 MS. BRISBIN: FIRST OF ALL, THERE'S NO QUESTION THAT HE
15 VOLUNTEERED HIS BLOOD. WE'LL GET THAT IN EVIDENCE LATER, BUT IF
16 SOMEBODY HAD STOLEN HIS BLOOD HE WOULD'VE KNOWN IT. SO I DON'T SEE
17 THAT IT'S REALLY AN ISSUE, BUT AS FAR AS THE CHAIN OF CUSTODY GOES, IT WAS
18 NEVER OUT OF THE CUSTODY AND CONTROL OF MS. GALLMAN. IT WAS IN A
19 LOCKED SLED LAB CLEARLY LABELED WITH THE CASE NAME AND THE SUSPECT
20 NAME.

21 THE COURT: HOW IS IT LABELED WHEN IT'S DRYING?

22 MS. BRISBIN: IT'S WRITTEN ON -- I CAN ASK HER, BUT MY UNDERSTANDING
23 IS THAT IT IS LABELED, IT'S WRITTEN ON THE CLOTH. SHE SAID IT WAS ON THE
24 CLOTH. I'D HAVE TO HAVE HER EXPLAIN IT BETTER.

25 THE COURT: ALL RIGHT. ASK HER.

1 REDIRECT EXAMINATION

2 BY MS. BRISBIN

3 Q ALL RIGHT. COULD YOU EXPLAIN HOW THE BLOOD IS LABELED WHILE IT'S
4 DRYING.

5 A BEFORE THE BLOOD IS PLACED ON THE CLOTH IT'S - IT'S CUT IN SHEETING
6 ABOUT THIS LENGTH. YOU FOLD IT OVER; YOU WRITE WITH A MARKER THE
7 PERSON'S NAME AND THE CASE NUMBER ON THAT PARTICULAR PIECE OF
8 SHEETING. THE LAST THING YOU DO WITH THE SHEETING IS THEN POUR THE
9 BLOOD ON IT AND LET IT DRY.

10 THE COURT: ALL RIGHT. THANK YOU.

11 MS. BRISBIN: AND AS FAR AS THE NURSE WHO DREW THE BLOOD, AGAIN,
12 OFFICER DERRICK TESTIFIED THAT HE WITNESSED THE DRAWING OF THE BLOOD.
13 THE NEEDLE GOING IN AND COMING OUT WITH THE BLOOD FROM THE BODY OF
14 THE DEFENDANT AND THAT IT WAS HANDED DIRECTLY TO HIM. I DON'T SEE HOW
15 ANY FURTHER DOCUMENTATION OF THE CHAIN, THAT PART OF THE CHAIN WOULD
16 BE NECESSARY.

17 THE COURT: ANYTHING ELSE?

18 MS. BRISBIN: NOTHING ELSE FROM THE STATE.

19 THE COURT: ANYTHING ELSE, MR. ANDERSON?

20 MR. ANDERSON: NO, THANK YOU, JUDGE.

21 THE COURT: I'VE READ THE CASES THAT HAVE BEEN HANDED UP BY MR.
22 ANDERSON. STATE -VS- DAVID WILLIAMS WHICH IS A 1989 CASE CITED AT 376
23 SOUTHEASTERN 2d 773. STATE -VS- MICHAEL WAYNE WILLIAMS WHICH IS A 1990
24 CASE CITED AT 392 SOUTHEASTERN 2d 181. AND STATE -VS- WILLIE PRIESTER A
25 1990 CASE AT 391 SOUTHEASTERN 2d 227. I THINK THAT THE CASE OF THE STATE -

1 VS. DAVID WILLIAMS, JR. IS PERHAPS MOST IN LINE WITH THE FACTUAL ISSUE
2 BEFORE THE COURT AS FAR AS BEING ON POINT.

3 THAT WAS A FELONY D.U.I. CASE WHERE A PERSON WAS DRIVING A
4 VEHICLE AND WAS INJURED IN THE COLLISION THAT RESULTED IN THE DEATH OF
5 SOME OTHER PEOPLE AND HE WENT TO THE HOSPITAL AND AT THE HOSPITAL
6 BLOOD WAS DRAWN AND PLACED IN SEVERAL TUBES AND THE NURSE WHO DREW
7 THE BLOOD APPARENTLY DID NOT TESTIFY.

8 IT WAS AN INITIAL - I'M SORRY - AN INTERNAL CHAIN OF CUSTODY
9 FORM THAT WAS INITIALED BY THE NURSE INDICATING THAT SHE OBTAINED THE
10 SAMPLE FROM THE DEFENDANT AND THEN LOCKED IT INTO A REFRIGERATOR AND
11 THEN THE NURSE WHO TOOK IT OUT OF THE REFRIGERATOR AND TOOK IT TO THE
12 LAB TO BE TESTED DID TESTIFY AND THE TRIAL JUDGE FOUND AN ADEQUATE
13 CHAIN OF CUSTODY OF THE BLOOD SAMPLE AND ALLOWED IT INTO EVIDENCE.
14 THE SUPREME COURT AFFIRMED IT UNANIMOUSLY.

15 IN THIS INSTANCE WITH REGARD TO THE FIRST ALLEGED BREAK IN THE
16 CHAIN, THE TESTIMONY OF THE OFFICER WAS THAT HE OBSERVED THE BLOOD
17 BEING DRAWN. HE OBSERVED THE NURSE TAKE THE BLOOD OUT OF THE BODY OF
18 THE DEFENDANT, PLACE IT INTO A EVIDENCE COLLECTION KIT. THE ENVELOPES
19 ARE APPARENTLY HERE. THEY HAVE BEEN DISCUSSED WHEN THE EXAMINATION
20 OF THE WITNESSES TOOK PLACE. THERE ARE INITIALS OF THE NURSE ON THE
21 FORM. AND THEN THE ENVELOPES CONTAINING THE BLOOD WERE GIVEN TO THE
22 OFFICER WHO TOOK THEM AND PLACED THEM IN A LOCKED REFRIGERATOR,
23 SEALED THE REFRIGERATOR AND THEN WITHIN THE REFRIGERATOR WAS A
24 SEALED ENVELOPE WITH THE BLOOD IN IT. SO YOU HAVE TWO SEALS. AND HE
25 RETRIEVED THAT. TOOK IT TO SLED. HE WATCHED THE SLED CLERICAL PERSON

1 TAKE THAT AND PUT THE RECORDING INFORMATION NECESSARY FOR SLED'S
2 RECORD KEEPING ON THAT. IT NEVER LEFT HIS SIGHT AS FAR AS THE TESTIMONY.
3 AND THEN HE PLACED IT HIMSELF INTO THE EVIDENCE LOCKER AT SLED. FROM
4 THERE IT WAS PICKED UP AND TAKEN TO THE BIN WHICH IS A SEALED
5 REFRIGERATOR BIN AS I UNDERSTAND IT AND THEN THIS WITNESS RETRIEVED IT
6 FROM THAT. SHE'S TESTIFIED THAT SHE KEPT IT WITHIN HER CUSTODY AND
7 CONTROL FROM THAT POINT UNTIL THE TESTS WERE PERFORMED. AS FAR AS THE
8 BLOOD SAMPLE GOES, WHICH IS THE ONLY ONE I'VE HEARD AN OBJECTION TO SO
9 FAR, THE MOTION TO EXCLUDE IT BASED ON A BREAK IN THE CHAIN OF CUSTODY
10 IS DENIED. THERE IS SUFFICIENT EVIDENCE OF A CHAIN OF CUSTODY TO ALLOW
11 THE INTRODUCTION OF THE EVIDENCE. ANYTHING ELSE?

12 MR. ANDERSON: JUDGE, WHEN YOU SAID STATE V. JONES HEARING—

13 THE COURT: UH-HUH.

14 MR. ANDERSON: —I DRAW A BLANK.

15 THE COURT: IF THE -- I DON'T KNOW WHAT TYPE OF D.N.A. ANALYSIS WAS
16 PERFORMED, BUT IF THE D.N.A. ANALYSIS THAT WAS PERFORMED IS SOMETHING
17 THAT HASN'T BEEN RECOGNIZED IN THE STATE AS BEING RELIABLE AS SCIENTIFIC
18 EVIDENCE, THEN THE COURT'S REQUIRED TO DO A COUNSEL HEARING OR A
19 HEARING UNDER STATE -VS- JONES. THERE IS A CASE THAT STANDS FOR THE
20 PROPOSITION THAT IF THE TEST HAS ALREADY BEEN DETERMINED TO BE
21 RECOGNIZED AND RELIABLE IN THE STATE, THEN IT'S NOT NECESSARY TO HAVE A
22 JONES HEARING. THERE CAN STILL BE ATTACKS TO RELEVANCY AND PREJUDICE,
23 BUT THAT CASE IS STATE -VS- REGISTER AND STATE -VS- FORD AND THEY'RE
24 DEALING THERE WITH D.N.A. PRINT TESTING AND RESTRICTION FRAGMENT
25 LENGTH POLYMORPHISM.

1 MR. ANDERSON: JUDGE THIS IS B.C.R. D.N.A. ANALYSIS WHICH I BELIEVE IS
2 RECOGNIZED AS RELIABLE IN THIS STATE. SO I DON'T THINK WE HAVE ONE OF
3 THOSE HEARINGS. JUDGE, AT THE TIME WHEN THEY INTRODUCE THE D.N.A.
4 RESULTS, I'M GONNA RENEW MY OBJECTION, YOUR HONOR. SUBJECT TO YOUR
5 PREVIOUS RULING. I THINK I HAVE TO DO THAT.

6 THE COURT: CERTAINLY.

7 MR. ANDERSON: THANK YOU, YOUR HONOR. THAT'S ALL WE HAVE THEN.

8 THE COURT: SO THERE IS NO ISSUE THAT THE PROCEDURE, THE D.N.A. TEST
9 PROCEDURE UTILIZED IN THIS CASE HAS BEEN RECOGNIZED IN OTHER CASES AS
10 RELIABLE AND ADMISSIBLE. THERE'S NO ISSUE ABOUT THAT?

11 MR. ANDERSON: I MEAN THERE -- I DON'T UNDERSTAND IT FRANKLY,
12 JUDGE. BUT IT'S BEEN B.C.R. D.N.A. MY UNDERSTANDING HAS BEEN FOUND
13 RELIABLE IN OTHER CASES.

14 THE COURT: OKAY. BRING THE JURY.

15 (THE FOLLOWING OCCURRED IN THE PRESENCE OF THE JURY.) ALL RIGHT.
16 LADIES AND GENTLEMEN, WE'VE WORKED THROUGH THOSE LEGAL ISSUES. THE
17 ATTORNEYS TELL ME THAT THIS WITNESS COULD BE SOME TIME ON THE WITNESS
18 STAND. SO THIS WAS THE BEST TIME TO BREAK RIGHT NOW FOR THE DAY. I'M
19 GONNA ASK YOU, PLEASE, TO BE BACK IN THE JURY ROOM AT 9:30 IN THE
20 MORNING. I'VE GOT SOME OTHER MATTERS UNRELATED TO THIS CASE THAT WE
21 HAD SET FOR 9 O'CLOCK. SO IF YOU WOULD, PLEASE, BE IN THE JURY ROOM AT
22 9:30. IF SOME TRUE EMERGENCY SHOULD ARISE OVERNIGHT, PLEASE, NOTIFY THE
23 CLERK'S OFFICE OR HAVE SOMEONE NOTIFY THEM FIRST THING IN THE MORNING
24 BECAUSE, LIKE I SAID EARLIER, IF YOU'RE NOT HERE, WE'RE GONNA BE LOOKIN'
25 FOR YOU, AND EVERYBODY'LL HAVE TO WAIT TILL WE FIND OUT WHAT'S GOING

DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 YOUR HONOR.

2 THE COURT: DEFENSE?

3 MR. ANDERSON: YES, SIR. THANK YOU.

4 THE COURT: ALL RIGHT. CALL YOUR WITNESS.

5 MS. BRISBIN: STATE CALLS OFFICER DWAYNE DERRICK.

6 DWAYNE DERRICK, BEING DULY SWORN,

7 TESTIFIES AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MS. BRISBIN:

10 Q OFFICER DERRICK, I BELIEVE YOU WORKED FOR THE BURNETTOWN POLICE
11 DEPARTMENT AT THE TIME OF THIS INCIDENT?

12 A THAT'S CORRECT.

13 Q DID YOU HAVE THE OPPORTUNITY TO INTERVIEW THE DEFENDANT
14 EARNEST PRESLEY?

15 A I DID.

16 Q WHEN DID THAT TAKE PLACE?

17 A INTERVIEW TOOK—

18 Q THE FIRST INTERVIEW.

19 A THE INITIAL INTERVIEW WAS TAKEN ON THE DATE OF THE CALL 7-13-2001.

20 Q AND WAS HE UNDER ARREST AT THE TIME OF THAT INTERVIEW?

21 A NO, HE WAS NOT.

22 Q WAS HE IN HANDCUFFS OR DETAINED IN ANY WAY?

23 A HE WAS NOT PLACED IN HANDCUFFS. HE WAS THERE OF HIS OWN FREE
24 WILL.

25 Q OKAY. WAS HE PRESSURED IN ANY WAY, FORCED IN ANY WAY,

DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 THREATENED IN ANY WAY, OFFERED ANY - MADE ANY PROMISES OR IN ANY
2 WAY PRESSURED TO TALK WITH YOU?

3 A NO, MA'AM, HE WAS NOT.

4 Q DID HE FREELY AGREE TO TALK WITH YOU AT THAT TIME?

5 A YES, MA'AM, HE DID.

6 Q DID YOU READ HIM HIS MIRANDA RIGHTS AT THAT TIME?

7 A YES, MA'AM.

8 Q WOULD YOU - I SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT #6
9 FOR IDENTIFICATION. WOULD YOU READ THESE MIRANDA RIGHTS AS YOU READ
10 THEM TO HIM THAT DAY.

11 A YOU HAVE THE RIGHT TO REMAIN SILENT. ANYTHING YOU SAY CAN AND
12 WILL BE USED AGAINST YOU IN A COURT OF LAW. YOU HAVE THE RIGHT TO TALK
13 WITH A LAWYER FOR ADVICE BEFORE ANY QUESTIONING AND HAVE HIM OR HER
14 PRESENT DURING ANY QUESTIONING. IF YOU CANNOT AFFORD A LAWYER THE
15 COURT WILL APPOINT ONE TO REPRESENT YOU IF YOU WISH WITHOUT COST. IF
16 YOU DECIDE TO ANSWER QUESTIONS NOW YOU STILL HAVE THE RIGHT TO STOP
17 ANSWERING AT ANY TIME.

18 Q DID HE AGREE TO WAIVE THOSE RIGHTS?

19 A YES, MA'AM, HE DID.

20 Q AND DID IT APPEAR TO YOU THAT HE WAS MAKING AN INTELLIGENT,
21 KNOWING AND VOLUNTARY DECISION TO TALK WITH YOU?

22 A YES, MA'AM.

23 Q NOW HE DID NOT SIGN A WAIVER ON THAT DATE, DID HE?

24 A NO, MA'AM. NOT ON THAT DATE.

25 Q OKAY. DID HE AT A LATER TIME SIGN A WAIVER OF HIS RIGHTS?

DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 A YES, MA'AM, HE DID.

2 Q AND THAT'S THE SAME RIGHTS YOU JUST READ?

3 A THAT'S CORRECT. YES, MA'AM.

4 Q AND DID HE INITIAL EACH OF THOSE RIGHTS THAT HE WAIVED?

5 A YES, MA'AM, HE DID.

6 Q AND SIGNED IT?

7 A YES, MA'AM.

8 Q WHO ELSE WAS PRESENT WHEN HE SIGNED THAT FORM?

9 A HE WAS - AT THAT TIME AIKEN COUNTY SHERIFF'S OFFICER WITH
10 INVESTIGATOR KIM RANDALL WAS PRESENT AT THE SAME TIME.

11 THE COURT REPORTER: SAY THAT AGAIN.

12 A INVESTIGATOR KIM RANDALL WAS PRESENT.

13 Q AND IT WAS DONE AT THE AIKEN COUNTY SHERIFF'S OFFICE?

14 A THAT'S CORRECT.

15 Q OKAY. WHAT WAS THE DATE OF THAT?

16 A THE DATE WAS 11-30-2001.

17 Q AND WHEN YOU READ HIM HIS MIRANDA RIGHTS THE FIRST DAY ON THE
18 DATE OF THE INCIDENT, DID HE MAKE ANY STATEMENTS AT THAT TIME?

19 A THE STATEMENTS HE MADE TO ME AT THAT TIME WAS IN REFERENCE TO
20 WHO WAS PRESENT IN THE HOUSE AT THE TIME THAT THE ACCUSATIONS HAD
21 BEEN MADE.

22 Q AND WHO DID HE SAY WAS PRESENT AT THAT TIME?

23 A HIS DAUGHTER, _____ P. _____ SISTER AND HIS SON.

24 Q WERE THERE ANY ADULTS, DID HE SAY THERE WERE ANY ADULTS
25 PRESENT AT THAT TIME?

DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A NO, MA'AM.
- 2 Q AND DID HE SAY HOW OLD HIS SON AND DAUGHTER WERE AT THAT TIME?
- 3 A HIS SON WAS 9 AND HIS DAUGHTER WAS 13.
- 4 Q DID HE MAKE ANY OTHER STATEMENTS AT THAT TIME? ON THE DATE OF
- 5 THE INCIDENT.
- 6 A ONLY STATEMENTS HE MADE WAS THAT ACCUSATIONS WERE BEIN' MADE
- 7 BECAUSE P. WAS MAD AT HIM.
- 8 Q OKAY. DID HE SAY WHY SHE WAS MAD AT HIM?
- 9 A BECAUSE HE HAD MADE THEM GO TO BED.
- 10 Q OKAY. THEM BEING P. OTHER CHILDREN?
- 11 A THAT'S CORRECT.
- 12 Q OKAY. ON THE DATES - WHAT WAS THE DATE YOU INTERVIEWED HIM AT
- 13 THE SHERIFF'S DEPARTMENT?
- 14 A 11-30-2001.
- 15 Q DID YOU VIDEO TAPE THAT INTERVIEW?
- 16 A THAT'S CORRECT.
- 17 Q AND DID YOU SAY YOU READ HIM HIS MIRANDA RIGHTS AGAIN ON THIS
- 18 DAY?
- 19 A THAT'S CORRECT. IT ALSO WAS GIVEN TO HIM IN WRITING FOR HIM TO
- 20 INITIAL AND WAIVE IT.
- 21 Q AND THAT WAS THE FORM YOU HAVE THERE IN FRONT OF YOU?
- 22 A THAT'S CORRECT.
- 23 Q OKAY. AND IS HIS SIGNING OF THE WAIVER OF MIRANDA RIGHTS VISIBLE
- 24 ON THE VIDEO TAPE?
- 25 A YES, MA'AM.

DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 Q DID HE MAKE ANY -- DID IT APPEAR TO YOU THAT HE WAS MAKING A
2 WILLING AND VOLUNTARY AND INTELLIGENT DECISION TO TALK WITH YOU ON
3 THAT DATE?

4 A YES, MA'AM.

5 Q WAS HE COERCED OR THREATENED OR PROMISED ANYTHING ON THAT
6 DATE?

7 A NO, MA'AM.

8 Q DID HE MAKE ANY STATEMENTS ON THAT DATE?

9 A HIS STATEMENT WAS BASICALLY THE SAME. ONE STATEMENT HE DIDN'T
10 MAKE WHEN HE WAS COMIN' OUT THAT WHEN HE CAME OUT INTO THE LIVING
11 ROOM AREA WHERE MS. PRESLEY (SIC) WAS THAT HIM AND MS. PRESLEY (SIC)
12 WERE THE ONLY TWO PERSONS IN THE LIVIN' ROOM.

13 Q AND WHEN DID HE SAY HE HAD COME INTO THE LIVING ROOM WHERE SHE
14 WAS PRESENT?

15 A IF I COULD REFER TO MY NOTES.

16 Q I MEAN APPROXIMATELY WHAT TIME. DO YOU KNOW APPROXIMATELY
17 WHAT TIME HE SAID HE WENT?

18 A APPROXIMATELY AROUND 2 A.M.

19 Q OKAY. AND DID HE SAY WHERE THE OTHER PEOPLE IN THE HOUSE WERE?

20 A STATED THAT THEY WERE IN THE BEDROOMS. THEIR BEDROOMS. SAID
21 THE TWO GIRLS WERE IN ONE BEDROOM AND HIS SON WAS IN THE OTHER
22 BEDROOM.

23 Q AND DID HE AT THAT TIME ALSO SAY THAT THERE WAS NO OTHER ADULT
24 PRESENT?

25 A THAT'S CORRECT.

DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 Q WERE THERE ANY OTHER STATEMENTS THAT HE MADE AT THAT TIME? OF
2 ANY SIGNIFICANCE. DID HE SAY THAT - THAT P. WAS SLEEPING ON THE
3 LIVING ROOM COUCH?

4 A HE SAID SHE WAS LAYING ON THE LIVING ROOM COUCH AND THE
5 TELEVISION WAS ON.

6 Q OKAY. THE TELEVISION WAS ON?

7 A THAT'S CORRECT.

8 Q OKAY. DID HE SAY WHERE HIS WIFE WAS?

9 A I BELIEVE SHE WAS SUPPOSED TO BE AT WORK.

10 Q ALL NIGHT?

11 A YES, MA'AM.

12 MS. BRISBIN: THAT'S ALL THE QUESTIONS I HAVE FOR THE JACKSON V.

13 DENNO HEARING.

14 CROSS-EXAMINATION

15 BY MR. ANDERSON

16 Q OFFICER DERRICK, WHY DID IT TAKE YOU TILL THE NIGHT BEFORE TRIAL
17 TO GIVE US THAT - OR THE DAY BEFORE TRIAL TO GIVE US THAT MEETING?

18 A I'M NO LONGER A FULLTIME EMPLOYEE WITH THE BURNETTOWN POLICE
19 DEPARTMENT. I WASN'T AWARE I DIDN'T GIVE IT TO YOU.

20 Q NOW IN YOUR REPORTS IT LOOKS LIKE YOU READ HIS RIGHTS 3 TIMES AND
21 AT LEAST 2 OF THE TIMES YOU STATE IT WAS IN WRITING. DOES THAT SOUND
22 RIGHT?

23 A NO, SIR. EVERY ONE WAS IN WRITING.

24 Q WELL, YOU DON'T STATE IT IN YOUR REPORT THAT YOU DID IT IN WRITING
25 TWICE?

DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 A I'D HAVE TO REFER BACK TO THAT. I'M NOT SURE.

2 Q WELL, YOU'RE TELLING ME NOW THAT YOU JUST DID IT ONCE IN WRITING.

3 A THAT I'M AWARE OF AT THIS POINT.

4 Q OKAY. 'CAUSE YOU ONLY GAVE US ONE FORM.

5 A CORRECT.

6 Q AND AT THE END OF THE VIDEO EARNEST SAID HE WOULD AGREE TO GIVE
7 YOU A BLOOD SAMPLE.

8 A CORRECT.

9 Q BUT HE WOULD DO IT WHEN HE GOT OUT ON BOND. HE DIDN'T WANT TO
10 GO TO THE HOSPITAL IN HANDCUFFS. CORRECT?

11 A ON THE VIDEO. CORRECT.

12 Q SO WHAT HAPPENED BETWEEN THE VIDEO ENDING AND 38 MINUTES? AND
13 YOU DON'T SAY AND NOW I'M MAKING THIS VIDEO. IT LOOKS LIKE THE VIDEO
14 CUTS OFF ACCIDENTALLY AND RUNS OUTTA TAPE OR SOMETHIN'. WHAT HAPPENS
15 FROM YOU AND INVESTIGATOR RANDALL LEAVING THE ROOM WITH THE
16 UNDERSTANDING THAT EARNEST WAS GONNA TAKE THE BLOOD SAMPLE LATER
17 TO ALL OF A SUDDEN EARNEST GOES BACK AND GIVES A BLOOD SAMPLE?

18 A OKAY. WE HAD FINISHED THE INTERVIEW AND I CAME BACK IN THE ROOM
19 TO TAKE HIM OVER TO SEE IF WE WERE GOIN' TO HAVE A BOND HEARING; THEN
20 TAKE HIM TO THE DETENTION CENTER. JAKE WAS NOT IN AND HE MADE A
21 STATEMENT TO ME THEN INSTEAD A GOIN' TO JAIL WE MIGHT AS WELL GO ON TO
22 THE HOSPITAL AND GET THE BLOOD TAKEN, AND I TOLD HIM IF HE WANTED TO DO
23 THAT, HE WAS WORRIED ABOUT HIS HANDCUFFS BEING ON, I TOLD HIM I'D TAKE A
24 COAT AND DRAPE OVER HIS HANDCUFFS SO HE WOULDN'T BE SEEN WITH HIS
25 HANDCUFFS ON.

DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 Q HAVE YOU REVIEWED THE VIDEO SINCE—

2 A YES, SIR.

3 Q YOU FAMILIAR WITH WHAT I'M TALKIN' ABOUT WHEN YOU AND RANDALL
4 SAID WE HAD TO GO OUTSIDE AND TALK FOR A MINUTE?

5 A THAT WAS BY INTERVIEW. WE DIDN'T COME BACK IN AND DO ANY
6 INTERVIEWS AFTER THAT.

7 Q SO WHAT HAPPENED NEXT?

8 A WE LEFT THE ROOM; WENT BACK; I WAS GONNA TAKE HIM OVER TO THE
9 DETENTION CENTER. THE JUDGE'S VEHICLE WAS NOT PRESENT IN THE PARKIN'
10 LOT SO I WAS GONNA TAKE HIM INSTEAD OF A BOND HEARING, BACK TO THE
11 DETENTION CENTER.

12 Q SO WHEN YOU WENT BACK IN THE ROOM NOBODY SAID ANYTHING TO HIM.

13 A NOT THAT I'M AWARE OF, NO, SIR.

14 Q HOW'D THE VIDEO CUT OFF AT 38 MINUTES PRECISELY?

15 A I COULDN'T TELL YOU, SIR. I WASN'T OPERATIN' THE MACHINE.

16 Q WHO WAS OPERATIN' THE MACHINE?

17 A INVESTIGATOR RANDALL.

18 Q WELL, DID HE GO AROUND AND CUT IT OFF?

19 A I WASN'T THERE WITH HIM. I DON'T KNOW.

20 Q OKAY. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

21 MS. BRISBIN: YOUR HONOR, A COUPLE MORE QUESTIONS IF I MAY.

22 THE COURT: YES, MA'AM.

23

24.

25

DWAYNE DERRICK - REDIRECT EXAMINATION BY MS. BRISBIN

1 REDIRECT EXAMINATION

2 BY MS. BRISBIN

3 Q JUST TO CLARIFY, THE FIRST TIME YOU INTERVIEWED, WHERE DID THAT
4 TAKE PLACE?

5 A THE INTERVIEW TOOK PLACE AT 398 DUNCAN ROAD. THAT ADDRESS IS IN
6 GRANITVILLE LOCATED IN BURNETTOWN TOWN LIMITS OF AIKEN COUNTY.

7 Q AND WHOSE HOME WAS THAT?

8 A THAT WAS MR. PRESLEY'S HOME.

9 Q OKAY. YOU SAID HE WAS NOT UNDER ARREST AT THAT TIME?

10 A THAT'S CORRECT.

11 Q WAS HE UNDER ARREST THE SECOND TIME YOU INTERVIEWED HIM?

12 A THAT'S CORRECT.

13 Q OKAY. AND DID HE VOLUNTARILY AGREE TO GIVE A D.N.A. SAMPLE?

14 A YES, MA'AM, HE DID.

15 Q WAS HE COERCED OR THREATENED OR PROMISED ANYTHING
16 CONCERNING GIVING A D.N.A. SAMPLE?

17 A NO, MA'AM.

18 Q AND HAD HE BEEN READ HIS MIRANDA RIGHTS AND SIGNED THE WAIVER
19 FORM PRIOR TO HIS VOLUNTEERING TO GIVE A D.N.A. SAMPLE?

20 A YES, MA'AM, HE HAD.

21 Q THANK YOU.

22 THE COURT: ANY OTHER QUESTIONS OF THE WITNESS?

23 MR. ANDERSON: NO, THANK YOU, JUDGE.

24 THE COURT: YOU MAY STEP DOWN. ANY OTHER WITNESSES ON THE
25 DENNO ISSUE? ANY OTHER WITNESSES ON DENNO?

1 MS. BRISBIN: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. DOES THE DEFENSE HAVE ANY WITNESSES ON
3 THE DENNO ISSUE?

4 MR. ANDERSON: NO. THANK YOU, JUDGE.

5 THE COURT: ANY MOTIONS?

6 MR. ANDERSON: JUDGE, IT DOES BOTHER ME THAT THE VIDEO CUTS OFF AT
7 38 MINUTES WITH THE PLAN TO BE THAT MY GUY'S GONNA GIVE THE SAMPLE
8 LATER. ALL OF A SUDDEN HE'S GIVIN' THE SAMPLE RIGHT THEN. THAT BOTHERS
9 ME BUT I MEAN I DON'T KNOW - BASED ON THAT I WOULD MOVE - I REALLY
10 DON'T HAVE A MOTION. NO MOTION.

11 THE COURT: ALL RIGHT.

12 THE COURT RECOGNIZES THERE IS NO MOTION.

13 THE COURT NONETHELESS FINDS THAT IT HAS CAREFULLY CONSIDERED
14 THE EVIDENCE OFFERED BY THE STATE ON THE ISSUE OF THE ADMISSIBILITY OF
15 THE STATEMENT OR STATEMENTS THAT ARE PURPORTED TO HAVE BEEN MADE BY
16 THE DEFENDANT. THE COURT FINDS THAT THE STATE HAS MET THE REQUISITE
17 DEGREE OF PROOF AT THIS STAGE AND HAS ESTABLISHED BY THAT DEGREE OF
18 PROOF THAT BEFORE ANY ALLEGED INCRIMINATING STATEMENT OR CONFESSION
19 WAS OBTAINED FROM THE DEFENDANT THAT HE WAS FULLY ADVISED OF HIS
20 RIGHTS UNDER THE 5TH AND 6TH AMENDMENTS OF THE UNITED STATES, AND THAT
21 HE WAS ADVISED OF THE CONSTITUTIONAL SAFEGUARDS UNDER MIRANDA -VS-
22 ARIZONA. SPECIFICALLY HE WAS ADVISED THAT HE HAD A RIGHT TO REMAIN
23 SILENT, THAT HE WAS ADVISED PRIOR TO INTERROGATION THAT IF HE WAIVED
24 THAT RIGHT TO REMAIN SILENT THAT ANY STATEMENT THAT HE DID MAKE COULD
25 AND WOULD BE USED AGAINST HIM; THAT HE HAD THE RIGHT TO EMPLOY AN

1 ATTORNEY, BUT THAT IF HE COULD NOT AFFORD ONE, ONE WOULD BE APPOINTED
2 FOR HIM AT NO EXPENSE; THAT HE HAD THE RIGHT TO HAVE THE ATTORNEY
3 PRESENT WITH HIM DURING ALL INTERVIEWS AND ALL INTERROGATIONS. THAT
4 HE HAD THE RIGHT TO CONSULT WITH THE ATTORNEY BEFORE AN
5 INTERROGATION, THAT HE HAD THE RIGHT TO STOP AND END THE QUESTIONING,
6 THAT HE HAD THE RIGHT TO ASK FOR AN ATTORNEY AT ANY POINT.

7 THE COURT FINDS THAT THE STATE HAS ESTABLISHED THAT THE
8 DEFENDANT KNOWINGLY AND INTELLIGENTLY WAIVED HIS RIGHTS AND THAT
9 THE ALLEGED INCRIMINATING STATEMENTS WERE OBTAINED FROM HIM FREELY
10 AND VOLUNTARILY WITHOUT DURESS, COERCION, UNDUE INFLUENCE, REWARD,
11 PROMISE OR HOPE OF REWARD, PROMISE OF LENIENCY, THREAT OF INJURY
12 WITHOUT COMPULSION OR INDUCEMENT OF ANY KIND AND THAT IT WAS OR THEY
13 WERE THE PRODUCT OF THE FREE AND UNCONSTRAINED WILL OF THE
14 DEFENDANT WHO MADE THOSE STATEMENTS VOLUNTARILY. THE COURT FINDS
15 THAT THE STATEMENTS ARE ADMISSIBLE IF THE REQUISITE FOUNDATIONS ARE
16 ESTABLISHED IN FRONT OF THE JURY. YES?

17 MS. BRISBIN: DO WE NEED TO DO ANYTHING ELSE ON THE ISSUE OF THE
18 VOLUNTARINESS OF THE D.N.A. SAMPLE? I BELIEVE MR. ANDERSON SAID HE WAS
19 WILLING TO STIPULATE TO THAT. I'M NOT SURE HE STILL FEELS THAT WAY.

20 MR. ANDERSON: I'M NOT GONNA ARGUE ANYTHING ABOUT THAT IT'S
21 INVOLUNTARY IN FRONT OF THE JURY, JUDGE. I'M NOT GONNA STIPULATE THAT IT
22 WAS VOLUNTARY BUT I'M NOT GONNA TELL THE JURY THAT HE WAS FORCED TO
23 DO IT.

24 THE COURT: OBVIOUSLY I CAN'T GIVE YOU ALL ADVICE AS TO HOW TO
25 TRY YOUR CASE. IF THERE IS NO ISSUE RELATED TO THE RELIABILITY OF THE

1 TESTING PROCEDURES, THEN I DON'T KNOW THAT - OR THE ACCEPTANCE OF THE
2 TESTING PROCEDURES, I DON'T KNOW THAT THE COURT WOULD BE REQUIRED TO
3 DO ANY KIND OF HEARING. I MENTIONED A JONES HEARING YESTERDAY. MY
4 UNDERSTANDING IS THAT'S BASED ON THE CASE OF THE STATE -VS- NATHAN
5 JOSEPH JONES. IT'S AT 273 SOUTH CAROLINA 723 AND THE COMMENT ABOUT A
6 JONES HEARING COMES FROM STATE -VS- REGISTER. SO I THINK THAT IF THERE IS
7 - UNLESS THERE IS A MOTION FOR ME TO RECONSIDER OR CONSIDER THE
8 ADMISSIBILITY OF THE D.N.A. TEST, I DON'T KNOW OF ANYTHING THAT I'M
9 SUPPOSED TO DO. I THINK THAT'S AN ISSUE LIKE QUASHING SOMETHING OR
10 UNDER AN EXCLUSIONARY RULE CHALLENGE.

11 MR. ANDERSON: JUDGE, I'LL TELL YOU WHAT I COULD DO TO COMPLETE
12 THE RECORD THEN. I COULD JUST CALL MY CLIENT; I COULD OBJECT TO THE
13 DRAWING OF HIS BLOOD AND JUST PRESENT ABOUT 2 MINUTES OF TESTIMONY IN
14 THAT REGARD. I CAN DO THAT RIGHT NOW, JUDGE.

15 THE COURT: IT'S UP TO YOU.

16 MR. ANDERSON: WELL, LET ME DO THAT, JUDGE. I DON'T THINK IT CAN
17 HURT TO DO THAT. WOULD THAT BE ALL RIGHT?

18 THE COURT: SURE.

19 MR. ANDERSON: JUDGE, I DO OBJECT TO THE DRAWING OF MY CLIENT'S
20 BLOOD IN THIS CASE. ON 11-30-01 WHEN HE WAS ARRESTED HE - STRIKE THAT -
21 11-30-01 WHEN HE WAS ARRESTED, HE WAS PUT IN THIS INTERROGATION ROOM.
22 THEY INTERROGATED HIM AND TALKED TO HIM FOR 38 MINUTES ON VIDEO. THE
23 VIDEO TAPE TURNS OFF AT 38 MINUTES. WITHOUT ANY EXPLANATION IT TURNS
24 OFF. AT THE END OF THAT VIDEO TAPE IS THE UNDERSTANDING BETWEEN MY
25 CLIENT AND THE 2 LAW ENFORCEMENT OFFICERS THAT HE'S GONNA GIVE A D.N.A.

EARNEST PRESSLEY - DIRECT EXAMINATION BY MR. ANDERSON

1 SAMPLE AFTER HE MAKES BOND. HE'S GONNA GO UP TO THE HOSPITAL AND GIVE
2 A SAMPLE. NEXT THING WE KNOW IS THAT HE'S TAKEN TO THE HOSPITAL THAT
3 EVENING AND HE GIVES A SAMPLE THEN. SO, YOU KNOW, IT'S OUR POSITION THAT
4 HE WAS COERCED IN SOME WAY INTO GIVING THAT BLOOD SAMPLE, AND I'D LIKE
5 TO JUST ASK MY CLIENT A FEW QUESTIONS TO ELICIT THOSE RESPONSES, YOUR
6 HONOR.

7 THE COURT: ALL RIGHT.

8 EARNEST PRESSLEY, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. ANDERSON

12 Q EARNEST, YOU WERE IN THE INTERROGATION ROOM WITH INVESTIGATOR
13 RANDALL AND OFFICER DERRICK. IS THAT CORRECT?

14 A YES, SIR.

15 Q DO YOU REMEMBER TALKIN' ABOUT GIVIN' A BLOOD SAMPLE?

16 A YES, SIR.

17 Q YOU UNDERSTAND EVERYTHING YOU SAY MS. PERRY HAS TO TAKE DOWN.
18 OKAY?

19 A OKAY.

20 THE COURT: JUST SPEAK UP.

21 Q ALL RIGHT. EARNEST, YOU TALK LOUD ENOUGH FOR ME TO HEAR YOU
22 HERE.

23 A OKAY.

24 Q AND SHE CAN HEAR YOU. DID YOU AGREE TO GIVE - AT THE TIME DID
25 YOU TELL THE OFFICERS YOU WOULD GIVE A SAMPLE?

EARNEST PRESSLEY - DIRECT EXAMINATION BY MR. ANDERSON

1 A AFTER I GOT OUT.

2 Q OKAY.

3 A NO. 'CAUSE THE HANDCUFFS AND LIKE I TOLD 'EM, I DIDN'T WANNA GO IN
4 WITH THEM.

5 Q OKAY. AND AT THE TIME YOU WERE IN THE ROOM WITH THE OFFICERS
6 HAD YOU SPOKEN WITH AN ATTORNEY?

7 A NO.

8 Q OKAY. AND AT SOME POINT DID YOU HAVE FURTHER CONVERSATION
9 WITH AT LEAST ONE OF THE OFFICERS ABOUT A BLOOD SAMPLE?

10 A AFTER THEY LEFT OUT ANOTHER GUY CAME IN THERE AND ASKED ME
11 WHY I WOULDN'T GO THAT DAY.

12 Q OKAY.

13 A AND TAKE IT ON MY OWN. SAID IT'D BE BETTER.

14 Q OKAY.

15 A AND HE WAS KINDA MEAN ABOUT IT SO I JUST WENT - THEY WASN'T IN
16 THERE, MR. DERRICK AND THEY WASN'T IN THERE.

17 Q WAS THAT INVESTIGATOR RANDALL?

18 A NOT - I DON'T THINK IT WAS HIM.

19 Q OKAY.

20 A IT WAS ANOTHER TALLER GUY.

21 Q DID YOU AND I SIT IN MY OFFICE AND WATCH THAT VIDEO THE DAY WE
22 GOT IT?

23 A YES, SIR.

24 Q AND WAS IT HARD TO HEAR?

25 A YES, IT WAS.

EARNEST PRESSLEY - CROSS-EXAMINATION BY MS. BRISBIN

1 Q BUT THERE WAS NOTHIN' ON THAT VIDEO WHERE YOU AGREED TO TAKE
2 THE TEST THAT NIGHT.

3 A NO, SIR, 'CAUSE WHEN THAT TALL GUY CAME IN THERE THAT'S WHEN I
4 TOLD 'EM I SAID I'D GO AHEAD AND TAKE IT.

5 Q ALL RIGHT. WHY DID YOU AGREE TO TAKE IT THAT NIGHT?

6 A 'CAUSE HE WAS ACTIN' KINDA MEAN LIKE I SAID. I WAS ALREADY IN
7 HANDCUFFS AND I DIDN'T YOU KNOW - I DIDN'T WANNA MAKE HIM NO MADDER.

8 Q OKAY.

9 THE COURT: DIDN'T WANNA WHAT?

10 A I DIDN'T WANNA MAKE HIM NO MADDER.

11 MR. ANDERSON: JUDGE, THAT'S ALL I HAVE.

12 THE COURT: QUESTIONS OF THE WITNESS?

13 CROSS-EXAMINATION

14 BY MS. BRISBIN

15 Q MR. PRESSLEY, YOU REALIZED YOU WERE BEING VIDEOTAPED WHEN YOU
16 HAD THAT INTERVIEW. CORRECT?

17 A I DIDN'T KNOW.

18 Q YOU DIDN'T KNOW YOU WERE BEING VIDEOTAPED. DO YOU RECALL HIM
19 ON THAT VIDEO - WELL, DURING THAT INTERVIEW SAYING THAT YOU HAD
20 NOTHING TO HIDE AND YOU WOULD BE HAPPY TO VOLUNTEER TO GIVE YOUR
21 D.N.A. SAMPLE?

22 A YES, MA'AM, I TOLD 'EM I WOULD DO ANYTHING BUT I WANTED TO WAIT
23 TILL I GOT OUT.

24 Q OKAY. BUT YOU DID AGREE TO GIVE YOUR D.N.A. SAMPLE VOLUNTARILY.

25 A I TOLD HIM I WOULD - I SAID IF HE WAIT TILL I GOT OUT I'D GO DOWN

EARNEST PRESSLEY - REDIRECT EXAMINATION BY MR. ANDERSON

1 THERE THAT TUESDAY, I MEAN, YOU KNOW, WHENEVER I - AFTER I GOT OUT OF
2 THE HANDCUFFS.

3 Q AND WASN'T THERE SOME DISCUSSION ABOUT WELL WE COULD DO IT
4 TONIGHT OR WE COULD DO IT AT A LATER TIME AND YOU SAID YOU WOULD BE
5 HAPPY TO GIVE IT?

6 A THAT WAS AFTER THEY LEFT OUT. THAT'S WHEN THAT VIDEO WENT OUT
7 WE WERE LOOKIN' AT.

8 Q AND YOU'RE SAYING THAT SOMEBODY CAME BACK IN THE ROOM AFTER
9 THE TWO OFFICERS LEFT THE ROOM.

10 A IT WAS A TALLER GUY. I GUESS THEY TOLD 'EM I DIDN'T WANNA TAKE IT
11 THAT DAY AND HE CAME IN THERE AND ASKED ME WHY I WOULDN'T.

12 Q AND ISN'T IT TRUE THAT YOU ACTUALLY AGREED TO TAKE IT THAT NIGHT
13 VOLUNTARILY LATER THAT DAY?

14 A AFTER THE TAPE WENT OUT. THAT'S WHEN THE OTHER GUY CAME IN
15 THERE AND ASKED ME THAT.

16 Q AND YOU DID VOLUNTARILY AGREE TO TAKE THE D.N.A. TEST. IS THAT
17 RIGHT?

18 A YES.

19 Q THANK YOU.

20 THE COURT: ANYTHING ELSE OF THE WITNESS?

21 MR. ANDERSON: JUST ONE FOLLOW-UP.

22 THE COURT: YES, SIR.

23 REDIRECT EXAMINATION

24 BY MR. ANDERSON

25 Q DID YOU FEEL LIKE YOU HAD A CHOICE AT THAT TIME WHEN THE BIG GUY

EARNEST PRESSLEY - RECROSS EXAMINATION BY MS. BRISBIN

1 CAME—

2 A NOT WHEN THAT BIG GUY CAME IN 'CAUSE I DIDN'T WANNA MAKE HIM
3 MAD. HE WAS ALREADY MAD ENOUGH.

4 MR. ANDERSON: OKAY. JUDGE, THAT'S ALL I HAVE.

5 RECROSS EXAMINATION

6 BY MS. BRISBIN

7 Q DID THE BIG GUY THREATEN YOU IN ANY WAY?

8 A THE WAY HE WAS TALKIN' AT ME, YOU KNOW, HE WAS JUST LOOKIN' AT
9 ME AND HE SAID WHY YOU SCARED TO GO TAKE IT TODAY. AND HE KEPT ASKIN'
10 ME THAT. SO I SAID I'D JUST GO AHEAD AND TAKE IT.

11 Q DID HE PROMISE YOU ANYTHING?

12 A NO, HE DIDN'T PROMISE. HE JUST - THE WAY HE WAS TALKIN' AND THE
13 WAYS HE ASKED ME I SAID I'VE GOT TO GO AHEAD AND TAKE IT TODAY.

14 Q DID HE HIT YOU OR—

15 A HE DIDN'T DO NOTHIN' LIKE THAT. IT WAS JUST HIS ATTITUDE AND THE
16 WAY HE WAS TALKIN'.

17 Q NO THREATS.

18 A NO THREATS.

19 Q THANK YOU.

20 THE COURT: ANYTHING FURTHER?

21 REDIRECT EXAMINATION

22 BY MR. ANDERSON

23 Q HE MADE NO OUTWARD THREATS BUT DID HE INTIMIDATE YOU?

24 A YEAH, AS FAR AS TALKIN' AS FAR AS WHAT HE TALKED TO ME THAT WAY.

25 MR. ANDERSON: JUDGE, THAT'S ALL I HAVE.

1 THE COURT: THANK YOU, SIR, YOU MAY STEP DOWN.

2 MR. ANDERSON: JUDGE, OBVIOUSLY IT'S SPECULATION BUT IF HE HAD
3 MADE BOND, DISCUSSED THIS WITH AN ATTORNEY, HE MAY OR MAY NOT HAVE
4 AGREED TO SUBMIT TO THE TEST LATER. AND WHEN HE TOLD THE OFFICERS
5 THERE THAT HE AGREED TO TAKE IT LATER WOULD NOT BE BINDING ON HIM AT A
6 LATER DATE, AND HE TESTIFIED TODAY THAT HE WAS INTIMIDATED AND THAT'S
7 WHY HE WENT AND TOOK THE TEST THAT NIGHT, JUDGE. WE WOULD MOVE TO
8 EXCLUDE HIS BLOOD FROM THE EVIDENCE IN THIS CASE BECAUSE IT WAS GAINED
9 FROM HIM WITH INTIMIDATION. THANK YOU, YOUR HONOR.

10 THE COURT: AFTER REVIEWING THE EVIDENCE, THE COURT FINDS BEYOND
11 A REASONABLE DOUBT THAT THE DEFENDANT VOLUNTARILY GAVE A BLOOD
12 SAMPLE. THAT'S WHAT HE TESTIFIED ON THE STAND. AND THE COURT FAILS TO
13 SEE HOW BLOOD WOULD BE DIFFERENT ONE DAY AS OPPOSED TO ANOTHER. WITH
14 REGARD TO WHETHER IT'S VOLUNTARY OR NOT WHICH IS A DIFFERENT ISSUE, AS I
15 SAID, HE TESTIFIED IT WAS VOLUNTARY. HE TESTIFIED HE FELT INTIMIDATED IN
16 SOME FASHION BUT IT WAS VOLUNTARY. THERE IS NO CAUSE FOR THE
17 EXCLUSION OF THE BLOOD OR THE TESTING THAT'S DONE OF THE BLOOD BASED
18 ON INVOLUNTARINESS. IT WILL BE SUBMITTED TO THE JURY. ANYTHING ELSE?

19 MS. BRISBIN: NOT FROM THE STATE, YOUR HONOR.

20 MR. ANDERSON: NO, THANK YOU, JUDGE.

21 THE COURT: ALL RIGHT. BRING THE JURY IN. (THE FOLLOWING OCCURRED
22 IN THE PRESENCE OF THE JURY.) ALL RIGHT, LADIES AND GENTLEMEN, WE'LL
23 CONTINUE WITH THE STATE'S CASE. CALL YOUR WITNESS, PLEASE.

24 MS. BRISBIN: STATE CALLS OFFICER DWAYNE DERRICK.

25 OFFICER DWAYNE DERRICK, HAVING BEEN EARLIER

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 DULY SWORN, TESTIFIES AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MS. BRISBIN

4 Q OFFICER DERRICK, I BELIEVE YOU TESTIFIED YESTERDAY THAT YOU WERE
5 WORKING (INAUDIBLE). IS THAT CORRECT?

6 A YES, MA'AM.

7 Q HOW'D YOU GET INVOLVED?

8 A I HEARD DISPATCHED ON THE RADIO TO INVESTIGATOR WITH THE
9 SHERIFF'S OFFICE OF A POSSIBLE SEXUAL ASSAULT ON 398 DUNCAN ROAD. THE
10 WAY OUR JURISDICTION IS SET UP, PART OF DUNCAN ROAD IS IN OUR
11 JURISDICTION AND PART OF IT'S IN THE COUNTY. WHEN I FINISHED DOIN' WHAT I
12 WAS DOIN' AT THE OFFICE I WENT TO 398 DUNCAN ROAD AND CHECKED WITH THE
13 DEPUTY TO SEE IF IT WAS IN OUR JURISDICTION OR SEE IF HE NEEDED ASSISTANCE.
14 WHEN I ARRIVED THERE I FOUND OUT IT WAS IN MY JURISDICTION.

