

IN THE NEVADA SUPREME COURT

Electronically Filed  
Sep 28 2020 08:20 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

---

**Tyrone David James Sr.,**

Petitioner-Appellant,

v.

**State of Nevada/Brian Williams et. al.,**

Respondents-Appellees.

---

On Appeal from the Order Denying Post-Conviction Petition  
Requesting Genetic Marker Analysis (10C265506) &  
Post-Conviction Petition for Writ of Habeas Corpus (A-19-797521-W)  
Eighth Judicial District, Clark County  
Honorable Ronald J. Israel, District Court Judge

---

**Petitioner-Appellant's Appendix to the Opening Brief  
Volume II of V**

---

Rene Valladares  
Federal Public Defender,  
District of Nevada  
\*C.B. Kirschner  
Assistant Federal Public Defender  
411 E. Bonneville Ave., Ste. 250  
Las Vegas, Nevada 89101  
(702) 388-6577  
CB\_Kirschner@fd.org

\*Counsel for Tyrone David James Sr.

## ALPHABETICAL INDEX

1. Court Minutes Re All Pending Motions Hearing, Case No. C265506 ..... 776  
Dated January 16, 2020
2. Court Minutes Re All Pending Motions, Case No. A-19-797521-W ..... 700  
Dated August 19, 2019
3. Court Minutes Re All Pending Motions, Case No. A-19-797521-W ..... 712  
Dated September 25, 2019
4. Court Minutes Re Post Conviction Petition Requesting A Genetic  
Marker Analysis of Evidence Within Possession or Custody of the  
State of Nevada, Case No. 10C265506 ..... 656  
Dated July 29, 2019
5. Court Minutes Re Status Check: Status of Stay/Reset Petition for  
Writ, Case No. A-19-797521-W ..... 713  
Dated November 25, 2019
6. Criminal Complaint, Case No. C265506 ..... 001  
Dated May 18, 2010
7. Findings of Fact, Conclusions of Law and Order, Case Nos. A-19-  
797521-W & 10C265506 ..... 778  
Dated February 25, 2020
8. Index of Exhibits in Support of Petition for Writ of Habeas Corpus  
Part One, Case No. A-19-797521-W ..... 631  
Dated June 27, 2019

9.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part Two, Case No. A-19-797521-W.....	638
	Dated June 27, 2019	
10.	Judgment of Conviction, Case No. C265506.....	599
	Dated February 9, 2011	
11.	Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination- Biology/DNA Detail and Sunrise Hospital Records- <b>FILED UNDER SEAL</b> .....	841
	Dated June 12, 2018	
12.	Minute Order, Case No. A-19-797521-W .....	641
	Dated June 28, 2019	
13.	Motion for Stay of Petition for Writ of Habeas Corpus, Case No. A- 19-797521-W.....	692
	Dated August 8, 2019	
14.	Motion to File Exhibit Under Seal, Case No. A-19-797521-W....	634
	Dated June 27, 2019	
15.	Motion to Preserve and Inventory Evidence, and Proposed Order, Regarding Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506 .....	666
	Dated August 5, 2019	
16.	Notice of Appeal, Case No. 10C265506 .....	839
	Dated February 26, 2020	
17.	Notice of Appeal, Case No. A-19-797521-W .....	837
	Dated February 26, 2020	
18.	Notice of Entry of Findings of Fact, Conclusions of Law and Order, Case No. A-19-797521-W .....	797
	Dated February 26, 2020	

19. Notice of Entry of Findings of Fact, Conclusions of Law and Order, Case No. 10C265506 .....	817
Dated February 26, 2020	
20. Order of Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506 .....	697
Dated August 8, 2019	
21. Order, Case No. 2:18-cv-00900-KJD-GWF .....	606
Dated March 4, 2019	
22. Petition for Writ of Habeas Corpus, Case No. A-19-797521-W .....	610
Dated June 27, 2019	
23. Post-Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	642
Dated July 16, 2019	
24. Reply to State’s Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W .....	706
Dated September 10, 2019	
25. Reply to State’s Supplemental Response to Defendant’s Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	731
Dated December 12, 2019	
26. Second Amended Criminal Complaint, Case No. C265506 .....	003
Dated May 26, 2010	



27. State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and State's Motion to Dismiss, Case Nos. A-19-797521-W & 10C265506 ..... 672  
Dated August 6, 2019
  
28. State's Response to Defendant's Petition Requesting Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 651  
Dated July 23, 2019
  
29. State's Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W..... 701  
Dated September 4, 2019
  
30. State's Supplemental Response to Defendant's Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 714  
Dated December 9, 2019
  
31. Transcript of Defendant's Motion to Reconsider Motion to Admit Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury Trial Volume I, Case No. C265506 ..... 005  
Dated September 21, 2010
  
32. Transcript of Jury Trial Volume II, Case No. C265506 ..... 286  
Dated September 22, 2010
  
33. Transcript of Jury Trial Volume III, Case No. C265506..... 516  
Dated September 23, 2010
  
34. Transcript of Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 657  
Dated July 29, 2019

35. Transcript of Post-Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506.....	760
Dated January 13, 2020	
36. Transcript of Status Check: Status of Stay/Reset Petition for Writ, Case No. A-19-797521-W .....	744
Dated January 13, 2020	
37. Unopposed Motion for Appointment of Counsel to Represent Petitioner, Case No. 2:18-cv-00900-KJD-GWF.....	602
Dated February 27, 2019	
38. Verdict, Case No. C265506 .....	597
Dated September 23, 2010	

## **CHRONOLOGICAL INDEX**

### **VOLUME I**

1. Criminal Complaint, Case No. C265506..... 001  
Dated May 18, 2010
2. Second Amended Criminal Complaint, Case No. C265506 ..... 003  
Dated May 26, 2010
3. Transcript of Defendant's Motion to Reconsider Motion to Admit  
Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury Trial  
Volume I, Case No. C265506..... 005  
Dated September 21, 2010

### **VOLUME II**

3. (Cont.) Transcript of Defendant's Motion to Reconsider Motion to  
Admit Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury  
Trial Volume I, Case No. C265506..... 249  
Dated September 21, 2010
4. Transcript of Jury Trial Volume II, Case No. C265506..... 286  
Dated September 22, 2010

### **VOLUME III**

4. (Cont.) Transcript of Jury Trial Volume II, Case No. C265506 . 499  
Dated September 22, 2010
5. Transcript of Jury Trial Volume III, Case No. C265506 ..... 516  
Dated September 23, 2010
6. Verdict, Case No. C265506..... 597  
Dated September 23, 2010

7.	Judgment of Conviction, Case No. C265506.....	599
	Dated February 9, 2011	
8.	Unopposed Motion for Appointment of Counsel to Represent Petitioner, Case No. 2:18-cv-00900-KJD-GWF .....	602
	Dated February 27, 2019	
9.	Order, Case No. 2:18-cv-00900-KJD-GWF .....	606
	Dated March 4, 2019	
10.	Petition for Writ of Habeas Corpus, Case No. A-19-797521-W .....	610
	Dated June 27, 2019	
11.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part One, Case No. A-19-797521-W.....	631
	Dated June 27, 2019	
12.	Motion to File Exhibit Under Seal, Case No. A-19-797521-W ...	634
	Dated June 27, 2019	
13.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part Two, Case No. A-19-797521-W.....	638
	Dated June 27, 2019	
14.	Minute Order, Case No. A-19-797521-W .....	641
	Dated June 28, 2019	
15.	Post-Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	642
	Dated July 16, 2019	

16. State’s Response to Defendant’s Petition Requesting Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	651
Dated July 23, 2019	
17. Court Minutes Re Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	656
Dated July 29, 2019	
18. Transcript of Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 .....	657
Dated July 29, 2019	
19. Motion to Preserve and Inventory Evidence, and Proposed Order, Regarding Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506 .....	666
Dated August 5, 2019	
20. State’s Response to Defendant’s Petition for Writ of Habeas Corpus (Post-Conviction) and State’s Motion to Dismiss, Case Nos. A-19-797521-W & 10C265506 .....	672
Dated August 6, 2019	
21. Motion for Stay of Petition for Writ of Habeas Corpus, Case No. A-19-797521-W .....	692
Dated August 8, 2019	
22. Order of Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506 .....	697
Dated August 8, 2019	
23. Court Minutes Re All Pending Motions, Case No. A-19-797521-W .....	700
Dated August 19, 2019	

24. State's Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W ..... 701  
Dated September 4, 2019
  
25. Reply to State's Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W ..... 706  
Dated September 10, 2019
  
26. Court Minutes Re All Pending Motions, Case No. A-19-797521-W ..... 712  
Dated September 25, 2019
  
27. Court Minutes Re Status Check: Status of Stay/Reset Petition for Writ, Case No. A-19-797521-W ..... 713  
Dated November 25, 2019
  
28. State's Supplemental Response to Defendant's Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 ..... 714  
Dated December 9, 2019
  
29. Reply to State's Supplemental Response to Defendant's Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 ..... 731  
Dated December 12, 2019

## VOLUME IV

30. Transcript of Status Check: Status of Stay/Reset Petition for Writ, Case No. A-19-797521-W ..... 744  
Dated January 13, 2020

- 31. Transcript of Post-Conviction Petition Requesting A Genetic Marker  
Analysis of Evidence Within Possession or Custody of the State of  
Nevada, Case No. 10C265506 ..... 760  
Dated January 13, 2020
  
- 32. Court Minutes Re All Pending Motions Hearing, Case No. C265506  
..... 776  
Dated January 16, 2020
  
- 33. Findings of Fact, Conclusions of Law and Order, Case Nos. A-19-  
797521-W & 10C265506 ..... 778  
Dated February 25, 2020
  
- 34. Notice of Entry of Findings of Fact, Conclusions of Law and Order,  
Case No. A-19-797521-W ..... 797  
Dated February 26, 2020
  
- 35. Notice of Entry of Findings of Fact, Conclusions of Law and Order,  
Case No. 10C265506 ..... 817  
Dated February 26, 2020
  
- 36. Notice of Appeal, Case No. A-19-797521-W ..... 837  
Dated February 26, 2020
  
- 37. Notice of Appeal, Case No. 10C265506 ..... 839  
Dated February 26, 2020

**VOLUME V**  
**FILED UNDER SEAL**

- 38. Las Vegas Metropolitan Police Department Forensic Laboratory  
Report of Examination- Biology/DNA Detail and Sunrise Hospital  
Records ..... 841  
Dated June 12, 2018

Dated this 28<sup>th</sup> day of September, 2020.

Respectfully submitted,

/s/ *CB Kirschner*

C.B. Kirschner

Assistant Federal Public Defender



**CERTIFICATE OF SERVICE AND MAILING**

I hereby certify that this document was filed electronically with the Nevada Supreme Court on September 28, 2020. Electronic Service of the foregoing **Petitioner-Appellant's Appendix to the Opening Brief** shall be made in accordance with the Master Service List as follows:

James Sweetin, District Attorney

/s/ Adam Dunn

An Employee of the  
Federal Public Defender, District of Nevada

1 within just a couple hours of the assault. And mom gets T [REDACTED] a on the phone  
2 because in most middle schools you can't talk on your cellular phone, you can't text  
3 or you'll get your phone taken away. But when mom gets her child on the phone,  
4 her child is crying. And she makes her child give the phone to the teacher and get  
5 her to the principal's office or to somewhere where she can get some help and her  
6 mom can come get her.

7               So her mother comes to get her at school. She's upset, she's crying.  
8 Metro is called. Patrol comes out to the home. Detectives come out to the home.  
9 The child is taken by a patrol officer with her mother to Sunrise Hospital where  
10 she is seen by a nurse practitioner and by Dr. Vergara. And Dr. Vergara does a –  
11 kind of a three stage exam, if you will. They take a history to find out why the child  
12 is there. They do a triage to make sure there is no acute injury, bleeding, broken  
13 bones, something that needs immediate attention, take her respiration, then  
14 ultimately they do a sexual assault examination on this child. And when they look  
15 at her genitalia, there is swelling at the introitus of her vagina, her genital opening,  
16 which we anticipate Dr. Vergara will tell you is consistent with some penetrating  
17 trauma, penetrating – not necessarily an injury because there was not bleeding,  
18 but there was swelling and redness.

19               Thereafter Detectives Tomaino and Hatchett are contacted. They  
20 contact T [REDACTED] a in the E.R. They take her statement. Detective Tomaino  
21 eventually makes contact with Mr. James, who corroborates the fact that he was at  
22 the house and he was there and he did drive the child to the school. So he admits  
23 his presence in that home at that time, at that location with that child. And she's  
24 a teenager, and she'll tell you that when he was with mom she didn't like him.

1           One of the details I did not recount for you – excuse me, it's late in the  
2 day – is when she notices him that day when he's putting his fingers in her vagina,  
3 he has gloves on his hands, the kind of gloves that you would see in a medical  
4 office or the kind of gloves that some people might use to clean the house. About  
5 seven or eight days after this incident, mom is cleaning house. She looks under the  
6 bed and there's an Air Jordan shoe box that's filled with rubber gloves, something  
7 foreign to that location. I mean, there might have been rubber gloves in the house  
8 under the sink, but not under the bed in a shoe box, and she turns those over to  
9 the detectives.

10           You're going to hear about another girl in this case, and her name is  
11 N[REDACTED] C[REDACTED]. N[REDACTED]'s name does not appear in the Information as offenses  
12 for which this defendant stands charged before you today. But her testimony is  
13 relevant to you in a very limited way, as ruled on by this Court. You may look at  
14 what this other young woman has to tell you to measure this defendant's intent,  
15 motive, opportunity and lack of mistake or accident in the immediate offense.

16           In 2005 the defendant was married to Tahisha James. She had a  
17 stepdaughter, N[REDACTED] C[REDACTED]. The defendant shared two children with Tahisha  
18 James. They shared a residence here in Las Vegas. And in March of 2005, the  
19 first time Mr. James successfully got his hands on N[REDACTED] C[REDACTED], he entered  
20 her bedroom, took her to a vacant room in that home, said he needed to check her  
21 vagina and proceeded to digitally penetrate that girl. At that time N[REDACTED] C[REDACTED]  
22 was twelve years old. The second occasion Mr. James perpetrated on N[REDACTED]  
23 was later in March of 2005. He woke her up, took her clothes off, attempted to  
24 get his penis in her vagina, and inartfully ended up putting it in her anal opening.

1 She was twelve years old.

2 The third time Mr. James got his hands on N[REDACTED] C[REDACTED], he  
3 wrestled her until he got her clothes off. She successfully got away from him, got  
4 to the bathroom. She locked the door. He picked the door lock. And against this  
5 child's will, put his penis in her vagina. The last and final time, before she told, he  
6 crawled into bed with her, she began to scream and hit on him. Again, in the middle  
7 of the night, she was asleep on this occasion and he tried to get her underwear off,  
8 and her grandmother caught them and the conduct stopped. Those acts against  
9 N[REDACTED] C[REDACTED] that the State will present to you, again, are for your consideration  
10 as to Mr. James' intent, his opportunity, his motive in touching and sexually  
11 assaulting T[REDACTED], as well as that that sexual assault was not the product of some  
12 type of mistake or accident.

13 That is the substance of the evidence that you will hear in this case.  
14 And again, on behalf of the Clark County District Attorney's Office, the Special  
15 Victim's Unit and myself and Mr. Pandelis, we thank you for your attention.

16 THE COURT: Thank you, Ms. Kollins.

17 Mr. Cox – or I'm sorry, Mr. Page.

18 OPENING STATEMENT

19 BY MR. PAGE:

20 Good afternoon, ladies and gentlemen. I thank you for bearing with us  
21 for a few more minutes of your attention. This is a case – this is a case where the  
22 State is trying to prove zero plus zero equals one, but the evidence will show that  
23 zero plus zero still equals zero.

24 On May 14th, Tyrone James had his day all planned out for him. He

1 was going to run an errand for a good friend of his, Theresa Allen, and then he was  
2 going to go fishing with his grandma. The errand consisted of dropping off a dog  
3 and getting some food, and then also picking up a bill, a power bill so he could go  
4 and pay it for her. Then after that he was going to go pick up his grandma and they  
5 were going to go fishing at Sunset Park the remainder of the day.

6 He arrived at the home of Theresa Allen, 207 North Lamb, and not  
7 expecting anybody to be there, Mr. James planned to quickly run in, drop of the  
8 dog, feed it, grab the bill and get out. However, upon entering the apartment, Mr.  
9 James is surprised to find T [REDACTED] a H [REDACTED] there at home, the 15-year-old daughter  
10 of his friend, Theresa. He first takes care of his business, feeds the dog, grabs the  
11 bill, and as he arrived it was 9:40. He asked her why she wasn't at school and did  
12 she need a ride to go to school. She said yes. She (sic) picked him (sic) up and  
13 he took her to school.

14 Mr. James drops off T [REDACTED] a at school and continues his day as he  
15 planned, to go pick up his grandma. He goes home and gets ready for the fishing  
16 day, and then he receives a call. He receives a call from Theresa. And this is when  
17 Theresa makes him aware of the allegation that T [REDACTED] a is making against him,  
18 sexual assault. He then agrees to immediately turn around, and he goes back and  
19 meets with Theresa. At that point he explained exactly what he did and he denies  
20 the allegation.

21 He then begins again to go on the fishing trip with his grandma. While  
22 he goes out, he's en route to go to Sunset Park, he receives another phone call,  
23 this time from Metro, from the Las Vegas Police Department, and they are asking  
24 him if they can speak with him. And immediately he turns -- he stops, turns around,

1 drops off his grandma and goes and meets with Metro.

2 The evidence will show that Mr. James did not commit sexual assault  
3 on T■■■■■■a H■■■■■■. There are several things to -- the evidence will show. First  
4 of all, the evidence will show that Mr. James fully cooperated. He stopped what  
5 he was doing and immediately when down there and spoke with the officers. He  
6 offered to give them any help that they needed. He offered to give them DNA. The  
7 evidence will show that his behavior was consistent with that of an innocent man.

8 You will also hear that T■■■■■■a openly -- (sorry for my writing) --  
9 openly disliked Mr. James prior to making this allegation. You will also not hear  
10 a shred of evidence -- physical evidence against Mr. James. You will see no  
11 scratches, no bruises, no abrasions or any marks that would be consistent to what  
12 T■■■■■■a testified to, or will testify to. You will not hear of any medical findings  
13 or DNA. You will not hearing anything that will corroborate her story and her  
14 allegations. And you will also hear that her story changes. The evidence you will  
15 hear will show that the State's case is weak. In an attempt to hide the weaknesses  
16 of these cases, the State will have N■■■■■■a C■■■■■■s testify.