15 Q SO A DEPUTY FROM AIKEN COUNTY HAD ARRIVED PRIOR TO YOU GETTING
16 THERE?

17 A THAT'S CORRECT.

18 Q OKAY. WHAT WAS HIS NAME?

19 A INVESTIGATOR ELWIL (PHONETIC).

20 Q OKAY. AND THEN DID YOU DETERMINE THAT THAT ADDRESS WAS IN YOUR
21 JURISDICTION OR—

22 A THAT'S CORRECT.

23 Q AND WAS IT IN AIKEN COUNTY?

24 A THAT'S CORRECT.

25 Q AND WHOSE HOME WAS THAT?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A MR. PRESSLEY'S.
- 2 Q AND DO YOU KNOW WHO ELSE LIVED IN THAT HOME?
- 3 A MR. PRESSLEY, HIS CHILDREN AND HIS WIFE.
- 4 Q WHERE DID YOU GO FIRST WHEN YOU GOT THE CALL?
- 5 A I WENT DIRECTLY TO THE RESIDENCE.
- 6 Q AND WHO WAS THERE WHEN YOU ARRIVED?
- 7 A INVESTIGATOR ELWIL WAS PRESENT AS WELL AS MR. PRESSLEY AT THE
- 8 TIME AND THERE WERE A COUPLE CHILDREN PRESENT AS WELL, ONE OF 'EM BEIN'
- 9 MR. PRESSLEY'S DAUGHTER AND SON. I BELIEVE - YEAH, HIS WIFE WAS PRESENT
- 10 AS WELL.
- 11 Q DO YOU KNOW, WAS THIS ON JULY 13TH? 2001.
- 12 A THAT'S CORRECT.
- 13 Q AND DO YOU KNOW APPROXIMATELY WHAT TIME YOU ARRIVED?
- 14 A I KNOW APPROXIMATELY. I DON'T KNOW EXACT. IT WOULD BE
- 15 APPROXIMATELY 4 OR 5 IN THE EVENIN'. I BEGAN SHIFT AT 3 O'CLOCK IN THE
- 16 EVENIN'.
- 17 Q OKAY. DID YOU NOTICE THE LAYOUT OF THE HOUSE?
- 18 A YES, MA'AM.
- 19 Q COULD YOU DESCRIBE THAT?
- 20 A IT WAS YOU ENTER THE FRONT DOOR OF THE TRAILER YOU'RE IN THE
- 21 LIVING ROOM AREA. THAT'S THE AREA THAT THERE'S A COUCH AND THEN
- 22 THERE'S A SMALL OF NOT DIVIDING THE ROOM BUT A SMALL DIVIDING LITTLE
- 23 PART THAT GOES INTO A KITCHEN AREA. AND ON THE OTHER SIDE OF THE
- 24 KITCHEN AREA IS MR. PRESSLEY'S BEDROOM AND BATHROOM. TO THE RIGHT
- 25 WAS A HALLWAY WITH SEVERAL DOORS ON IT THAT WAS RELATED TO ME BY MR.

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 PRESSLEY TO BE THE BEDROOMS. CHILDREN'S BEDROOMS.

2 Q DID THE CHILDREN'S BEDROOMS, ANY OF THE CHILDREN'S BEDROOMS
3 OPEN OUT INTO THE LIVING ROOM?

4 A NO, MA'AM.

5 Q WHAT DID YOU DO WHEN YOU ARRIVED THERE?

6 A WHEN I ARRIVED THERE I SPOKE TO INVESTIGATOR ELWEL. THEN I WENT
7 INSIDE THE RESIDENCE TO SPEAK TO MR. PRESSLEY. MR. PRESSLEY WAS GIVEN
8 MIRANDA PRIOR TO ME SPEAKING WITH HIM AND--

9 Q HOLD ON FOR JUST A MINUTE. DO YOU RECOGNIZE THIS THING MARKED
10 STATE'S EXHIBIT 6 FOR IDENTIFICATION?

11 A YES, I DO.

12 Q WHAT IS THAT?

13 A IT'S ADVICE OF RIGHTS, MIRANDA RIGHTS.

14 Q AND WHEN YOU SAY HE WAS GIVEN HIS MIRANDA RIGHTS, WHAT DID YOU
15 TELL HIM EXACTLY?

16 A HE WAS GIVEN MIRANDA: YOU HAVE THE RIGHT TO REMAIN SILENT;
17 ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW;
18 YOU HAVE A RIGHT TO TALK WITH A LAWYER BEFORE ANY QUESTIONING AND
19 HAVE HIM OR HER PRESENT DURING QUESTIONING; IF YOU CANNOT AFFORD A
20 LAWYER THE COURT WILL APPOINT ONE TO REPRESENT YOU IF YOU WISH
21 WITHOUT COST. IF YOU DECIDE TO ANSWER ANY QUESTIONS NOW, YOU STILL
22 HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME.

23 Q AND DID MR. PRESSLEY AGREE TO TALK WITH YOU?

24 A YES, MA'AM, HE DID.

25 Q DID HE APPEAR TO UNDERSTAND HIS RIGHTS?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A YES, MA'AM, HE DID.
- 2 Q DID HE AT ANY TIME ASK FOR A LAWYER?
- 3 A NO, MA'AM, HE DID NOT.
- 4 Q DID HE - WAS HE COERCED OR THREATENED OR PROMISED ANYTHING IN
5 ORDER TO GET HIM TO TALK WITH YOU AT THAT TIME?
- 6 A NO, MA'AM.
- 7 Q DID HE MAKE ANY STATEMENTS AT THAT TIME?
- 8 A YES, MA'AM. I'D ASKED HIM ABOUT WHAT HAPPENED THE EVENIN'
9 BEFORE. HE STATED THAT HE WAS THERE AT THE TRAILER, HE WAS THE ONLY
10 ADULT THERE STAYIN' WITH THE CHILDREN, AND THAT HE HAD CAME INTO THE
11 LIVIN' ROOM THAT EVENIN' AND ASKED P. BED AND TOUCHED
12 HER ON HER SHOULDER, AND WHEN HE DID SO. HE STATED HE WAS THE ONLY
13 ONE IN THE ROOM WITH P. THAT THE OTHER CHILDREN WERE IN THEIR
14 BEDROOMS, THE TWO GIRLS BEIN' IN A BEDROOM BY THEIRSELVES AND HIS SON
15 DEVON BEING IN THE OTHER ROOM. AND HE TOLD HER TO GO TO BED.
- 16 Q OKAY. SLOW DOWN A LITTLE BIT.
- 17 A OKAY.
- 18 Q HE P. WAS IN THE LIVING ROOM DOING WHAT?
- 19 A LYING ON THE COUCH.
- 20 Q OKAY. DID HE SAY WHERE THE OTHER CHILDREN WERE?
- 21 A HE STATED THAT THE OTHER CHILDREN WERE IN THEIR BEDROOMS. HE
22 SAID THE TWO GIRLS WERE IN ONE BEDROOM AND HIS SON DEVON WAS IN THE
23 OTHER ROOM.
- 24 Q AND DID HE SAY WHETHER OR NOT THERE WERE ANY OTHER ADULTS
25 PRESENT?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A HE STATED HE WAS THE ONLY ADULT PRESENT.
- 2 Q ALL RIGHT. DID HE SAY WHERE HIS WIFE WAS?
- 3 A I BELIEVE HE - YEAH, HE STATED SHE WAS AT WORK.
- 4 Q AND DID HE SAY APPROXIMATELY WHAT TIME HE WENT IN THE LIVING
- 5 ROOM WHERE P. WAS ALONE?
- 6 A YES, MA'AM. APPROXIMATELY 2 A.M.
- 7 Q OKAY. WHAT DID YOU DO AFTER THAT?
- 8 A I HAD RECEIVED ALL THE INFORMATION WITH HIM. HE VOLUNTARILY
- 9 GAVE ME SOME STUFF FROM THE LOCATION AS EVIDENCE, AND AT THAT TIME I
- 10 LEFT THE SCENE TO GO THE AIKEN EMERGENCY ROOM WHERE THE VICTIM AND
- 11 HER MOTHER - EXCUSE ME - MS. PRESSLEY (SIC) AND HER MOTHER HAD
- 12 ALREADY GONE TO THE HOSPITAL.
- 13 Q OKAY. DID YOU ARREST HIM AT THAT TIME?
- 14 A NO, MA'AM.
- 15 Q SO YOU WENT TO THE HOSPITAL YOURSELF AT THAT TIME?
- 16 A THAT'S CORRECT.
- 17 Q OKAY. AND WHAT DID YOU DO THERE?
- 18 A I GOT THERE, MS. PRESSLEY AND HER MOTHER WERE--
- 19 Q MS. H.]
- 20 A EXCUSE ME. MS. H.]
- 21 Q YOU'RE DOING IT TOO.
- 22 A THEY WERE IN A PRIVATE WAITING ROOM WITHIN THE EMERGENCY ROOM.
- 23 AND I WENT THERE AND INTERVIEWED HER AT THAT TIME.
- 24 Q YOU INTERVIEWED MS. H.]
- 25 A THAT'S CORRECT.

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 Q P.

2 A CORRECT.

3 Q OKAY. DID SHE DISCLOSE TO YOU THAT SHE HAD BEEN SEXUALLY
4 ASSAULTED?

5 A YES, MA'AM, SHE HAD.

6 Q DID SHE SAY WHEN IT HAPPENED?

7 A YES, MA'AM.

8 Q WHEN DID SHE SAY IT HAPPENED?

9 A SHE STATED THE DAY BEFORE, AND SHE HAD SAID AROUND 6 O'CLOCK.
10 WHEN I ASKED HER IF SHE WAS SURE ABOUT 6 O'CLOCK AND SHE SAID SHE
11 THOUGHT SHE WAS. I ASKED HER IF IT WAS DAYTIME OR NIGHTTIME AND SHE
12 STATED IT WAS NIGHTTIME. SHE SAID IT WAS LATE.

13 Q OKAY. AND DID SHE SAY WHERE IT HAPPENED?

14 A SHE STATED IT HAPPENED IN THE LIVING ROOM AT MR. PRESSLEY'S
15 RESIDENCE ON THE COUCH.

16 Q WHAT DID YOU DO AFTER THAT?

17 A AFTER THAT I PROCEEDED TO THE E.R. STAFF. THEY PERFORMED THEIR
18 EXAMINATION ON HER, AND I WAS GIVEN A RAPE VICTIM'S KIT AND LOGGED IT
19 INTO EVIDENCE.

20 Q IS THAT ALSO CALLED A SEXUAL ASSAULT KIT?

21 A YES, MA'AM.

22 Q OKAY. AND THAT'S WHAT WE PUT INTO EVIDENCE YESTERDAY OR
23 TALKED ABOUT YESTERDAY WHEN YOU WERE ON THE STAND EARLIER THE FIRST
24 TIME.

25 A YES, MA'AM.

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q OKAY. AND YOU GOT THAT KIT FROM WHERE?
- 2 A FROM THE STAFF AT THE E.R.
- 3 Q SPECIFICALLY FROM WHICH STAFF MEMBER?
- 4 A NURSE PEGGY WHYTE.
- 5 Q OKAY. AND YOU TOOK THE KIT WHERE?
- 6 A TRANSPORTED IT TO MY POLICE DEPARTMENT WHERE IT WAS LOCKED
- 7 INSIDE OUR EVIDENCE REFRIGERATOR AND SEALED WITH EVIDENCE TAPE.
- 8 Q AND FROM THERE WHERE DID IT GO?
- 9 A I HAD PICKED IT UP AND TAKEN IT TO SLED'S LABORATORY IN COLUMBIA
- 10 FOR ANALYSIS.
- 11 Q AND WHERE DID YOU PUT IT AT SLED?
- 12 A I MET WITH THE EVIDENCE CLERK THERE WHICH IN TURN SHE DID THEIR
- 13 PAPERWORK AND THEIR POLICY REGARDIN' RECEIVIN' IT. SHE SEALED IT UP,
- 14 HANDED IT BACK TO ME AT WHICH TIME I PLACED IT INSIDE THEIR D.N.A.
- 15 REFRIGERATOR WHICH IS LOCATED ABOUT 3 FOOT FROM HER DESK.
- 16 Q AND IS THAT A LOCKED DROP BOX?
- 17 A YES, MA'AM, IT IS.
- 18 Q OKAY. DID YOU HAVE OCCASION TO INTERVIEW MR. PRESSLEY AT A
- 19 LATER DATE?
- 20 A YES, MA'AM, ON 11-30-01.
- 21 Q AND WHERE DID THAT TAKE PLACE?
- 22 A AT THE AIKEN COUNTY SHERIFF'S OFFICE.
- 23 Q WAS HE UNDER ARREST AT THAT TIME?
- 24 A YES, MA'AM, HE WAS.
- 25 Q AND DID YOU READ HIM HIS MIRANDA RIGHTS AT THAT TIME?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 A YES, MA'AM, I DID.

2 Q WERE THEY THE SAME MIRANDA RIGHTS YOU JUST READ?

3 A YES, MA'AM, THEY WERE.

4 Q AND DID YOU HAVE HIM SIGN A WAIVER OF THOSE RIGHTS?

5 A YES, MA'AM, I DID.

6 Q DO YOU RECOGNIZE THIS DOCUMENT?

7 A YES, MA'AM.

8 Q WHAT IS THAT?

9 A THAT IS THE MIRANDA RIGHTS AND HIS WAIVER.

10 Q AND DID HE SIGN HIS WAIVER OF THOSE MIRANDA RIGHTS?

11 A YES, MA'AM, HE DID.

12 Q DID HE INITIAL EACH OF THEM?

13 A YES, MA'AM, HE DID.

14 Q ALL RIGHT. DID HE APPEAR TO UNDERSTAND HIS RIGHTS?

15 A YES, MA'AM.

16 Q WAS HE THREATENED OR COERCED OR PROMISED ANYTHING AT THAT
17 TIME?

18 A NO, MA'AM.

19 MS. BRISBIN: I'D ASK THAT STATE'S EXHIBIT #6 BE ADMITTED INTO
20 EVIDENCE.

21 MR. ANDERSON: NO OBJECTION.

22 THE COURT: THANK YOU. (STATE'S EXHIBIT #6 RECEIVED IN EVIDENCE.)

23 Q SO THIS TOOK PLACE WHERE, THIS INTERVIEW?

24 A IN THE CRIMINAL INVESTIGATION DIVISION'S OFFICE. THEY HAVE A
25 INTERVIEW ROOM ON THE UPSTAIRS AT THE AIKEN COUNTY SHERIFF'S OFFICE.

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 Q AND WAS THIS INTERVIEW VIDEOTAPED?

2 A YES, MA'AM, IT WAS.

3 Q AND DID HE SIGN THE MIRANDA RIGHTS WAIVER FORM ON THE VIDEO -- IS
4 IT VISIBLE THAT HE'S SIGNING THAT?

5 A IT'S NOT VISIBLE THAT HE SIGNED IT. THE WITNESS WHEN HE CAME AND
6 SIGNED IT, THAT IS VISIBLE ON IT IN WHICH TURN HE WAS ASKIN' MR. PRESSLEY IF
7 THAT WAS HIS SIGNATURE AND HE STATED YES.

8 Q WHO WAS THE WITNESS THAT WAS PRESENT?

9 A INVESTIGATOR RANDALL WITH THE AIKEN COUNTY SHERIFF'S OFFICE.

10 Q DID MR. PRESSLEY MAKE ANY STATEMENT AT THAT TIME?

11 A YES, MA'AM, HE DID.

12 Q WHAT DID HE SAY AT THAT TIME?

13 A HIS STATEMENT WAS BASICALLY THE SAME FROM THE PREVIOUS
14 INTERVIEW AT HIS RESIDENCE. HE STATED THAT HE WAS THE ONLY ADULT
15 PRESENT AT THE HOUSE AND HE HAD HAD -- HE WAS STAYING WITH THE
16 CHILDREN AND THEY HAD WOKE HIM UP ON SEVERAL OCCASIONS AND THE LAST
17 TIME THE TELEVISION HAD WOKE HIM UP HE WENT INTO THE LIVIN' ROOM WHERE
18 P. WAS BY HERSELF LYING ON THE COUCH AND TOUCHED HER ON HER
19 SHOULDER AND TOLD HER SHE NEEDED TO GET UP AND GO TO BED.

20 Q AND YOU SAY THE TELEVISION WAS ON IN THE LIVING ROOM WHERE

21 P. WAS?

22 A YES, MA'AM.

23 Q AND DID HE SAY HOW OLD THESE CHILDREN WERE?

24 A SON DEVON WAS 9 YEARS OLD AND HIS DAUGHTER WAS 13.

25 Q AND WHERE EXACTLY DID HE SAY THE OTHER CHILDREN WERE?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 A HE STATED THAT DEVON WAS IN HIS BEDROOM AND THE GIRLS WERE IN
2 THEIR BEDROOM.

3 Q AND THERE WAS NO ONE ELSE IN THE LIVING ROOM BUT P.

4 A THAT'S CORRECT.

5 Q DID YOU HAVE A DISCUSSION WITH HIM THAT WAS ALSO VIDEOTAPED IN
6 THE SAME INTERVIEW CONCERNING D.N.A. SAMPLES?

7 A YES, MA'AM, I DID.

8 Q AND DID HE AGREE TO SUBMIT A D.N.A. SAMPLE?

9 A YES, MA'AM, HE DID.

10 Q WAS HE COERCED OR THREATENED OR PROMISED ANYTHING
11 CONCERNING SUBMITTING A D.N.A. SAMPLE?

12 A NO, MA'AM.

13 Q DID HE VOLUNTARILY AGREE TO SUBMIT THAT SAMPLE?

14 A YES, MA'AM, HE DID.

15 Q AND DID HE APPEAR TO UNDERSTAND WHAT HE WAS AGREEING TO?

16 A YES, MA'AM, HE DID.

17 Q DID HE AT SOME POINT PROVIDE A D.N.A. SAMPLE?

18 A YES, MA'AM, THE EVENIN' OF THE 30TH.

19 Q THAT SAME EVENING?

20 A YES, MA'AM.

21 Q AND HOW WAS THAT OBTAINED? WHERE WAS THAT OBTAINED?

22 A I TOOK HIM TO AIKEN COUNTY REGIONAL MEDICAL CENTER WHERE IT
23 WAS DONE IN THE EMERGENCY ROOM.

24 Q AND YOU WERE THERE FOR THE ENTIRE PROCEDURE?

25 A YES, MA'AM, I WAS.

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

1 Q AND WHO DREW THE BLOOD FOR THE SAMPLE?

2 A SCOTT CUNNINGHAM, NURSE WITH THE E.R. STAFF.

3 Q DID YOU SEE HIM ACTUALLY STICK THE NEEDLE IN HIS ARM AND DRAW
4 THE BLOOD?

5 A YES, MA'AM, I DID.

6 Q AND WHAT DID THE NURSE DO WITH THE BLOOD SAMPLE AFTER HE DREW
7 IT?

8 A AFTER HE DREW IT HE PLACED A LABEL ON IT AND WROTE HIS
9 INFORMATION THAT HE HAS TO WRITE ON IT. THEN HE SEALED IT AND IT WAS
10 INITIALED BY HIM AND ME.

11 Q AND THEN WHAT HAPPENED TO IT?

12 A AFTER HE SEALED UP THE KIT, IT WAS GIVEN TO ME FOR EVIDENCE.

13 Q AND WHAT DID YOU DO WITH THAT?

14 A I TRANSPORTED IT AGAIN IN THE SAME MANNER TO MY POLICE
15 DEPARTMENT WHERE IT WAS LOCKED AND SEALED IN THE EVIDENCE
16 REFRIGERATOR.

17 Q AND THEN FROM THERE WHAT HAPPENED TO IT?

18 A IT WAS TRANSPORTED TO SOUTH CAROLINA LAW ENFORCEMENT DIVISION
19 SLED IN COLUMBIA TO THE LABORATORY FOR TESTING.

20 Q AND IS THAT THE SAME PROCEDURE THERE FOR WHAT HAPPENED TO IT
21 AFTER THAT?

22 A YES, MA'AM.

23 Q IT WENT INTO A LOCKED DROP BOX.

24 A YES, MA'AM.

25 Q OKAY. DO YOU HAVE MR. PRESSLEY'S DATE OF BIRTH ON YOUR RECORDS?

OFFICER DWAYNE DERRICK - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A YES, MA'AM. 4-19-1966.
- 2 Q 19 WHAT?
- 3 A 66.
- 4 Q HOW OLD WAS HE AT THE TIME OF THE INCIDENT?
- 5 A AT THE TIME OF THE INCIDENT 35 YEARS OF AGE.
- 6 Q WHEN YOU WERE DISCUSSING THE D.N.A. SAMPLE, THE TIME WHEN HE
- 7 WOULD DO IT—
- 8 A YES, MA'AM.
- 9 Q —DID HE AGREE AT THE INTERVIEW THAT HE WOULD GIVE THE BLOOD
- 10 SAMPLE AT A LATER TIME?
- 11 A THAT'S CORRECT, HE DID.
- 12 Q AND THEN DID HE CHANGE HIS MIND AND SAY HE WOULD DO IT THAT
- 13 DAY?
- 14 A YES, MA'AM, HE DID.
- 15 Q IS THAT WHAT HAPPENED?
- 16 A YES, MA'AM.
- 17 Q AND WAS HE COERCED IN ANY WAY TO GIVE IT THAT DAY?
- 18 A NO, MA'AM. THE ONLY CONCERN HE HAD GIVEN TO ME DURIN' THAT
- 19 TIMEFRAME IS HE DID NOT WANT TO BE SEEN IN THE EMERGENCY ROOM IN
- 20 HANDCUFFS AND WE HAD THE DISCUSSION THAT I COULD NOT TAKE THE
- 21 HANDCUFFS OFF HIM 'CAUSE HE WAS UNDER ARREST. I TOLD HIM THAT HE DID
- 22 WISH TO GIVE IT WE'D TRY TO MAKE ARRANGEMENTS SO HE WASN'T SEEN IN THE
- 23 HANDCUFFS BUT I COULD NOT TAKE 'EM OFF.
- 24 Q WHAT KIND OF ARRANGEMENTS DID YOU MAKE ABOUT THE HANDCUFFS?
- 25 A TOOK A COAT AND PUT IT BETWEEN HIS ARMS AND IT HUNG OVER THE TOP

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 OF THE HANDCUFFS.

2 Q THANK YOU. NO FURTHER QUESTIONS AT THIS TIME.

3 THE COURT: CROSS-EXAMINATION

4 CROSS-EXAMINATION

5 BY MR. ANDERSON

6 Q YOU HAVE THE SECOND COVER PAGE OF THE STUFF YOU SUBMITTED TO
7 SLED?

8 A I BELIEVE I DO.

9 Q 'CAUSE THE COPY I GOT I CAN'T READ A WHOLE BUNCH OF STUFF AT THE
10 BOTTOM. ISN'T THIS YOURS? DIDN'T YOU SIGN IT?

11 A THAT'S MY SIGNATURE AT THE BOTTOM, CORRECT.

12 Q DO YOU KNOW WHERE THIS WOULD BE?

13 A NO, SIR, I SURE DON'T.

14 Q OKAY. NOW ON YOUR POLICE REPORT IT DOES NOT HAVE THE TIME YOU
15 WENT TO THE SCENE.

16 A THAT'S CORRECT.

17 Q IS THAT WHY YOU ESTIMATED THE TIME?

18 A NO, SIR. THE ONLY TIME I'VE GOT ON MY REPORT IS THE ESTIMATED TIME
19 WHEN THE ASSAULT IS ALLEGED TO HAVE OCCURRED.

20 Q OKAY. DID YOU HEAR THE CALL GO OUT ON THE RADIO IN REGARDS TO
21 THIS ALLEGATION?

22 A I HEARD A CALL GO OUT ON THE RADIO OF A SEXUAL ASSAULT.

23 Q AND HOW LONG AFTER THAT CALL DID IT TAKE YOU TO GET TO THE
24 PRESSLEY HOUSE?

25 A I'M NOT FOR SURE.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q WELL, I MEAN WAS IT MINUTES, HOURS?
- 2 A MINUTES, DEFINITELY.
- 3 Q OKAY. SO WHEN YOU GOT THERE ELWEL WAS THERE. HE COULDN'T HAVE
- 4 BEEN THERE VERY LONG.
- 5 A NOT TO MY KNOWLEDGE. I CAN'T REMEMBER EXACTLY. IT'S BEEN A
- 6 WHILE.
- 7 Q WELL, IT'S IMPORTANT. OKAY? THINK ABOUT IT. YOU HEARD THE CALL
- 8 AND YOU GOT THERE WITHIN MINUTES. IS THAT THE SAME CALL - WAS THAT THE
- 9 ONLY CALL THAT WENT OUT?
- 10 A TO MY KNOWLEDGE. I DON'T KNOW IF I WAS DOIN' SOMETHIN' WHEN THE
- 11 CALL WENT OUT OR PRIOR. I JUST KNOW I HEARD THE CALL GO OUT.
- 12 Q ELWEL HADN'T BEEN THERE FOR HOURS, HAD HE?
- 13 A I DON'T BELIEVE SO, NO, SIR.
- 14 Q AND HOW LONG DID YOU STAY AT THE PRESSLEY HOUSE?
- 15 A I CAN'T RECALL.
- 16 Q YOU WEREN'T THERE FOR HOURS, WERE YOU?
- 17 A NO. I WOULD SAY I WAS THERE OVER AN HOUR.
- 18 Q WOULD IT BE SAFE TO SAY YOU WERE THERE AT LEAST AN HOUR BUT NO
- 19 MORE THAN WHAT?
- 20 A THAN 2.
- 21 Q OKAY. AND THERE'S NO QUESTION YOU GOT THERE IN THE MID TO LATE
- 22 AFTERNOON, AROUND 4 IS A GOOD TIME.
- 23 A THAT'S CORRECT 'CAUSE I DIDN'T COME ON THE SHIFT TILL 3 O'CLOCK.
- 24 Q OKAY. SO YOU COULDN'T HAVE GONE AT 3.
- 25 A NO, SIR.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q AND WHEN YOU GOT THERE EVERYBODY WAS THERE?
- 2 A MR. PRESSLEY, HIS WIFE, AND MR. PRESSLEY'S CHILDREN WERE THERE.
- 3 Q ISN'T IT TRUE THAT P. AND HER MOTHER WERE STILL THERE AT
- 4 THAT POINT WHEN YOU GOT THERE?
- 5 A NO, SIR, THEY WERE ALREADY IN ROUTE TO AIKEN E.R.
- 6 Q OKAY. WELL, IF THEY CHECKED INTO THE AIKEN E.R. AT 5:25, DOES THAT
- 7 HELP YOU WITH THE TIMING?
- 8 A IT WOULD BE AN ESTIMATION.
- 9 Q WELL, DID EARNEST GO WITH YOU TO THE HOSPITAL?
- 10 A NO, SIR, HE DID NOT.
- 11 Q I SHOW YOU WHAT'S BEEN MARKED AS DEFENSE EXHIBIT 1 AND ASK YOU
- 12 IS THAT WHAT THE MOBILE HOME LOOKED LIKE? HOW IT WAS LAID OUT?
- 13 A WHERE IS THE FRONT DOOR? OKAY, IN REFERENCE TO THAT. HOW DO
- 14 YOU GET IN?
- 15 Q I DON'T KNOW. YOU TELL ME. I THINK THE FRONT DOOR IS HERE.
- 16 A FROM MY RECOLLECTION THE DOOR IS AT THE LIVING ROOM, THE TOP
- 17 AREA. I BELIEVE IT'S CORRECT BUT I BELIEVE THE HALL WAS AT - WHERE THE
- 18 FRONT DOOR WAS, NOT DOWN IN THIS DIRECTION.
- 19 Q OKAY. ASIDE FROM THE FRONT DOOR THOUGH, IS THAT ABOUT HOW THE
- 20 PLACE IS LAID OUT. THE IMPORTANT THING IS THE MASTER BEDROOM, KITCHEN,
- 21 LIVING ROOM, GIRL'S ROOM, BATHROOM AND THE BOY'S ROOM.
- 22 A I NEVER WENT IN WHAT YOU'VE GOT MARKED GIRL'S ROOM, BATHROOM
- 23 OR D. ROOM. I COULDN'T STATE THAT. THE ONLY AREAS I SAW WAS THE
- 24 KITCHEN.
- 25 Q YOU CAN'T SAY - I'M JUST GONNA LEAVE THIS.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 A OKAY.