17 MS. KOLLINS: I'm going to object as to argument.

18 THE COURT: Sustained. The jury is to disregard that last comment.

19 BY MR. PAGE:

20 The State will have N■■■■■■a C■■■■■■s testify. N■■■■■■a will -- N■■■■■■a  
21 will talk about allegations that she made against Mr. James approximately five years  
22 ago. That these allegations -- immediately upon making these allegations that she  
23 became uncooperative and no longer wanted to pursue these allegations against  
24 Mr. James. The testimony that you will hear as to N■■■■■■a is also that you will not

1 hear a single shred of evidence as to any of the testimony that N [REDACTED] brings  
2 against Mr. James. Furthermore, her testimony changes from the time that she  
3 makes her initial report to the report that she makes now five years later. These –  
4 This is what you will hear, is what you will hear testify from the two girls that the  
5 State would put on for evidence.

6 Now, you heard in the jury – when we were selecting the jury there  
7 were numerous questions that you can – if you believe the testimony of a witness,  
8 you can find guilt just by believing the testimony of that witness. We ask you to  
9 listen to the testimonies that are provided with an open mind. We ask you to  
10 hold the State to their burden. And that these are the reasons why we ask you to  
11 demand more than just uncorroborated testimony because, ladies and gentlemen,  
12 zero plus zero does not equal one, it equals zero. And accordingly, we ask you to  
13 return a verdict of not guilty against our client, Mr. James.

14 THE COURT: Thank you. Mr. Page, would you mind just moving the white  
15 board out of the way.

16 MR. PAGE: Of course.

17 THE COURT: And State, call your first witness.

18 MS. KOLLINS: The State calls Detective Daniel Tomaino.

19 THE COURT: This is a good time for everyone to stand up and stretch if you  
20 want to.

21 DETECTIVE DANIEL TOMAINO

22 Having been called as a witness and being first duly sworn, testified as follows:

23 THE CLERK: Thank you, you may be seated.

24 MS. KOLLINS: Good afternoon, sir, How are you?

1 THE WITNESS: Very good.  
2 THE COURT: Ms. Kollins, could you wait just one second?  
3 MS. KOLLINS: Oh, I'm sorry.  
4 THE COURT: Good afternoon, sir. Could you please state your name or  
5 spell – state your name and then spell the whole thing for the record.  
6 THE WITNESS: Yes. Daniel Tomaino. D-a-n-i-e-l T-o-m-a-i-n-o.  
7 THE COURT: Thank you. Go ahead.  
8 MS. KOLLINS: My apologies. I was going to have him spell his name.  
9 THE COURT: No problem.  
10 MS. KOLLINS: May I approach your clerk very briefly?  
11 THE COURT: You may.

12 DIRECT EXAMINATION

13 BY MS. KOLLINS:

14 Q Sir, how are you employed?  
15 A With Las Vegas Metro.  
16 Q How long have you been so employed?  
17 A Six and a half years.  
18 Q In what capacity are you employed now?  
19 A I'm a detective with Child Sex Abuse.  
20 Q How long have you been a detective with Child Sex Abuse?  
21 A Nine months.  
22 Q Prior to being a detective with Child Sex Abuse, what was your  
23 assignment?  
24 A Property crimes detective.



1 Q And prior to that?

2 A Patrol.

3 Q Turning your attention to May of 2010, were you assigned as a  
4 detective in the Child Sexual Abuse Bureau?

5 A Yes, I was.

6 Q And in May of 2010, how long had you been there?

7 A Five months.

8 Q Did you receive a call out involving a child by the name of T [REDACTED] a  
9 H [REDACTED]?

10 A Yes, I did.

11 Q Tell me how you received that information?

12 A It was a same day call, called into the CPS hotline. It identified that  
13 a victim was at I believe home right at that point in time. A patrol was out with the  
14 victim at the time, and they stated that she had been a victim of sexual assault  
15 possibly by a Tyrone James.

16 Q So part of protocol, if you will, with Metro is if a patrol officer responds  
17 and it's a crime that's subject to some kind of specialization like sex assault or  
18 homicide, then a detective bureau is called?

19 A Yes.

20 Q Is that what happened on this occasion?

21 A Yes.

22 Q Did you give any directives to the patrol officer that was at the  
23 residence regarding the child victim?

24 A She needed to be transported to Sunrise Hospital so the SCAN exam

1 could be conducted by the nurses.

2 Q Did that in fact happen?

3 A Yes.

4 Q Do you know the name of the officer that transported her?

5 A I do not.

6 Q Did you eventually also go to Sunrise Hospital?

7 A Yes.

8 Q With whom and when did you go there?

9 A Almost immediately, which would have been about 1:30, 1:45 that  
10 I met with T [REDACTED] a at the hospital.

11 Q And we're talking in the afternoon of May 14th, 2010?

12 A Yes.

13 Q And what did you do when you got there?

14 A I spoke with T [REDACTED] a and spoke with the nurses that were there  
15 that were attending her to identify exactly what it was that we were going to need  
16 samples from, and then conducted an interview with T [REDACTED] .

17 Q Where was T [REDACTED] a within the hospital when you arrived?

18 A I believe she was back in the – one of the little side rooms with the  
19 nurse and her mother.

20 Q Is that also known as a Quiet Room?

21 A No, they weren't in the Quiet Room yet. They were actually in the  
22 examination room.

23 Q Were you able to interview T [REDACTED] a at Sunrise?

24 A Yes, I was.

1 Q And did you record and have that interview translated (sic)?

2 A Yes, I did.

3 Q After your interview concluded with T [REDACTED], what did you do vis-a-vis  
4 this investigation?

5 A Made contact with the nurse and let her know exactly what it was that  
6 I was looking for. She conducted her SCAN exam and then I made contact with my  
7 fellow detective, who was already trying to make contact with Tyrone.

8 Q And who was the other detective that was trying to make contact with  
9 Tyrone?

10 A Detective Hatchett.

11 Q Did Detective Hatchett also go to the residence that day?

12 A Yes, he did.

13 Q After you made contact with Detective Hatchett, what did you direct  
14 him to do?

15 A Try to locate any of the items that should have been in there, which  
16 would have been part of a cell phone and any other items possibly locating a crime  
17 scene.

18 Q Did you recover anything from Sunrise?

19 A Yes. It was a shirt, a nightshirt.

20 Q And what was the relevance of those clothing items?

21 A It was the one that she was supposed to have been wearing during  
22 the morning.

23 MS. KOLLINS: May I approach your clerk, Your Honor?

24 THE COURT: You may.

1 MS. KOLLINS: May I approach the witness?

2 THE COURT: You may.

3 BY MS. KOLLINS:

4 Q Showing you what's been marked for purposes of identification State's  
5 Proposed Exhibit 2, and previously shown to defense counsel, do you recognize  
6 State's Proposed 2?

7 A Yes.

8 Q What is that?

9 A It should be the nightshirt and a consent to search card of the suspect  
10 vehicle when he arrived at 7-11.

11 Q Okay. How is it that you recognize State's Proposed 2?

12 A It's the evidence that I impounded.

13 Q Okay. Substantially in the same condition as the last time you saw it?

14 A Exactly.

15 MS. KOLLINS: Okay. Move for the admission of 2 and its contents.

16 THE COURT: Mr. Cox?

17 MR. COX: No opposition.

18 THE COURT: Two will be admitted.

19 MS. KOLLINS: Thank you.

20 BY MS. KOLLINS:

21 Q You mentioned a secondary item beyond the nightshirt that's  
22 contained within State's Admitted 2. Can you tell me about that item?

23 A It's a consent to search card by a Tahisha Scott, which was the  
24 secondary individual that had driven to the 7-11, which was the meet spot for

1 Tyrone and my partner.

2 Q And you did not actually obtain that consent to search card, that was  
3 obtained by who?

4 A Detective Hatchett.

5 Q Okay. After you spoke to T [REDACTED] a at the hospital, what did you do  
6 the very next thing?

7 A After --

8 Q After the nurse. After you left the hospital, is what I'm trying to get to.

9 A I hadn't left yet. I was in contact with my partner, who was trying to  
10 make contact with Tyrone. When Tyrone showed up, he was given the opportunity  
11 to look through the vehicle that he had driven there in for any other evidence, if that  
12 was even possible, and then instructed him to have the patrol officer transport  
13 Tyrone to CCDC, Clark County Detention Center.

14 Q So Detective Hatchett, pursuant to that consent card that's contained  
15 within Two searched Tyrone James' vehicle, but you were not present for that  
16 search?

17 A I was not there.

18 Q After you gave instructions to have Mr. James transported, what if  
19 anything did you do next?

20 A He was transported to Clark County Detention Center. I basically left  
21 Sunrise Hospital and went and met the patrol officer at Clark County Detention  
22 Center.

23 Q And thereafter did you meet with Mr. James?

24 A Yes, I did.



1 school?

2 A I believe it was to go fishing with his grandma, but I'm not sure that  
3 his grandma was actually his grandma.

4 Q Did he mention something to you about paying of some bills or  
5 anything like that?

6 A He might have.

7 Q What if anything did you learn about where in the residence, T [REDACTED] a  
8 H [REDACTED]' residence this conduct took place?

9 A It was supposed to be in the living room in front of the TV, her room,  
10 and I believe her mother's room.

11 Q Did you learn if there was any personal property damaged during this  
12 incident?

13 A A cell phone.

14 Q And whose cell phone was that?

15 A T [REDACTED]'s.

16 Q And how was it damaged? If you know.

17 A It was I believe like an I-phone or a Blackberry, and it had a plastic  
18 case surrounding it that was a protective case, and it was basically – a third of it  
19 was like broken off of it.

20 Q After May 14th, 2005 (sic), and when you had an occasion to be able  
21 to look around the residence and you impounded these items, did you have another  
22 day that you did some investigative work in this case?

23 A Yes, I did.

24 Q And when was that and what did you do?

1           A     It was on the 19th, which would have been about four or five days  
2 later. I was called by T [REDACTED] a H [REDACTED] mother and she stated that she had found  
3 a box of Michael Air Jordans that were sitting under her bed that had some rubber  
4 gloves inside.

5           Q     And with that information, what did you do?

6           A     Contacted the D.A.'s Office and asked for whether or not this would be  
7 evidentiary; then made contact back with T [REDACTED] a H [REDACTED] mother and went over  
8 to her home and went right into her home with T [REDACTED] a H [REDACTED] mother to where  
9 the evidence was supposed to be located, removed the box and emptied out its  
10 contents, which happened to be a bunch of rubber gloves.

11          Q     Where in the home did you see the gloves first? Would that be under  
12 the bed, or were they removed for you?

13          A     Under the head of the bed in her room. But they had pulled them out  
14 and put them on top of the bed.

15          Q     Why did gloves have any significance to you regarding this  
16 investigation?

17          A     T [REDACTED] a had stated during her interview, in her disclosure she had  
18 stated that the suspect was supposed to have been wearing gloves during the  
19 incident.

20          Q     Did you in fact take possession of those gloves?

21          A     I did.

22          Q     And what if anything did you do with them?

23          A     I impounded them, and they are now sitting over there.

24          MS. KOLLINS: Permission to approach?



1 THE COURT: All right.

2 MS. KOLLINS: Showing defense counsel what's been marked for purposes  
3 of identification as State's Proposed 1. If I may approach the witness?

4 THE COURT: You may.

5 BY MS. KOLLINS:

6 Q Showing you what's been marked as State's Proposed 1 for purposes  
7 of identification, do you recognize State's 1?

8 A I do.

9 Q What is State's 1?

10 A Multiple rubber gloves impounded by me.

11 Q Okay. How is it that you recognize that envelope as that particular  
12 item?

13 A It's the same packaging that I impounded.

14 Q Does it also have an Event Number unique to this case, as well as  
15 your P number, which is your personnel number?

16 A Yes, it does.

17 Q Remain in substantially the same condition as the last time you saw it?

18 A Exactly.

19 MS. KOLLINS: I would move for the admission of State's 1.

20 THE COURT: Mr. Cox?

21 MR. COX: No objection.

22 THE COURT: State's 1 will be admitted.

23 BY MS. KOLLINS:

24 Q And I'm not going to open this. What kind of rubber gloves are we

1 talking about here?

2 A Medical gloves.

3 Q Latex; just regular medical gloves?

4 A Latex, powdered.

5 Q Okay. Now, the particular gloves that were in this box, you could not  
6 identify any of them as being new, used, anything like that?

7 A They looked like they were relatively new, like they were fresh out of  
8 the box. I couldn't really determine.

9 Q And within the Nike box, the Nike shoe box, was the glove box, if you  
10 will, inside there, or was it just loose gloves within the shoe box?

11 A Loose gloves.

12 Q Now, you had a previous consent to search the house, correct?

13 A Yes, verbal.

14 Q On May 14th, 2010?

15 A Yes.

16 Q And you did not find the gloves on that date?

17 A No.

18 Q On that date, given the information you knew, was there any reason  
19 for you to look in mom's bedroom?

20 A Not to my knowledge. It was to the knowledge of Detective Hatchett.  
21 Hatchett was the one who was doing the –

22 Q But you were directing Detective Hatchett –

23 A Yes.

24 Q – correct? So based on the information you had back on May 14th,

1 was there any reason to go within mom's room under the bed?

2 A No.

3 Q Because none of the activity happened in there, is that correct?

4 A Some of it did, but that wasn't where the primary event occurred.

5 MS. KOLLINS: Indulge me for just one moment, Detective. It's been a long  
6 day and I'm double-checking myself here. Okay?

7 THE WITNESS: Um-hm.

8 MS. KOLLINS: Judge, at this time I'll pass the witness.

9 THE COURT: Thank you. Mr. Cox?

10 MR. COX: Thank you, Judge. One moment, Judge, I'm going to pull the  
11 podium back.

12 THE COURT: That's fine.

13 CROSS-EXAMINATION

14 BY MR. COX:

15 Q Good afternoon.

16 A Good afternoon.

17 Q Now, you interviewed Tyrone James on May 14th?

18 A Yes.

19 Q You read him his Miranda rights?

20 A Yes, I did.

21 Q And he was given the opportunity not to speak to you?

22 A Yes.

23 Q But he chose to waive those warnings and speak to you nonetheless?

24 A Yes.

1 Q Even though he was advised that his words would be used against  
2 him?

3 A Yes.

4 Q Anything that was incriminating?

5 A Yes.

6 Q And you told him that he was being very cooperative?

7 A Yes.

8 Q Was that a lie or was that the truth?

9 A That was the truth.

10 Q Okay. Did you lie to Mr. James during the interview?

11 A No.

12 Q Are you sure?

13 A Pretty certain.

14 MS. KOLLINS: Objection. Argumentative and foundation.

15 MR. COX: Absolutely.

16 THE COURT: Sustained. Mr. Cox, if you could just lay a foundation, please.

17 MR. COX: Certainly.

18 BY MR. COX:

19 Q Have you had an opportunity to review the interview you conducted  
20 with Mr. James?

21 A I have not looked at it, no.

22 Q Okay. So in all fairness, there was no – Going back a little bit, you  
23 were with the CPS worker when you interviewed T [REDACTED] a H [REDACTED], correct?

24 A I believe Lizette Woods, yes.

1 Q Okay. Lizette – you are correct, Lizette Woods. And you looked at  
2 T [REDACTED] a H [REDACTED] s to look for bruises or scratches, correct?

3 A Yes.

4 Q And none was found?

5 A Yes.

6 Q And you were looking for that?

7 A Yes.

8 Q But you told Mr. James that in fact you had found bruises and  
9 scratches. Do you recall that?

10 A I do not.

11 Q Okay.

12 MR. COX: Court's indulgence. We're getting his statement now.

13 I would refer Court and counsel to page 13. May I approach, Judge?

14 THE COURT: You may.

15 BY MR. COX:

16 Q Did you bring a copy with you, by any chance?

17 A I did not.

18 Q Okay. I'd ask you to refer to page 13.

19 A Okay.

20 Q Have you had a chance to read it?

21 A I have.

22 Q Okay. I'm going to retrieve the statement, if I can.

23 A No problem.

24 Q Now, you in fact told him that you did find marks and bruises on

1 T [REDACTED] a H [REDACTED], correct?

2 A Yes, I did.

3 Q So that was a lie?

4 A Yes.

5 Q Because it didn't occur, right?

6 A Correct.

7 Q Okay. And that was a ploy you used to try and get Mr. James to make  
8 an incriminating statement?

9 A Yes.

10 Q Did it work?

11 A No.

12 Q He maintained his innocence, didn't he?

13 A Yes, he did.

14 Q Even though you told him there was evidence that wasn't there?

15 A Yes.

16 Q Now, later in the interview did Mr. James volunteer that he would give  
17 you DNA?

18 A I don't remember.

19 Q Okay.

20 A He might have.

21 Q All right.

22 MR. COX: May I refer Court and counsel to page 18. May I approach,  
23 Judge?

24 THE COURT: You may.

1 BY MR. COX:

2 Q Page 18.

3 A Got it.

4 Q It says DNA (pointing to document).

5 A Right there (witness reading).

6 Q Okay?

7 A Okay. (Witness hands document to Mr. Cox)

8 Q Did he in fact volunteer to you DNA if you wanted to take any?

9 A Yes, he did.

10 Q Okay. Now, is there a reason why when Ms. Kollins talks to you  
11 you have a really good memory, but when I talk to you, you don't?

12 MS. KOLLINS: Objection, argumentative. Move to strike that.

13 MR. COX: Okay.

14 THE COURT: Counsel approach.

15 **(Bench conference begins)**

16 MR. COX: I think it goes to bias, Judge.

17 MS. KOLLINS: Your interpretation (indiscernible) is absolutely irrelevant.

18 MR. COX: This is a very short statement. It's not -- (indiscernible).

19 THE COURT: Mr. Cox, I don't think we need to get into a confrontation with  
20 the witness over this. Certainly if you feel that that's the case, that's something that  
21 you could point out in your closing.

22 MR. COX: Okay. I'll with-- I'll strike it, Judge. I'm sorry.

23 THE COURT: Okay.

24 **(Bench conference concluded)**

1 BY MR. COX:

2 Q Detective, I'll strike that question, okay?

3 A Okay.

4 Q Okay. Now, you mentioned a broken cell phone in this case, a broken  
5 cell phone case?

6 A Yes.

7 Q Okay. Now, forensically are you able to determine when a break  
8 occurred?

9 A No.

10 Q Okay. So you're relying on T [REDACTED] a to tell you when this occurred?

11 A Yes.

12 Q Okay. Because you really don't know exactly when it occurred with  
13 any real certainty, do you?

14 A No.

15 Q Okay. So that evidence came from T [REDACTED] a H [REDACTED] s telling you?

16 A Yes.

17 Q And the reliability goes to T [REDACTED] a H [REDACTED] ?

18 A Yes.

19 Q Now, in this case did you monitor the police dispatch, the 9-1-1 calls,  
20 or did you review it?

21 A I did not review it and I wasn't monitoring.

22 Q You didn't. Okay. But you did talk to – Did you have an opportunity  
23 to review the SANE or SAINT report after it was completed at the hospital?

24 A Yes.



1 Q Okay. And that was before you interviewed either Triaunna Holmes  
2 or Tyrone James?

3 A No. It was after. It was way after. It wouldn't have been at the  
4 interview of Triaunna, and it wasn't at the interview of Tyrone because it wasn't  
5 given to me until later.

6 Q Okay. But you did have a chance to talk to the nurses?

7 A Yes.

8 Q And the doctor, or no?

9 A Not the doctor.

10 Q Okay. Did you ask them whether or not she reported that she had  
11 been penetrated?

12 A Say that one more time.

13 Q Did you ask the nurses whether or not Triaunna Holmes had reported  
14 to them that she had been penetrated?

15 MS. KOLLINS: Objection, double hearsay as to what Triaunna said to the  
16 nurse and what the nurse reported to the detective.

17 THE COURT: Sustained.

18 BY MR. COX:

19 Q Now, you had got involved around two o'clock in the afternoon on the  
20 day in question?

21 A Yes.

22 Q Now, it's my understanding that she got to school around ten o'clock.

23 A Yes.

24 Q Why the delay in contacting you or getting you involved, or the

1 Metropolitan Police Department involved?

2 A I think it was supposed to have happened sometime around ten  
3 o'clock. She had gone to school. She was in school for about forty-five minutes  
4 to an hour. She texted a friend or a cousin, and the cousin told the mother and the  
5 mother went and picked her up. The mother picked her up and brought her home.  
6 By then it was sometime around noon. They had some kind of a meet and greet  
7 between Tyrone, mom and T [REDACTED] at home. Tyrone left sometime around noon.  
8 Mom decided to call the police. The police showed up, and patrol advised CPS  
9 and myself and we eventually responded.

10 Q Okay. So this isn't a case where T [REDACTED] called the police immediately,  
11 that you're aware of?

12 A Correct.

13 Q Okay. In fact – Now, did you document the text messages that were  
14 received between the friends?

15 A No.

16 Q No. So we don't really know what was said between T [REDACTED] H [REDACTED]  
17 and her friends that sparked her mother to come to school and pick her up?

18 A Do not.

19 Q Now, her mother – Are you aware whether or not the mother called the  
20 police immediately?

21 A Say that –

22 Q The mother did not call the police immediately, did she?

23 A No, she did not.

24 Q She did not. In fact, notwithstanding this allegation that you've heard

1 of, she did not call the police, she chose to meet with Mr. James?

2 A Correct.

3 Q And they had a deliberation, as you mentioned in your report?

4 A Um-hm. Yes.

5 Q After you interviewed T [REDACTED] a H [REDACTED], she mentioned gloves?

6 A Yes.

7 Q Did you send somebody to the house to look for gloves?

8 A Yes.

9 Q But they didn't find any gloves?

10 A No.

11 Q But somebody discovered gloves in the house approximately five

12 days later?

13 A Yes.

14 Q Okay. So the police come into the home to look for a piece of

15 evidence that would be consistent with her story and it's not there. Five days later

16 you're called; come get the gloves, we found them.

17 A Yes.

18 Q Is that correct?

19 A Yes.

20 Q Okay. Did you look for lubricant?

21 A I believe I instructed them to. I don't remember the extent of our

22 conversation.

23 Q You don't remember? Do you have notes you want to review to

24 double-check that?

1 A I don't have notes for that, no. .

2 Q Have you reviewed your report prior to today?

3 A Yes, I have.

4 Q Did you instruct – Did you mention anything in your report about  
5 lubricant?

6 A No.

7 Q Okay. Are you aware that later on T [REDACTED] a changed her story to  
8 include lubricant?

9 A No, I did not.

10 Q Okay. Because if she would have mentioned that early on, you would  
11 have put that in your report, correct?

12 A Correct.

13 MS. KOLLINS: Objection. Foundation –

14 MR. COX: Okay.

15 MS. KOLLINS: – and argumentative as to changed story.

16 MR. COX: Well, okay.

17 MS. KOLLINS: Well –

18 THE COURT: Just a second.

19 MR. COX: I'm sorry. Go ahead.

20 THE COURT: Sustained. If you would just rephrase the question, Mr. Cox.

21 MR. COX: Okay.

22 THE COURT: Let's just move on.

23 BY MR. COX:

24 Q Is it fair to say that if T [REDACTED] a H [REDACTED] s would have mentioned anything

1 about lubricant on May 14th, you would have put it in your report?

2 A Yes.

3 Q Okay. Was it in your report?

4 A No.

5 Q Thank you. And in all fairness, you doubted T■■■■■■ a H■■■■■■ story,  
6 didn't you?

7 MS. KOLLINS: Objection as – objection as to his commenting on credibility  
8 of a witness.

9 THE COURT: Sustained.

10 BY MR. COX:

11 Q Okay. Well, let me ask you this. Did you confront T■■■■■■ a H■■■■■■  
12 regarding the fact that she did not have marks or bruises on her body that would be  
13 consistent with her story?

14 A Yes.

15 Q Okay. So you asked her about that?

16 A Yes.

17 Q Okay. And you were looking for an explanation?

18 A Yes.

19 Q Okay. In fact, you went as far as even asking her to take a polygraph?

20 A Yes.

21 MS. KOLLINS: Objection. Move to strike.

22 THE COURT: The jury is to disregard that.

23 MR. COX: Court's indulgence.

24 THE COURT: That last answer is stricken.

1 MR. COX: I'll pass the witness, Judge.

2 THE COURT: Okay, thank you.

3 REDIRECT EXAMINATION

4 BY MS. KOLLINS:

5 Q Detective, when you spoke to the defendant about DNA, there wasn't  
6 any specific reference to the source of that DNA, was there?

7 A No.

8 Q So he could have been talking about saliva, semen, epithelial, touch  
9 DNA?

10 A Yes.

11 Q I mean, as far as he knew. You didn't talk to him specifically about  
12 what kind of DNA you were looking for?

13 A No.

14 Q Okay. So he had already admitted physical contact or at least being  
15 in the proximity of that child that day?

16 A Proximity, yes.

17 Q Okay. So Mr. Cox asked you if you lied to him. Have you conducted  
18 a lot of interviews as a detective?

19 A Yes, I have.

20 Q What are one of the techniques that you employ in order to elicit  
21 information from suspects?

22 A Taking specific information from the victims and throwing that back at  
23 the suspect, identifying the fact that even if we have not found the item we basically  
24 state that we have.

1 Q Also known as a ruse?

2 A Yes.

3 Q In your experience if you confront somebody with a piece of evidence  
4 that will implicate them, are you more than likely or more often to get responsive  
5 information or information you're seeking?

6 A Fifty-fifty.

7 Q But you do it for a reason. You don't do it just to lie to them?

8 A No.

9 Q You don't do it to trick them?

10 A No.

11 Q And you don't do it to show them that you're smarter than them?

12 A No.

13 Q You do it in order that they will give you information that inculcates  
14 them in the crime that you're investigating?

15 A Yes.

16 Q Okay. You arrested Tyrone James that day, correct?

17 A Yes.

18 Q Based on what?

19 A Probable cause.

20 Q And probable cause is your standard for what?

21 A For whether or not a reasonable person would believe that the person  
22 had committed the crime.

23 Q Okay. And that's your standard to make an arrest?

24 A Yes.

1 Q So based on your discussions with T [REDACTED] a and your discussions  
2 with the nurses and your discussions with Mr. James, you determined that you had  
3 enough to make an arrest?

4 MR. COX: Objection.

5 THE WITNESS: Yes.

6 MR. COX: His determination is not conclusive. It's up to the jury to  
7 determine whether or not –

8 THE COURT: Sustained.

9 BY MS. KOLLINS:

10 Q Mr. Cox mentioned lubricant somewhere. Is that anywhere in your  
11 report?

12 A No.

13 Q Do you have any recollection of that being made an evidentiary topic  
14 anywhere in this case?

15 A No. Simply rubber gloves.

16 Q And again, you did not conduct the search at T [REDACTED] a's residence,  
17 correct?

18 A No. That was detective Hatchett.

19 Q He asked you whether you instructed Detective Hatchett to look for  
20 lube. If lube was nowhere in this case, why would you even instruct him to do that?  
21 Or maybe I misunderstood your answer on cross-examination.

22 A Based on sexual assaults, that would be one of the things that would  
23 potentially be used; Vaseline or K-Y jelly or something.

24 Q Was that information that you had gleaned from the victim or



1 something that you thought in and of yourself would have been relevant?

2 A Experience.

3 MS. KOLLINS: Okay. No more redirect, Judge.

4 THE COURT: Okay. Mr. Cox?

5 MR. COX: Briefly, Judge. Just two questions – almost.

6 RECROSS EXAMINATION

7 BY MR. COX:

8 Q Now, it is possible to lift DNA from any surface of a person's skin,  
9 correct?

10 MS. KOLLINS: Objection. Beyond the scope of his expertise.

11 BY MR. COX:

12 Q As a sexual assault detective, are you aware –

13 THE COURT: Sust– Counsel approach.

14 MR. COX: I'll rephrase, Judge.

15 BY MR. COX:

16 Q Are you aware as to whether or not it's possible to lift DNA from  
17 someone's body when they've had contact with somebody?

18 A Yes.

19 Q Okay. It is possible?

20 A Yes.

21 Q Are you aware in your investigation whether or not DNA was lifted from

22 [REDACTED] a H [REDACTED]?

23 A If it was, it was during the SCAN exam.

24 Q Okay. Are you aware as to whether or not any evidence of Tyrone

1 James was lifted off of T [REDACTED] a H [REDACTED]?

2 A Nothing that I've been made aware of.

3 Q Okay. And in fact, Mr. James offered his DNA?

4 A Yes.

5 MR. COX: Thanks. I'm sorry, one more question, Judge.

6 BY MR. COX:

7 Q Now, so you're not – are you aware or not that later on in your  
8 investigation that T [REDACTED] a H [REDACTED] mentioned lubrication?

9 A I was not aware.

10 MR. COX: Okay. Thank you.

11 THE COURT: Okay. Do we have any questions from the jurors? No? Okay.

12 Thank you, Detective. You are free to go.

13 THE WITNESS: Thank you.

14 THE COURT: Okay. Ladies and gentlemen, we're going to go ahead and  
15 break for the evening.

16 During this recess you are admonished not to talk or converse among  
17 yourselves or with anyone else on any subject connected with this trial, or read,  
18 watch or listen to any report of or commentary on the trial or any person connected  
19 with this trial by any medium of information, including without limitations newspapers,  
20 television, the Internet and radio, or form or express any opinion on any subject  
21 connected with the trial until the case is finally submitted to you.

22 Everyone have a good evening. We'll see you back here tomorrow  
23 morning at ten o'clock.

24 (The jury exits the courtroom)

1 (Whereupon the following proceedings were held  
2 outside the presence of the jury)

3 MS. KOLLINS: Judge, I have a record for outside the presence, if I may.

4 THE COURT: Sure. Hold on just a second. Okay.

5 MS. KOLLINS: I objected on cross-examination to the reference to lubricant  
6 without a foundation. That was sustained. We went back there again. He cross-  
7 examined on it again, still without foundation. And unfortunately, the detective left  
8 the stand before I could try to make some ability to repair that. The only reference  
9 about lubrication is prelim testimony where she talks about a lubricated glove,  
10 not lubrication as a separate and distinct item. That's why I asked for foundation  
11 a couple times. Mr. Cox didn't afford that foundation but then went back with a  
12 question, and now I may have a couple more questions for the detective based on  
13 that.

14 THE COURT: The only questions that Mr. Cox asked on his recross had to  
15 do with DNA.

16 MR. COX: No, I did.

17 MS. KOLLINS: He asked about lubrication.

18 MR. COX: Actually I did ask about lubricant briefly. And the reality is is that  
19 that was testified by –

20 THE COURT: But you did on –

21 MR. COX: – T [REDACTED] a at the Preliminary Hearing. And I was basically  
22 asking to see if he investigated regarding lubrication.

23 MS. KOLLINS: Well, and in my mind there's a distinction between a  
24 lubricated glove and a lubricant that is a separate and distinct item or a bottle or

1 a tube of something that exists. And that's why I asked for foundation on cross-  
2 examination because I've read this file, and other than calling a glove lubricated at  
3 Prelim, there was never anything testified to or put in a statement that refers to a  
4 separate and distinct item. Now they're left with the impression that that item exists  
5 or the child lied about it and it was not collected by investigators. So I'm going to  
6 probably be asking for permission – I don't know if I can do it through the kid or not,  
7 but I may re-call the detective at this point.

8 MR. COX: That's fine.

9 THE COURT: Okay.

10 MR. COX: The reality is is that, you know, at Prelim –

11 MS. KOLLINS: It may not be that big of a –

12 THE COURT: Hold on just – wait a minute. Only one person can talk here  
13 at a time. Okay. What I have is that the detective said it wasn't in his report. He  
14 doesn't recall it ever being an issue in the case. It is – he asked for it – If he asked  
15 for it, which I don't even think was entirely clear. But that was something he would  
16 have requested based on his experience, and he wasn't aware of anything –

17 MS. KOLLINS: And I agree with all that.

18 THE COURT: Okay.

19 MS. KOLLINS: But then the follow-up question was, would it surprise you  
20 that T [REDACTED] a discussed lubricant, and lubricant isn't even the verbatim way it's  
21 discussed in the Prelim transcript. I didn't know what he was referring to, so I'm  
22 flipping through stuff trying to find it.

23 THE COURT: Okay.

24 MS. KOLLINS: But because he didn't lay a foundation for it, it was too late.

1 So that's -- I mean --

2 MR. COX: Well, I remember a long delay. I mean --

3 THE COURT: Okay, well, two things. First of all, there wasn't an objection  
4 when it was asked. But second, I mean, I don't even think he would be the witness  
5 to clear that up with anyway because it had to do with what T [REDACTED] a said, not  
6 anything the detective said. He made it pretty clear that that was never in his report.

7 MS. KOLLINS: Well, to be -- Well, okay.

8 THE COURT: So --

9 MS. KOLLINS: Actually it was objected to.

10 THE COURT: I'm sorry? Ms. Kollins?

11 MS. KOLLINS: Well -- No, it's fine.

12 THE COURT: Am I misunderstanding it? It's just --

13 MS. KOLLINS: No, it's fine. We'll try to fix it through someone else or else  
14 I'll just re-call him. I mean, I assume he's under my subpoena. I can re-call him  
15 on a very limited issue and ask permission to re-open if we feel it's necessary at  
16 some point.

17 THE COURT: That's absolutely --

18 MS. KOLLINS: I just think that the impression is left that the detective  
19 ignored that piece of evidence and that the child later talked about it and that  
20 something should have been -- the implication is Metro should have done something  
21 based on that new piece of knowledge, and it's a non-existent fact. That's all I'm  
22 saying.

23 MR. COX: Okay. I asked if it was part of his investigation, and I'm inferring  
24 that he was not told about any sort of lube. Now, she can argue whether it's

1 lubricant, lubrication, you know, whatever form it's in. I was asking to see if it was  
2 part of his investigation. Now, I don't know what there is to clean it up – what there  
3 is to clean up, but if she wants to re-call him, so be it. I'll cross-examine him again.

4 THE COURT: Okay. Anything else anybody wants to make a record of?

5 MS. KOLLINS: No, it's late. I'm tired.

6 THE COURT: Okay.

7 (Court recessed at 5:05:10 p.m. until the following day,  
8 Wednesday, September 22, 2010 at 10:00 a.m.)

9 \* \* \* \* \*

10

11 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
12 audio/video proceedings in the above-entitled case to the best of my ability.

12

13 *Liz Garcia*  
14 Liz Garcia, Transcriber  
LGM Transcription Service

Date 4/28/11

15

16

17

18

19

20

21

22

23

24

ORIGINAL

FILED

TRAN

APR 29 1 23 PM '11

EIGHTH JUDICIAL DISTRICT COURT  
CIVIL/CRIMINAL DIVISION  
CLARK COUNTY, NEVADA

*Steven B. Lamm*  
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

TYRONE D. JAMES,

Defendant.

CASE NO. C265506

DEPT. NO. VII

10C265506  
TRAN  
Reporters Transcript  
1383248



BEFORE THE HONORABLE LINDA M. BELL, DISTRICT COURT JUDGE

WEDNESDAY, SEPTEMBER 22, 2010

**TRANSCRIPT RE:**  
TRIAL BY JURY  
DAY 2 - VOLUME II

APPEARANCES:

For the State:

STACY L. KOLLINS, ESQ.  
CHRISTOPHER P. PANDELIS, ESQ.  
Deputy District Attorneys

For the Defendant:

BRYAN A. COX, ESQ.  
DANIEL R. PAGE, ESQ.  
Deputy Public Defenders

RECORDED BY: Renee Vincent, Court Recorder

RECEIVED  
APR 29 2011  
CLERK OF THE COURT

INDEX OF WITNESSES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

Direct      Cross      Redirect      Recross

STATE'S WITNESSES:

T ██████ a H ██████ s	4	39/58	51/57	--
D ██████ e Jordan	61	71	--	--
Theresa Allen	75	112	120/126	124
Officer Erik Meltzer	127	130	132	--
Detective Timothy Hatchett	137	143	--	--
Dr. Theresa Vergara	150	161	168/179/181	174
N ██████ a C ██████ s	184	209	214	215

\*\*\*\*\*

DEFENDANT'S WITNESSES:

None



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

INDEX OF EXHIBITS

Identified      Admitted

STATE'S EXHIBITS:

3	Photo of Tyrone James	12	13
4	CD of 9-1-1 call	103	103

\* \* \* \* \*

DEFENDANT'S EXHIBITS:

None

\* \* \* \* \*

1 CLARK COUNTY, NEVADA

WEDNESDAY, SEPTEMBER 22, 2010

2 PROCEEDINGS

3 (PROCEEDINGS BEGAN AT 10:13:25 A.M.)

4 (Whereupon the following proceedings were held

5 in the presence of the jury)

6 THE COURT: Back on the record in Case Number C265506, State of  
7 Nevada versus Tyrone James. Let the record reflect the presence of all of our  
8 jurors, Mr. James with his counsel, the representatives of the District Attorney's  
9 Office, and all of the court staff.

10 Good morning, everyone.

11 JURORS IN UNISON: Good morning.

12 THE COURT: Mr. Pandelis, whenever you're ready.

13 MR. PANDELIS: The State calls T [REDACTED] a H [REDACTED].

14 T [REDACTED] A H [REDACTED] S

15 Having been called as a witness and being first duly sworn, testified as follows:

16 THE COURT: Good morning, ma'am. Could you please say your name  
17 and then spell it, first and last, for the record.