2 Q NO QUESTION IT'S A SINGLE-WIDE MOBILE HOME.

3 A CORRECT.

4 Q THERE WASN'T ANY SHEET ROCK IN THE SINGLE-WIDE MOBILE HOME, WAS
5 THERE?

6 A I DON'T KNOW ANYTHING ABOUT SHEET ROCK, SIR. I COULDN'T TELL YOU.

7 Q WELL, THICK WALLS. CORRECT?

8 MS. BRISBIN: OBJECTION, YOUR HONOR. I DON'T REALLY THINK HE HAS
9 ANY KNOWLEDGE OF THAT.

10 THE COURT: HE CAN ASK THE QUESTION. THE WITNESS CAN ANSWER IF HE
11 KNOWS OR NOT.

12 A I WOULDN'T KNOW. I DON'T KNOW HOW THE TRAILER IS MADE.

13 Q OKAY. THERE'S NO QUESTION THAT EARNEST'S RECOLLECTION OF THE
14 EVENTS DIDN'T CHANGE.

15 A NO, SIR.

16 Q OKAY. DURING YOUR INTERVIEW ON THE VIDEOTAPE, DIDN'T YOU TELL
17 EARNEST THAT YOU'VE NEVER LOST A CASE?

18 A NO, SIR. I TOLD HIM I'D NEVER LOST A D.N.A. CASE.

19 Q OKAY. ALL RIGHT. AT ANY TIME DID P. TELL YOU THAT EARNEST
20 PUT HIS HAND OVER HER MOUTH AND SAID DON'T TELL ANYBODY?

21 A NO, SIR.

22 Q ISN'T IT TRUE THAT WHEN YOU WERE AT THE PRESSLEY HOUSE, YOU TOOK
23 CUSHIONS FROM THE SOFA, EARNEST'S SHORTS AND A BLANKET INTO EVIDENCE?

24 A THAT'S CORRECT.

25 Q ALL RIGHT. WHERE ARE THEY?

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 A THEY'RE LOCATED IN OUR EVIDENCE LOCKER AT BURNETTOWN POLICE
2 DEPARTMENT.

3 Q ALL RIGHT. DID THEY EVER GO TO SLED?

4 A NO, SIR. THEY WERE NOT TESTED.

5 Q AND YOU STILL HAVE THAT STUFF?

6 A THAT'S CORRECT.

7 Q AND THIS IS A MINOR POINT, BUT ISN'T IT TRUE THAT IF YOUR PHONE ISN'T
8 IN SERVICE YOU CAN STILL CALL 911?

9 A I COULDN'T TELL YOU THAT. I'M NOT SURE. I'VE BEEN TOLD THAT
10 PREVIOUSLY BY DISPATCHERS BUT I DON'T HAVE KNOWLEDGE OF IT.

11 Q OKAY. ON YOUR REPORT THERE'S AN AREA THAT SAYS VISIBLE INJURY,
12 YES OR NO, AND ISN'T IT TRUE THAT YOU CHECKED NO?

13 A ON THE VICTIM'S PORTION?

14 Q ON YOUR POLICE REPORT.

15 A WHICH PORTION ARE YOU REFERRING TO? THE VICTIM--

16 Q RIGHT THERE.

17 A THAT'S CORRECT.

18 Q THAT MEANS THAT YOU SAW NO VISIBLE SIGNS OF INJURY ON P.]

19 A THAT'S CORRECT.

20 Q NOW WHEN YOU INTERVIEWED P.] IF YOU LOOK AT YOUR TYPED
21 REPORT.

22 A YES, SIR.

23 Q ISN'T IT TRUE THAT WHAT REALLY HAPPENED IS THAT YOU TALKED TO

24 P.] SHE TOLD YOU THAT IT HAPPENED AT 6 O'CLOCK IN THE DAY. YOU
25 THEN WENT AND TALKED TO EARNEST. EARNEST TOLD YOU WHAT HAPPENED;

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 THEN YOU WENT BACK TO P. YOU TOLD HER WHAT EARNEST SAID,
2 AND THEN YOU CHANGED IT THAT IT HAPPENED AT NIGHT. ISN'T THAT TRUE?

3 A NO, SIR. I ONLY SPOKE WITH MR. PRESSLEY ONE TIME DURING THE DAY
4 AND THAT WAS PRIOR TO TALKIN' TO P. I DIDN'T RETURN TO THE
5 RESIDENCE AND SPEAK TO HIM.

6 Q ALL RIGHT. WELL, LET ME ASK YOU TO LOOK AT YOUR REPORT.

7 A YES, SIR.

8 Q AND YOU'VE GOT THIS PARAGRAPH HERE WHICH IS ABOUT TALKIN' TO
9 P. FIRST PARAGRAPH.

10 A FIRST PAGE?

11 Q YES.

12 A OKAY.

13 Q IF YOU'D JUST ANSWER THAT.

14 A SHOW ME WHICH AREA YOU'RE SPEAKING OF.

15 Q THE WHOLE THING, DEPUTY. THIS WHOLE PARAGRAPH.

16 A OKAY. I RESPONDED TO THE INCIDENT, I TALKED TO PRISCILLA; SHE TOLD
17 ME IT HAPPENED AT WHAT - 6 P.M.

18 A CORRECT.

19 Q AND THAT IT HAPPENED ON THE COUCH. OKAY?

20 A YES, SIR.

21 Q NOW WOULD YOU TELL THE JURY THE NEXT TWO WORDS, NEXT THREE
22 WORDS IN YOUR REPORT.

23 A OKAY. A TYPO ERROR. THIS ISN'T CHRONOLOGICALLY PUT IN PLACE. IT'S
24 NOT CHRONOLOGICAL.

25 Q IT'S NOT?

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 A NO, SIR.

2 Q ALL RIGHT. WELL, TELL THE JURY ANYWAY THE NEXT THREE WORDS.

3 A AFTER WHICH SENTENCE?

4 Q THE THREE WORDS YOU DON'T WANNA SAY.

5 A SIR, I DON'T KNOW WHAT YOU'RE REFERRING TO.

6 MS. BRISBIN: OBJECTION, YOUR HONOR. BADGERING.

7 THE COURT: DISREGARD THE STATEMENT OF THE ATTORNEY. GO AHEAD.

8 ASK YOUR QUESTION.

9 A WHAT WORDS, SIR? I NEED TO KNOW WHICH THREE WORDS YOU'RE
10 REFERRIN' TO.

11 Q ALL RIGHT. LET'S START OVER. THIS IS THIS PARAGRAPH.

12 A CORRECT.

13 Q WHAT ARE THE NEXT 3 WORDS? IN YOUR REPORT.

14 A OH, AT THE BOTTOM OF THIS PARAGRAPH; NOT THAT TOP PARAGRAPH.

15 Q THE FIRST THREE WORDS OF THE NEXT PARAGRAPH.

16 A I THEN SPOKE TO PRESSLEY.

17 Q ALL RIGHT. THAT'S 4 WORDS, BUT THAT'S FINE. I NEXT SPOKE TO
18 PRESSLEY. DOESN'T THAT SOUND LIKE YOU TALKED TO HER; THEN YOU TALKED
19 TO HIM?

20 A THAT IS CORRECT.

21 Q BUT THAT'S NOT WHAT HAPPENED; YOU'RE TELLIN' THE JURY THAT'S NOT
22 WHAT HAPPENED.

23 A NO, SIR, THAT'S NOT WHAT HAPPENED.

24 Q WHEN DID YOU WRITE THIS REPORT?

25 A THIS REPORT IS WRITTEN THE DATE ON THIS DETAILED STATEMENT. THIS

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 WAS FOR MY INVESTIGATION. THE ORIGINAL REPORT WAS WRITTEN ON THE
2 INCIDENT DATE.

3 Q ALL RIGHT. JUST THINK HARD. EXPLAIN ABOUT WHEN DID YOU WRITE
4 THIS REPORT.

5 A I DON'T KNOW, SIR. IT'S BEEN A WHILE.

6 Q I MEAN WAS IT A YEAR? THIS WASN'T YESTERDAY.

7 A NO, SIR.

8 Q THIS WAS BACK IN THE SUMMER OF 2001.

9 A THAT'S CORRECT.

10 Q ALL RIGHT. AND LET'S BE - LET'S BE FRANK HERE. OKAY? IS YOUR
11 MEMORY OF THIS EVENT BETTER IN THE SUMMER OF 2001 WHEN YOU WROTE THIS
12 REPORT OR THE WINTER OF 2002?

13 A IT WOULD BE IN THE SUMMER.

14 Q OKAY. WHEN YOU WROTE THIS REPORT. AND YOU USED THE WORDS I
15 THEN SPOKE TO MR. PRESSLEY.

16 A CORRECT. BUT I DON'T REMEMBER WHEN I WROTE THE REPORT.

17 Q WELL, WHEN DID YOU SEND THE REPORT TO THE SOLICITOR'S OFFICE?

18 A THE DAY IT WAS RECEIVED IN THE SOLICITOR'S OFFICE WAS DECEMBER
19 3RD 2001.

20 Q ALL RIGHT. SO THE WINTER AFTER THE SUMMER YOU WROTE THE REPORT.
21 SO EVEN IF YOU WROTE IT IN NOVEMBER 2001, WAS YOUR MEMORY OF THE
22 EVENTS ON JULY 12 OR 13 BETTER WHEN YOU WROTE THIS REPORT OR NOW?

23 A THAT WOULD BE THEN.

24 Q OKAY. AND THERE'S NO QUESTION THAT YOUR REPORT SAYS I THEN
25 SPOKE TO PRESSLEY.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 A THAT'S CORRECT.

2 Q NOW IF YOU WOULD LOOK ON THE NEXT PAGE OF YOUR REPORT. AND YOU
3 DETAIL WHAT EARNEST SAID HAPPENED AND REALLY WHAT EARNEST SAID
4 DIDN'T HAPPEN FRANKLY. RIGHT?

5 A CORRECT.

6 Q OKAY. THEN THE NEXT PARAGRAPH THAT BEGINS "H."

7 A CORRECT.

8 Q COULD YOU TELL THE JURY WHAT YOU WROTE IN THE REPORT?

9 A THE WHOLE PARAGRAPH?

10 Q SURE.

11 A "H." WAS TAKEN TO AIKEN E.R. FOR SEXUAL ASSAULT KIT TO BE DONE.
12 WHILE WAITING I SPOKE WITH "H." I AGAIN ASKED "H." TIME
13 DESCRIP--

14 Q SLOW - READ IT WITH YOUR PUNCTUATION. AND ALSO READ IT SLOW
15 ENOUGH SO MS. PERRY CAN--

16 A OKAY.

17 Q --GET IT DOWN.

18 A "H." WAS TAKEN TO AIKEN E.R. FOR SEXUAL ASSAULT KIT TO BE DONE.
19 PERIOD. WHILE WAITING I SPOKE WITH "H." AGAIN. PERIOD. I ASKED "H."
20 ABOUT THE TIME DISCREPANCY IN HER - I'M SORRY - ASKED HER - ASKED
21 ABOUT THE TIME DISCREPANCY IN HER AND PRESSLEY'S STORY. PERIOD. SHE
22 CHANGED HER STATEMENT SAYING NOW IT WAS LATE WHEN IT HAPPENED.
23 PERIOD. "H." MOTHER, COMMA, NOW PRESENT STATES "H." IS MENTALLY
24 SLOW AND A SPECIAL STUDENT. PERIOD. "H." MOTHER, COMMA, LENORA
25 "H." COMMA, AGREED THAT HER DAUGHTER'S STORY HAD CHANGED. PERIOD.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 H.] THAT WITH THE CHANGE IN THE STORY AND HER
2 DAUGHTER'S LEARNING DISABILITIES MAY DIMINISH PROBABLE CAUSE AND THAT
3 I WOULD LIKE TO WAIT FOR THE LAB RESULTS FROM THE SEXUAL ASSAULT KIT
4 BEFORE A WARRANT WAS OBTAINED. PERIOD. SHE AGREED AND FELT IT WAS
5 BETTER TO WAIT FOR THE RESULTS. PERIOD. SEXUAL ASSAULT KIT WAS
6 OBTAINED FROM THE E.R. STAFF AND SUBMITTED TO SLED FOR TESTING.

7 Q DOES THAT REFRESH YOUR MEMORY AT ALL?

8 A IN REFERENCE TO DISCUSSING IT WITH HER. CORRECT.

9 Q WELL, WHAT YOU TESTIFIED TO A FEW MINUTES AGO WAS THAT YOU
10 TALKED TO P.] IN THE MIDDLE OF THE CONVERSATION WITH
11 P.] SHE CHANGED HER STORY TO SAY THAT IT HAPPENED AT NIGHT. AND I
12 SAID ISN'T IT TRUE YOU TALKED TO HER; YOU TALKED TO EARNEST; YOU WENT
13 BACK AND TALKED TO HER AGAIN, AND THAT'S WHEN SHE CHANGED HER STORY,
14 AND YOU DENIED THAT. AFTER READIN' YOUR REPORT AGAIN, DO YOU NOW
15 ADMIT THAT THAT'S WHAT HAPPENED?

16 A IT MAY HAVE HAPPENED, SIR. I DON'T RECALL.

17 Q ALL RIGHT. YOU AGREE THAT THAT'S WHAT IT LOOKS LIKE HAPPENED.

18 A THAT WOULD BE CORRECT.

19 Q OKAY. SO THERE'S NO QUESTION THEN THAT MS. H.] SAID 6 O'CLOCK
20 IN THE DAY AND LATER WHEN YOU CONFRONTED HER EARNEST'S VERSION, SHE
21 CHANGED HER STORY.

22 A THAT'S CORRECT.

23 Q AND THAT HONESTLY BOTHERED YOU.

24 A CORRECT. I ASKED HER AGAIN IF IT HAPPENED AT DAYTIME OR
25 NIGHTTIME, AND SHE STATED AT NIGHT.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 Q OKAY.

2 A AND THE REASON I'D ASKED HER THAT BECAUSE AT 6 O'CLOCK IN THE
3 EVENIN' THEN IT WAS NOT DARK.

4 Q OKAY. NOW WHEN YOU TOOK - WHEN YOU TOOK EARNEST TO THE
5 HOSPITAL AND THE MALE NURSE WHO IS NOT GONNA TESTIFY IN THIS TRIAL,
6 DREW HIS BLOOD, THAT MALE NURSE ALSO TOOK PUBIC HAIR SAMPLES FROM
7 EARNEST, DIDN'T HE?

8 A THAT'S CORRECT.

9 Q AND HE ALSO TOOK HEAD HAIR SAMPLES FROM EARNEST.

10 A THAT'S CORRECT.

11 Q AND THE PURPOSE OF THAT IS SO THAT SLED COULD THEN CHECK PUBIC
12 HAIR SAMPLES THAT WERE OBTAINED FROM P.] AND SEE IF MAYBE THOSE
13 PUBIC HAIRS WOULD MATCH. ISN'T THAT RIGHT?

14 A I'M NOT INVOLVED IN TESTING. I'M NOT SURE.

15 Q WELL, YOU'RE INVOLVED IN COLLECTION OF EVIDENCE.

16 A THAT'S TRUE.

17 Q AND PUBIC HAIRS CAN BE TESTED AS EVIDENCE TO SEE IF THERE'S A
18 MATCH. CORRECT?

19 A I WASN'T INVOLVED IN THE COLLECTION. THAT WAS THE E.R. STAFF.

20 Q YOU WEREN'T - I THOUGHT YOU TOLD MS. BRISBIN YOU WERE RIGHT
21 THERE DURING THE WHOLE THING SO THAT'S - YOU SAW EVERYTHING.

22 A I WAS PRESENT 'CAUSE HE WAS IN CUSTODY. I COULDN'T LEAVE HIS
23 PRESENCE.

24 Q OKAY.

25 A BUT I DID NOT HELP OBTAIN THE EVIDENCE.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

- 1 Q DID YOU SEE THE EVIDENCE OBTAINED?
- 2 A THAT'S CORRECT.
- 3 Q ALL RIGHT. YOU SAW THEM DRAW THE BLOOD.
- 4 A THAT'S CORRECT.
- 5 Q OKAY. AND THERE'S NO QUESTION THAT EARNEST'S PUBIC HAIR SAMPLES
- 6 WERE OBTAINED AND TAKEN INTO EVIDENCE.
- 7 A I DIDN'T PHYSICALLY SEE THEM TAKE IT.
- 8 Q OKAY.
- 9 A HE HAD HIS BACK TURNED TO ME AT THE TIME THAT WAS TAKIN' PLACE.
- 10 Q ALL RIGHT. BUT IT WAS GIVEN TO YOU IN THE PACKET YOU TOOK TO SLED.
- 11 WASN'T IT?
- 12 A I DIDN'T SEAL THE PACK UP. I'M NOT AWARE.
- 13 Q SO DO YOU KNOW WHAT WAS IN THE PACK THAT CONTAINED EARNEST'S
- 14 BLOOD?
- 15 A I ONLY KNOW A FEW THINGS. I DON'T OBTAIN THAT EVIDENCE. IT'S
- 16 OBTAINED BY THE E.R. STAFF. IT'S NOT OBTAINED BY ME.
- 17 Q WELL, YOU TOOK IT TO SLED, DIDN'T YOU?
- 18 A A SEALED BAG. A SEALED EVIDENCE KIT I TOOK TO SLED. NOT EACH
- 19 INDIVIDUAL PIECE. IT'S ALL SEALED IN ONE CONTAINER. AND I TRANSPORT THAT
- 20 CONTAINER FROM THE E.R. STAFF TO SLED.
- 21 Q THAT'S THIS. CORRECT?
- 22 A THAT'S CORRECT.
- 23 Q AND YOU'RE THE ONE THAT ACTUALLY PUT IT IN THERE. AREN'T YOU?
- 24 A NO, SIR. THAT'D BE PUT IN BY THE E.R. STAFF.
- 25 Q WELL, LET ME ASK YOU WHAT THIS IS. STRIKE THAT.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 MR. ANDERSON: BEG THE COURT'S INDULGENCE FOR ONE SECOND, YOUR
2 HONOR.

3 THE COURT: YES, SIR.

4 Q HELP ME OUT HERE. ARE YOU SAYING THAT HIS PUBIC HAIR WAS NOT
5 TAKEN OR—

6 A I SAW IT WHEN THE NURSE SUPPOSEDLY WAS TAKIN' THE HAIR. I DID NOT
7 SEE IT PUT IN THE ENVELOPE OR -- AT THAT TIME HIS BACK WAS TURNED TO ME.
8 SO I DON'T KNOW WHAT WAS DONE.

9 Q WELL, WHAT ENVELOPE WAS IT PUT IN?

10 A I COULDN'T TELL YOU, SIR. HIS BACK WAS TURNED TO ME. I DIDN'T SEE
11 WHAT WAS BEIN' DONE.

12 Q AND YOU HAVE NO IDEA WHAT THE NURSE PUT IN THIS.

13 A I HAVE AN IDEA OF WHAT HE PUT IN THERE, CORRECT.

14 Q WELL, WHAT DID THE NURSE PUT IN THIS BAG?

15 A I KNOW A BLOOD SAMPLE WAS PLACED IN THERE AND SEVERAL
16 ENVELOPES WERE PLACED INSIDE THERE AS WELL.

17 Q AND YOU KNOW THE NURSE -- YOU SAW THE NURSE DOIN' SOMETHIN' IN
18 EARNEST'S PRIVATE AREA, DIDN'T YOU?

19 A NO, SIR. LIKE I SAY, HIS BACK WAS TURNED TO ME. I JUST SAW HE WAS
20 PERFORMING A PROCEDURE. I'M NOT SURE WHAT IT WAS.

21 Q WHAT DO YOU THINK THEY WERE DOING?

22 A I DON'T--

23 MS. BRISBIN: OBJECTION, YOUR HONOR.

24 THE COURT: HOLD ON JUST A MINUTE. SUSTAINED. REPHRASE YOUR
25 QUESTION.

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 Q LET ME ASK YOU, THE SUSPECT KIT IS THAT WHAT WAS USED?

2 A YES, SIR, THAT'S CORRECT.

3 Q AND THE NURSE THAT DREW THIS BLOOD WAS DRAWN PURSUANT TO THE
4 DIRECTIONS ON THE KIT.

5 A I DON'T KNOW THE PROCEDURE THAT'S DONE BY THE E.R. STAFF. I'M NOT
6 FAMILIAR WITH IT.

7 Q ALL RIGHT. WELL, ARE YOU SAYIN' THAT PUBIC HAIR WASN'T TAKEN
8 FROM EARNEST OR YOU DON'T KNOW IF IT WAS?

9 A I DON'T KNOW, SIR.

10 Q OKAY. AND YOU DON'T KNOW IF THAT'S A STANDARD PART OF THAT KIT
11 EITHER, DO YOU?

12 A NO, SIR.

13 Q SO WHAT ALL DID THE NURSE DO WITH EARNEST?

14 A I COULDN'T TELL YOU. WHEN I WAS IN THE ROOM THE ONLY THING I WAS
15 ABLE TO ACTUALLY VISUALIZE IS WHEN HE DREW THE BLOOD AND THEN WHEN
16 HE GAVE A SALIVA SAMPLE.

17 Q UH-HUH.

18 A AND THEN WHEN HE WAS PULLIN' THE HAIR OUT OF THE TOP OF HIS HEAD.
19 I SEEN HIM PULL HAIR OUT THE TOP OF HIS HEAD. AND THEN THE OTHER PART
20 WAS DONE WITH HIS BACK TO ME.

21 Q WELL, WHERE IS THE HEAD - THE HAIR FROM THE TOP OF HIS HEAD?

22 A I DON'T KNOW, SIR.

23 Q WAS THAT PUT IN THE ENVELOPE?

24 A I DON'T KNOW, SIR.

25 Q AND YOU'RE CHARGED WITH THAT ENVELOPE AND YOU DIDN'T KNOW

OFFICER DWAYNE DERRICK - CROSS-EXAMINATION BY MR. ANDERSON

1 WHAT WENT IN.

2 A NO, SIR, I'M NOT IN CHARGE OF THAT ENVELOPE. THAT'S THE EMERGENCY
3 ROOM STAFF.

4 Q WELL, THERE'S NOBODY HERE FROM THE EMERGENCY ROOM STAFF RIGHT
5 NOW, IS THERE?

6 A NOT THAT I'M AWARE OF, SIR.

7 Q AND YOUR NAME IS ON THIS AS DELIVERIN' IT TO SLED.

8 A YES, SIR.

9 Q THIS IS CRITICAL EVIDENCE FOR EARNEST, IS IT NOT?

10 A THAT'S CORRECT. I SIGN THE ENVELOPE WHEN IT'S SEALED BY THE E.R.
11 STAFF THAT I'M TAKING POSSESSION OF IT FROM THEM, AND IT IS SEALED.