18 THE WITNESS: T [REDACTED] a H [REDACTED]. T [REDACTED].

19 MR. PANDELIS: May I proceed, Your Honor?

20 THE COURT: Go ahead. Thank you.

21 DIRECT EXAMINATION

22 BY MR. PANDELIS:

23 Q T [REDACTED], how old are you?

24 A Fifteen.

1 Q When is your birthday?

2 A [REDACTED].

3 Q Of what year?

4 A 1995.

5 Q Where do you live?

6 A Lamb and Stewart.

7 Q Is that here in Las Vegas?

8 A Yes.

9 Q How long have you lived there?

10 A Fifteen years.

11 Q So you've lived in that same neighborhood for the last fifteen years?

12 A No.

13 Q Okay. Where do you live now?

14 A Lamb and Stewart.

15 Q How long have you lived at that address, near Lamb and Stewart?

16 A I think probably a year.

17 Q Who do you live – So about a year?

18 A Yeah.

19 Q Who do you live there with?

20 A My mom, my brother and my sister.

21 Q What's your mom's name?

22 A Theresa.

23 Q And you said you have a brother and a sister also?

24 A Yeah.

1 Q What's your brother's name?  
2 A D [REDACTED] n (phonetic).  
3 Q D [REDACTED]?  
4 A D [REDACTED] n.  
5 Q How old is D [REDACTED]?  
6 A He's twelve.  
7 Q He's twelve years old?  
8 A Yeah.  
9 Q And your sister, what is her name?  
10 A D [REDACTED].  
11 Q How old is D [REDACTED]?  
12 A Fourteen.  
13 Q What's the name of your school?  
14 A I go to Mojave now.  
15 Q Pardon?  
16 A I go to Mojave now.  
17 Q Is that a high school?  
18 A Yes.  
19 Q What year are you in at Mojave?  
20 A 2013; like the year I graduate.  
21 Q Pardon?  
22 A The year I graduate.  
23 Q No. What year – Are you a freshman or –  
24 A Oh, I'm a sophomore.

1 Q You're a sophomore in high school. Did you go to Mojave High School  
2 last year?

3 A No.

4 Q Where did you go to school last year?

5 A Desert Pines.

6 Q So you just started at Mojave High School this year?

7 A Yes.

8 Q I just want to take you back to when you were at Desert Pines High  
9 School. What time did school start during the day?

10 A Ten.

11 Q Ten o'clock. How would you usually get to school when you were at  
12 Desert Pines?

13 A Sometimes I walked and sometimes my mom would take me when  
14 she's off.

15 Q And if your mom couldn't take you, you would walk?

16 A Yeah.

17 Q Sometimes would you get rides from people?

18 A My best friend.

19 Q If you had to walk to school, what time would you typically leave your  
20 house?

21 A Like around 9:15.

22 Q And if someone was giving you a ride, what time would you usually  
23 leave your house?

24 A 9:40.

1 Q T [REDACTED], do you know somebody by the name of Tyrone James?

2 A Yes.

3 Q How do you know him?

4 A He was my mom's friend.

5 Q What exactly do you mean by friend?

6 A Like a boyfriend.

7 Q It was someone she was dating?

8 A Yeah.

9 Q Do you see Tyrone here in the courtroom today?

10 A Yes.

11 Q Could you please point to him and describe something that he's  
12 wearing?

13 A A purple shirt. A purple long sleeve shirt.

14 MR. PANDELIS: Your Honor, may the record reflect she's identified the  
15 defendant?

16 THE COURT: The record will so reflect.

17 BY MR. PANDELIS:

18 Q When did you first meet Tyrone?

19 A I'm not sure, but I know it was over a summer.

20 Q Pardon?

21 A I'm not sure, but I know it was over a summer.

22 Q It wasn't just – It wasn't this summer, was it?

23 A No.

24 Q Do you remember how old you were when you met him?

1 A I think I was fourteen.

2 Q Pardon?

3 A I think I was fourteen.

4 Q So you've known him for at least a year?

5 A Yes.

6 Q When you first met Tyrone, what did you think about him?

7 A Just as my mom's friend.

8 Q You need to speak up just a little bit because it's hard for me to hear

9 y [REDACTED] unna.

10 A Just as my mom's friend.

11 Q Okay. Did you get along with him when you first met him?

12 A Yeah.

13 Q What types of things would you do with him when you first met him?

14 A Go swimming.

15 Q You would go swimming?

16 A Not a lot, but just sometimes.

17 Q Where would you go swimming?

18 A It was at his auntie's house like one time, and then where we moved,

19 like there one time.

20 Q Did there ever come a point in time when Tyrone lived with you or

21 moved into your apartment?

22 A Yeah.

23 Q When was that?

24 A I'm not sure. Like, he would be there like a lot of nights but sometimes

1 he would go to his grandma's or auntie's house.

2 Q So he would come and go?

3 A Yeah.

4 Q When was it that he would start coming and going from your  
5 apartment?

6 A That was like all the time.

7 Q So early when you first met him, right around the time you first met  
8 him is when he started staying at your apartment?

9 A We lived in a house when we first met him.

10 Q So you said you've lived at your apartment for about a year. You were  
11 living somewhere else prior to that?

12 A Yeah.

13 Q Okay. And your mother knew him when you were living in that prior  
14 house?

15 A Yeah.

16 Q And was he staying with you at times when you were living in that  
17 other house?

18 A Yeah.

19 Q Where was that house? Do you remember?

20 A It was on Lone Oak.

21 Q Lone Oak. Do you know what part of town that's on?

22 A I think North Town. I'm not sure.

23 Q Okay. And when he was coming and going like that, how did that  
24 make you feel? Did you like having him living in your home?



1 A Sometimes I did, sometimes I didn't.

2 Q What did you like about it?

3 A That he helped out sometimes.

4 Q What kind of things would he help out with?

5 A Bills.

6 Q Whose bills?

7 A My mom's.

8 Q Do you know what bills he would help with?

9 A I'm not sure. Probably like power or sometimes rent.

10 Q How do you know he would help out with the bills?

11 A My mom told me.

12 Q Your mom would tell you?

13 A (Nods head affirmatively).

14 Q You said you didn't like some things about him living with you. What

15 are some things you didn't like?

16 A Just - I felt weird because I have a stepdad.

17 Q You have a stepdad?

18 A (Nods head affirmatively).

19 Q Is that someone your mom was married to?

20 A Yeah.

21 Q And why did you feel weird?

22 A Because like he's in jail right now, but like, she's with him still.

23 Q So was there anything else that was bothering you about Tyrone living

24 with you?

1 A He just stared a lot.

2 Q When you would get in trouble, T [REDACTED], who was it that would  
3 discipline you, your mom or somebody else?

4 A My mom.

5 Q Was anybody else responsible for that?

6 A Sometimes he was.

7 Q When Tyrone would discipline you, what kind of things would he do?

8 A Just – he doesn't do anything. He just told me to like wash the dishes  
9 if my mom told him to tell me or something.

10 Q So it was nothing very harsh?

11 A No.

12 MR. PANDELIS: May I approach the witness, Your Honor?

13 THE COURT: You may.

14 BY MR. PANDELIS:

15 Q T [REDACTED], I'm showing you what's been marked for purpose of  
16 identification as State's Proposed Exhibit No. 3. Can you tell us what's depicted  
17 in that picture?

18 A What?

19 Q What is that a picture of?

20 A Tyrone.

21 Q And is that how Tyrone appeared in May of 2010?

22 A He had a black shirt on, but I can't see the –

23 THE COURT: Mr. Pandelis, can she go like a little bit further that way so the  
24 jury can see? Thank you.

1 MR. PANDELIS: Pardon?

2 THE WITNESS: He had on a black shirt.

3 BY MR. PANDELIS:

4 Q But the picture there, that is how Tyrone appeared back earlier this  
5 year in 2010?

6 A Yeah.

7 MR. PANDELIS: Okay. Your Honor, at this point I'd move for the admission  
8 of State's Proposed Exhibit 3.

9 MR. COX: No objection, Judge.

10 THE COURT: State's 3 will be admitted.

11 MR. PANDELIS: Thank you. And I'd ask permission to publish.

12 THE COURT: Permission is granted.

13 BY MR. PANDELIS:

14 Q And you were mentioning a black shirt. When did he have a black  
15 shirt on?

16 A When he came in my room.

17 Q Okay. I'd like to direct your attention then to May 14th of 2010. Were  
18 you home that morning?

19 A Yes.

20 Q Who was home with you that morning?

21 A My puppy and Tyrone, I guess.

22 Q T [REDACTED], again, I'm having a little bit of trouble hearing you. That's a  
23 microphone in front of you. If you need to move it just a little closer to you. So who  
24 was home with you that morning?

1 A My puppy and Tyrone.  
2 Q What's your -- Your puppy?  
3 A Yeah.  
4 Q What's your puppy's name?  
5 A Cocoa.  
6 Q Cocoa. And Tyrone was home as well?  
7 A Yeah.  
8 Q Was Tyrone living with you at that time?  
9 A Yeah, but he was like coming and going.  
10 Q Where was your mom that morning?  
11 A Work.  
12 Q What time did she leave for work that day?  
13 A She had to leave around like seven something, because she had to  
14 take my brother and sister to school.  
15 Q So did you see her that morning?  
16 A My mom?  
17 MR. COX: Your Honor, I apologize to interrupt. May we approach briefly?  
18 THE COURT: Sure.  
19 (Bench conference begins)  
20 MR. COX: I don't think she's identified -- (indiscernible) -- his picture on the  
21 screen. It's a dark picture. He's here in the courtroom.  
22 THE COURT: If you're done, you can take it off. Thank you.  
23 MR. PANDELIS: I don't have a problem taking it off.  
24 (Bench conference concluded)

1 BY MR. PANDELIS:

2 Q So your mom had left for work at about seven o'clock that morning?

3 A Around seven something.

4 Q And T [REDACTED], again, it's real, real hard to hear you. This is a big, big  
5 room, so I need you just to speak up a little louder. I know these are tough things  
6 for you to talk about, but can you just speak up a little bit louder for me?

7 A Yes.

8 Q Okay. Did you see your mom before she left that morning?

9 A Yeah.

10 Q When did you see her?

11 A When she came in my room.

12 Q What did she come in your room for?

13 A To wake my sister up for school.

14 Q Do you and your sister share a room?

15 A Yes.

16 Q What are the sleeping – Do you share a room with anyone else or just  
17 your sister?

18 A Just my sister.

19 Q And do you have separate beds?

20 A Yeah.

21 Q What time did your mom come in your room to wake up your sister?

22 A I think around 6:30.

23 Q And did your mom take your sister to school as well?

24 A Yeah.

1 Q Was your brother at home on the morning of May 14th, 2010?  
2 A Yes.  
3 Q Did he ever leave the house that morning?  
4 A Yeah.  
5 Q When did he leave?  
6 A When my mom left.  
7 Q So she took him to school as well?  
8 A Yeah.  
9 Q When your mom left the house that morning, did you know if anybody  
10 was home when she had left the house?  
11 A When she left the house, nobody was there.  
12 Q Okay. Did – Once she left the house, did something happen that  
13 morning –  
14 A Yes.  
15 Q – that caused you some concern?  
16 A Yes.  
17 Q What was that?  
18 A Tyrone came in my room.  
19 Q Were you expecting Tyrone to be at the house that morning?  
20 A No.  
21 Q Did he stay over the night before?  
22 A No.  
23 Q When did you first seen Tyrone in your room? What were you doing?  
24 A I was like waking up because I heard a noise.

1 Q You were what?

2 A I was waking up because I heard a noise.

3 Q What did you hear?

4 A Like, I heard like something moving. Just something moving.

5 Q So something caught your attention and woke you up?

6 A Yeah.

7 Q What time do you usually – Were you planning on walking to school

8 that day or driving to school?

9 A I was planning on getting picked up, but my best friend called and said

10 she wasn't going to school no more, so I had to walk.

11 Q Okay. So you were planning on getting picked up and getting a ride to

12 school. If you were getting a ride to school, what time would you usually sleep until?

13 A Probably about 9:20.

14 Q Based on that, do you know about what time it was that Tyrone walked

15 into your room?

16 A I'm not sure.

17 Q Was it –

18 A It was around – it was nine something.

19 Q Was it before 9:20 when you planned on waking up?

20 A Yeah.

21 Q When you first noticed Tyrone in your room, where was he?

22 A He was like hiding. Like – it was like he was hiding.

23 Q Where –

24 A When you first walk in, it's like the wall. There's a wall.

1 Q What do you mean? When you walk in the door there's a wall in front  
2 of the door?

3 A Yeah, like you turn in the room, like there's a wall when you first  
4 walk in.

5 Q So there's a little entryway?

6 A Yeah.

7 Q And when you first saw him, he was standing just past the door in that  
8 entryway?

9 A He was like by the wall, but he was trying to hide.

10 Q You say he was trying to hide. What was he doing –

11 A Just –

12 Q – that made you think he was trying to hide?

13 A Standing there like this and peeking around the corner.

14 Q So you saw him peeking around the corner?

15 A Yes. (Shakes head affirmatively).

16 Q When you saw him peeking around the corner, what did you do?  
17 Or when you saw him hiding?

18 A I said, You have five seconds to get out of my room or I'm going to  
19 call my mom.

20 Q And did he say anything when you said that?

21 A He just started coming towards me.

22 MR. COX: Judge, I can't – I'm sorry, I can't –

23 MR. PANDELIS: T[REDACTED], again, I need you to speak up just a little louder,  
24 okay?



1 THE WITNESS: Okay.

2 MR. PANDELIS: You have a real soft voice. So if you need to, you can just  
3 lean up into that microphone a little bit more, okay? Try to raise your voice.

4 THE WITNESS: Okay.

5 BY MR. PANDELIS:

6 Q So you told him he had five seconds to get out of your room. What did  
7 – Did he say anything when you said that?

8 A No. He just started walking up towards me.

9 Q He started walking up towards you?

10 A Yeah.

11 Q Once he walked up towards you, what happened next?

12 A He jumped on my bed, but I was trying to call my mom, but my phone  
13 fell and he took it.

14 Q How did you try – What did you use to try to call your mom?

15 A My cell phone.

16 Q So you have your own cell phone?

17 A Yeah.

18 Q Where do you usually keep that cell phone when you're sleeping?

19 A Under my pillow.

20 Q When you tried to call your mom, what happened next?

21 A He jumped on –

22 Q He took the phone. What happened after he took the phone? I'm  
23 sorry.

24 A I guess he put it in his pocket.

1 Q Okay. Did he leave the room once he put the phone in his pocket?  
2 A No.  
3 Q What happened then?  
4 A I ran to my sister's bed.  
5 Q What did he do once you ran to your sister's bed?  
6 A He jumped on top of me and had his hand around my neck.  
7 Q While you were on your sister's bed?  
8 A Yes.  
9 Q You said he jumped on top of you and – He jumped on top of you and  
10 put his hand around your neck. Did he say anything when he did that?  
11 A He told me, Shut the fuck up or he'd snap my neck.  
12 Q He told you to shut the fuck up. Were you saying anything to him  
13 when he jumped on you?  
14 A I was just screaming and yelling, saying get off of me.  
15 Q So when you were on your sister's bed, he jumped on top of you and  
16 you told him to get off of you. That's when you said that?  
17 A Yes.  
18 Q And he put his hand around your neck?  
19 A Yes.  
20 Q After you were on your sister's bed and he had his hand around your  
21 neck, can you tell us what happened next, T [REDACTED]?  
22 A Yeah. He pulled my chest down my shirt (sic) and took off my panties.  
23 And he pulled me to – He said come on, and he pulled me to the living room.  
24 MR. PANDELIS: T [REDACTED], again, can you – will you speak just a little bit

1 more into the microphone. If you need to lean down, can you do that?

2 THE WITNESS: Yes.

3 MR. PANDELIS: Because it's very hard for us to hear you, okay?

4 THE COURT: T [REDACTED], if you'd maybe pull it just all the way to the edge  
5 as close to you as you can get it, maybe that will help a little bit.

6 THE WITNESS: Right there?

7 THE COURT: Um-hm.

8 MR. PANDELIS: And maybe just lean down a little bit if you need to.

9 BY MR. PANDELIS:

10 Q So you said he was pulling you into the living room?

11 A Yes.

12 Q Okay. And I just want to backtrack a minute because we got a little  
13 distracted. After you were on the bed, how did – and he told you to shut up, you  
14 said he was taking some of your clothes off?

15 A Just my panties.

16 Q Okay. How did he do that?

17 A He had one arm around my neck and then pulled my panties off with  
18 the other arm.

19 Q Did you say anything to him when he was taking your panties off?

20 A I was just crying.

21 Q How did he pull you into the living room?

22 A By my arm.

23 Q Once you got to the living room, T [REDACTED], what happened?

24 A He lay me on the floor and he was on top of me, and he had his hands

1 around my neck.

2 Q Was he saying anything to you when he had his hands around your  
3 neck in the living room?

4 A No.

5 Q What happened once – what happened after that?

6 A Then he stuck his finger in me.

7 Q He stuck his finger where?

8 A In my vagina.

9 Q Did that happen in the living room?

10 A Yes.

11 Q Where in the living room were you, T [REDACTED]?

12 A Like in front of the TV and the table.

13 Q Were you on a couch, on a chair?

14 A The floor.

15 Q On the floor. How were you positioned? Were you sitting, were you –

16 A Laying.

17 Q Did he say anything to you when his finger went in your vagina?

18 A No.

19 Q What did it feel like when his finger was in your vagina?

20 A Weird.

21 Q What do you mean, weird?

22 A Because he had on gloves.

23 Q What kind of gloves did you –

24 A Like lubricating or – It looked like a balloon type.

1 Q What did – Now, what did the glove look like?  
2 A It was like a balloon type.  
3 Q So they were –  
4 A It looked like a balloon type of glove.  
5 Q Are you saying balloon or – ?  
6 A Like, you know how balloons are.  
7 Q Balloons?  
8 A Yeah.  
9 Q Okay, I didn't hear you. What color was the glove, T[REDACTED]?  
10 A Like white.  
11 Q Was it like the type of glove you sometimes use for cleaning –  
12 A Cleaning.  
13 Q – things like that?  
14 A Yes.  
15 Q Now, when he had that glove on, did he put anything on it?  
16 A No.  
17 Q Do you remember at a Preliminary Hearing in this case I asked you  
18 what type of glove he had on? Do you remember what you said?  
19 A Lubricating.  
20 Q What did you mean by that, T[REDACTED]?  
21 A I thought lubricating was like a balloon type.  
22 Q So that was your description of the –  
23 A Glove.  
24 Q – material the glove was made out of?

1 A Yeah.

2 Q But again, did you ever see him putting anything on the glove that  
3 day?

4 A No.

5 Q Did he have any bottles of anything with him?

6 A No.

7 Q How long was his finger in your vagina, T [REDACTED]?

8 A Just for seconds.

9 Q Did he say anything to you when he did that?

10 A No.

11 Q Did you say anything to him when he was doing that?

12 A Just crying.

13 Q How did he react to you crying?

14 A He was just telling me to shut up.

15 Q Did he leave you alone at that point?

16 A No.

17 Q What happened after that?

18 A He still had his hand around my neck and he pulled out his penis and  
19 rubbed it inside of my vagina like between the lips.

20 Q While this was going on, did you try to get away?

21 A Yeah.

22 Q Were you able to?

23 A No.

24 Q Why not?

1 A Because he's stronger than me.

2 Q How tall are you, T[REDACTED]?

3 A I'm not sure. Like five foot, five foot one.

4 Q And you said after he put his finger in you, he did something else with

5 his penis. What exactly was that?

6 A Rub it in the inside of my vagina lips.

7 Q How were you positioned when he did that?

8 A Still laying down.

9 Q Did he move you at all after he took his finger out of your vagina?

10 A No.

11 Q Did you see his penis in your vagina?

12 A No.

13 Q Did you feel something?

14 A Yeah.

15 Q What did you feel?

16 A The tip of his head going in.

17 Q The tip of what?

18 A His head on his penis.

19 Q Okay. Again, T[REDACTED], I know I keep reminding you, but I need you to

20 speak up. I'm having a real hard time hearing you. Okay? Where did you feel that?

21 A Just the inside of my lips, just rubbing up and down.

22 Q And you said inside of your lips. Do you know how your vagina has

23 two – or a fold or two sides or lips?

24 A Yeah.

1 Q You said between those?  
2 A Yeah.  
3 Q So it was in-between those two lips?  
4 A Yes.  
5 Q And you said you felt something rubbing up and down?  
6 A Yes.  
7 Q How long was he doing that for?  
8 A Just for seconds.  
9 Q How did that end?  
10 A He told me to sit down on the couch.  
11 Q I want to back up just a second. Again, how was he positioned when  
12 he was doing that?  
13 A Between my legs.  
14 Q So you were laying down still?  
15 A Yes.  
16 Q And he was on top of you in-between your legs?  
17 A Yes.  
18 Q And so how did it – Once he stopped doing that, what happened?  
19 A He told me to get up and sit on the couch.  
20 Q And did you do that?  
21 A Yes.  
22 Q Why did you go sit on the couch?  
23 A Because I didn't want him to hurt me if I didn't listen.  
24 Q And once you got on the couch, what happened?



1 A He asked me why didn't I like him.

2 Q What did you tell him?

3 A I told him it's nothing like that, it's just I felt that he was trying to take  
4 my stepdad's place.

5 Q After you had that discussion with him on the couch, did you have any  
6 more contact with him that morning?

7 A Yeah.

8 Q Pardon?

9 A Yes.

10 Q Okay. What else did you guys do?

11 A Well, I got dressed for school, and then after I got dressed he gave me  
12 my phone and then he took me to school.

13 Q Why did you let him drive you to school, T [REDACTED]?

14 A Because I felt like if I -- I thought like he would think if I was to walk to  
15 school he'd think I walked to somebody else's house and tell, because he asked me  
16 who was I going to tell.

17 MR. COX: Objection, Calls for speculation.

18 THE COURT: Sustained. Maybe if you could focus the question a little  
19 differently, Mr. Pandelis.

20 MR. PANDELIS: I'll rephrase.

21 BY MR. PANDELIS:

22 Q T [REDACTED], were there some things that you were worried about when  
23 you decided to let him drive you to school?

24 A Yes.

1 Q What were those things?  
2 A I thought like he would try to kill me if I told.  
3 Q So you were scared?  
4 A Yes.  
5 Q And is part of the reason you were scared some of the things he told  
6 you while this was happening?  
7 A Yes.  
8 Q What were some of the things again that he told you while this was  
9 happening?  
10 A Just shut the fuck up before I snap your neck, and then he asked who  
11 was I going to tell, but I said nobody.  
12 Q When he drove you to school, did the two of you talk at all?  
13 A Yeah.  
14 Q What did you talk – What was the conversation on the way to school?  
15 A Who was I going to tell, and did I want a new phone case.  
16 Q Who were you going to tell and what?  
17 A Did I want a new phone case.  
18 Q What happened to your phone case?  
19 A It got chipped at the top.  
20 Q When he asked you who you were going to tell, what did you tell him?  
21 A Nobody.  
22 Q On that day on May 14th, did you eventually tell somebody?  
23 A Yes.  
24 Q Who did you tell first?

1 A My sister D[REDACTED].  
2 Q How did you tell D[REDACTED]?  
3 A I texted her.  
4 Q Where were you when you texted her?  
5 A In class.  
6 Q Do you remember about how long after you got to school you texted  
7 D[REDACTED]?  
8 A Probably like two minutes. Like, when I got into class I had texted her  
9 as soon as I got in my class.  
10 Q Do you know what happened after you texted D[REDACTED]?  
11 A She told my mom. Or she forwarded the message to my mom.  
12 Q How do you know that?  
13 A She told me.  
14 Q Okay. So after the fact D[REDACTED] told you that she told your mom?  
15 A Yeah.  
16 Q Now, T[REDACTED], early on you said that when he first came into your  
17 room he put his (sic) phone in your pocket – or into his pocket, correct?  
18 A Yeah.  
19 Q How did you get your phone back?  
20 A He gave it back to me.  
21 MR. COX: Judge, I object. Leading question.  
22 MR. PANDELIS: Well, my question is how did you get your phone back.  
23 THE COURT: Overruled. It's okay.  
24 THE WITNESS: He gave it back to me.

1 BY MR. PANDELIS:

2 Q Did you have – Did you talk to him at all before he gave you your  
3 phone back?

4 A Yeah.

5 Q What did you guys talk about before he gave you your phone back?

6 A Do you want me to take – Do he want me to take me to school. I can't  
7 say it right. Did he want me to take – Did – I can't say it right. He asked, Do you  
8 want me to take you to school?

9 Q Okay. Was he worried at all when he agreed to give you your phone  
10 back, or before he gave you –

11 MR. COX: Objection, calls for speculation.

12 THE WITNESS: Yes.

13 MR. COX: Judge –

14 THE COURT: Sustained.

15 Hang on just a second. Let him ask you another question.

16 BY MR. PANDELIS:

17 Q Where were you when he gave you your phone back?

18 A In the bathroom.

19 Q In the bathroom?

20 A Yeah.

21 Q Was that after the incident in the living room?

22 A Yeah.

23 Q What were you doing in the bathroom when he gave it back to you?

24 A Brushing my teeth.

1 Q Did you ask for the phone back?

2 A No.

3 Q He just gave it back to you?

4 A Yeah.

5 Q Did he say anything to you when he gave it back to you?

6 A Who are you going to tell?

7 Q So right when he gave you the phone back he was asking you who  
8 you were going to tell?

9 A Yeah.

10 MR. PANDELIS: I'll pass the witness, Your Honor.

11 MR. COX: Judge, may we approach briefly?

12 THE COURT: Sure. And if everybody wants to take a second and stand up,  
13 this would be a good time.

14 (Bench conference begins)

15 THE COURT: Yes?

16 MR. COX: Brian Cox, Public Defender. The State has alleged a penetrating  
17 injury. I think based on that the Rape Shield Law is not in effect on this case. I  
18 believe I am in a position to ask her if she was sexually active prior to the allegation.  
19 because they're claiming my client left a penetrating injury.

20 THE COURT: Let's take a break.

21 MS. KOLLINS: Obviously -- (indiscernible) --

22 THE COURT: Okay.

23 MS. KOLLINS: -- discovery that supports that -- (indiscernible) -- if she was  
24 sexually active -- (inaudible).

1 THE COURT: Let's let the jury go out and we'll talk about this, okay?

2 (Bench conference concluded)

3 THE COURT: Ladies and gentlemen, we're going to need to take a really  
4 short break.

5 During this recess you are admonished not to talk or converse among  
6 yourselves or with anyone else on any subject connected with this trial, or read,  
7 watch or listen to any report of or commentary on the trial or any person connected  
8 with this trial by any medium of information, including without limitation newspapers,  
9 television, the Internet and radio, or form or express any opinion on any subject  
10 connected with the trial until the case is finally submitted to you.

11 We'll see you folks back here at 11:00. Thank you.

12 (The jury exits the courtroom)

13 MR. PANDELIS: Your Honor, can we have someone from VWAC take  
14 T [REDACTED] into the waiting room?

15 THE COURT: That would be fine. T [REDACTED], we're going to have you just go  
16 into the conference room that's right at the front there and we'll be just a minute.

17 (The witness exits the courtroom)

18 MR. COX: Your Honor, I do have a base for the question, It is supported by  
19 what was reported during the exam at the hospital, that she had been sexually –

20 THE COURT: Okay. What's your case?

21 MR. COX: Excuse me?

22 THE COURT: You said you have a case.

23 MR. COX: No. It's my understanding of the Rape Shield Law, I'm precluded  
24 from going into any sexual history. However, if the State is making an allegation

1 that there is a penetrating injury or a sexual injury caused by my client, I do have the  
2 opportunity to ask and see if in fact there is an explanation, provide an explanation  
3 for the injury they're arguing. In this case, reading the SANE exam, she does report  
4 that she had been sexually active with her boyfriend. So I'm not – It's not a fishing  
5 expedition, it's something that was reported during the SANE exam.

6 MS. KOLLINS: Well, but not sexually active within the 72 hour period. So  
7 you can't –

8 MR. COX: Well --

9 MS. KOLLINS: I mean, that's pure Rape Shield.

10 THE COURT: Do you know – Anybody know the statute number off-hand?

11 MR. COX: Judge, you know, I've read it. I've read it, I've read it. I don't have  
12 it with me. Honestly I didn't think it was going to be an issue, especially when the  
13 State is claiming that there's a penetrating injury.

14 MS. KOLLINS: Well, again, the subject of a pretrial motion or a hearing.  
15 That should have been answered before cross-examination.

16 MR. COX: Well, so then if I'm surprised during trial, I would be precluded?  
17 I don't think so.

18 THE COURT: Mr. Cox, what part of her testimony was a surprise?

19 MR. COX: Well, I was surprised in opening, Judge. It was my understanding  
20 they weren't claiming that there was a specific finding of a penetrating injury. Ms.  
21 Kollins in opening – Because the SANE exam indicates a non-specific finding. In  
22 opening statement Ms. Kollins argued that there was swelling at the introitus, which  
23 is the opening of the vagina. Now, granted, there's a myriad of reasons why a young  
24 woman has that during an exam, but she argued it was caused by my client. So,

1 you know, when that happens, you know, I need to react and defend my client.

2 MS. KOLLINS: Well, and I don't know how Mr. Cox thinks that he's going  
3 to stand up in opening statement and say there was absolutely no evidence, when  
4 contained within the report is swelling and redness to the opening of the genital area.  
5 Am I supposed to just gloss over that? It is consistent with a penetrating injury or  
6 blunt force trauma. So I don't know why this comes as a surprise. If he wants to  
7 cross-examine the nurse, the doctor is going to say not after 72 hours. She's going  
8 to say that that is within the acute period. So –

9 MR. PANDELIS: And Your Honor, it's Chapter 50.090.

10 MS. KOLLINS: Yeah.

11 THE COURT: Thank you. Okay, so this is what it says: "In any prosecution  
12 for sexual assault the accused may not present evidence of any previous sexual  
13 conduct of the victim of the crime to challenge the victim's credibility as a witness  
14 unless the prosecutor has presented evidence or the victim has testified concerning  
15 such conduct or the absence of such conduct, in which case the scope of the  
16 accused's cross-examination of the victim or rebuttal must be limited to the evidence  
17 presented by the prosecutor or victim."

18 MS. KOLLINS: And obviously our position is we have not opened the door  
19 on that. I mean, if what Mr. Cox said was the state of the law, every time we had  
20 any type of finding you'd be able to go into sexual history of a victim. And that's  
21 just not the way it is.

22 MR. COX: Well, if it was qualified – I would submit if it was qualified with  
23 there was redness, it's non-specific. You know, you look at the report –

24 MS. KOLLINS: But that's – that's what it is.



1 MR. COX: I'm sorry, let me say what I want to say. Let me say what I want  
2 to say real quick. You limit it to what, you know, the report says, a non-specific  
3 finding. In other words, there's other reasons that cause this. But she specifically  
4 argued to the jury that it was caused by my client. So I believe, Judge, that  
5 completely opens the door. Now, I'm not fishing because in the SANE report she  
6 reports being sexually active with her boyfriend. And in all honesty, Judge, I don't  
7 intend to question beyond, you know, probably one or two very simple questions  
8 along those lines.

9 THE COURT: Okay. But it says: "The prosecutor has presented evidence  
10 or the victim has testified concerning such conduct." I mean, at this point I don't  
11 think there's --

12 MR. COX: Well, what's going to happen, Judge, is that, you know, I guess  
13 there's -- we have to make a decision because, you know, based on the order of the  
14 witnesses. Then what's going to happen is they're going to call the SANE nurse or  
15 Dr. Vergara to say, well, you know -- Dr. Vergara, she may deviate beyond -- may  
16 now say, well, now it's not a non-specific finding, now I think it's a specific finding;  
17 I disagree with the report here. And now I don't have an opportunity to ask her if  
18 she's been sexually active. And they're going to argue that my client inflicted a  
19 penetrating injury on T [REDACTED].

20 MS. KOLLINS: First of all, the doctor is not going to come in here and  
21 change her testimony from what is contained within her report. Second of all, this is  
22 all cross-examination. Dr. Vergara, there are other explanations for this non-specific  
23 finding, is that correct? Can you tell me what they are? They can be a myriad of  
24 reasons. They can be something -- a piece of clothing that was irritating. They

1 can be a – it could be from other sexual activity. She may even say that. But what  
2 she can say is it's not inconsistent with what's alleged here. So that's all for cross-  
3 examination. That doesn't mean we get into this kid's background about being  
4 sexually active. And there's certainly nothing in that report that indicates that she  
5 was sexually active within an acute period wherein the redness is attributable to  
6 other sexual contact or conduct.

7 MR. COX: Well, Judge, that's up to them to argue.

8 THE COURT: Okay. Mr. Cox, do you have any authority, though, for what –

9 MR. COX: I'm arguing based on the statutes. My position, Judge, the State  
10 has opened the door arguing a penetrating injury. Also, Judge, it's not – you know,  
11 we're aware that she did make such a report to the SANE nurse that she had been  
12 sexually active. I intend to ask T [REDACTED] a H [REDACTED] if she's been sexually active with  
13 her boyfriend, and that's the extent really of what I want to ask. Do I have a specific  
14 allegation or incident of multiple liaisons and all? No. Judge, she reported to the  
15 SANE nurse that she had been sexually active.

16 THE COURT: You know, I think if T [REDACTED] had gotten up here and said –

17 MR. KOLLINS: I've never had sex before.

18 THE COURT: Exactly. I think the cases support your position, but I think  
19 absent something to that effect I just am not seeing it.

20 MR. COX: But the problem is is that the jury will be left with that impression  
21 that she'd never had sex before because I won't be able to ask the question. That  
22 is the problem. They are left with the opinion that, well, there has to be something  
23 because she's red and she's never had sex before. I cannot –

24 MS. KOLLINS: That's –

1 MR. COX: I cannot ask one question, have you had sex before?

2 THE COURT: Right. I mean, that's what –

3 MR. COX: And they're left with the opinion that she is a virgin, and that is  
4 not the case.

5 THE COURT: That's what the Rape Shield Law is, is that we don't go into  
6 the prior sexual activities of people in these cases unless there are some very  
7 limited exceptions, one of which is when there's some testimony by the victim that –  
8 about prior activity, which there wasn't. So –

9 MR. COX: Which prior activity? I'm sorry?

10 THE COURT: There wasn't. That's what I'm saying. There wasn't any  
11 testimony about that. And the statute really requires that there is something to  
12 open the door, which I don't think –

13 MS. KOLLINS: And again –

14 MR. COX: I think that interpretation, I would never be allowed to ask – When  
15 somebody is alleging a penetrating injury, I'll never be allowed to ask the question.

16 THE COURT: Well, I mean, Mr. Cox, by your – by your interpretation there  
17 frankly would be no Rape Shield Law.

18 MR. COX: Well, there would, Judge, because I have had cases where  
19 they're not claiming there's a penetrating injury, they're not claiming they have  
20 specific findings indicating my client obviously sexually assaulted her because,  
21 look, his penis caused that mark, okay.

22 That's what they're claiming here. They're claiming my client did  
23 make that mark. And now if I'm precluded from asking that question, that she's  
24 been sexually active, the jury will be left with the impression that she is a virgin –

1 THE COURT: Okay. Well –

2 MR. COX: – she's never had sex before and there's no way that anybody  
3 else's penis could have been there. That's the problem.

4 MS. KOLLINS: Well, and let's not –

5 THE COURT: Ms. Kollins, it's not necessary.

6 MS. KOLLINS: Okay.

7 THE COURT: I understand your position, Mr. Cox, but I just don't think that  
8 we have anything at this point that would allow those types of questions under the  
9 statute.

10 So let's bring Triaunna back in, and the jury.

11 THE MARSHAL: Ready, Judge?

12 THE COURT: Yeah. Let's bring Triaunna in first and then we can bring in  
13 the jury.

14 THE MARSHAL: Okay.

15 (The witness enters the courtroom)

16 THE COURT: Okay, Triaunna, come back on up here and have a seat. Do  
17 you want to get a drink of water before everybody comes in or are you doing okay?

18 THE WITNESS: No, thank you.

19 THE COURT: Okay.

20 THE MARSHAL: Judge, ready for the jury?

21 THE COURT: We are.

22 THE MARSHAL: The jury is in the courtroom.

23 (The jury enters the courtroom)

24 THE COURT: Back on the record in Case Number C265506, State of Nevada

1 versus Tyrone James. Let the record reflect the presence of all of our jurors, Mr.  
2 James with his counsel, the representatives of the District Attorney's Office, and all  
3 of the court staff.

4 Mr. Cox.

5 MR. COX: Thank you, Judge.

6 CROSS-EXAMINATION

7 BY MR. COX:

8 Q Good morning, T [REDACTED].

9 A Good morning.

10 Q You do know N [REDACTED] a C [REDACTED], correct?

11 A No.

12 Q Do you know of her?

13 A Yes.

14 Q Now, prior to the police being called on the case, you texted your  
15 friend or your sister and you talked to your mother about what you testified today,  
16 about today?

17 A Yes.

18 Q Is that true?

19 A Yes.

20 Q Were you truthful with your mother?

21 A Yes.

22 Q Did you tell your mother that you were not penetrated?

23 A Can you ask that in a different way?

24 Q Excuse me?

1 A Can you ask that in a different way?

2 Q Did you tell your mother whether or not your vagina was penetrated?

3 A Yes.

4 Q Okay. And what did you tell your mother?

5 A That he stuck his finger in there.

6 Q Okay. Now, you also went to the hospital for an exam after lunchtime.

7 would you say?

8 A I don't know if it was after lunchtime, but I know I went to the hospital.

9 Q It was kind of during the middle of the day, would you say?

10 A Yeah.

11 Q Okay. Were they nice to you at the hospital?

12 A Yes.

13 Q Did they make you feel comfortable?

14 A Yes.

15 Q Were you honest with the people that you talked to at the hospital?

16 A Yes.

17 Q Do you remember talking to a nurse? You probably talked to several

18 people. Do you recall talking to someone, whether or not they were a nurse?