12 Q AND THAT YOU DON'T KNOW WHAT'S IN IT.

13 A NO, I'M NOT SAYIN' I DON'T KNOW ON EVERY DETAIL WHAT'S IN IT.

14 Q ALL RIGHT. WHEN YOU GOT THAT ON NOVEMBER 30TH, WHEN DID YOU
15 TAKE IT TO SLED?

16 A IT WAS DELIVERED TO SLED ON 12-10-2001.

17 Q AND [P.]S PACKAGE YOU GOT THAT ON THE 13TH OF JULY 2001.

18 A THAT'S CORRECT.

19 Q AND YOU TOOK IT TO SLED ON JULY 17TH OF 2001. IS THAT CORRECT?

20 A THAT'S CORRECT.

21 Q YOU KNOW WHAT WAS IN THAT PACKAGE?

22 A NO, SIR.

23 Q THANK YOU, SIR. THAT'S ALL THE QUESTIONS I HAVE.
24
25

OFFICER DWAYNE DERRICK - REDIRECT EXAMINATION BY MS. BRISBIN

1 REDIRECT EXAMINATION

2 BY MS. BRISBIN

3 Q ISN'T IT TRUE THAT YOUR INITIAL REPORT WAS WRITTEN ON THE DATE OF
4 THE INCIDENT?

5 A THAT'S CORRECT.

6 Q AND THE REPORT THAT MR. ANDERSON WAS ASKING YOU ABOUT WAS
7 WRITTEN QUITE SOMETIME LATER.

8 A THAT'S CORRECT.

9 Q DO YOU KNOW HOW MUCH LATER? WAS IT NOVEMBER?

10 A I DON'T KNOW THE EXACT TIMEFRAME. IT'S USUALLY NOT WRITTEN UNTIL
11 WE GO TO TURN OUR PACKAGES IN TO THE SOLICITOR'S OFFICE.

12 Q WHICH WAS NOVEMBER?

13 A IT WAS IN DECEMBER WHEN I TURNED IT IN.

14 Q DECEMBER.

15 A THAT'S CORRECT.

16 Q SO THE INITIAL REPORT THAT WAS DONE ON THE DATE OF THE INCIDENT IN
17 JULY WAS DONE WHEN YOUR MEMORY WAS CLEARER.

18 A THAT'S CORRECT.

19 Q WOULD YOU, PLEASE, REFRESH YOUR MEMORY BY READING THE FIRST
20 COUPLE LINES OF THAT INITIAL INCIDENT REPORT.

21 A YES, MA'AM.

22 Q AND WHAT DOES THAT SAY?

23 A ALL RIGHT. IT SAYS R.O. WHICH STANDS FOR RESPONDING OFFICER
24 DISPATCHED TO LOCATION AND MET WITH INVESTIGATOR ELWEL FROM AIKEN
25 COUNTY SHERIFF'S OFFICE. ELWEL ADVISED THAT JUVENILE—

OFFICER DWAYNE DERRICK - REDIRECT EXAMINATION BY MS. BRISBIN

- 1 MR. ANDERSON: OBJECTION, YOUR HONOR.
- 2 THE COURT: YES, SIR?
- 3 MR. ANDERSON: HEARSAY.
- 4 Q JUST - YOU CAN SKIP THE PART ABOUT WHAT ELWEL SAID.
- 5 A OKAY.
- 6 Q BUT WHERE DOES IT INDICATE IN YOUR REPORT THAT MS. H. WAS AT
- 7 THE TIME YOU ARRIVED?
- 8 A SHE WAS IN ROUTE TO AIKEN REGIONAL MEDICAL CENTER FOR EXAM.
- 9 Q AND WHAT DOES IT INDICATE YOU DID WHEN YOU ARRIVED?
- 10 A THAT I SPOKE WITH MR. PRESSLEY.
- 11 Q THANK YOU. SO YOU DID SPEAK TO MR. PRESSLEY FIRST AND THEN LATER
- 12 TO MS. H.
- 13 A THAT WOULD BE CORRECT.
- 14 Q ISN'T IT TRUE THAT THE SHERIFF'S DEPARTMENT HAS A DEPUTY ARRIVE
- 15 INITIALLY WHEN THERE'S A CALL RATHER THAN AN INVESTIGATOR?
- 16 A THAT WOULD BE CORRECT.
- 17 Q SO IN THIS CASE WOULDN'T IT BE TRUE THAT A DEPUTY WOULD'VE
- 18 GOTTEN THE INITIAL CALL EARLIER--
- 19 MR. ANDERSON: I'M GONNA OBJECT TO THE LEADING NATURE OF THIS
- 20 QUESTION, YOUR HONOR.
- 21 THE COURT: STATE YOUR QUESTION IN A NON-LEADING FASHION.
- 22 Q DO YOU KNOW WHAT THE AIKEN COUNTY SHERIFF'S OFFICE PROCEDURE
- 23 IS FOR RESPONDING TO CALLS? AS TO WHO RESPONDS FIRST.
- 24 A YES, MA'AM. WHEN A CALL IS RECEIVED A DISPATCHER GIVES THE CALL
- 25 TO A DEPUTY FOR A CALL FOR SERVICE. HE'LL RESPOND TO THE CALL. HE

OFFICER DWAYNE DERRICK - RECROSS EXAMINATION BY MR. ANDERSON

1 HANDLES THE CALL UNLESS IT'S A SITUATION WHERE AN INVESTIGATOR IS
2 NEEDED AND AN INVESTIGATOR IS CALLED IN TO THE CRIME. CRIME SCENE.

3 Q SO YOU'RE SAYING THE INVESTIGATOR ARRIVES LATER IN THE DAY.

4 A THAT'S CORRECT.

5 Q THANK YOU. ONE OTHER QUESTION. WHAT WAS P. DEMEANOR
6 AT THE TIME YOU TALKED TO HER AT THE HOSPITAL?

7 A SHE WAS UPSET, SEEMED TO BE VERY FRIGHTENED. SHE WAS CRYING A
8 LOT.

9 THE COURT: RECROSS?

10 RECROSS EXAMINATION

11 BY MR. ANDERSON

12 Q WHAT TIME DID ELWEL GET TO THE RESIDENCE?

13 A I COULDN'T TELL YOU, SIR. I DON'T KNOW.

14 Q I MEAN YOU TESTIFIED WHEN I WAS TALKING TO YOU ABOUT COULDN'T
15 HAVE BEEN LONG BEFORE YOU GOT THERE.

16 A CORRECT.

17 Q OKAY. NOW ARE YOU GOING BACK TO THE FIRST VERSION ABOUT WHAT
18 YOU SAID ABOUT TALKING TO P. EARNEST OR ARE YOU STICKING
19 WITH THE VERSION OF WHAT YOU SAID?

20 A THE REPORT SHE JUST HAD ME READ THE ORDER WOULD SEEM TO BE
21 CORRECT IN THAT FIRST REPORT.

22 Q SO WHAT YOU'RE SAYING IS YOUR REPORTS CONTRADICT EACH OTHER?

23 A THAT WOULD APPEAR TO BE SO. CORRECT.

24 Q WOULD YOU NOT HAVE HAD THE ONE REPORT WHEN YOU WERE WRITING
25 THE SECOND REPORT?

OFFICER DWAYNE DERRICK - RECROSS EXAMINATION BY MR. ANDERSON

- 1 A IT'S BEEN A WHILE, SIR. I DON'T REMEMBER IF IT WAS THERE OR NOT.
- 2 Q THERE IS NO QUESTION THAT YOUR REPORT SAYS WHAT WE INDICATED:
- 3 YOU SPOKE TO HER ; YOU THEN SPOKE TO HIM AND YOU SPOKE TO HER AND SHE
- 4 CHANGED HER STATEMENT.
- 5 A NOT MY REPORT, BUT MY DETAILED STATEMENT. MY ACTUAL INCIDENT
- 6 REPORT OR SLED REPORT STATES DIFFERENT.
- 7 Q AND I THINK YOU JUST POINTED SOMETHIN' VERY IMPORTANT OUT, THE
- 8 LONG ONE IS YOUR DETAILED STATEMENT.
- 9 A CORRECT.
- 10 Q WHICH IS WHERE YOU GET INTO WHAT?
- 11 A THAT'S WHEN I'M AT A CERTAIN POINT IN MY INVESTIGATION. I TAKE ALL
- 12 PARTS OF MY INVESTIGATION THAT I'VE DONE AND PUT IT IN THERE.
- 13 Q INTO A DETAILED STATEMENT.
- 14 A CORRECT.
- 15 Q AND THE INCIDENT REPORT IS JUST A ROUGH - BASICALLY A ROUGH
- 16 SUMMARY?
- 17 A NO, SIR. IT'S JUST MY INITIAL FINDINGS AT THE INITIAL TIME OF
- 18 RESPONDING TO THE CALL.
- 19 Q AND WOULDN'T YOU EXPECT YOUR DETAILED STATEMENT TO BE
- 20 DETAILED AND ACCURATE?
- 21 A YOU EXPECT SO, YES, SIR.
- 22 Q OKAY. THAT'S THE STATEMENT THAT SAYS YOU THEN SPOKE TO HER AND
- 23 YOU THEN WENT BACK AND SHE CHANGED HER STORY.
- 24 A THAT'S CORRECT.
- 25 Q ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 THE COURT: ANYTHING FURTHER OF THE WITNESS?

2 MS. BRISBIN: NOTHING FURTHER, YOUR HONOR.

3 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN. LADIES AND
4 GENTLEMEN, I NEED TO ASK YOU TO STEP INTO THE JURY ROOM. DON'T DISCUSS
5 THE CASE. (THERE WAS A BRIEF RECESS.) CALL YOUR NEXT WITNESS.

6 MS. BRISBIN: STATE CALLS AGENT LILLIAN GALLMAN.

7 LILLY SMALLS GALLMAN, BEING DULY SWORN,

8 TESTIFIES AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MS. BRISBIN

11 Q AGENT GALLMAN, WHERE ARE YOU EMPLOYED?

12 A I'M EMPLOYED WITH THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

13 Q AND HOW LONG HAVE YOU BEEN WITH THEM?

14 A JANUARY WILL BE 13 YEARS.

15 Q WHAT ARE YOUR RESPONSIBILITIES AT SLED?

16 A I'M EMPLOYED AS A FORENSIC D.N.A. ANALYST.

17 Q AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

18 A I HAVE A DEGREE FROM THE UNIVERSITY OF SOUTH CAROLINA. ONCE I
19 RECEIVED MY DEGREE I CONTINUED WORKING THERE IN THE AREA OF
20 MOLECULAR GENETICS. BEGAN WORKING WITH THE SOUTH CAROLINA LAW
21 ENFORCEMENT DIVISION IN 1990, JANUARY OF 1990. SINCE THAT TIME I HAVE
22 ATTENDED THE F.B.I. D.N.A. TYPING SCHOOL.

23 Q D.N.A. TYPING SCHOOL?

24 A THE BASIC AND THE ADVANCED. I'VE ALSO TAKEN ADVANCED GENETIC
25 COURSES AND ADVANCED STATISTICS COURSES TO ENABLE ME TO THE JOB THAT I

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 HAVE NOW. I'VE ALSO BEEN TRAINED BY A COURT QUALIFIED SEROLOGIST IN THE
2 AREA SEROLOGY, AND I'VE ALSO ATTENDED THE SOUTH CAROLINA POLICE
3 ACADEMY AS A COMMISSIONED OFFICER.

4 Q HAVE YOU BEEN QUALIFIED TO TESTIFY AS AN EXPERT WITNESS IN
5 FORENSIC D.N.A. ANALYSIS IN THE PAST?

6 A YES, I HAVE.

7 Q DO YOU KNOW HOW MANY TIMES APPROXIMATELY?

8 A APPROXIMATELY 30.

9 Q 30?

10 A YES.

11 MS. BRISBIN: AT THIS TIME, YOUR HONOR, I'D ASK THAT AGENT GALLMAN
12 BE QUALIFIED AS AN EXPERT IN THE FIELD OF FORENSIC D.N.A. ANALYSIS.

13 THE COURT: IS THERE ANY VOIR DIRE OR ANY OBJECTION?

14 CROSS-EXAMINATION

15 BY MR. ANDERSON

16 Q MA'AM, DO YOU HAVE ANY TRAINING IN STATISTICS?

17 A YES, I'VE TAKEN STATISTIC COURSES THAT APPLY TO ANALYZING
18 FORENSIC D.N.A. SAMPLES.

19 Q HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN STATISTICS?

20 A NO, NOT IN STATISTICS 'CAUSE I'M NOT A STATISTICIAN.

21 Q DO YOU HAVE A DEGREE IN STATISTICS OR—

22 A NO, I'M NOT A STATISTICIAN.

23 Q OKAY. HOW MANY CLASSES HAVE YOU HAD IN STATISTICS?

24 A AS AN UNDERGRADUATE I TOOK STATISTIC COURSES, AND SINCE BEIN'
25 EMPLOYED WITH SLED, WE'VE BEEN REQUIRED TO TAKE ADVANCED STATISTIC

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 COURSES.

2 Q BUT YOU CANNOT BE QUALIFIED AS AN EXPERT ON STATISTICS. WOULD
3 YOU AGREE WITH THAT?

4 A YES, I'M NOT A STATISTICIAN.

5 MR. ANDERSON: JUDGE, I HAVE NO POSITION ON HER QUALIFICATIONS
6 FOR D.N.A. ANALYSIS, BUT I DO OBJECT TO HER BEING QUALIFIED AS AN EXPERT IN
7 STATISTICS.

8 THE COURT: YOU'RE TENDERING HER AS AN EXPERT IN WHAT FIELD?

9 MS. BRISBIN: FORENSIC D.N.A. ANALYSIS.

10 THE COURT: SHE'S SO RECOGNIZED. YOU MAY CONTINUE.

11 DIRECT EXAMINATION

12 BY MS. BRISBIN

13 Q DID YOU RECEIVE EVIDENCE SAMPLES ASSOCIATED WITH THIS CASE?

14 A YES, I DID.

15 Q WHAT TYPE OF SAMPLES WERE THEY?

16 A I RECEIVED A SEXUAL ASSAULT KIT BELONGING TO P. H. AND
17 ALSO THE SUSPECT KIT BELONGING TO EARNEST PRESSLEY.

18 Q DO YOU RECOGNIZE WHAT'S BEEN LABELED STATE'S EXHIBIT #4 FOR
19 IDENTIFICATION?

20 A YES, I DO.

21 Q AND HOW DO YOU RECOGNIZE THAT?

22 A MY INITIALS ARE ON THE POUCH AND ALSO THE SEXUAL ASSAULT KIT
23 BELONGING TO P. PRES - I'M SORRY - P.

24 YOU'RE DOING IT TOO.

25 A I'M SORRY.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 Q P. H.

2 A YES.

3 Q OKAY. DO YOU RECOGNIZE - WELL, BEFORE WE GO THAT FAR, WHERE
4 DID YOU OBTAIN THIS SEXUAL ASSAULT KIT?

5 A IT WAS PLACED IN MY BIN IN THE D.N.A. REFRIGERATOR.

6 Q AND WHO TOOK IT OUT OF THE BIN?

7 A IT WAS PLACED IN THE BIN BY - I BELIEVE BY SHERRY BROWN WHO IS
8 ONE OF OUR TECHNICIANS. AND THEN I RETRIEVED IT FROM THE BIN.

9 Q AND WHAT DID YOU DO WITH IT AFTER YOU RETRIEVED IT FROM THE BIN?

10 A I OPENED THE POUCH AND I TOOK OUT WHAT EVIDENCE WAS IN THE
11 PARTICULAR BAG AND THEN I DID THE SEROLOGICAL EXAMINATION ON THE
12 EVIDENCE THAT WAS IN THE BAG.

13 Q WHEN YOU RECEIVED IT FROM THE BIN, THIS WAS A LOCKED BIN?

14 A YES. THE BIN'S IN OUR REFRIGERATOR WHICH IS A LOCKED
15 REFRIGERATOR.

16 Q AND WAS THE SEAL INTACT ON THE PACKAGE WHEN YOU TOOK IT OUT OF
17 THE BIN?

18 A YES, IT WAS.

19 Q WAS THERE ANY EVIDENCE THAT IT HAD BEEN ALTERED OR TAMPERED
20 WITH IN ANY WAY?

21 A NO, IT WAS NOT.

22 Q AND WHEN YOU TOOK IT OUT OF THE BIN WAS IT IN YOUR CUSTODY AND
23 CONTROL FROM THAT TIME UNTIL THE TESTING WAS COMPLETED?

24 A YES, IT WAS.

25 Q AND DO YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S EXHIBIT #5?

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 A YES, I DO.

2 Q AND HOW DO YOU RECOGNIZE THAT?

3 A MY INITIALS ARE ON THE POUCH.

4 Q AND WHAT IS THAT?

5 A THIS IS THE SUSPECT EVIDENCE COLLECTION KIT FOR EARNEST PRESSLEY.

6 Q AND HOW DID YOU OBTAIN THAT?

7 A IT WAS ALSO PLACED IN MY BIN IN THE REFRIGERATOR.

8 Q AND WAS THE SEAL INTACT WHEN YOU TOOK IT OUT OF THE BIN?

9 A YES, IT WAS.

10 Q YOU PERSONALLY TOOK IT OUT OF THE BIN?

11 A YES.

12 Q WAS IT IN YOUR CUSTODY AND CONTROL FROM THAT TIME UNTIL THE
13 TESTING WAS COMPLETED?

14 A YES, IT WAS.

15 Q OKAY. DID IT APPEAR TO BE ALTERED OR CHANGED IN ANY WAY OR
16 TAMPERED WITH WHEN YOU TOOK IT OUT OF THE BIN?

17 A NO, IT WAS NOT.

18 Q OKAY. WHAT TYPE OF TESTING DID YOU PERFORM ON THE SEXUAL
19 ASSAULT KIT?

20 A WHEN EVIDENCE IS FIRST BROUGHT IN, THE FIRST STEP IS TO DO THE
21 SEROLOGICAL EXAMINATION AND WITH THAT BEING A SEXUAL ASSAULT KIT,
22 WE'RE LOOKING FOR THE PRESENCE OF SEMEN. SO THE ITEMS THAT ARE
23 SUBMITTED IN THE KIT ARE TESTED FOR THE PRESENCE OF SEMEN.

24 Q AND DID YOU FIND SEMEN IN THIS KIT?

25 A YES, I DID. THERE WAS SEMEN FOUND ON THE VAGINAL SWABS AND ALSO

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 ON A SUSPECTED SEMEN SWAB THAT WAS SUBMITTED.

2 Q AND HOW DID YOU DETERMINE THAT THERE WAS SEMEN PRESENT?

3 A THEY'RE SWABS JUST LIKE A Q-TIP. THE TOPS ARE CLIPPED OFF AND
4 PLACED IN A TUBE AND THEN SALINE OR WATER IS ADDED TO THAT TUBE IN
5 ORDER TO EXTRACT OR CAUSE THE SEMEN, IF IT'S THERE, TO COME INTO
6 SOLUTION. THAT SOLUTION IS THEN PLACED ON A CARD SIMILAR TO A CARD YOU
7 USE FOR A PREGNANCY TEST. AND IF THE CARD - IF IT'S POSITIVE, THEN YOU
8 HAVE SEMEN PRESENT.

9 Q IF IT'S POSITIVE FOR WHAT? I'M NOT SURE I UNDERSTAND.

10 A WHAT YOU WOULD SEE YOU APPLY THE SOLUTION TO THIS CARD, AND
11 WHAT HAPPENS IS THERE'S A - THERE'LL BE TWO BANDS, BLUE BANDS IF IT'S
12 POSITIVE. IF IT'S NOT POSITIVE IT'LL BE ONLY ONE BAND, AND THAT BAND IS THE
13 CONTROL BAND LETTIN' YOU KNOW THAT THE CARD IS WORKING.

14 Q OKAY.

15 A IF THERE'S TWO BANDS, THEN THERE'S SEMEN PRESENT.

16 Q ARE THESE BANDS VISIBLE TO THE NAKED EYE?

17 A YES.

18 Q OKAY. DO YOU RECOGNIZE WHAT'S BEEN MARKED STATE'S EXHIBIT #1
19 FOR IDENTIFICATION? CORRECTION. STATE'S EXHIBIT 2.

20 A YES. THIS IS A COPY OF THE SEROLOGICAL REPORT THAT I SUBMITTED.

21 Q AND WHAT WERE YOUR FINDINGS ON THAT REPORT?

22 A I FOUND THAT THE - I TESTED THE VAGINAL SWAB, THE ORAL SWABS, THE
23 RECTAL SWABS AND THE SUSPECTED SEMEN SWABS FOR THE PRESENCE OF
24 SEMEN AND I FOUND SEMEN ON THE VAGINAL SWAB AND ON THE SUSPECTED
25 SEMEN SWAB.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 Q DID YOU TEST ANY OTHER ITEMS FROM THIS KIT?

2 A I CHECKED THE FINGERNAIL SCRAPINGS FOR THE PRESENCE OF ANY
3 FOREIGN MATERIAL AND SOME SKIN, BUT THERE WAS NONE. AND THERE WERE
4 ALSO PANTIES SUBMITTED, BUT I DID NOT TEST THE PANTIES.

5 Q WHY DID YOU NOT TEST THE PANTIES?

6 A OUR POLICY IS THAT WE WORK WITH WHAT'S TERMED THE INSIDE OUT
7 STARTIN' WITH THE VAGINAL SWAB AND WORKING OUT, AND ONCE I
8 ESTABLISHED THAT THERE WAS SEMEN ON THE VAGINAL SWAB AND ON THE
9 SUSPECTED SEMEN, THAT'S WHEN MY TESTING STOPPED.

10 Q AND THAT'S JUST YOUR ROUTINE POLICY IS NOT GO ANY FURTHER ONCE
11 YOU FIND SEMEN IN THE VAGINA - ON THE VAGINAL SWAB.

12 A YES.

13 Q THEN WHAT OTHER TESTING DID YOU PERFORM ON THE SEXUAL ASSAULT
14 KIT?

15 A I ALSO DEVELOPED A D.N.A. PROFILE FROM MS. H. BLOOD AND ALSO
16 D.N.A. PROFILE FROM THE VAGINAL SWAB AND SUSPECTED SEMEN SWABS.

17 Q AND FOR THOSE OF US INCLUDING ME WHO DON'T UNDERSTAND D.N.A.
18 ANALYSIS, WOULD YOU JUST START WITH THE BASICS AND TELL US WHAT D.N.A.
19 IS.

20 A D.N.A. STANDS FOR DEOXYRIBONUCLEIC ACID. IT'S CONSIDERED TO BE
21 THE BLUEPRINT OF THE BODY. PART OF YOUR D.N.A. IS FROM YOUR MOTHER AND
22 PART FROM YOUR FATHER. BUT EVERYONE'S D.N.A. IS UNIQUE EXCEPT FOR
23 IDENTICAL TWINS WHO WILL HAVE THE SAME D.N.A. AND SINCE EVERYONE'S
24 D.N.A. IS UNIQUE WE ARE ABLE TO COMPARE THE EVIDENCE THAT'S SUBMITTED IN
25 A CASE TO KNOWN STANDARDS FROM THE VICTIM AND THE SUBJECT IN A

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 PARTICULAR CASE TO DETERMINE WHETHER WE HAVE A MATCH OR WE DO NOT
2 HAVE A MATCH TO THAT EVIDENCE.

3 Q OKAY. AND YOU SAID EVERY - NO TWO PEOPLE HAVE THE SAME D.N.A.
4 UNLESS THEY'RE IDENTICAL TWINS?

5 A THAT'S CORRECT.

6 Q HOW WAS IT, DO YOU KNOW, HOW LONG HAS D.N.A. TESTING BEEN
7 PERFORMED? IS THIS A RELATIVELY NEW TYPE OF TEST OR--

8 A YOU MEAN FORENSIC OR -- DO YOU MEAN FORENSIC OR OVERALL.

9 Q IF YOU KNOW, FORENSIC D.N.A. TESTING AND OVERALL.

10 A WELL, I'VE BEEN DOING D.N.A. TESTING FOR CLOSE TO 25 YEARS. SO IT'S
11 LONGER THAN THAT AND FORENSIC I WOULD SAY BETWEEN 15 AND 20 YEARS.

12 Q HAS THE -- YOU'VE BEEN DOING D.N.A. TESTING BUT NOT FORENSIC
13 TESTING FOR 25 YEARS.

14 A THAT'S CORRECT.

15 Q OKAY. AND YOU'VE BEEN DOING FORENSIC TESTING FOR HOW MANY
16 YEARS?

17 A SOON BE 13 YEARS.

18 Q AND DID YOU GET IN ON IT RIGHT FROM THE BEGINNING OR HAD IT BEEN
19 DONE PRIOR TO YOUR STARTING IT?

20 A WELL, THE LAB -- WHEN SLED'S LAB WAS STARTED, THAT'S WHEN I WAS
21 HIRED.

22 Q OKAY.

23 A BUT I WAS DOING D.N.A. TESTING AT THE UNIVERSITY OF SOUTH CAROLINA
24 PRIOR TO THAT.

25 Q HAVE THE TYPES OF D.N.A. TESTING CHANGED OVER THE YEARS?

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 A YES, IT HAS. IT HAS ADVANCED WHERE WE COULD LOOK AT SMALLER
2 AMOUNT OF D.N.A. AND DETERMINE WHETHER WE HAVE A MATCH OR WE DO NOT
3 HAVE A MATCH. IT'S IN THE TIMEFRAME THAT I'VE BEEN DOING IT.