19 A Yeah.

20 Q Okay. Do you remember what her name was?

21 A No.

22 Q Could it have been Pamela Douglass?

23 MR. PANDELIS: Objection, calls for speculation.

24 THE WITNESS: I'm not sure.

1 BY MR. COX:

2 Q You don't remember?

3 A No.

4 THE COURT: It's overruled. She answered.

5 BY MR. COX:

6 Q When you were talking with people at the hospital, you said that you  
7 were – you mentioned that you were honest with them?

8 A Yes.

9 Q Did you tell them that you had been penetrated?

10 A Yes.

11 Q Are you sure about that? I'm going to give you the opportunity to think  
12 about it.

13 A I told her that he stuck his finger in me.

14 Q I'm sorry?

15 A I told her that he stuck his finger in me.

16 Q Anything else?

17 A Just rubbed his penis.

18 Q Okay. Now, there was – You had a stepfather that was – would you  
19 characterize him more the man of the house?

20 A Yeah.

21 Q Would you say you had a close relationship with your stepfather?

22 A Yes.

23 Q Okay. And he was not in the home?

24 A No.

1 Q He was absent?

2 A Yeah.

3 Q Okay. And Mr. James entered your home and had relations with your  
4 mother?

5 A Yeah.

6 Q And the reality is you didn't like Mr. James, did you?

7 A Sometimes I did, sometimes I didn't.

8 Q Sometimes you didn't?

9 A (Shakes head negatively).

10 Q Did he really date your mom or did he just come to the house and  
11 have a relationship with your mom?

12 A I think of it as dating.

13 Q Dating. Okay. In all fairness, you didn't really like the fact that he came  
14 to your house without your stepdad there and had a relationship with your mom –

15 A Yeah.

16 Q – is that fair to say?

17 A Yes.

18 Q Okay. Do you remember when we talked last time at the Preliminary  
19 Hearing and I asked you what time you would start walking to school, and you said  
20 9:10? Does that sound right?

21 A I don't remember.

22 Q Okay.

23 MR. COX: For Court and counsel, page 17 of the Preliminary Hearing  
24 transcript.



1 MR. PANDELIS: Which page?

2 MR. COX: Seventeen. Line 9.

3 MR. COX: May I approach, Judge?

4 THE COURT: You may.

5 BY MR. COX:

6 Q Do you recall testifying at the Preliminary Hearing?

7 A Yeah.

8 Q Okay. Do you recall me asking – I want you to look at page 17, okay.

9 Do you recall me asking the question: "If you walk, what time would you leave?"

10 A I didn't remember you asking that.

11 Q Okay. Did you answer the question: "I would leave at like 9:10"?

12 A Yeah. I see that.

13 Q You said that?

14 A I see I said that.

15 Q Do you dispute that?

16 A What do you mean by that?

17 Q Do you dispute that you had said that – 9:10?

18 A Yeah.

19 Q Okay, I'm sorry. You don't dispute or you do dispute it? I'm sorry.

20 A Yeah.

21 Q Yes, you agree with it?

22 A That I started walking at 9:10?

23 Q That you would walk to school, you start at 9:10.

24 A Like, not exactly 9:10; like 9:10.

1 Q So right around there?

2 A Like, walking out of the house probably.

3 Q Okay. So you would want to be on your way right around 9:10, but

4 I mean, we're not talking about something exact?

5 A Yeah.

6 Q Okay, fair enough. Now, the reality is is that you told the police that

7 this happened at nine o'clock, correct?

8 A Yeah.

9 Q Okay. And you knew you didn't have a ride to school?

10 A No.

11 Q Now, didn't you testify earlier that you had contacted your friend and

12 you did not have a ride to school?

13 A Yeah. Well, she texted me. She didn't call, she texted.

14 Q And said what?

15 A That she's not –

16 Q And she indicated what to you?

17 A – going to school. She's not going to school because her mouth hurts.

18 Q Okay. So you didn't have a ride to school?

19 A No.

20 Q So in all fairness, when Mr. James showed up, you were ironing your

21 clothes when he showed up. Is that true?

22 A No.

23 Q And he offered you a ride to school so you wouldn't be late?

24 A I don't know if he said so I wouldn't be late.

1 Q Well, would you have been late if he didn't offer you a ride to school?

2 A Yeah.

3 Q Now, you testified that horrific things happened to you in your house  
4 caused by Mr. James?

5 A Yes.

6 Q As soon as you got outside the house, did you run and let your  
7 neighbors know that you had just been assaulted?

8 A No.

9 Q You didn't. So you got into the van with Mr. James?

10 A It wasn't a van.

11 Q His vehicle?

12 A Yes.

13 Q Okay. I apologize. Now, when you got to school, did you immediately  
14 tell the campus police officer –

15 A No.

16 Q – that something terrible had happened to you?

17 A No.

18 Q No. Did you – When you got to class there was a teacher there?

19 A Yes.

20 Q Did you tell your teacher?

21 A No.

22 Q Now, you could have pulled your teacher aside and said, you know,  
23 I just had a horrific thing happen to me. It's possible you could have done that,  
24 is that true?

1 A Yeah, but I didn't.

2 Q You didn't?

3 A No.

4 Q Okay. Now, your school also has counselors. Are you familiar if your  
5 school has counselors?

6 A Yes.

7 Q Okay. You could have gone directly to the Counselor's Office when  
8 you got to school.

9 A Yeah.

10 Q Did you do that?

11 A No.

12 Q Okay. Instead you went to class and you texted friends?

13 A My sister.

14 Q Your sister and a friend?

15 A No, my sister and my best friend.

16 Q Okay. You texted a couple people?

17 A Yeah.

18 Q Including your sister?

19 A Yeah.

20 Q Now, you testified today that Mr. James was hiding in your room?

21 A Like, coming in the door like that; hiding like right there.

22 Q You know, I recall you mentioned he was behind a wall. Did I hear that  
23 incorrectly?

24 A Like, it was by the wall. It was hiding behind the wall, but it's like when

1 you first walk in, there's the wall.

2 Q Okay. Now, in all fairness, [REDACTED], you didn't mention that to the  
3 police when they talked to you, right?

4 A Yes.

5 Q You did mention that to them?

6 A Yes.

7 Q Okay. So that would have been in that statement?

8 A Yeah.

9 Q Okay. And if it's not there – Well, did you testify about that at the  
10 Preliminary Hearing, that he was hiding in your room?

11 A I didn't say he was hiding. I said he was like by the wall peeking  
12 around the corner.

13 Q So you didn't say he was hiding? Is that true?

14 A Yeah.

15 Q Okay. Now, you claim he came in your room and pulled your panties  
16 off. Were you wearing anything else?

17 A A tank – a spaghetti strap.

18 Q Anything else on your bottom?

19 A No, just panties.

20 Q Okay. And then he grabbed you by the neck and your arm?

21 A No, he had his hand around my neck. He didn't like grab me by it,  
22 he just had his hand around it.

23 Q Okay. And you testified that he had your arms as well?

24 A Yeah.

1 Q And that's the way he pulled you into the living room?  
2 A No, he just pulled me by my arm.  
3 Q Pulled you with one of his hands?  
4 A One of his hands.  
5 Q Okay. Would you characterize that as forceful?  
6 A Yes.  
7 Q And you resisted?  
8 A Excuse me?  
9 Q You tried to get free?  
10 A Yes.  
11 Q Okay. And he had your wrist tight?  
12 A He didn't have my wrist, he had my arm like right here.  
13 Q Your arm. And he grabbed it forcefully?  
14 A Yeah.  
15 Q Now, did you – Now, when you talked to the police, did you tell them  
16 that he sat on top of you and forced your legs apart?  
17 A No.  
18 Q You don't remember saying that?  
19 A I just said he was on top of me. I didn't say he forced my legs apart.  
20 MR. COX: Court's indulgence.  
21 BY MR. COX:  
22 Q Did you testify that he forced your legs open?  
23 A That he forced my legs open? I said he opened my legs.  
24 Q Okay. And was that – That was against your will? That was against

1 your will?

2 A Excuse me?

3 Q Is that true?

4 A What do you mean?

5 Q Did you want him to force your legs apart?

6 A No.

7 Q Okay. And he was sitting on top of you when this happened?

8 A When he opened my legs he wasn't sitting on top of me.

9 Q Okay. Do you remember saying – characterizing it in that way when

10 you talked to the police?

11 A What do you mean?

12 Q Is that what you told the police, that he was sitting on top of you when

13 that happened?

14 A I said he was on top of me.

15 Q Okay. Well, was he facing forward or facing backwards?

16 A Forward, like towards me.

17 Q Now, you testified that he grabbed – grabbed you by your neck in the

18 room and pulled you, and grabbed you by your arm and pulled you. And so later on

19 a glove appeared on his hand?

20 A No. When he came in from the start he had a glove on.

21 Q Did you tell that to anyone?

22 A Yeah.

23 Q Did you tell that to the police?

24 A Yeah, he had gloves on.

1 Q Did you tell that during – Did you testify about that during the  
2 Preliminary Hearing?

3 A Yeah.

4 Q That he had gloves on in the very beginning?

5 A Yes.

6 Q Now, Mr. Pandelis talked to you about lubricant.

7 A Yeah.

8 Q And you had mentioned that you believed that lubricant meant glove?

9 A I thought it was like the type of material the glove was.

10 Q Help me understand that a little bit better if you could.

11 A Like what the glove is made out of.

12 Q Is what?

13 A I thought it was lubricated or something like that.

14 Q Lubricated in what way?

15 A Like the type it was made out of. How the glove was made, the  
16 material.

17 Q So that it already had like a lubrication on it?

18 A No. I thought it was – the glove was made like lubricated.

19 Q You mean like a condom?

20 A No.

21 Q Help me understand a little bit better, because I don't.

22 A Like the glove, how it's made, I thought it was made out of lubrication  
23 or something like that.

24 Q Made a glove out of lubrication?



1 A Yeah. I thought that lubricated like was the glove type.

2 Q Okay.

3 MR. COX: Court's indulgence. I apologize for the delay, Judge. I'll be quick.

4 THE COURT: No problem.

5 MR. COX: Judge, I apologize for the delay, and I pass the witness.

6 THE COURT: Thank you. Mr. Pandelis?

7 REDIRECT EXAMINATION

8 BY MR. PANDELIS:

9 Q T [REDACTED], just a minute ago Mr. Cox was asking you some questions  
10 about what Tyrone was doing with your legs when you were in the living room.

11 A Yeah.

12 Q And do you remember at the Prelim when you were testifying about  
13 what he did to your legs, and your testimony was that he opened your legs?

14 A Yeah.

15 Q Do you ever remember saying that he forced your legs open?

16 A No.

17 Q T [REDACTED], in your mind is there a difference between somebody being  
18 on top of you or sitting on top of you?

19 A They're different?

20 Q Yeah. Or is it the same thing in your mind?

21 A No, it's not the same 'cause if you want somebody on top of you then  
22 you want them, and if you don't then you don't.

23 Q So in this case how was Tyrone positioned when he was doing this  
24 to you?

1 A When he opened my legs?

2 Q Yeah.

3 A Like, I can't explain it; like on the floor. Like, you know how when

4 somebody opens your legs, they're on the floor.

5 Q But you were laying down on the floor?

6 A Yeah.

7 Q Was he over you?

8 A Yes.

9 Q T [REDACTED], from the time Tyrone walked into your room, you said you

10 noticed a glove at some point when this was happening, correct?

11 A Yes.

12 Q From the time he walked into your room until you got to the living room

13 and this ended, were you ever away from Tyrone?

14 A No.

15 Q Did you ever seen Tyrone stop and put a glove on?

16 A No.

17 Q Now, when I was asking you some questions earlier and Mr. Cox

18 followed up on them, you testified that you were in your room and you heard a noise

19 and then you said something about him having five sec- or you said you have five

20 seconds to get out?

21 A Yes.

22 Q When you heard that noise, did you immediately see him or did it take

23 a few seconds before you saw him?

24 A I seen him.

1 Q You what?

2 A I seen him.

3 Q Okay. Again, where was he?

4 A Peeking around the corner, like in front of the wall. Like when you first

5 walk in there's a wall, and he was peeking around that wall.

6 Q But that's what you saw him doing, peeking around the corner?

7 A Yeah.

8 Q Okay. Triaunna, how well do you know your counselor at school?

9 A Not very well.

10 Q How well do you know the police officer at school, the school police

11 officer?

12 A I don't know them.

13 Q Are you real comfortable talking to your teacher about sex and things

14 like that?

15 A No.

16 Q You're probably closer to your sister than you are those people?

17 A Yeah, very close.

18 Q Are you closer to your best friend than you are those people?

19 A Yeah.

20 Q Are those part of the – or are those the reasons that you talked to

21 your sister and your best friend about this before anybody else?

22 A Yeah.

23 Q T [REDACTED], when you went to the hospital you had a – Mr. Cox asked

24 you some questions – you had an exam, correct?

1 A Yeah.

2 Q Now, prior to that exam, do you remember talking to a nurse about  
3 what had happened that day?

4 A Yes.

5 Q So did you tell the nurse everything that happened?

6 A I just – She just asked a little bit, not a lot, about what happened.

7 Q But you gave her a general rundown of what happened earlier in the  
8 day at the house with Tyrone?

9 A Yeah.

10 Q And in fact, you did tell her that his finger penetrated your vagina,  
11 right?

12 A Yeah.

13 Q And in fact, you did tell her that his penis penetrated your vagina,  
14 right?

15 A Yes.

16 Q And specifically do you remember telling the nurse that he put his  
17 fingers inside of you?

18 A Just one finger.

19 Q Okay. But you remember telling her that?

20 A Yeah.

21 Q And do you remember telling the nurse that he rubbed his penis on  
22 the lips of your vagina?

23 A Yeah.

24 Q From the time Tyrone came into your room until the time he told you

1 to – or until the time you started getting dressed for school, how long did this whole  
2 thing last, T [REDACTED]?

3 A I'm not sure.

4 Q You don't know for sure?

5 A No.

6 Q Did you get to school on time?

7 A No.

8 Q How late were you?

9 A About I believe six minutes late.

10 Q So you weren't that late?

11 A (Shakes head negatively).

12 Q What was Tyrone wearing that morning? Do you remember?

13 A I remember a long sleeve black shirt.

14 Q Do you remember what he had on on the bottom before he took his  
15 clothes off?

16 A Huh?

17 Q Do you remember what he had – what kind of pants he had on before  
18 he took them off?

19 A No. I think it was basketball shorts, black basketball shorts. I know it  
20 was all black.

21 Q Okay. But what you remember for sure is the top?

22 A I remember the black top.

23 Q Okay. Was Tyrone living with you in May of 2010?

24 A Yeah, but it was like back and forth, back and forth.

1 Q But he didn't stay the night with you prior to this, did he?

2 A Like the day before that?

3 Q Well, that night, did he stay over? Was he there that night?

4 A No.

5 Q Were you expecting him there that morning?

6 A No.

7 Q Were you expecting to get a ride to school from him that morning?

8 A No.

9 MR. PANDELIS: Pass, Your Honor.

10 THE COURT: Thank you. Mr. Cox?

11 MR. COX: Judge, I don't have further questions. Thank you.

12 THE COURT: Are there any questions from the jury? Okay.

13 Counsel approach.

14 **(Bench conference begins)**

15 THE COURT: Any objection to any of the questions?

16 MS. KOLLINS: I don't have a problem asking them. That would be  
17 speculative -- (indiscernible).

18 THE COURT: Right. (Indiscernible) -- she would be able to tell you --

19 MS. KOLLINS: She would know about that -- (indiscernible).

20 THE COURT: Right.

21 MR. COX: Number twelve, I'm not -- I don't object to. This is Bryan Cox for  
22 the record. The question from juror twelve I don't object to. The question from juror  
23 seven, I don't object to. Question six, I don't object to that one, either.

24 THE COURT: Okay.

1 (Bench conference concluded)

2 THE COURT: T [REDACTED], I have a couple questions for you. How far is the  
3 school from your house?

4 THE WITNESS: I'm not sure.

5 THE COURT: Did Mr. James have a key to get into your house?

6 THE WITNESS: Yes.

7 THE COURT: And where was your dog at that point?

8 THE WITNESS: In my room.

9 THE COURT: Why did you start school then back at ten o'clock?

10 THE WITNESS: That's how it was for freshmen and sophomores at Desert  
11 Pines.

12 THE COURT: Don't most schools start around 7:00?

13 THE WITNESS: Yeah.

14 THE COURT: Do you know why that was?

15 THE WITNESS: No.

16 THE COURT: Will the teacher take your phone if you're texting during  
17 school?

18 THE WITNESS: Yeah, but if they don't see you, like, they don't. If they don't  
19 see you, they won't take it, or they'll warn you.

20 THE COURT: Okay. Any follow-up questions or follow-up from the State?

21 MR. PANDELIS: Just a few.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. PANDELIS:

24 Q T [REDACTED], how long would it take you to walk to school?

1 A I believe like twenty minutes.

2 Q How long would it take you to drive to school if you got a ride?

3 A Probably under ten minutes.

4 Q You said you can text so long as the teacher doesn't see you doing it.

5 How were you feeling on May 14th when you got to school?

6 A Sad.

7 Q Was there something you wanted to let out or tell somebody?

8 A Yeah.

9 MR. PANDELIS: Nothing further, Your Honor. Oh – (confers with Ms. Kollins)

10 BY MR. PANDELIS:

11 Q Did you text your sister that day, despite the fact you knew you could  
12 get in trouble potentially?

13 A Yeah.

14 THE COURT: Okay. Anything from the defense?

15 FURTHER CROSS-EXAMINATION

16 BY MR. COX:

17 Q Now, the people you texted, that was your sister and friends?

18 A Yeah.

19 Q Where were they?

20 A At school.

21 Q They were all at school?

22 A Yeah.

23 Q Okay. So everybody is texting in school?

24 A Yeah.



1 MR. COX: Okay.

2 THE COURT: Okay. Any additional questions from the jurors?

3 **(Bench conference begins)**

4 MS. KOLLINS: The second question is speculation.

5 THE COURT: Let me number them so we can talk about them.

6 MS. KOLLINS: Sure. I think this is -- (indiscernible).

7 MR. COX: I think you're right on number two. I didn't -- I can't read number  
8 three, though.

9 MS. KOLLINS: Well, that's your gamble, because I don't know what she  
10 knows about his DV history, so that's --

11 MR. COX: Which one?

12 MS. KOLLINS: Number three. Was she ever --

13 MR. COX: I haven't read it. Yeah, I would oppose two, not three. Number  
14 one, the Public Defender has no objection.

15 MS. KOLLINS: I don't have a problem with number one. Number two is  
16 probably speculative. And I think three is going to open the door that we don't know  
17 what the answer is.

18 MR. COX: Okay.

19 THE COURT: Okay.

20 **(Bench conference concluded)**

21 THE COURT: T [REDACTED], did Mr. James ever talk to you in a sexual way  
22 before?

23 THE WITNESS: No.

24 THE COURT: Any follow-up from the State?

1 MR. PANDELIS: No, Your Honor.

2 THE COURT: Any follow-up from the defense?

3 MR. COX: No, Judge.

4 THE COURT: Any additional questions from the jurors? (No response).

5 Okay. T [REDACTED], you are free to go. Thank you.

6 THE WITNESS: Okay.

7 THE COURT: Counsel approach.

8 (Bench conference begins)

9 THE COURT: How many minutes direct on the next witness?

10 MR. PANDELIS: I can call the sister and she will be very quick.

11 THE COURT: Why don't we just do her, because I've got about fifteen  
12 minutes, so if we can –

13 MR. PANDELIS: Yeah. She'll be short.

14 THE COURT: Okay.

15 (Bench conference concluded)

16 THE COURT: State, please call your next witness.

17 MR. PANDELIS: Your Honor, the State calls D [REDACTED] Jordan.

18 D [REDACTED] JORDAN

19 Having been called as a witness and being first duly sworn, testified as follows:

20 THE COURT: And could you please say your name and then spell the whole  
21 thing for the record, okay?

22 THE WITNESS: My whole name?

23 THE COURT: So say your name and then spell your first name and spell  
24 your last name.

1 THE WITNESS: D [REDACTED] J [REDACTED]. D [REDACTED] J [REDACTED]

2 MR. PANDELIS: Thank you.

3 DIRECT EXAMINATION

4 BY MR. PANDELIS:

5 Q D [REDACTED], how old are you?

6 A Fourteen.

7 Q When is your birthday?

8 A [REDACTED].

9 Q What year?

10 A 1996.

11 Q What school do you go to?

12 A Jerome Mack.

13 Q Pardon?

14 A Jerome Mack.

15 Q Mack? Is that a junior high school?

16 A Middle, yeah.

17 Q Middle school. What grade are you in, D [REDACTED]?

18 A Eighth.

19 Q What's your teacher's name?

20 A All of them?

21 Q This year, what's your teacher's name? Or your favorite teacher's  
22 name? I don't want to incriminate you.

23 A I don't have one.

24 Q Okay. What's your favorite class at Mack this year?

1 A Math.

2 Q Math. What math class are you taking? What are you learning about  
3 in math?

4 A Um, I forgot.

5 Q Okay, but you like your math class. Are you a little nervous in court  
6 today?

7 A Um-hm.

8 Q Okay. D■■■■, do you know the difference between telling the truth  
9 and telling a lie?

10 A (No audible response).

11 Q You have to answer out loud.

12 A Oh. Yeah.

13 Q Okay. Is it a good thing to tell the truth?

14 A Yeah.

15 Q Is it a bad thing to tell a lie?

16 A Yeah.

17 Q If I told you I had a red tie on today, would I be telling you the truth or  
18 would I be telling you a lie?

19 A A lie.

20 Q Why is that?

21 A Because it's yellow.

22 Q Okay. So today can you agree just to tell the truth?

23 A Yeah.

24 Q Do you live here in Las Vegas?

1 A Yeah.

2 Q Who do you live with?

3 A My mom.

4 Q What's your mom's name?

5 A Theresa.

6 Q Do you have any brothers or sisters?

7 A Yeah.

8 Q What are their names?

9 A T[REDACTED] and D[REDACTED].

10 Q T[REDACTED]? How old is T[REDACTED]?

11 A Fifteen.

12 Q And you said you have a brother?

13 A D[REDACTED].

14 Q What's your brother's name?

15 A D[REDACTED].

16 Q D[REDACTED]. How old is D[REDACTED]?

17 A Twelve.

18 Q Do you know somebody named Tyrone James?

19 A Um-hm. Yeah.

20 Q Do you see Tyrone here in the courtroom today?

21 A Yeah.

22 Q Could you point to him and describe something that he's wearing?

23 A Purple. (pointing)

24 MR. PANDELIS: Your Honor, may the record reflect she's identified the

1 defendant?

2 THE COURT: The record will so reflect.

3 BY MR. PANDELIS:

4 Q D [REDACTED], how do you know Tyrone?

5 A My mom.

6 Q How does your mom – Well, what do you mean, your mom? He's a  
7 friend of your mom's?

8 A Yeah.

9 Q How long has your mom been friends with him?

10 A I don't know.

11 Q But at some point he started hanging out with your mom?

12 A Yeah.

13 Q Would you do anything with him and your mom?

14 A What do you mean? Like –

15 Q Like would you do things together with Tyrone and your mom?

16 A Sometimes.

17 Q Like what types of things would you do?

18 A Just go swimming.

19 Q Where would you go swimming at?

20 A Like in our apartments.

21 Q At your apartments or someone else's apartments?

22 A Our apartments.

23 Q Would he ever stay over at your house?

24 A Yeah.

1 Q Was he living there or did he just stay sometimes?  
2 A He lived there.  
3 Q So he had some of his things there?  
4 A Yeah.  
5 Q How long did he live there for?  
6 A I don't know.  
7 Q Do you know when he stopped living at your house?  
8 A Like – it was like a couple of days before that thing had happened.  
9 Q Okay, and we'll get to that thing in a second. Do you know Tyrone?  
10 Or excuse me, do you like Tyrone?  
11 A No.  
12 Q Why don't you like Tyrone?  
13 A Because.  
14 Q Because why?  
15 A Because my mom already had a boyfriend before.  
16 Q So how did that make you feel, that she was hanging out with Tyrone?  
17 A I was mad about it.  
18 Q You were mad about it. Did you ever talk to your mom about it?  
19 A Sometimes.  
20 Q What would you tell your mom?  
21 A That I just don't like him.  
22 Q Did you ever talk to your sister about it?  
23 A Yeah.  
24 Q What did you tell your sister?

1 A That I don't like him and I don't like him staying there.

2 Q You didn't like him staying there?

3 A No.

4 Q Did you – When you got in trouble at the house, who would – Would  
5 your mom get mad at you if you did something wrong?

6 A Yeah.

7 Q Would Tyrone ever be in charge of disciplining you or anything like  
8 that?

9 A No.

10 Q So that was your mom's job?

11 A Yeah.

12 Q When Tyrone was staying at your house, did he ever tell you to do  
13 chores and things like that?

14 A Sometimes.

15 Q Did your mom tell you to do stuff like that, chores around the house?

16 A Yeah.

17 Q Who would order you to do chores most of the time, your mom or  
18 Tyrone?

19 A My mom.

20 Q On May 14th of this year, 2010, did you learn that something  
21 happened to your sister T■■■■a and Tyrone?

22 A Yeah.

23 Q What did you learn, or what were you told?

24 A Like, what she told me.



1 MR. COX: I'm sorry, I didn't hear. I apologize, I didn't hear the question or  
2 the answer.

3 THE COURT: Could you repeat the question, Mr. Pandelis?

4 MR. COX: I'd appreciate it. I'm sorry.

5 BY MR. PANDELIS:

6 Q So T[REDACTED]a – on the morning of May 14th, T[REDACTED]a contacted you?

7 A Yeah.

8 Q How did she contact you?

9 A She texted me.

10 Q Where were you when she texted you?

11 A In class.

12 Q Are you allowed to use your cell phone in class?

13 A No.

14 Q Okay. Did you bring your cell phone to class and it was on?

15 A Yeah.

16 Q Do you usually do that?

17 A Um-hm.

18 Q Okay. If the teacher sees you texting in class, what happens?

19 A She would give me a warning or take it.

20 Q Okay. Have you ever gotten caught doing that before?

21 A Yeah.

22 Q So that morning you had your cell phone on?

23 A Yeah.

24 Q And you got a message from your sister, T[REDACTED]?

1 A Yeah.

2 Q What did T [REDACTED] tell you?

3 A She told me that he came in our room and he grabbed her, and then  
4 her phone or something had fell, and then he took –

5 MR. COX: Judge, I'm sorry, I'm having trouble hearing. I apologize. Maybe  
6 I should move closer.

7 THE COURT: That's fine, Mr. Cox.

8 MR. PANDELIS: Well, just speak up a little bit, D [REDACTED].

9 BY MR. PANDELIS:

10 Q What did T [REDACTED] tell you?

11 A She told me that he came in our room and he grabbed her and that  
12 her phone fell or something, and then her pants was down or something like that.  
13 And he – they went – he took her to the living room and then he put his finger in her  
14 and he had his penis over or something.

15 Q Did she tell you to do anything after she told you this?

16 A No, she didn't text me back.

17 Q How did this make you feel when you got this message?

18 A I was mad about it.

19 Q Did she tell you all of that in the text message or did you talk to her  
20 afterwards about it?

21 A I talked to her after, but the text messages told me that he had choked  
22 her and then like some more stuff.

23 Q Okay. So he didn't tell – T [REDACTED] didn't tell you all of that in the text  
24 message, she just told you something had happened?

1 A Like, she told me half of the stuff that I said.  
2 Q She told you what?  
3 A Half of the stuff I said.  
4 Q Half of the stuff. Okay. And then afterwards you had another  
5 conversation with her where she told you more?  
6 A Yeah.  
7 Q Okay. But after you got this text message, how did you feel?  
8 A I was mad.  
9 Q So what did you do once you got the message from your sister?  
10 A I walked out of class.  
11 Q Did you talk to the teacher when you walked out of class?  
12 A No.  
13 Q What did you tell your teacher?  
14 A I didn't tell nothing.  
15 Q You just walked out of class?  
16 A Yeah.  
17 Q Did anyone try to come get you from class?  
18 A No. It was the school police that took me back to the school.  
19 Q Where did you go when you walked out of class?  
20 A I walked to the front of the school 'cause I was going to walk back  
21 home.  
22 Q Okay. And at that point you got stopped by the school police?  
23 A Um-hm.  
24 Q What did they tell you?

1 A He just took me. He asked me what I was doing, and I was like, I'm  
2 going home. And then he took me back to class – or the Dean's.  
3 Q So did you end up staying at school the rest of the day?  
4 A Um-hm.  
5 Q But when you were at school, did you contact anybody, based on what  
6 T■■■■■■a had told you?  
7 A My mom.  
8 Q What did you tell your mom?  
9 A I just told her that – I said I knew he was a rapist. And then she's like,  
10 what are you talking about? And then I said I heard it.  
11 Q So you – Did you talk to your mom about what T■■■■■■a had told you?  
12 A Um-hm.  
13 Q Okay. And you stayed at school the rest of the day?  
14 A Yeah, 'cause they all went to the hospital or something.  
15 Q Okay. So you had no one to come pick you up early?  
16 A Yeah, my – No.  
17 Q How did – Did you walk home from school that day?  
18 A No, my grandma picked me up.  
19 Q Okay. What time did you get out of school that day?  
20 A At like 2:21.  
21 Q T■■■■■■, do you remember what – Or excuse me. D■■■■■■, do you  
22 remember what class you were in when T■■■■■■a sent you that text message?  
23 A I was in History.  
24 Q What period is History?

1 A Third.  
2 Q Do you know about what time you start school in the morning?  
3 A At –  
4 Q Or last year what time did you start school in the morning?  
5 A I think eight.  
6 Q Do you know what time third period started?  
7 A It was like at ten something.  
8 Q So was it ten something when T [REDACTED] a texted you?  
9 A Yeah. It was like at – almost like the end of third period.

10 MR. PANDELIS: Okay. Pass the witness.

11 THE COURT: Mr. Cox.

12 MR. COX: Thank you.

13 CROSS-EXAMINATION

14 BY MR. COX:

15 Q Good morning, Denise. Now, you mentioned when Mr. Pandelis was  
16 asking you questions that you received a text from Triaunna?

17 A Yeah.

18 Q Now, text messages are very short, correct?

19 A Yeah. She sent me two of them.

20 Q Okay. But it's difficult to put a long message on a text, isn't it?

21 A Yeah.

22 Q Is that true?

23 A Yeah.

24 Q Okay. Now, when you got that message, did you call the police?

1 A No.

2 Q Did you tell your teacher?

3 A No.

4 Q Okay. Now, just after that you ran into a police officer?

5 A Yeah.

6 Q The police officer wears a badge?

7 A Yeah.

8 Q And he has a gun?

9 A The school police doesn't have a gun.

10 Q They don't have guns?

11 A No.

12 Q I apologize, that's my mistake. But they're still police officers and

13 they're there to help you if you need help, would you say?

14 A Yeah.

15 Q Okay. Did you tell the police officer that something had happened to

16 your sister?

17 A No.

18 MR. COX: Pass the witness, Judge.

19 MR. PANDELIS: Nothing further.

20 THE COURT: Anything from the jury? No? Okay.

21 Thank you, D[REDACTED]. You can step down.

22 THE WITNESS: Okay.

23 THE COURT: You'll need to talk to Mr. Page there, Mr. James.

24 Counsel approach.

1                                   **(Bench conference begins)**

2           THE COURT: They had a problem getting some of the case numbers for the  
3 grand jury. If you have another short witness, we could do that now. If you don't,  
4 we can go ahead and break for lunch and we'll just figure out –

5           MS. KOLLINS: It's probably going to be awhile because she's like all the time  
6 when we -- (indiscernible).

7           THE COURT: Okay, that's fine. I was just checking. If we could put  
8 somebody on then we'd do it, but we're just going to go ahead and break for lunch.

9                                   **(Bench conference concluded)**

10          THE COURT: Okay, folks, we're going to go ahead and take a break for  
11 lunch until one o'clock.

12                   During this recess you are admonished not to talk or converse among  
13 yourselves or with anyone else on any subject connected with this trial, or read,  
14 watch or listen to any report of or commentary on the trial or any person connected  
15 with this trial by any medium of information, including without limitation newspapers,  
16 television, the Internet and radio, or form or express any opinion on any subject  
17 connected with this trial until the case is finally submitted to you.

18                   Have a good lunch. We'll see you back at 1:00.

19                                   **(The jury exits the courtroom)**

20          THE COURT: Okay. Do we have anything we need to take care of outside  
21 the presence of the jury?

22          THE DEFENDANT: Yes, Your Honor.

23          THE COURT: Yes, sir?

24          THE DEFENDANT: Your Honor, I had specific questions that I had wrote

1 down that I wanted to get addressed across to the jury, and anything I'm asking  
2 he's not asking the questions that I wanted to get asked. I feel if I have questions  
3 and I write them down, he should address the questions that I have so the jury  
4 could hear them.

5 THE COURT: Okay. I am going to let you talk to Mr. Cox about that while  
6 we are having this break, and see if you two can work that out. Okay?

7 Anything else?

8 MR. PANDELIS: No, Your Honor.

9 THE COURT: Okay, great.

10 MR. PANDELIS: What time are we coming back?

11 THE COURT: One o'clock.

12 MR. PANDELIS: One o'clock.

13 (Court recessed from 11:42:15 a.m. until 1:01:05 p.m.)

14 THE MARSHAL: The jury is in the courtroom.

15 (Whereupon the following proceedings were held  
16 in the presence of the jury)

17 THE COURT: Back on the record in Case Number C265506, State of  
18 Nevada versus Tyrone James. Let the record reflect the presence of all of our  
19 jurors, Mr. James with his counsel, the representatives of the District Attorney's  
20 Office, and the court staff.

21 Okay. Ms. Kollins, call your next witness, please.

22 MS. KOLLINS: Theresa Allen, please.

23 THERESA ALLEN

24 Having been called as a witness and being first duly sworn, testified as follows:



1 THE COURT: Good afternoon, ma'am. Could you please say your whole  
2 name and then spell it first and last for the record.

3 THE WITNESS: Theresa D[REDACTED] Allen. T-h-e-r-e-s-a A-l-l-e-n.

4 THE COURT: Thank you, ma'am. Ms. Kollins.

5 DIRECT EXAMINATION

6 BY MS. KOLLINS:

7 Q Good afternoon, Ms. Allen. How are you?

8 A I'm fine.

9 Q Good. Where do you live?

10 A 207 North Lamb.

11 Q How long have you lived at 207 North Lamb?

12 A Almost two years.

13 Q Is that here in Las Vegas –

14 A Yes.

15 Q – Clark County, Nevada?

16 A (Shakes head affirmatively).

17 Q This nice lady here is taking down everything you say, so it's real  
18 important we don't talk at the same time.

19 A Oh, okay.

20 Q Okay. And I'm going to ask you just to speak right into the microphone  
21 so everybody can hear you. Is that a house or an apartment?

22 A Apartment.

23 Q And who lives there with you?

24 A Me and my three kids.

1 Q And what are the names and ages of your three children?  
2 A T██████, 15; D██████, 14; D██████n 12.  
3 Q And T██████a's birthday is when?  
4 A ██████, 1995.  
5 Q And what about D██████?  
6 A D██████, ██████, 1996.  
7 Q Where does T██████a go to school now?  
8 A Desert Pines.  
9 Q And where did she go to school last year?  
10 A Desert Pines.  
11 Q Where does D██████e go to school?  
12 A Jerome D. Mack.  
13 Q And where did D██████e go to school last year?  
14 A Jerome D. Mack.  
15 Q Okay. How far do you live from Desert Pines?  
16 A Um, they said 1.4 miles or something like that.  
17 Q Close enough for T██████a to walk to school?  
18 A Yes.  
19 Q Would she get rides, walk to school? How would she get to school  
20 last school year?  
21 A She would sometimes walk or she'd stay at her friend's house and her  
22 mom takes her, or on my off days I take her.  
23 Q In May of 2010, where were you working?  
24 A Caesars Palace.

1 Q What was your regular work schedule at Caesars Palace?  
2 A Nine to five.  
3 Q Did you have a second job during that time?  
4 A No, not in May.  
5 Q At a routine school day getting T■■■■■■a – and I'm talking about last  
6 year, getting T■■■■■■a to school, D■■■■■■e to school and your son to school, what  
7 would you do?  
8 A They would get up for school. I'd drop D■■■■■■e and D■■■■■■h off at  
9 school, and T■■■■■■a would walk to school or, like I said, be at her friend's house.  
10 Q Was T■■■■■■a on the same schedule that D■■■■■■e and your son  
11 were on?  
12 A No.  
13 Q What was her school schedule?  
14 A 9:55 to 4:55.  
15 Q Was that a typical school schedule at Desert Pines last year?  
16 A Yes, for the freshmen.  
17 Q Now, are you married?  
18 A Yes.  
19 Q And to whom are you married?  
20 A Montry Ledford (phonetic).  
21 Q And where is Mr. Ledford?  
22 A In Casa Grande.  
23 Q Incarcerated?  
24 A Yes.

1 Q How long has he been incarcerated?  
2 A In February it will be three years.  
3 Q February of 2011 it will be three years?  
4 A Yes.  
5 Q And what was his relationship to your children before his incarceration?  
6 A He was their father figure.  
7 Q And for how many years had he been their father figure?  
8 A Nine.  
9 Q Do you know a Tyrone James?  
10 A Yes.  
11 Q Do you see Tyrone James in the courtroom today?  
12 A Yes. With the purple shirt on.  
13 Q I'm sorry?  
14 A Yes. With the purple shirt on.  
15 MS. KOLLINS: May the record reflect identification of the defendant,  
16 Tyrone James?  
17 THE COURT: The record will so reflect.  
18 BY MS. KOLLINS:  
19 Q How is it that you know Tyrone?  
20 A I knew him in the summer when we were twelve years old.  
21 Q In the summer when you were twelve years old, where did you meet  
22 him?  
23 A On San Marcos Street. His uncle stayed down the street from us.  
24 Q Is that here in Las Vegas?