4 Q WHAT TYPE OF D.N.A. TESTING DID YOU PERFORM ON - IN THIS CASE?

5 A IT'S P.C.R. TESTING. POLYMERASE CHAIN REACTION. D.N.A. TESTING.

6 Q AND IS THAT ALSO CALLED P.C.R.?

7 A YES.

8 Q IS P.C.R. ACCEPTED IN THE SCIENTIFIC COMMUNITY AS AN APPROPRIATE
9 METHOD FOR TESTING - D.N.A. TESTING?

10 A YES, IT IS.

11 Q AND SO YOU TESTED THE BLOOD FROM THE SUSPECT KIT? IS THAT
12 CORRECT? AS WELL AS THE SWABS FOR D.N.A.?

13 A YES, I DID.

14 Q I'M SORRY. I WANT TO GO BACK TO THE - NOT THE SUSPECT KIT; THE
15 VICTIM KIT. OKAY. AND THEN YOU ALSO TESTED THE SUSPECT KIT.

16 A YES, I DID.

17 Q AND THE SUSPECT KIT CONSISTED OF WHAT EVIDENCE?

18 A THE SUSPECT KIT REALLY HOLDS EVIDENCE FOR 3 DEPARTMENTS. FOR
19 OUR DEPARTMENT FOR D.N.A. WE WOULD GET THE BLOOD AND SALIVA
20 STANDARD. FOR TOXICOLOGY THEY WOULD GET BLOOD IF IT'S DRAWN FOR
21 TOXICOLOGY AND ALSO FOR THE TRACE DEPARTMENT IF ANY HAIRS ARE
22 COLLECTED TO GO TO THE TRACE DEPARTMENT.

23 Q OKAY.

24 A LIKE THE PART THAT I RECEIVE WAS JUST THE BLOOD AND THE SALIVA
25 STANDARD.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

- 1 Q OKAY. SO YOU TESTED THE BLOOD AND SALIVA FOR D.N.A.—
- 2 A JUST THE BLOOD. JUST THE BLOOD.
- 3 Q OKAY. JUST THE BLOOD. AND WHY DID YOU NOT TEST THE SALIVA?
- 4 A THE BLOOD IS BETTER. IT'S BETTER TO USE THE BLOOD.
- 5 Q BETTER HOW? MORE ACCURATE?
- 6 A AS IN - NO, WHEN SALIVA IS TAKEN A PIECE OF PAPER, WATMAN
- 7 (PHONETIC) PAPER IT'S CALLED, IS PLACED IN THE MOUTH TO RECEIVE -- TO
- 8 RETRIEVE THE SALIVA. YOU DON'T KNOW HOW WELL IT'S BEEN SOAKED WITH
- 9 THE PERSON'S SKIN CELLS THAT ARE COMING OUTTA THEIR MOUTH, BUT WITH
- 10 THE BLOOD, YOU KNOW THAT D.N.A. IS IN THAT BLOOD.
- 11 Q OKAY. AND CAN YOU TAKE US THROUGH THE PROCEDURE FOR DOING THE
- 12 D.N.A. TESTING ON THE BLOOD. TRY TO KEEP IT SIMPLE.
- 13 A AFTER THE BLOOD IS GIVEN TO ME IN A LIQUID FORM, I PLACE THE BLOOD
- 14 ON A PIECE OF COTTON SHEETING.
- 15 Q WHERE DO YOU DO THIS?
- 16 A IN MY LABORATORY IN THE HOOD.
- 17 Q SO YOU TAKE IT—
- 18 A BIOLOGICAL HOOD.
- 19 Q YOU TAKE THE SAMPLE KIT FROM EITHER THE SUSPECT OR THE VICTIM
- 20 OUT OF THAT BIN AND THEN WHAT DO YOU DO?
- 21 A THEN I OPEN IT AND I CHECK TO SEE IF THERE'S LIQUID BLOOD IN THERE
- 22 OR IF THE TECHNICIANS HAVE ALREADY PUT THE BLOOD ON CLOTH.
- 23 Q OKAY.
- 24 A IF THERE'S LIQUID BLOOD IN THERE, THEN I HAVE TO PUT THE BLOOD ON
- 25 CLOTH. IT'S OUR POLICY AND IT PRESERVES THE BLOOD AND BLOOD'S

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 PRESERVED BETTER IN THE DRY STATE THAN IN THE LIQUID. SO WE PUT THE
2 BLOOD ON CLOTH AND LET IT DRY.

3 Q DID YOU DO THAT YOURSELF IN THIS CASE?

4 A I DID IT WITH THE SUSPECT KIT.

5 Q AND WITH THE VICTIM KIT SOMEBODY ELSE DID THAT?

6 A YES.

7 Q IS THAT THE LADY THAT TESTIFIED YESTERDAY?

8 A YES.

9 Q OKAY. NOW ONCE YOU PUT THE BLOOD ON THE PAPER, WHERE DOES THAT
10 PAPER GO TO DRY?

11 A IT'S PLACED IN A BIOLOGICAL HOOD TO AIR DRY.

12 Q AND WHERE IS THAT BIOLOGICAL HOOD?

13 A IT'S IN MY LABORATORY.

14 Q IS THAT A LOCKED LABORATORY?

15 A YES. YOU HAVE TO USE A CARD TO GET SCANNED IN TO COME INTO THE
16 LABORATORY.

17 Q AND HOW IS THAT PARTICULAR SAMPLE OF BLOOD IDENTIFIED?

18 A BEFORE I POUR THE BLOOD ON THE COTTON SHEETING, I WRITE THE
19 PERSON'S NAME ON THAT COTTON SHEETING AND ALSO THE CASE NUMBER, THE
20 SLED CASE NUMBER THAT APPLIES TO IT ON THE COTTON SHEETING, AND THEN I
21 POUR THE BLOOD ON THERE.

22 Q OKAY. THE PERSON'S NAME MEANING THE SUSPECT OR THE VICTIM?

23 A THAT'S CORRECT.

24 Q AND THEN WHAT DO YOU DO WITH IT AFTER IT DRIES? HOW LONG DOES IT
25 DRY?

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

- 1 A I DRY IT FOR AT LEAST 2 DAYS.
- 2 Q OKAY.
- 3 A AND ONCE IT'S DRIED, THEN IT'S PLACED IN A COIN ENVELOPE.
- 4 Q OKAY.
- 5 A THE LABEL OFF THE TUBE THAT THE BLOOD WAS IN IS TAKEN OFF AND
- 6 PLACED ON THAT COIN ENVELOPE ALSO.
- 7 Q IS THAT WHAT YOU DID YOURSELF IN THIS CASE?
- 8 A YES.
- 9 Q OKAY. ON BOTH THE VICTIM KIT AND THE SUSPECT KIT?
- 10 A I DID IT ON THE SUSPECT KIT. SHERRY BROWN DID IT ON THE VICTIM.
- 11 Q AND THAT'S THE LADY WHO TESTIFIED YESTERDAY?
- 12 A THAT'S CORRECT.
- 13 Q SO I'M LOST NOW. YOU'VE GOTTEN THE BLOOD DRIED AND YOU PUT IT IN
- 14 AN ENVELOPE?
- 15 A YES.
- 16 Q AND THEN WHAT DO YOU DO WITH IT?
- 17 A OKAY. IF I'M GOING TO START MY ANALYSIS RIGHT NOW, WHAT I WOULD
- 18 DO IS TAKE A SMALL CUTTING FROM THAT COTTON SHEETING AND PLACE THAT IN
- 19 A TUBE, AND THE REASON I'M DOING IT - WHAT I WANT TO DO IS EXTRACT THE
- 20 D.N.A. - CAUSE THE BLOOD CELLS TO BREAK OPEN TO RELEASE THE D.N.A. IN MY
- 21 SOLUTION. I TAKE IT THROUGH A SERIES OF STEPS IN ORDER TO ISOLATE THE
- 22 D.N.A. FROM THAT BLOOD.
- 23 Q AND THAT'S WHAT YOU DID IN THIS CASE?
- 24 A YES.
- 25 Q FOR---

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 A THE SAME STEPS I'VE TAKEN TO DO IT WITH THE VICTIM'S STANDARD AND
2 ALSO WITH THE EVIDENCE.

3 Q OKAY. WHERE WOULD THE - DID YOU GET THE VICTIM'S SAMPLE AND
4 THE DEFENDANT'S SAMPLE AT THE SAME TIME, SAME DATE?

5 A NO, I DID NOT.

6 Q OKAY. WERE THEY AT ANY TIME PLACED TOGETHER ANYWHERE -
7 WHERE WERE THEY LOCATED? WERE THEY LOCATED TOGETHER UNDER THAT
8 SAME HOOD?

9 A NO.

10 Q OKAY.

11 A THE ONLY SAMPLES THAT WERE PLACED UNDER THE BIOLOGICAL HOOD
12 WAS THE SUSPECT STANDARD.

13 Q AND WHERE WOULD THE VICTIM'S STANDARD HAVE BEEN?

14 A IT WAS STILL IN THE POUCH.

15 Q OKAY. SO THEY'RE DONE COMPLETELY SEPARATELY.

16 A YES.

17 Q OKAY. BUT USING THE SAME PROCEDURE.

18 A BASICALLY THE SAME PROCEDURE.

19 Q OKAY. CAN YOU EXPLAIN, AND, AGAIN, TRY TO KEEP IT SIMPLE FOR THOSE
20 OF US WHO DON'T HAVE YOUR EXPERTISE HOW THE ANALYSIS IS DONE.

21 A OKAY. ONCE I'VE EXTRACTED THE D.N.A. , THEN WE DO WHAT IS TERMED
22 A AMPLIFICATION, AND THAT'S WHERE THE P.C.R. COMES INTO PLAY. WE TAKE IT
23 THROUGH THE ANALYSIS AND THEN ALL THE INFORMATION IS PLACED ON OUR
24 INSTRUMENT, AND YOU CAN WATCH THE D.N.A. PROFILE COMING ACROSS ON THE
25 COMPUTER. ONCE THAT'S GENERATED, I GET A COMPUTER PRINTOUT OF THE

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 D.N.A. PROFILE THAT WAS DEVELOPED FROM THE SEMEN THAT WAS FOUND ON
2 THE VAGINAL SWAB, SEMEN THAT WAS FOUND ON THE SUSPECTED SEMEN SWAB,
3 THE BLOOD STANDARD THE SUBJECT, THE BLOOD STANDARD FROM MS. H.]
4 ALL OF THAT IS GENERATED. I LOOK AT THE EVIDENCE TO SEE WHETHER I HAVE A
5 MATCH BETWEEN THE SEMEN THAT WAS FOUND ON THE VAGINAL SWAB AND
6 SUSPECTED SEMEN TO THE STANDARD THAT WAS GIVEN TO ME FROM THE
7 SUSPECT.

8 Q AND THE COMPUTER GIVES YOU THAT PRINTOUT OF WHAT THE D.N.A.
9 LOOKS LIKE?

10 A WHAT THE D.N.A. PROFILE IS.

11 Q OKAY. AND IN THIS CASE DID YOU DO ALL OF THAT?

12 A YES.

13 Q WHAT YOU JUST DESCRIBED.

14 A WE LOOK AT 13 DIFFERENT AREAS ON THE CHROMOSOME AND THE D.N.A.
15 AND THE COMPUTER WILL GIVE ME A READING ON EACH ONE OF THOSE
16 DIFFERENT AREAS ON THE D.N.A. AND I COMPARED THEM TO THE STANDARD
17 FROM THE VICTIM AND THE STANDARD FROM THE SUBJECT. SINCE IT IS A SWAB
18 FROM MS. H.] VAGINAL AREA, YOU EXPECT TO SEE HER D.N.A. PROFILE
19 SHOWING UP. SO I COMPARE IT TO BOTH OF THEM. AND THEN I DETERMINE
20 WHETHER THERE'S A MATCH OR NOT A MATCH BETWEEN THE SECOND DONOR ON
21 THE SWAB COMPARED TO MR. PRESSLEY. AND IN THIS CASE THERE WAS A MATCH
22 BETWEEN HIM AND THE SEMEN THAT WAS FOUND ON THE VAGINAL SWAB AND
23 THE SUSPECTED SEMEN.

24 Q OKAY. WHEN YOU SAY THERE WAS A MATCH, DO YOU USE STATISTICS TO
25 EXPLAIN THE MATCH? WHAT YOU SAY IS A MATCH.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 A ONCE YOU DETERMINE THAT YOU HAVE A MATCH, YOU LOOK AT THE
2 PROFILE OF THE EVIDENCE AND SEE WHICH ONE OF THOSE AREAS ON THE D.N.A.
3 CAN BE USED AND YOUR FREQUENCY CALCULATION.

4 Q SLOW DOWN NOW. YOU'RE LOSIN' ME. START BACK WITH THAT AGAIN.

5 A I WISH THERE WERE DIFFERENT WORDS, BUT I DON'T KNOW THEM.

6 MR. ANDERSON: YOUR HONOR, EXCUSE ME.

7 THE COURT: HOLD ON.

8 MR. ANDERSON: I HAVE A MATTER OF LAW, YOUR HONOR.

9 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I NEED TO ASK YOU TO
10 STEP INTO THE JURY ROOM. DON'T DISCUSS THE CASE. (THE FOLLOWING
11 OCCURRED IN THE ABSENCE OF THE JURY.)

12 MR. ANDERSON: YOUR HONOR, THEY'RE STARTIN' TO GET INTO SOME
13 MATTERS OF PERCENTAGES AND WHEN I WAS TALKIN' TO MS. GALLMAN
14 YESTERDAY BEFORE SHE WENT UNDER OATH, ON HER REPORT SHE HAS IN THERE
15 THAT THE PROBABILITY OF RANDOMLY SELECTING AN UNRELATED INDIVIDUAL
16 HAVING A D.N.A. PROFILE MATCHING ITEM ONE 7 WHICH IS THIS VAGINAL SWAB IS
17 ONE IN ONE 39, AND I ASKED HER IF THAT MEANS THERE WAS A ONE IN ONE 39
18 CHANCE THAT THAT'S MY CLIENT, AND SHE SAID THAT'S NOT WHAT THAT MEANS.
19 AND I DON'T UNDERSTAND WHERE SHE'S GOIN' AND I DON'T UNDERSTAND THE
20 PROBABILITIES, BUT SHE'S ALREADY TESTIFIED THAT SHE'S NOT A STATISTICIAN.
21 SO I DON'T THINK SHE CAN GET INTO THOSE STATISTICS AS TO ONE AND
22 WHATEVER.

23 MS. BRISBIN: YOUR HONOR, I HAVE NO OBJECTION TO JUST NOT GETTING
24 INTO THE STATISTICS.

25 THE COURT: ALL RIGHT.

1 MR. ANDERSON: YOUR HONOR, IF I COULD, I DON'T KNOW HOW I COULD
2 ACCOMPLISH IT, BUT CAN I - CAN WE ASK HER OUT OF THE PRESENCE OF THE
3 JURY WHAT HER TESTIMONY WOULD BE ABOUT THE STATISTICS? 'CAUSE I DON'T
4 KNOW IF IT'S GONNA HELP MY CLIENT OR HURT MY CLIENT, AND I THINK HE HAS
5 A RIGHT TO HEAR THAT. AND SHE'S THE STATE'S EXPERT WITNESS. IS THIS WAS A
6 CIVIL CASE I COULD'VE DEPOSED HER.

7 THE COURT: WHAT IS IT YOU WANT TO ASK HER?

8 MR. ANDERSON: I WANNA ASK HER, YOU KNOW, IN THESE DNA CASES YOU
9 GET THIS IT'S ONE IN A BILLION CHANCE IT'S SOMEBODY ELSE. I WANNA HEAR
10 WHAT HER POSITION IS ON THAT AND I WANNA HEAR WHAT HER EXPLANATION IS
11 FOR THE ONE IN ONE 39 THAT'S ON HER REPORT.

12 MS. BRISBIN: YOUR HONOR, THE STATE WOULD ARGUE THAT HE CAN'T
13 HAVE IT BOTH WAYS. IF HE WANTS HER TO TESTIFY ABOUT SOME STATISTIC - I
14 MEAN IF HE DOESN'T WANT HER TO TESTIFY ABOUT STATISTICS UNLESS SHE'S
15 GONNA SAY WHAT HE WANTS, I DON'T THINK THAT SHOULD BE AN OPTION.

16 THE COURT: WELL, HOW DID SHE DETERMINE IT'S A MATCH? SHE
17 TESTIFIED IT'S A MATCH.

18 MS. BRISBIN: IF THIS HELPS, THE ONE IN 139 IS THE STATISTIC SAYING HOW
19 - MY UNDERSTANDING ANYWAY - WHAT ARE THE CHANCES - IF YOU TOOK 139
20 UNRELATED PEOPLE - MEN OFF THE STREET, THE CHANCES YOU WOULD FIND
21 ONE THAT COULD NOT BE EXCLUDED IN THIS CASE WOULD BE ONE OUT OF 139
22 MEN. THEY WOULD HAVE TO BE UNRELATED.

23 THE COURT: ALL RIGHT. WHAT'S THE ISSUE BEFORE ME?

24 MR. ANDERSON: JUDGE, THE ISSUE AND I DON'T REALLY KNOW HOW TO
25 COUCH IT IS BEFORE SHE TESTIFIES ABOUT ALL THIS STUFF, I THINK WE HAVE A

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 RIGHT TO HEAR WHAT SHE'S GONNA SAY 'CAUSE SHE'S NOT SUBJECT TO
2 DEPOSITION. SHE - HER REPORT SAYS ONE IN ONE 39. WHEN I ASKED HER IF THAT
3 MEANS THERE'S A 1 IN ONE 39 CHANCE THAT IT'S SOMEBODY ELSE'S DNA, SHE
4 TOLD ME THAT'S NOT WHAT IT MEANS. AND THAT WAS RIGHT BEFORE THEN.
5 SHORTLY AFTER THAT SHE WAS CALLED UP TO TESTIFY AND PUT UNDER OATH. SO
6 I JUST - I WOULD LIKE TO KNOW WHAT SHE'S GONNA SAY ABOUT THOSE
7 PERCENTAGES BEFORE I - I MEAN I MIGHT NOT OBJECT TO IT. NOW THE STATE
8 MIGHT NOT ASK HER, BUT IF IT'S GONNA HELP MY CLIENT, I'M GONNA ASK HER. IF
9 IT'S NOT GONNA HELP MY CLIENT I'M GONNA OBJECT TO IT BECAUSE SHE'S NOT A
10 STATISTICIAN, BUT I JUST WOULD LIKE TO KNOW WHAT HER TESTIMONY WOULD
11 BE, JUDGE.

12 THE COURT: MAKE YOUR PROFFER.

13 MR. ANDERSON: ALL RIGHT.

14 CROSS-EXAMINATION

15 BY MR. ANDERSON

16 Q COULD YOU EXPLAIN THE ONE IN ONE 39 THAT'S ON YOUR REPORT. WHAT
17 DOES THAT MEAN?

18 A OKAY. I WAS GETTING READY TO BEFORE YOU CUT ME OFF BUT HERE IT IS:
19 WE HAVE A VAGINAL SWAB AND THE FIRST THING YOU DO IS YOU LOOK AT THE
20 TOTAL DNA PROFILE TO SEE IF THERE IS ANY - AT ANY PARTICULAR AREA ON THE
21 DNA THAT YOU CAN EXCLUDE THE SUBJECT AS BEIN' THE DONOR OF THE SEMEN.
22 THAT'S THE FIRST THING YOU DO. NEXT WE HAVE TO APPLY A FREQUENCY, A
23 STATISTICAL VALUE TO THAT PARTICULAR DNA PROFILE. SO I LOOK AT EACH
24 AREA. WE DO 13. AND I LOOK AT EACH AREA AND BASED ON OUR POLICY, WHICH
25 ONE OF THESE AREAS CAN I INCLUDE IN MY STATISTICS. ONCE I WENT THROUGH

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 ALL 13 OF THE AREAS, OUT OF THE 13 THERE WERE ONLY 2 BECAUSE I HAD LOW
2 LEVEL OF DNA FROM THE SUBJECT THAT I COULD INCLUDE IN MY STATISTICS.
3 AND THAT'S WHY WE HAVE A NUMBER OF ONE IN 139. EACH ONE OF THE SITES ON
4 THE DNA ARE INDEPENDENT OF EACH OTHER. SO YOU LOOK AT EACH ONE AND
5 BASED ON OUR POLICY WHICH ONE OF THESE SITES CAN I INCLUDE IN MY
6 STATISTICS. LIKE I SAID, THERE WAS ONLY 2. AND SINCE THEY'RE INDEPENDENT
7 OF EACH OTHER WE'RE ABLE TO MULTIPLY THEM AGAINST EACH OTHER, AND
8 THAT'S WHY YOU WOULD SEE NUMBERS LIKE ONE IN ONE QUINTILLION 'CAUSE
9 YOU CAN MULTIPLY ALL 13. BUT IN THIS PARTICULAR CASE I WAS ABLE TO ONLY
10 MULTIPLY 2 AND THAT'S WHY WE HAVE A NUMBER OF 1 IN 139.

11 Q SO YOU MIGHTA ANSWERED THIS AND I JUST MISSED IT, BUT DOES THAT
12 MEAN THAT THERE'S A ONE IN ONE 39 CHANCE THAT IT COULD BE SOMEBODY
13 ELSE?

14 A BASED ON 2 LOCI. THAT'S WHAT I MULTIPLY. OR TWO AREAS ON THE DNA.
15 BUT OUT OF 13 THERE'S NOTHING THAT EXCLUDED MR. PRESSLEY AS DONATING
16 THE SEMEN ON THE VAGINAL SWAB OR THE SUSPECTED SEMEN.

17 Q SO YOUR TESTIMONY WOULD BE YOU CAN'T EXCLUDE HIM BUT THERE
18 COULD BE ONE PERSON IN 139 OTHER PEOPLE IT COULD BE THEIR DNA?

19 A IF YOU LOOK AT - REMEMBER NOW I'M SAYING HOW MANY LOCI. I SAID 2
20 LOCI THAT I WAS ABLE TO MULTIPLY TOGETHER. AND WHEN YOU'RE ONLY
21 MULTIPLYING 2 LOCI, YOU'RE GETTING A NUMBER OF 1 IN 139 IF YOU ONLY LOOK
22 AT THOSE 2 LOCI. BUT I LOOK AT ALL 13. AND THERE'S NOTHING THERE THAT
23 EXCLUDES HIM AS THE CONTRIBUTOR OF THE SEMEN.

24 Q ALL RIGHT. ARE YOU SAYING THAT THERE'S A 1 IN ONE 39 CHANCE THAT
25 SOMEBODY ELSE OR WHAT? IN ENGLISH.

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A I'M SORRY. I THOUGHT I WAS. BUT—
- 2 Q WELL, YOU'RE SMARTER THAN I AM. SO REMEMBER THAT.
- 3 A IF YOU LOOK AT THE 2 LOCI THAT I INCLUDED IN MY STATISTICS, YOU ONLY
- 4 LOOK AT THOSE 2, THE PROBABILITY IS 1 IN 139.
- 5 Q THAT IT'S SOMEBODY ELSE.
- 6 A THAT YOU COULD FIND SOMEONE ELSE WITH THIS SAME PARTICULAR DNA
- 7 PROFILE. OUT OF THE 2 LOCI.
- 8 Q THAT WOULD BE A MAN. 1 IN ONE 39 MEN.
- 9 A MEN.
- 10 Q OR PEOPLE?
- 11 A IT'S BASED ON PEOPLE.
- 12 Q ALL RIGHT.
- 13 A AS I RECALL, YES. EVEN IF YOU LOOK AT 139 PEOPLE, BASED ON WHAT I'VE
- 14 BEEN TAUGHT, THAT IT'S NO GUARANTEE THAT IN THAT 139 THE NEXT PERSON IS
- 15 GOING TO BE THE PERSON WITH THAT DNA PROFILE AT THOSE TWO PARTICULAR
- 16 DNA SITES.
- 17 Q WELL, IF THAT'S JUST THOSE TWO SITES AND YOU COULDN'T DO ANY
- 18 OTHER SITES—
- 19 A I COULD NOT INCLUDE THEM IN THE FREQUENCY. THERE'S NOTHING
- 20 THERE THAT EXCLUDE HIM AS BEING THE CONTRIBUTOR.
- 21 Q SO YOUR TESTIMONY IS - WHAT'S THE CHANCE OF SOMEBODY ELSE? DO
- 22 YOU HAVE AN ULTIMATE STATEMENT AS TO THAT?
- 23 A USIN' THOSE TWO LOCI?
- 24 Q JUST USIN' EVERYTHING YOU GOT.
- 25 A FIRST OF ALL, I HAVE A MATCH. HE CANNOT BE EXCLUDED AS BEIN' THE

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 DONOR. THAT'S THE FIRST THING. SECOND THING YOU LOOK AT THE FREQUENCY.
2 ONLY 2 OF THE LOCI OUT OF THE 13 I COULD USE IN MY FREQUENCY. AND THE
3 SYSTEM NUMBER THAT WAS GENERATED ONE IN 139 FROM THAT FREQUENCY.

4 Q SO THAT'S THE WORST NUMBER YOU GOT FOR ME. OR FOR MY CLIENT.
5 IT'S NOT ONE IN 3,000,000 THAT IT'S SOMEBODY ELSE. IT'S ONE IN ONE 39 THAT IT
6 COULD BE SOMEBODY ELSE.

7 A THE FREQUENCY OF THAT PARTICULAR EVENT HAPPENING IS ONE IN 139.

8 MR. ANDERSON: WELL, JUDGE, AM I THE ONLY PERSON THAT'S NOT
9 GETTING' IT? 'CAUSE IF I AM, I'M SORRY.

10 THE COURT: I MEAN I HEAR THE WORDS SHE'S SAYIN', YES.

11 Q WHAT ABOUT THE 1 IN 3500 FOR THE MIXTURE?

12 A OKAY. WHEN YOU LOOK AT THE MIXTURE FROM THE 1 IN 3500 THAT'S
13 FROM THE SUSPECTED SEMEN. YOU UNDERSTAND?

14 Q THAT'S FROM ONE 10, ISN'T IT?

15 A YES. THAT'S THE SUSPECTED SEMEN SAMPLE. WHEN YOU'RE DEALING
16 WITH MIXTURES, BASED ON OUR POLICY, YOU'LL STILL LOOK AT EACH ONE OF
17 THE AREAS ON THE DNA YOU LOOK AT EACH AREA ON THE DNA OUT OF THE 13
18 AND BASED ON OUR POLICY ABOUT WHAT CAN BE INCLUDED AND MIXTURES
19 THERE WERE MORE LOCI THAT COULD BE INCLUDED IN THE MIXTURE. OR MORE
20 AREAS THAT COULD BE INCLUDED IN THE MIXTURE THAN WITH THE VAGINAL
21 SWAB.

22 Q IS ONE TEN A MIXTURE?

23 A YES.

24 Q I THOUGHT ONE 7 WAS THE SWAB THAT WOULD HAVE VAGINAL AND THE
25 SEMEN.

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A YES. 1.10 IS A MIXTURE. THIS IS SUSPECTED SEMEN SAMPLE.
- 2 Q SO WHY WOULD THAT BE A MIXTURE IF IT'S JUST SEMEN?
- 3 A BASED ON WHAT I KNOW ABOUT - I DON'T KNOW EXACTLY WHERE ON
- 4 MS. H. BODY THE SAMPLE WAS SWABBED FROM, BUT WITH IT COMING FROM
- 5 OFF - IF I SWAB YOUR SKIN AND SOMEONE ELSE'S SALIVA IS ON YOUR SKIN, I'M
- 6 GONNA PICK UP SOME OF YOUR CELLS CAUSING IT TO BE A MIXTURE OF YOU AND
- 7 WHOEVER'S SALIVA IS ON YOUR SKIN.
- 8 Q BUT WOULDN'T IT BE MORE OF A MIXTURE FROM 1 SEVEN WHICH IS FROM
- 9 THE VAGINA? THAT'S A MIXTURE TOO, ISN'T IT?
- 10 A IT IS A MIXTURE BUT THE FACT IS SINCE - BASED ON OUR POLICY, SINCE
- 11 IT'S AN INTIMATE SAMPLE COMING FROM THE OUTSIDE OF HER BODY, OUR POLICY
- 12 SAYS THAT YOU SEPARATE THE DONOR FROM - THE SEMEN DONOR FROM THE
- 13 VICTIM.
- 14 Q SO WHAT DOES THE ONE IN 3500 MEAN AGAIN?
- 15 A THE ONE IN 3500 IS THE FREQUENCY THAT WAS GENERATED FROM THE
- 16 MIXTURE ON ITEM 1.10.
- 17 Q THAT MEANS WHAT?
- 18 A THAT MEANS THAT BASED ON OUR POLICY I LOOK AT EACH ONE OF THE
- 19 AREAS ON THE DNA AND AT THAT TIME DETERMINE WHAT AREAS YOU CAN USE IN
- 20 YOUR FREQUENCY CALCULATION.
- 21 Q OKAY.
- 22 A IF YOU HAVE A MIXTURE.
- 23 Q YOU SAID YOU COULD USE MORE 'CAUSE THERE'S MORE THERE?
- 24 A NO, YOU CAN USE MORE BECAUSE IT IS A MIXTURE.
- 25 Q OKAY. SO WHEN YOU USE MORE YOU'RE SAYING IT'S A ONE IN 3500

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 CHANCE THAT IT'S WHAT?

2 A I DIDN'T USE ALL 13.

3 Q OKAY.

4 A IT'S DETERMINED HOW MANY I CAN USE OUTTA THE 13. BUT THE ONES
5 OUTTA THE 13, THE FREQUENCY THAT WAS GENERATED BECAUSE YOU HAVE
6 MORE LOCI AREAS USED IN THIS FREQUENCY CALCULATION, YOU GET A LARGER
7 NUMBER.

8 Q WELL, WHAT DOES ONE IN 3500 MEAN? WHAT DOES THAT MEAN TO ME? I
9 IN 3500 OF WHAT?

10 A THE FREQUENCY OF SEEN' THIS PARTICULAR DNA PROFILE IN A GIVEN
11 POPULATION.

12 Q THAT'S BECAUSE IT'S 2 PEOPLE. RIGHT? YOU GOT 2 PEOPLE'S DNA MIXED.

13 A NO.

14 Q ALL RIGHT.

15 A NO.

16 Q ALL I WANNA KNOW IS WHAT DOES 1 IN 3500 MEAN? WHAT IS THE JURY
17 SUPPOSED TO THINK THAT 1 IN 3500 MEANS?

18 A IT'S SAYING THAT THE PROBABILITY OF RANDOMLY SELECTIN' A
19 UNRELATED INDIVIDUAL WHO WOULD CONTRIBUTE TO THIS MIXTURE IS ONE IN
20 3500. THAT'S WHAT IT MEANS. EXACTLY WHAT THAT SENTENCE SAID.

21 Q AND THESE ARE THE SAME TWO THAT ARE IN THE MIXTURE IN 1 SEVEN.
22 AND YOU GO FROM ONE IN ONE 39 TO ONE IN 3500.

23 A BECAUSE MORE AREAS OF THE DNA ARE INCLUDED IN THE FREQUENCY IN
24 1.10 THAN IN 1.7.

25 Q SO THEN HOW DID YOU COME UP WITH THE NUMBER ONE IN 3500?

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

- 1 WHERE'D YOU COME UP WITH THAT?
- 2 A YOU HAVE 13 AREAS ON THE - THAT WE LOOK AT. YOU PULL OUT WHAT
- 3 AREAS YOU CAN INCLUDE IN THE MIXTURE CALCULATION--
- 4 Q THE LAST ONE YOU SAID WAS 2?
- 5 A ON THE--
- 6 Q THE ONE IN ONE 39 YOU SAID WAS 2.
- 7 A 2 AREAS THAT I LOOKED AT.
- 8 Q HOW MANY DID YOU LOOK AT FOR THE ONE 10?
- 9 A 7.
- 10 Q OKAY. AND ONE IN 3500 CHANCE IT COULD BE ANOTHER FEMALE'S AND A
- 11 ONE IN 3500 CHANCE IT COULD BE ANOTHER MALE OR ONE IN 3500 CHANCE IT
- 12 COULD BE ANYBODY?
- 13 A IT'S JUST PEOPLE.
- 14 Q TO COME UP WITH THAT MIXTURE. WOULD IT HAVE TO BE 2 PEOPLE?
- 15 A THE PERSON THAT COULD CONTRIBUTE TO THAT MIXTURE.
- 16 Q ALL RIGHT. SO THOSE ARE THE 2 NUMBERS THAT YOU CAN TESTIFY TO.
- 17 A LET'S SAY YOUR DNA PROFILE IS TOTALLY DIFFERENT AND - THAN HIS,
- 18 SAY. AND THEN--
- 19 Q YOU SAID THAT IT IS.
- 20 A YES. I SAID IT IS. OKAY. YOUR DNA PROFILE IS TOTALLY DIFFERENT FROM
- 21 HIS. RIGHT.
- 22 Q YES.
- 23 A AND THEN I THROW YOU IN THAT MIXTURE. RIGHT? AND THEN YOU HAVE
- 24 TO SAY WHAT'S THE PROBABILITY OF SEEING - I WOULD GIVE A NUMBER AS TO
- 25 WHAT'S THE PROBABILITY OF SEEING SOMEONE CONTRIBUTING TO THAT

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 MIXTURE. BUT THE FIRST THING I WOULD HAVE TO DO IS LOOK AT THAT MIXTURE
2 IF YOUR DNA PROFILE IS MIXED WITH HIS. TO SEE IF YOU ARE INCLUDED OR
3 EXCLUDED FROM THAT MIXTURE. THAT'S THE FIRST STEP. IF YOU'RE EXCLUDED,
4 THEN I WOULDN'T SAY THAT YOU COULD CONTRIBUTE TO THAT MIXTURE.

5 Q SO WHAT YOU'RE SAYING IS HE CAN'T BE EXCLUDED FROM THE MIXTURE.

6 A HE CANNOT BE EXCLUDED FROM THE MIXTURE.

7 Q AND THE CHANCE OF IT BEING SOMEBODY ELSE IN THAT MIXTURE IS ONE
8 IN 3500.

9 A BASED ON 7 AREAS OF THE DNA

10 Q OKAY. AND DID YOU -- HOW DID YOU COME UP WITH THAT NUMBER
11 THOUGH? DID YOU DO THE MATH YOURSELF?

12 A I DIDN'T DO IT BY HAND.

13 Q WELL, HOW DID YOU DO IT?

14 A BY THE COMPUTER GENERATES IT.

15 Q SO THE COMPUTER JUST SAYS IT.

16 A COMPUTER WHAT?

17 Q THE COMPUTER JUST SAYS IT.

18 A NO, IT DOESN'T. IT DOESN'T JUST SAY IT OUT. I HAVE A PRINTOUT THAT WE
19 GO BY.

20 Q COULD I SEE THAT. I THOUGHT I ASKED YOU FOR ALL YOUR NOTES.

21 A YOU HAVE IT I BELIEVE. YOU JUST DIDN'T RECOGNIZE WHAT IT WAS.

22 Q THAT PROBABLY WOULD BE A STRETCH.

23 A SEE, IT SAYS FORENSIC MIXTURE AND THIS IS THE ITEM 1.10 AND THESE
24 ARE THE 7 AREAS EXCLUDING THE AMELOGENIC (PHONETIC) WHICH IS THE SEX--

25 Q UH-HUH.

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

- 1 A —CHROMOSOME.
- 2 Q UH-HUH.
- 3 A OKAY. SO THEN EACH ONE OF THESE PARTICULAR AREAS WILL GIVE YOU
- 4 A FREQUENCY AND THEN SINCE THEY'RE INDEPENDENT OF EACH OTHER, YOU
- 5 MULTIPLY THEM. AND SINCE YOU'RE ABLE TO MULTIPLY THEM THEN YOU GET A
- 6 FREQUENCY.
- 7 Q ON MINE YOU HAVE 'EM BROKEN DOWN INTO CAUCASIAN, BLACK AND I
- 8 DON'T KNOW WHAT - WHAT ARE THOSE TWO?
- 9 A IT'S CAUCASIAN, BLACK, SOUTHEASTERN HISPANIC, WESTERN HISPANIC.
- 10 THESE ARE DATA BASES. THAT PARTICULAR DNA PROFILE IS THROWN INTO 4
- 11 DIFFERENT DATA BASES AND THEN A NUMBER IS GENERATED FROM EACH ONE OF
- 12 THOSE DATA BASES.
- 13 Q SO WHAT YOU'RE SAYING IS 1 IN 3500 IN THE BLACK COMMUNITY.
- 14 A WELL, THAT'S WHAT - WHAT WE USE IS THE MOST CONSERVATIVE
- 15 FREQUENCY.
- 16 Q WHAT ABOUT ALL OF 'EM TOGETHER?
- 17 A ALL OF WHOM?
- 18 Q ALL 4 OF THESE CATEGORIES TOGETHER, NOT SEPARATED BY BLACK,
- 19 WHITE, HISPANIC—
- 20 A THEY'RE DIFFERENT DATA BASES THAT THE NUMBERS ARE THROWN IN.
- 21 Q WELL, WHY JUST PEOPLE IN GENERAL?
- 22 A WE HAVEN'T DONE THAT. WE DON'T DO THAT.
- 23 Q SO WHAT'S THE NUMBER OF PEOPLE IN GENERAL?
- 24 A I DON'T KNOW.
- 25 Q THEN ARE YOU SAYING THAT ONLY A BLACK PERSON—

AGENT GALLMAN - CROSS-EXAMINATION BY MR. ANDERSON

1 A NO, I'M NOT.

2 Q —CAN HAVE SEX WITH A BLACK PERSON?

3 A NO, I'M NOT. LET ME FINISH MY STATEMENT.

4 Q OKAY.

5 A WHAT I'M SAYING IS THAT WE HAVE -- WE DO ALL THESE DATA BASES.
6 RIGHT? WE LOOK FOR THE MOST CONSERVATIVE FREQUENCY. SO IF THE MOST
7 CONSERVATIVE FREQUENCY POPPED OUT OF THE CAUCASIAN DATA BASE, THEN
8 THAT'S THE FREQUENCY THAT IS PLACED IN MY REPORT. IT HAS NOTHING TO DO
9 WITH WHETHER SOMEONE IS BLACK OR WHITE OR HISPANIC.

10 Q OKAY. BUT WHAT ABOUT ALL THESE COMBINED INTO ONE? IS THE
11 NUMBER GONNA BE HIGHER OR LOWER IF YOU JUST HAVE ALL PEOPLE COME
12 INSTEAD OF BREAKIN' IT DOWN?

13 A WHAT I WOULD DO IS IF YOU WANNA COMBINE 'EM WHAT YOU DO IS YOU
14 ADD THEM TOGETHER AND THEN DIVIDE THEM BY 4 TO GIVE YOU THE MEAN AND
15 THAT WOULD GIVE YOU THE FREQUENCY OF ALL THOSE DATA BASES COMBINED
16 TOGETHER.

17 Q JUST OUT OF ALL THOSE NUMBERS, THAT WOULD BE LOWER.

18 A LOWER THAN WHAT?

19 Q ONE IN 3500.

20 A NO, IT WOULD NOT.

21 Q IT WOULD NOT BE?

22 A NO. BECAUSE, SEE, THAT'S 10 TO THE FIFTH, TEN TO THE FIFTH, TEN TO THE
23 FIFTH. THIS IS ONLY ONE WITH TEN TO THE THIRD FOR THE 3500. THE LEAST YOU
24 WOULD GET IT 10 TO THE FOURTH. WOULDN'T YOU THINK?

25 Q I DON'T KNOW. ALL RIGHT. THANK YOU.

1 MR. ANDERSON: JUDGE, I JUST WASTED A LOTTA TIME. I'M SORRY.

2 THE COURT: IS THERE ANY ISSUE FOR ME TO RULE ON?

3 MR. ANDERSON: JUDGE, I WOULD JUST MOVE THAT SHE'S NOT AN EXPERT
4 IN STATISTICS AND SHE SHOULDN'T BE ALLOWED TO TESTIFY AS ONE IN
5 ANYTHING. AND I JUST DON'T THINK - SHE SAYS THE COMPUTER TELLS HER
6 THAT. SHE'S NOT A STATISTICIAN. SO I WOULD OBJECT TO ANY OF THE NUMBERS.

7 MS. BRISBIN: NO OBJECTION TO NOT GOING INTO THE STATISTICS, YOUR
8 HONOR.

9 THE COURT: WELL, THAT'S FINE EXCEPT I STILL DON'T UNDERSTAND HOW
10 SHE SAYS IT'S A MATCH.

11 MS. BRISBIN: WELL, APPARENTLY HE WANTS TO TAKE HER WORD FOR IT.

12 MR. ANDERSON: WELL, JUDGE, I DON'T UNDERSTAND EITHER. AND I'M
13 HOPIN' THE JURY DOESN'T UNDERSTAND FRANKLY.

14 THE COURT: SHE HASN'T EXPLAINED HOW THAT THE INDIVIDUAL
15 COMPONENTS OF THE DNA PROFILE EITHER MATCHED OR DID NOT MATCH.

16 MS. BRISBIN: I COULD HAVE HER EXPLAIN THAT FURTHER.

17 THE COURT: AND SHE SAYS THAT ONLY - IF I UNDERSTOOD IT CORRECTLY
18 WHEN SHE'S TALKIN' ABOUT THIS STATISTICAL STUFF, SHE WAS ONLY ABLE TO
19 DELINEATE TWO OUT OF 13. SO I DON'T KNOW - SEE, I MEAN LIKE FINGERPRINT
20 ANALYSIS - I'VE HEARD DNA TESTIMONY BEFORE BUT QUITE HONESTLY I'VE
21 NEVER HEARD IT DONE LIKE THIS. AND THAT'S NOT A CRITICISM; THAT'S JUST A
22 STATEMENT OF FACT. IN ORDER TO HAVE A FINGERPRINT MATCH YOU'VE GOTTA
23 HAVE SO MANY POINTS THAT SHOW UP OR YOU CAN'T SAY IT'S A MATCH. SHE
24 SAYS IT'S A MATCH. I DON'T KNOW HOW SHE REACHED THAT CONCLUSION, AND I
25 DON'T KNOW IF SHE HAS TO GET INTO STATISTICS TO BE ABLE TO REACH THAT

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 CONCLUSION, AND AS I SAID EARLIER, I UNDERSTAND THE WORDS SHE'S SAYING,
2 BUT I DON'T - I DON'T KNOW HOW THE MATCH COMES ABOUT AND I APOLOGIZE,
3 BUT I JUST - I DON'T. SHE MAY CAN EXPLAIN THAT IN A WAY THAT I CAN
4 UNDERSTAND.

5 MS. BRISBIN: DO YOU WANNA DO THAT IN CAMERA?

6 THE COURT: WELL, I'M CONCERNED THAT - YEAH, I WANT TO KNOW HOW
7 SHE SAYS IT'S A MATCH.

8 MS. BRISBIN: OKAY.

9 DIRECT EXAMINATION

10 BY MS. BRISBIN

11 Q COULD YOU EXPLAIN WHEN YOU SAY IT'S A MATCH, WHAT IS THAT BASED
12 ON?

13 A OKAY. I'M GONNA GO BY MY DNA REPORT THAT I GENERATED. I WAS
14 GONNA GIVE YOU EXAMPLES OF DIFFERENT AREAS ON THE DNA AND MAYBE
15 THAT WOULD EXPLAIN WHY I COULD NOT USE CERTAIN SITES FOR THE
16 FREQUENCY, BUT IT'S STILL A MATCH. LET'S SAY I LOOK AT WHAT'S TERMED
17 D3S1338 WHICH IS A AREA ON THE CHROMOSOME. MS. H. DNA PROFILE AT
18 THAT PARTICULAR AREA IS A 16/17. MR. PRESSLEY'S AT THAT PARTICULAR AREA
19 IS A 15/17. SHE'S A 16/17; HE'S A 15/17. THAT MEANS THAT AT THAT SITE BOTH OF
20 THEM HAVE A 17 ALLELE. SINCE THERE'S A SMALL AMOUNT OF DNA DONATION
21 FROM THE SUBJECT, AND SHE IS THE MAJOR CONTRIBUTOR IN THE SAMPLE, WHEN
22 I LOOK AT THAT AREA, AND WE ONLY HAVE 3 PEAK SHOWING UP, BASED ON OUR
23 POLICY, IF IT'S LIKE THAT, THEN I CANNOT USE THAT IN THE FREQUENCY, BUT THE
24 ONLY ALLELES THAT ARE THERE OR PEAKS THAT ARE THERE ARE 15, 16 AND 17.
25 THERE'S NO ONE ELSE'S PRINT THERE EXCEPT FOR MS. H. AND MR. PRESSLEY.

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 SO I WENT THROUGH ALL OF THE SITES ON THE DNA, AND I LOOKED AT EACH ONE
2 AS TO WHICH ONES THAT WERE NOT OVERLAPPING PATTERNS. THEY WERE
3 SEPARATE AND THERE WERE ONLY 2 THAT COULD BE USED AND THE FREQUENCY.
4 BUT THERE WAS NO SITE OUT OF THE 13 THAT WOULD SAY THAT HE IS EXCLUDED
5 AS BEING THE DONOR OF THE SEMEN. BECAUSE AT EACH AREA YOU WOULD SEE
6 HIS DONATION. THE NEXT AREA, SHE'S A 15/17; HE'S A 16/17. THERE'S A 15, 16, 17
7 SHOWING UP. THE NEXT AREA SHE'S A 20/26; HE'S A 21/25. YOU SEE A 20, 21, 25, 26
8 SHOWING UP. THE NEXT AREA SHE'S A 12/14 AND HE'S ALSO A 12/14. THE NEXT
9 ONE SHE'S 27/31; HE'S A 29/30. YOU SEE A 27, 29, 30, 31 SHOWING UP. AND YOU GO
10 THROUGH ALL 13 LIKE THAT.

11 Q SO WHAT YOU'RE SAYING IS THAT THESE PEAKS ON THE GRAPH MATCH -
12 HIS AND HERS MATCH ON ALL 13 LOCI BUT YOU'RE ONLY ALLOWED TO TALK
13 ABOUT 2 OUT OF THOSE 13 BECAUSE YOU DIDN'T HAVE ENOUGH OF HIS SAMPLE TO
14 MAKE THE PEAK GO HIGHER.

15 A THAT'S CORRECT.

16 Q THANK YOU.

17 THE COURT: THE PEAK GO HIGHER OF WHAT?

18 A WHEN THE INFORMATION COMES OFF THE COMPUTER ONCE THE ANALYSIS
19 IS DONE, YOU SEE IT'S PEAKS ON A GRAPH, AND BASED ON THE QUANTITY OF DNA
20 THAT'S THERE IS HOW HIGH THE PEAK IS GOING TO BE. SO IF YOU HAVE--

21 THE COURT: WHERE'S THE GRAPH?

22 A IT'S CALLED AN ELECTROPHAROGRAM (PHONETIC).

23 THE COURT: AND WHAT'S ITS MEASURE? THE VOLUME OF THE SAMPLE?

24 A IT'S MEASURING THE PEAK. IT'S MEASURING PEAK HEIGHTS.

25 THE COURT: WHAT THE HECK IS A PEAK HEIGHT?

1 A I'M GETTING READY TO TELL YOU RIGHT NOW.

2 THE COURT: ALL RIGHT. I'LL BE GLAD TO HEAR IT.

3 A OKAY.

4 MR. ANDERSON: YOUR HONOR, I'D ASK WHAT SHE'S REFERRING TO TO
5 ANSWER THAT QUESTION.

6 THE COURT: I DON'T WANT TO GET ANYMORE CONFUSED THAN I AM RIGHT
7 NOW. WHAT'S A PEAK HEIGHT?

8 A OKAY. IT'S CALLED R.F.U.'S.

9 THE COURT: THAT DOESN'T TELL ME A THING.

10 MR. ANDERSON: JUDGE, SHE—

11 A IT'S A UNIT OF MEASUREMENT. THAT'S WHAT IT IS.

12 THE COURT: WHAT IS IT MEASURING? THAT WAS MY QUESTION. WHEN I
13 ASKED YOU WHAT IS GRAFTING I WAS—

14 MR. ANDERSON: JUDGE, I'M SORRY. BUT SHE'S READIN' SOMETHIN'—

15 THE COURT: LET ME ASK THE QUESTIONS AND THEN YOU CAN ASK 'EM,
16 BUT DON'T KEEP INTERRUPTING ME, PLEASE.

17 MR. ANDERSON: I'M SORRY, BUT SHE MIGHT BE READIN' THE DICTIONARY
18 AND SHE MIGHT NOT KNOW WHAT SHE'S TALKIN' ABOUT, JUDGE. I'M SORRY.
19 SHE'S LOOKIN' AT SOMETHIN'.

20 THE COURT: SIT DOWN, MR. ANDERSON.

21 MR. ANDERSON: YES, SIR.

22 THE COURT: SHE CAN READ. I DON'T CARE WHAT SHE READS IT FROM.
23 THERE'S NO JURY OVER THERE TO HEAR IT. I WANT TO HEAR WHAT SHE'S
24 EXPLAINED IT.

25 A IT'S MEASURING PEAK HEIGHTS. AND WHEN I SAY IT'S MEASURING PEAK

1 HEIGHTS, THERE'S A - IT GOES FROM 0 TO 6000 AND WITHIN THAT RANGE, YOU -
2 IT'S JUST LIKE A RULER. AND--

3 THE COURT: OKAY. I KNOW WHAT A RULER MEASURES. A RULER
4 MEASURES LENGTH.

5 A SO THAT'S WHAT IT'S DOING. HOW HIGH--

6 THE COURT: IT'S MEASURING LENGTH?

7 A IT'S MEASURING HOW HIGH ON THIS PARTICULAR GRAPH. THIS RULER
8 THAT'S THIS PEAK COME UP.

9 THE COURT: AND WHAT DOES IT MEASURE?

10 A LET'S SAY A GRAPH GO FROM 0 TO 6000 UNITS.

11 THE COURT: OF WHAT? SOMEBODY BETTER EXPLAIN THIS TO ME OR SHE'S
12 NOT GOING TO BE ABLE TO TESTIFY.

13 MS. BRISBIN: CAN WE TAKE A BREAK, YOUR HONOR?

14 MR. ANDERSON: SO, YOUR HONOR, SHE'S STILL UNDER OATH AND
15 THEY'RE GONNA TRY TO COACH HER. (THERE WAS A BRIEF RECESS.)

16 THE COURT: ALL RIGHT. THE LAWYERS HAVE TALKED TO ME AND I MEAN
17 I UNDERSTAND THE GRAPH NOW, AND I JUST DON'T SEE WHERE WE'RE
18 ACCOMPLISHING ANYTHING BY GOING FORWARD WITH ANYMORE OF THIS. SHE'S
19 AN EXPERT WITNESS. SHE CAN TESTIFY AND THEN THE STATE HAS SAID THEY'RE
20 NOT GONNA GO INTO STATISTICAL MATTERS. THE DEFENSE MAY WISH TO. IT'S UP
21 TO THEM.

22 MR. ANDERSON: WELL, JUDGE, I'LL WITHDRAW MY OBJECTION TO THE
23 STATISTICAL MATTERS.

24 THE COURT: ALL RIGHT. I APOLOGIZE IF I CAN'T ARTFULLY PHRASE A
25 QUESTION, BUT, BASICALLY, I UNDERSTOOD WITHIN 10 SECONDS WHAT THE

AGENT GALLMAN - DIRECT EXAMINATION BY MS. BRISBIN

1 LAWYERS TOLD ME, AND I WAS HAVING SOME DIFFICULTY UNDERSTANDING
2 WHAT THE WITNESS IS TALKING ABOUT. BRING THE JURY IN. (THE FOLLOWING
3 OCCURRED IN THE PRESENCE OF THE JURY.) ALL RIGHT. YOU MAY CONTINUE,
4 SOLICITOR.

5 MS. BRISBIN: THANK YOU, YOUR HONOR.

6 DIRECT EXAMINATION

7 BY MS. BRISBIN

8 Q AGENT GALLMAN, IN YOUR OPINION TO A REASONABLE DEGREE OF
9 SCIENTIFIC CERTAINTY WERE THE SAMPLES IN THE VAGINAL SWAB AND THE
10 SUSPECTED SEMEN SWAB, THE DNA FROM THOSE SAMPLES A MATCH WITH THE
11 DNA FROM THE DEFENDANT'S BLOOD?

12 MR. ANDERSON: AND, YOUR HONOR, I HAVE TO OBJECT FOR LACK OF
13 FOUNDATION.

14 THE COURT: OVERRULED. YOU MAY ANSWER THE QUESTION.

15 A THE DNA PROFILE THAT WAS DEVELOPED FROM ITEM 1.7 AND ITEM 1.10
16 CONTAINS THE DNA PROFILE - WELL, THE SEMEN THAT WAS FOUND ON ITEM 1.7
17 AND 1.10 MATCH THE DNA PROFILE OF EARNEST PRESSLEY.

18 Q AND WHAT DO YOU MEAN BY ITEM 1.7 AND 1.10?

19 A THE VAGINAL SWAB WAS ITEM 1.7 AND SUSPECTED SEMEN SWAB IS ITEM
20 1.10.

21 MS. BRISBIN: YOUR HONOR, I WOULD MOVE TO ADMIT INTO EVIDENCE
22 STATE'S EXHIBITS 4, 5, 2 AND 1 AT THIS TIME.

23 THE COURT: ALL RIGHT. SUBJECT TO PREVIOUS OBJECTION, ARE THERE
24 ANY OTHER OBJECTIONS?

25 MR. ANDERSON: JUST MY PREVIOUS ONES, JUDGE. THANK YOU.

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 THE COURT: MARK THEM IN EVIDENCE PLEASE, MA'AM. (STATE'S
2 EXHIBITS 1, 2, 4 AND 5 RECEIVED IN EVIDENCE.)

3 MS. BRISBIN: I DON'T HAVE ANY FURTHER QUESTIONS FROM THIS WITNESS
4 AT THIS TIME.

5 THE COURT: CROSS-EXAMINATION

6 MR. ANDERSON: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION

8 BY MR. ANDERSON

9 Q DNA TESTING IS A PROCESS WHERE YOU REALLY EXCLUDE PEOPLE MORE
10 THAN INCLUDING PEOPLE. ISN'T THAT TRUE?

11 A IT DEPENDS ON THE EVIDENCE WHETHER YOU'RE INCLUDING OR
12 EXCLUDING.

13 Q ALL RIGHT. TELL ME WHAT THAT MEANS.

14 A WELL, IT COULD BE THAT - LET'S SAY I RECEIVE A HUNDRED CASES, I
15 DON'T KNOW THE DETERMINATION OF OUT THAT HUNDRED HOW MANY I WILL
16 EXCLUDE THE SUBJECT OR HOW MANY I WILL INCLUDE.

17 Q ISN'T THE WHOLE PROCESS EXCLUDING THINGS? YOU COMPARE AND
18 EXCLUDE THINGS AND TAKE THEM OUT OF THE EQUATION?

19 A THE PROCESS IS LOOKING AT THE EVIDENCE AND THE STANDARD AND
20 MAKIN' A COMPARISON TO WHETHER YOU CAN EXCLUDE OR NOT.

21 Q YOU DO THIS WITH THE NAKED EYE?

22 A THAT'S THE FIRST STEP.

23 Q DID YOU DO THAT WITH THE NAKED EYE?

24 A THE RESULTS THAT I GET FROM THE DNA PROFILE I LOOK AT THEM AND
25 SEE IF THERE IS A MATCH OR IT DOES NOT MATCH.

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 Q SO YOU ACTUALLY SEE THE DNA ITSELF.

2 A THE RESULTS ARE GENERATED THROUGH A COMPUTER.

3 Q SO YOU NEVER ACTUALLY LOOK THROUGH A MICROSCOPE TO SEE THE
4 DNA YOURSELF.

5 A NO, I DON'T.

6 Q SO YOU STICK THIS UP IN YOUR COMPUTER AND THE COMPUTER TELLS
7 YOU WHATEVER IT TELLS YOU.

8 A I DO THE EXTRACTIONS ON THE DNA. I CARRY THE DNA THROUGH THE
9 PROCESSES. AND THEN THE RESULTS COME THROUGH THE COMPUTER, YES.

10 Q SO YOU NEVER SEE THE DNA AND YOU NEVER LOOK AT IT THROUGH A
11 MICROSCOPE. AND YOU SAY AH THERE'S THAT AND THERE'S THAT. THIS LOOKS
12 LIKE A MATCH TO ME. YOU NEVER DO THAT.

13 A NO, 'CAUSE WHEN YOU LOOK AT DNA THROUGH A MICROSCOPE, NAKED
14 DNA LOOKS THE SAME. YOU HAVE TO LOOK AT THE MAKEUP OF THE DNA.

15 Q OKAY. AND WHO MAKES THIS COMPUTER THAT YOU USE?

16 A WELL, THE ONE WE USIN' NOW BY GATEWAY. YOU MEAN THE PROGRAM,
17 THE SOFTWARE?

18 Q I DON'T UNDERSTAND ANY OF IT, SO YOU TELL ME.

19 A OKAY. THE SOFTWARE IS GENERATED BY A COMPANY NAMED A.B.I.
20 OUTTA CALIFORNIA. BUT IT HAD TO BE INSPECTED BY THE F.B.I. AND THE
21 FORENSIC COMMUNITY BEFORE WE COULD UTILIZE IT IN OUR LABORATORIES.

22 Q SO IT COMES ON A DISK?

23 A SOFTWARE, YES.

24 Q AND YOU PUT IT ON JUST A LAPTOP COMPUTER OR WHAT?

25 A IT CAN'T BE PUT ON A LAPTOP, BUT WE USE DESKTOP.

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 Q AND THEN YOU STICK THIS STUFF INTO SOME OTHER COMPUTER AND
2 COME UP WITH A READING?

3 A THE INFORMATION THAT COMES THROUGH THE INSTRUMENTATION THE
4 CAPILLARY ELECTROPHORESIS INSTRUMENTATION IS THEN GENERATED BY THE
5 COMPUTER.

6 Q OKAY. WHAT DOES THAT COMPUTER LOOK LIKE?

7 A WHICH ONE.

8 Q THE ONE YOU JUST SAID THAT I CAN'T PRONOUNCE.

9 A THE C.E.?

10 Q OKAY.

11 A IT SITS ON THE TABLETOP, AND IT'S PRETTY LARGE AND THE SAMPLES
12 THAT YOU HAVE YOU PUT THEM IN THE C.E., AND IT TAKES EACH SAMPLE AND
13 THEN GENERATES A DNA PROFILE FROM THAT.

14 Q AND WHAT IS THE SAMPLE THAT YOU STICK INTO THOSE. THIS COTTON
15 SWATCH WITH BLOOD ON IT?

16 A NO. IT'S JUST EXTRACTED DNA.

17 Q YOU NEVER TALKED ABOUT EXTRACTED DNA. I THOUGHT YOU SAID YOU
18 PUT IT ONTO A COTTON SWAB.

19 A THE COTTON SWAB IS PLACED IN A TUBE.

20 Q YES.

21 A WITH SOLUTION THAT BREAKS OPEN THE CELLS TO EXTRACT THE DNA.

22 Q OKAY. AND THEN THAT TUBE IS PUT IN THE COMPUTER?

23 A THAT TUBE IS USED TO AMPLIFY THE DNA, TAKE IT THROUGH P.C.R., AND
24 THEN IT'S PUT ON THE INSTRUMENT, THE C.E.

25 Q WHAT'S PUT ON THE C.E.? WHAT IS IT? A DROP OF LIQUID?

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 A YES. IT'S A SOLUTION THAT CONTAINS HIS DNA.

2 Q HOW DOES THE SOLUTION GET OUT OF THE TUBE AND FALL INTO THE
3 COMPUTER?

4 A THE TUBE IS MOVED FROM ONE INSTRUMENT TO ANOTHER.

5 Q BY WHO?

6 A BY ME.

7 Q OKAY. WHAT INSTRUMENT IS MOVED FROM—

8 A THE THERMOCYCLER (PHONETIC).

9 Q WHAT IS THAT?

10 A THAT'S WHERE P.C.R. IS TAKIN' PLACE IN THERE, THE AMPLIFICATION OF
11 THE DNA, AND YOU REMOVE THAT TUBE FROM THE THERMOCYCLE AND THEN
12 PLACE IT IN THE C.E.

13 Q ONE THING I DO UNDERSTAND MAYBE IS THAT ISN'T P.C.R. THE LEAST
14 PRECISE OF ALL THE DNA TESTING METHODS?

15 A I WOULDN'T SAY -- PRECISE?

16 Q YES.

17 A AS IN? WOULD YOU GIVE ME AN EXAMPLE.

18 Q WHAT'S THAT P.L.F.R.? WHAT'S THAT? THE ONE WITH 4.

19 A OH. R.F.L.P.

20 Q ALL RIGHT. WHAT'S THAT? WHICH ONE IS MORE PRECISE? THAT OR
21 P.C.R.? ISN'T IT TRUE THAT THE FIRST ONE, THE 4-LETTER ONE IS MORE PRECISE
22 THAN P.C.R. AND THAT YOU DO P.C.R. WHEN YOU HAVE LESS OF A DNA SAMPLE?

23 A IT'S A DIFFERENT DNA TEST.

24 Q BUT YOU HAVE LESS OF A QUANTITY TO MEASURE. LESS THAN A QUAN -
25 STRIKE THAT. YOU HAVE LOWER QUANTITY OF AN ITEM TO BE TESTED, AND P.C.R.

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

- 1 YOU CAN USE THAT.
- 2 A WITH P.C.R. IF YOU HAVE A SMALL QUANTITY OF DNA YOU CAN GENERATE
- 3 A DNA PROFILE. WITH R.F.L.P. YOU COULD GENERATE A DNA PROFILE BUT WE
- 4 WEREN'T ABLE TO VISUALIZE THE RESULTS FROM THE TEST.
- 5 Q OKAY. R.F.L.P. IS MORE PRECISE THAN P.C.R. ISN'T THAT TRUE?
- 6 A THEY'RE TWO DIFFERENT TESTS. PRECISE AS IN WHAT MANNER? I CAN'T-
- 7 .
- 8 Q CAN GIVE YOU A MORE DEFINITIVE RESULT.
- 9 A THE R.F.L.P. AREAS THAT YOU LOOK AT ON THE DNA ARE MORE
- 10 POLYMORPHIC THAN WITH P.C.R. DISTINCTIVE THAN WITH P.C.R.
- 11 Q OKAY.
- 12 A IS THAT WHAT YOU MEAN?
- 13 Q I GUESS. LET ME ASK YOU THIS: YOU REMEMBER WHEN SOUTH CAROLINA
- 14 STARTED MAKING ALL PEOPLE CONVICTED OF FELONIES GIVE A DNA SAMPLE?
- 15 A YES.
- 16 Q AND Y'ALL HAVE A BANK AT SLED OF ALL THE PEOPLE THAT HAVE
- 17 COMMITTED FELONIES. ISN'T THAT TRUE?
- 18 A NOT ALL OF 'EM BUT WE HAVE A BANK OF CONVICTED FELONS.
- 19 Q OKAY. AND YOU NEVER - YOU GOT THIS SAMPLE - THE ALLEGED
- 20 VICTIM'S PACKET CAME TO YOU IN DECEMBER 2001. ISN'T THAT RIGHT?
- 21 A YES.
- 22 Q AND YOU NEVER RAN ANY OF THESE TESTS THEN, DID YOU?
- 23 A THROUGH THE DATA BASE?
- 24 Q YOU DIDN'T RUN A SINGLE TEST ON P. H. PACKET UNTIL
- 25 AFTER YOU RECEIVED EARNEST'S PACKET. ISN'T THAT TRUE?

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 A THE FIRST TEST I DID WAS TO ESTABLISH WAS WE HAD SEMEN AND I DID
2 THAT. ARE YOU REFERRING TO—

3 Q ALL RIGHT. YOU DID THE SEMEN TEST.

4 A YEAH.

5 Q THEN YOU JUST PUT THE PACKET WHERE?

6 A BACK IN MY DEN.

7 Q AND IT JUST SAT THERE UNTIL AFTER YOU GOT HIS PACKET.

8 A TO GET THE SUSPECT THEN SO WE COULD DO ALL OF IT -- DO ALL OF THE
9 TESTING AT APPROXIMATELY THE SAME TIME TO GENERATE THE REPORT.

10 Q WOULDN'T IT LOOK BETTER IF YOU DID IT WHEN YOU GOT IT AND BEFORE
11 YOU GOT HIS? WOULDN'T THAT JUST LOOK BETTER THAN WAITIN' TILL YOU GOT
12 THE SUSPECT'S SAMPLE?

13 A NO. WE WANT TO GENERATE ALL THE INFORMATION AT THE SAME TIME.
14 THAT WOULDN'T CAUSE IT TO EXCLUDE OR INCLUDE HIM IF HE WAS NOT THE
15 PERSON.

16 Q ALL RIGHT. WELL, IF YOU'RE LIKE SOME PEOPLE AND YOU DON'T TRUST
17 THIS WHOLE PROCESS, OKAY, WOULDN'T IT JUST LOOK BETTER TO JUST TEST IT
18 WHEN YOU GET IT UNTIL WAITIN' TILL YOU GET THE SUSPECT'S SAMPLE.

19 A TEST IT AS IN—

20 Q DO ALL THESE TESTS THAT YOU'RE TALKIN' ABOUT. WHY DIDN'T YOU DO
21 THAT BEFORE?

22 A OKAY. YOU'RE SAYIN' IF I GENERATE A DNA PROFILE FROM THE SEMEN
23 AND—

24 Q YEAH.

25 A —THEN -- AND THEN WHAT?

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

- 1 Q HAVE ALL YOUR FIGURES. WHEN YOU RUN IT AND YOU GET A PRINTOUT
2 OF SOMETHIN' FROM THE COMPUTER AS TO WHAT THE DNA IS. RIGHT?
- 3 A YES.
- 4 Q AND YOU DON'T NEED THE SUSPECT TO RUN THE ALLEGED VICTIM'S, DO
5 YOU?
- 6 A NO.
- 7 Q AND YOU COULD'VE DONE THAT. RIGHT?
- 8 A YES. BUT OUR POLICY IS THAT IF THERE IS A KNOWN SUSPECT IN A
9 PARTICULAR CASE, THEN THAT CASE IS DONE WHEN ALL OF THE EVIDENCE IS
10 SUBMITTED.
- 11 Q ABOUT THE SAME TIME.
- 12 A APPROXIMATELY.
- 13 Q SO THAT STUFF JUST SAT THERE IN YOUR BIN FOR HOW LONG BEFORE YOU
14 ACTUALLY DID THE TESTING?
- 15 A I DID THE EXTRACTIONS IN FEBRUARY 2002.
- 16 Q AND WHEN DID YOU DO THE TESTING?
- 17 A THAT'S WHEN I STARTED IT, THE TESTING.
- 18 Q HOW LONG DID THE TESTING TAKE?
- 19 A THE SAMPLES WERE PUT ON THE C.E. IN MARCH OF 2002.
- 20 Q OKAY. AND WHEN DID THE C.E. GIVE YOU A PRINTOUT?
- 21 A IT DOES IT THAT'S WHEN IT STARTS GIVIN' YOU RESULTS.
- 22 Q WELL, WHY IS IT THE STUFF THAT I HAVE HAS JUNE 14TH AND JUNE 11TH?
- 23 A THAT'S WHEN I PRINTED OUT THE INFORMATION OFF THE COMPUTER. I
24 DON'T HAVE TO PRINT IT OUT TO LOOK AT IT. I CAN LOOK AT IT ON THE COMPUTER
25 SCREEN.

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1
2 Q SO THIS STUFF, THIS DNA THAT YOU SAY LINKS EARNEST TO THIS CASE,
3 SAT IN THE COMPUTER FROM MARCH TILL JUNE?

4 A YEAH.

5 Q OKAY. AND YOU NEVER PRINTED IT OUT.

6 A NO, I DIDN'T PRINT IT OUT.

7 Q AND YOU NEVER ACTUALLY LOOKED AT THE DNA.

8 A I ANALYZED IT. I DID THE ANALYSIS ON IT, BUT I DIDN'T PRINT IT OUT OFF
9 THE COMPUTER. I DIDN'T GENERATE A PRINTOUT.

10 Q AND THAT WHOLE TIME THAT YOU'VE GOT P. PACKAGE SITTING
11 IN THERE IN YOUR BIN, OKAY, DOIN' NOTHIN' WITH IT, YOU'VE GOT A WHOLE
12 BANK OF STUFF FROM OTHER FELONS THAT YOU COULD'VE RUN IT AND
13 COMPARED IT AGAINST. COULDN'T YOU?

14 A LIKE I SAY, IF YOU HAVE A KNOWN SUSPECT IN A PARTICULAR CASE, THE
15 EVIDENCE IS NOT RAN UNTIL YOU GET ALL OF YOUR STANDARDS, ALL OF YOUR
16 EVIDENCE IN AT THE SAME TIME.

17 Q AND I THOUGHT THIS WHOLE THING WAS SUPPOSED TO BE OPEN-MINDED,
18 BUT YOU'RE NOT. YOU GOT SOMEBODY THAT THEY SAY DID IT, YOU'RE JUST
19 GONNA RUN THAT FIRST.

20 A WELL, I RUN THAT PERSON, AND ALSO THAT PARTICULAR PROFILE WAS
21 PUT INTO THE DATA BASE.

22 Q ALL RIGHT. NOW YOU TESTIFIED EARLIER THAT WHEN YOU GOT THE
23 PACKET IN YOUR BIN IT HAS NOT BEEN ALTERED OR OPENED OR MESSED WITH IN
24 ANY WAY.

25 A IT WAS SEALED.

Q ALL RIGHT. NOW YOU ALSO TESTIFIED THAT ONE PERSON GETS THE

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 SALIVA; ONE PERSON GETS THE BLOOD, AND ONE PERSON GETS THE BODY HAIRS.
2 SO HOW IS IT THAT IF THIS THING WAS UNOPENED AND UNALTERED, YET IT HAS
3 ALL THAT IN IT, AND YOU ONLY GET BLOOD, HOW DO YOU GET IT AND IT HADN'T
4 BEEN OPENED?

5 A WHEN THEY COLLECT - NOT THAT PARTICULAR THE POUCH, THE PLASTIC
6 BAG--

7 Q UH-HUH.

8 A --THAT WAS SEALED AND PLACED IN THE DNA BOX IS THE POUCH THAT
9 I'M SPEAKING OF.

10 Q THIS THING RIGHT HERE, THIS WHICH IS MARKED 5 AND 4.

11 A YES.

12 Q THESE PACKETS WERE UNALTERED--

13 A THEY WERE PLACED IN THE DNA BOX.

14 Q OKAY. WHAT WAS IN 'EM?

15 A THAT PARTICULAR - THE ONE THAT YOU HAVE IN YOUR HAND IS THE
16 SUSPECT KIT.

17 Q UH-HUH.

18 A AND WHAT WAS IN IT WAS THAT BAG, THE SALIVA STANDARD AND THE
19 TUBE OF BLOOD.

20 Q OKAY. WHERE WAS THE PUBIC HAIR THAT WAS IN THERE?

21 A I DON'T RECEIVE THOSE.

22 Q ALL RIGHT. WHERE WAS IT?

23 A I DON'T KNOW. I DON'T RECEIVE THOSE. THEY WERE NOT IN MY POUCH.

24 Q WELL, DID SLED RUN THE PUBIC HAIR TESTING TO COMPARE THE PUBIC
25 HAIR THAT THEY COLLECTED FROM [P.] IN THE EMERGENCY ROOM WITH

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 THE PUBIC HAIR THEY TOOK FROM EARNEST?

2 A IF THEY WERE COLLECTED THEY WOULD'VE GONE TO THE TRACE
3 DEPARTMENT.

4 Q WELL, LET ME ASK YOU THIS: THIS PACKET IS A SLED PACKET. RIGHT?
5 FOR COLLECTION OF EVIDENCE.

6 A IT IS.

7 Q AND IS IT THE SAME AS THE PACKET HERE?

8 A NO, IT'S NOT.

9 Q OKAY. WELL, ISN'T PUBIC HAIR PART OF THIS PACKET?

10 A IF IT'S COLLECTED THERE'S ENVELOPES THERE FOR THEM TO BE
11 COLLECTED.

12 Q ALL RIGHT.

13 A I DON'T KNOW IF THEY WERE COLLECTED OR NOT.

14 Q ALL RIGHT. AND THE MALE NURSE WHO DID THAT IS NOT HERE. RIGHT?

15 A AS FAR AS I KNOW. I DON'T KNOW HIM.

16 Q AND THIS IS WHAT EVERYTHING IS PUT IN. RIGHT?

17 A YES.

18 Q AND IF THE NURSE DID EVERYTHING HE WAS SUPPOSED TO DO, THEN HE
19 WOULD'VE PUT ALL THOSE ENVELOPES IN HERE AND SEAL THEM WHICH IS
20 SEALED - IT WAS SEALED AT SOME POINT.

21 A OKAY.

22 Q AND JUST DROP - OFFICER DERRICK TESTIFIED THAT HE DROPPED THIS AT
23 SLED.

24 A HE WOULD BRING IT TO SLED AND JUST LIKE THE C.S.C. KIT, IT SITS IN THAT
25 ENVELOPE. THERE IS A TUBE OF BLOOD IF IT WAS DRAWN FOR TOXICOLOGY AND

AGENT GALLMAN - CROSS-EXAMINATION BY M. ANDERSON

1 PUBIC HAIRS IF THEY WERE TAKEN WOULD'VE BEEN IN THAT ENVELOPE. THE
2 ENVELOPE WOULD'VE BEEN OPENED AND THEN SEPARATED FOR THE GIVEN
3 DEPARTMENTS AND MY BLOOD, THE BLOOD FOR THE DNA LAB AND THE SALIVA
4 WAS THEN PLACED IN THE POUCH FOR THE DNA DEPARTMENT AND PLACED IN
5 THE DNA BOX.

6 Q OKAY. SO YOU DON'T KNOW WHAT HAPPENED TO EARNEST'S HAIR
7 SAMPLES.

8 A NO, I DON'T.

9 Q AND ARE P. HAIR SAMPLES IN HERE STILL?

10 A I DON'T REMEMBER SEEDIN' 'EM. I DON'T THINK THEY SHOULDA BEEN IN
11 HERE. NORMALLY THEY SEPARATE EVERYTHING. SEE, THIS ENVELOPE IT SAYS
12 SEROLOGY SECTION, EVIDENCE DISTRIBUTION ENVELOPE. SO WHAT SHOULD BE
13 IN HERE WOULD BE THE SALIVA, THE BLOOD, THE SEMEN ENVELOPES, IF THERE
14 WERE ANY BITE MARKS, VAGINAL AND RECTAL SLIDES, VAGINAL SWAB, ORAL
15 SWABS, RECTAL SWABS, AND FINGERNAIL SCRAPINGS. ALL THAT'S SUPPOSED TO
16 BE PLACED IN THIS PARTICULAR ENVELOPE AND THEN SEALED.

17 Q OKAY. AND WHO SEALED THAT?

18 A SAYS M.K.W.

19 Q SO DID YOU JUST TESTIFY THAT NURSE WHYTE WOULD NOT HAVE PUT THE
20 PUBIC HAIRS—

21 A WHAT SHOULD'VE GONE IN HERE ARE THESE ITEMS.

22 Q THERE'S NO HAIR IN THERE?

23 A THEY EVEN COLOR CODE IT. SO ALL OF THE RED ONES WOULD GO IN HERE.
24 AND THERE'S NO HAIRS IN HERE.

25 Q AND THEY'RE NOT SUPPOSED TO BE IN THERE.