1 A Yes.

2 Q So you met him when you were about twelve. Did you continue to

3 see him through – I guess you would have been in junior high school at twelve?

4 A It was high school. Well, it was the summer going into high school.

5 Q Okay. Did you continue to see him going into high school?

6 A I seen him a couple of times around school, but that's it.

7 Q And where was that in high school?

8 A Rancho.

9 Q And what year was the last year you would have seen him at Rancho?

10 A Probably before our freshman year was up. I didn't see him after, like

11 going into tenth grade I didn't see him.

12 Q Okay. Well, can you tell me what year that is, because I don't know

13 how old you are and I don't know when you were at Rancho.

14 A I'd say about in '91.

15 Q So around 1991?

16 A Yes.

17 Q Now, after high school did you maintain a friendship with him or –

18 A No, he went his way and I went my way.

19 Q Okay. And when did you marry your husband – marry your husband?

20 A November 15th, 2008.

21 Q Okay. But he had been in your life previous to that?

22 A Who?

23 Q Your husband.

24 A Yes.

1 Q Your current husband?  
2 A Yes.  
3 Q So who did you meet in 2008?  
4 A Tyrone.  
5 Q Okay. So you ran back into him in 2008?  
6 A It was about in the end of 2008, I think.  
7 Q And tell me about the circumstances where you ran back into him  
8 and how you got to see him in 2008?  
9 A I was going to my son's godmother's house, which is his auntie, and  
10 he was over there. And Tyrone was –  
11 Q Your son's?  
12 A My son, who is D [REDACTED], his – Tyrone's auntie is my son's godmother.  
13 Q And her name is what?  
14 A Twanda Beatty (phonetic).  
15 Q So you were going to Twanda Beatty's house and Tyrone was there?  
16 A Yes.  
17 Q And is that the first time you had seen him since high school?  
18 A Yes.  
19 Q Tell me about your interaction at his auntie's house that day.  
20 A We were just talking. I was talking to Twanda and I said I remember  
21 Tyrone from when we stayed on San Marcos Street, and that was it.  
22 Q After that meeting, did you have occasion to kind of reconnect?  
23 A Yes. Twanda asked could she give Tyrone my number and I said yes,  
24 and we'd talk on the phone.

1 Q When you say we talked on the phone, you're referring to Tyrone?  
2 A Me and Tyrone talked on the phone.  
3 Q Okay. And about when in 2008 was that?  
4 A It was the beginning of May.  
5 Q Of 2008?  
6 A I think, yeah.  
7 Q Did your relationship progress or change or turn into something  
8 different?  
9 A It progressed. We talked more on the phone and then he came to my  
10 house and visited and stuff like that.  
11 Q He would come to your house and visit?  
12 A Yes.  
13 Q Did it progress to where it was a romantic relationship, like a dating  
14 relationship?  
15 A Yes.  
16 Q And then when did it turn romantic or turn into a dating relationship?  
17 A I'll say about the end of July; August.  
18 Q Now, we're still talking about 2008?  
19 A Yes.  
20 Q Now, in August of 2008, where were you working?  
21 A Caesars Palace.  
22 Q Were you working anyplace else?  
23 A K-Mart.  
24 Q K-Mart here in Las Vegas?

1 A Yes.

2 Q When your relationship began to change in 2008, did Tyrone spend  
3 the night at your house or was he still –

4 A Yes. He would spending the night there. He would take me to work,  
5 pick me up and take me to my other job, and be there with my kids.

6 Q Okay. At the beginning of this part of your relationship in 2008,  
7 how did he get along with the kids?

8 A There was no problems.

9 Q Now, was he working in August of 2008?

10 A He – I guess some landscaping or something. I know he said he was  
11 working somewhere, but then he stopped working there.

12 Q He stopped working there?

13 A Yeah. I don't know what happened.

14 Q When did he stop working there?

15 A It was probably in August, I guess. It wasn't that long into –

16 Q So it wasn't that long after you started dating that he stopped working?

17 A Yes.

18 Q And did he continue to do the stuff for you that we talked about,  
19 running you back and forth to work?

20 A Yes.

21 Q Okay. Now, when you were working these two jobs, was he assisting  
22 you in child care for your kids?

23 A Yes.

24 Q Tell me what he would do to help you with the kids.



1           A     He would be there with the kids while I'm at work. And like I said, he  
2 would bring my kids up to the job with me and then he'll take me to K-Mart, and then  
3 I'd get off work and then I'd come home, but on my off days me and him spent day –  
4 I mean, my off days together. And the kids – his kids would come over to my house  
5 with my kids.

6           Q     A typical work day for you back in 2008, if you were working both at  
7 Caesars Palace and K-Mart in one day, what would the schedule be like?

8           A     I would work at K-Mart in the morning time about 9:00 and get off there  
9 about 2:00, 2:30, sometimes 3:00, and be at Caesars Palace at midnight to eight  
10 in the morning.

11          Q     So did you sleep in the middle of there?

12          A     I slept on my breaks.

13          Q     Now, other than the landscape, did he have any other employment  
14 right around that time?

15          A     No. He was – He just fixed cars and stuff like that.

16          Q     Okay. When you say he fixed cars and stuff like that, was that steady  
17 employment –

18          A     No.

19          Q     – working for an employer, or was that just working sporadically?

20          A     Sporadically.

21          Q     Okay. Did there come a point where your relationship started to  
22 change a little bit?

23          A     Yes.

24          Q     When was that?

1 A In January.  
2 Q Of what year?  
3 A Of 2010.  
4 Q 2010?  
5 A Yes.  
6 Q Now, prior – between August of 2008 and January of 2010, was there  
7 a time when the defendant maintained a permanent residence within your home,  
8 or was he always back and forth?  
9 A He was in my home.  
10 Q He was in your home?  
11 A Yes.  
12 Q From when to when?  
13 A He was in my home from the beginning of August until I moved out in  
14 May, and then I moved into the apartment 207 on May the 20th.  
15 Q Okay. So from August of 2008 until you said you moved out in May?  
16 A Yes.  
17 Q Is that of 2009?  
18 A Yes.  
19 Q Okay. And so when you moved out of that – Where was that  
20 residence at?  
21 A That was 3615 Lone Oak Street.  
22 Q Again, here in Las Vegas?  
23 A Yes.  
24 Q And all your kids still living with you?

1 A Yes.

2 Q So when you moved out in May of 2009, did he go with you or no?

3 A Yes. He helped me move.

4 Q And where – Is that when you moved into the 207 address you gave

5 us previously?

6 A Yes.

7 Q Did he move into that residence with you?

8 A Yes.

9 Q And stayed there consistently through when?

10 A Until, like I said before, things started getting rocky in January.

11 Q Of 2010?

12 A In 2010.

13 Q Okay. Now, did things getting rocky cause him to change his

14 residence?

15 A He stayed – he said he was at his grandmother's house.

16 Q Okay. And his grandmother's name is?

17 A Miss Verlene (phonetic).

18 Q And when did he start to stay at his grandmother's house?

19 A In January.

20 Q Right in January?

21 A Yes. February early. Late January, the beginning of February.

22 Q Did you consider yourself broken up at that point?

23 A I just – He stayed at his grandma's house and I was at home.

24 Q Did you continue to see him?

1 A We'd talk on the phone. He'd come over occasionally.

2 Q Did something happen in – And when you say occasionally, would he

3 spend the night occasionally, or would he just come over occasionally?

4 A Spend the night and just stop by.

5 Q What, if anything, happened in April of 2010 that caused you to have

6 renewed contact with him?

7 A I was in a car accident.

8 Q And did he offer you any assistance when you were in that car

9 accident?

10 A Yes. He came to the scene of the accident.

11 Q Did he do anything else for you to help you follow up from having that

12 accident?

13 A Yes. He drove me to my lawyer's office and a couple of times to my

14 chiropractor.

15 Q So being a good guy to you?

16 A Yes.

17 Q Okay. You said to your lawyer's office and where else?

18 A To the chiropractor.

19 Q Now, up to this point did you have any impression from T [REDACTED] a or

20 D [REDACTED] what they felt about Tyrone being around the house?

21 MR. COX: Objection, calls for speculation.

22 MS. KOLLINS: Well, she's their mother.

23 THE COURT: Overruled.

24 THE WITNESS: What was the question?

1 BY MS. KOLLINS:

2 Q Did you -- Did the girls like Tyrone being around the house?

3 A No.

4 Q Are there specific things that they didn't like or --

5 A A couple of times they said he had came in their room, but he said he --

6 MR. COX: Objection, hearsay.

7 THE COURT: Sustained.

8 BY MS. KOLLINS:

9 Q Did Tyrone have a dog?

10 A Yes.

11 Q What kind of dog did he have?

12 A A Pitbull.

13 Q And in April/May, 2010, how old was that Pitbull?

14 A I don't know.

15 Q Was that a dog that was routinely kept at your house?

16 A No.

17 Q Had the dog been to your house?

18 A Yes.

19 Q Was he supposed to leave the dog at your house unattended?

20 A No.

21 Q Did you guys have your own dog in May of 2010?

22 A Yes.

23 Q During any of the time between January 2010 through May of 2010,

24 did you give him permission to take the Pitbull over there and leave it unattended?

1 A No.

2 Q Okay. On May 14th of 2010, do you recall if you kept your same  
3 routine in terms of getting the kids to school?

4 A Yes.

5 Q What did you do on the morning of May 14th, 2010?

6 A I got up for work, got my kids ready, and I dropped D■■■■■ and D■■■■■  
7 off at school and I went to work. I called T■■■■■a at 8:30 to see if she was up  
8 getting ready for school. She said she was going to get up in a little bit, and I hung  
9 up the phone.

10 Q When you called her, what phone did you call her on?

11 A Her cell phone.

12 Q Okay. And the evening previous to May 14th of 2010, did Tyrone  
13 James spend the night in the house?

14 A No.

15 Q Now, there was some discussion – Well, strike that. Did you have an  
16 arrangement to borrow some money from Mr. James right around May 14th of 2010?

17 A Yes. He was going to pay my power bill.

18 Q Was that something that he had done before?

19 A Yes.

20 Q And what was your arrangement?

21 A He was going to pawn his laptop to pay my power bill, and when I got  
22 paid I was going to pay it back to get his laptop out.

23 Q Okay. So how many days are we talking about that you would have  
24 been paying him back?

1 A Um, that Thursday. That happened on a Friday. That Thursday.

2 Q What was your arrangement in terms of him getting you the money  
3 to pay the power bill?

4 A He wasn't going to give me the money. He was taking it down to the  
5 power company.

6 Q Was there any reason on May 14th of 2005 (sic) for him to go to your  
7 residence, either A), to leave his dog there, or B) to go leave the cash for the power  
8 bill there?

9 A No.

10 Q Was that any – Was that part – Well, sorry, I guess I drank too much  
11 coffee. Did you talk to him, Go leave the money at the house?

12 A No.

13 Q Did you have a discussion that he had any permission from you to  
14 leave his Pitbull at your house?

15 A No.

16 Q So what would he be doing at your house in-between you taking the  
17 kids to school and – you taking the little two to school and T■■■■■a getting up and  
18 going to school?

19 A There was no reason.

20 Q Did you have any communication with him that morning that he was  
21 going to go by the house?

22 A He said he was going to pay the power bill and then he was taking his  
23 grandmother fishing.

24 Q Was that in a phone conversation?

1 A Yes.

2 Q And what time was that phone conversation?

3 A That was about seven something when I was getting ready for work.

4 Q During that phone conversation, did he give any indication to you that

5 he had the intent to go over to your residence?

6 A No.

7 Q Did he have a key to your house?

8 A Yes.

9 Q How long had he had a key to 207?

10 A He had it when I first moved in.

11 Q If you know, did he routinely go there or did he ever go there during

12 the day when everyone was gone?

13 A He probably did. I don't know.

14 Q You don't know, though?

15 A No.

16 Q Was it anything you ever talked about?

17 A No.

18 Q Would it be unusual for him to do that?

19 A No. He had his stuff in my – his clothes in my storage by my house.

20 Q So did he have just blanket permission to go to your house?

21 A Yeah.

22 Q Okay. But not to leave the dog?

23 A No. He took the dog and that was – I thought I wouldn't see the dog

24 again. He said the dog was with him at his grandmother's house.



1 Q Prior to May 14th of 2005 (sic), did you ever tell him it was okay, go  
2 ahead and go leave your dog at my house?

3 A No.

4 Q Did you – Tell me the very next thing that happened after you dropped  
5 the two little ones at school.

6 A I talked to Triaunna, and then I hung up the phone with her and I was  
7 getting ready for work. About – I'd say about eleven – No, about 10:30 or something  
8 like that I had received a text.

9 Q And from who –

10 A Well, before I received the text, I had talked to Tyrone about ten  
11 o'clock.

12 Q So around ten o'clock you talked to Tyrone. We're talking about  
13 Tyrone James, right?

14 A Yes.

15 Q And did you call him or did he call you?

16 A He called me.

17 Q On a work phone or a cell phone or –

18 A Cell phone.

19 Q And what did he have to say at ten o'clock?

20 A He said he paid the power bill. He was going to take his grandmother  
21 fishing, but he dropped T■■■■■■a off at school. And I said okay, because he  
22 dropped her off a couple of times – a few times before he picked her up from  
23 school. So – and then I thought about it, I said, wait, I thought her friend was going  
24 to take her to school. And he said T■■■■■■a told me that they weren't going –

1 MR. COX: Objection, hearsay.

2 THE COURT: Sustained.

3 MS. KOLLINS: Well, what the defendant –

4 THE COURT: Sustained. Maybe you could just ask a follow-up question.

5 MS. KOLLINS: Okay.

6 BY MS. KOLLINS:

7 Q What did Tyrone say to you?

8 A He said he paid the power bill and he took – he seen T [REDACTED] a walking  
9 and he took her to – dropped her off at school.

10 Q He seen her walking, meaning he saw her on the street or he saw her  
11 – he picked her up at the house?

12 A She was getting ready to leave out of the house, or something like that.

13 Q I'm sorry? Dropped off –

14 A She was getting ready to leave out of the house.

15 Q Okay. So was it clear to you whether he had picked her up at the  
16 house or saw her walking on her way to school?

17 A Yeah. He just –

18 Q Which was it?

19 A – saw her walking.

20 Q Okay. So already out of your home?

21 A Yes.

22 Q Did he tell you at during that conversation that he had been to your  
23 house?

24 A He just said he paid the power bill and he saw her walking. He didn't

1 say he had dropped the dog off or anything.

2 Q Did he mention the dog at all?

3 A No.

4 Q So the conversation he had with you, was that supposedly after he  
5 had already dropped her off?

6 A Yes.

7 Q Okay. You said at about 10:30, to the best of your recollection, you  
8 received a text message. From whom did you receive that text message?

9 A From D[REDACTED].

10 Q D[REDACTED], your –

11 A My daughter.

12 Q – younger daughter? Okay. And without telling us what that text  
13 message said, did it cause you some concern?

14 A Yes. I hung up with – I mean, I deleted – I mean, I got off my phone  
15 from the text. I called T[REDACTED] because I was like, what? But I just called  
16 T[REDACTED]'s phone. She was in class, and I asked her what happened. She was  
17 crying and she was trying to tell me. Her teacher told her to hang up the phone.  
18 I told her –

19 MR. COX: Objection, hearsay.

20 MS. KOLLINS: Effect on the listener. It's not offered for the truth.

21 THE COURT: Overruled.

22 BY MS. KOLLINS:

23 Q Her teacher told her to hang up the phone?

24 A Hang up the phone. I told her to put her teacher on the phone. Her

1 teacher got on the phone. I told her to send her to the office; something happened  
2 to my daughter this morning and I'm going to get to the bottom of it.

3 Q Okay. I'm going to stop you right there because I want to ask you  
4 a few questions. You said your daughter was crying?

5 A Yes.

6 Q She's your kid, you've been around her for however many years?

7 A Yes.

8 Q When you heard her crying, what did you think? I mean, how upset  
9 was she? Was she like – I mean, there's a difference between I fell down and I hurt  
10 my knee crying and something that's happened –

11 A A scared cry.

12 MR. COX: Object. Calls for speculation, Judge.

13 THE COURT: Overruled.

14 THE WITNESS: It was a scared cry.

15 BY MS. KOLLINS:

16 Q Had you heard that kind of scared cry from her before?

17 A No.

18 Q Did her and her teacher do as you had requested and send her to the  
19 office?

20 A Yes.

21 Q And did you talk to her anymore on the phone while she was crying?

22 A No. She was getting her stuff and going to the office.

23 Q Did she tell you what was causing her that emotion?

24 A She didn't tell me that until I got to the school and I signed her out.

1 Q While you were talking to her on the phone, do you know if she was  
2 still in class or was she going on her way to the principal? Do you know where she  
3 was going?

4 A When I talked to her?

5 Q Yeah.

6 A She was already – she was in class.

7 Q In class. Did she hang up in class and then –

8 A The teacher hung up.

9 Q Okay. So you didn't have her very long on the phone?

10 A No.

11 Q What were her words to you?

12 A She said Tyrone tried to hurt her.

13 MR. COX: Objection, hearsay.

14 MS. KOLLINS: Judge, I think we've laid an adequate foundation for excited  
15 utterance. It's within a couple hours of the assault. It's a traumatic event.

16 THE COURT: Overruled.

17 THE WITNESS: She said Tyrone tried to hurt her.

18 BY MS. KOLLINS:

19 Q Did she tell you in what way?

20 A No, because she was in class.

21 Q Okay. How long – Do you leave work?

22 A Yes.

23 Q How long does it take you to leave work?

24 A I left about eleven o'clock.

1 Q And how long – Are you at Caesars or K-Mart?  
2 A Caesars.  
3 Q How long did it take you to get over to Desert Pines?  
4 A Twenty-five minutes.  
5 Q And Desert Pines is on what street? I'm sorry if I asked you that  
6 earlier.  
7 A Harris and Sandhill.  
8 Q What and Sandhill?  
9 A I think Harris and Sandhill.  
10 Q Harris and Sandhill. Okay. So it took you about twenty-five minutes,  
11 half an hour to get over there?  
12 A Yes.  
13 Q Did you see T [REDACTED] a when you got there?  
14 A Yes.  
15 Q Where was she?  
16 A In the Dean's Office.  
17 Q Okay. In the Dean's Office out in the lobby, in a secluded area?  
18 What kind of –  
19 A She was in a back room.  
20 Q Was anybody with her in the back room?  
21 A The Dean's assistant.  
22 Q And without telling me what she said, what was the condition of your  
23 daughter when you got there?  
24 A She was still crying.

1 Q Again, being her mom, is this the kind of I fell down and hurt my knee  
2 cry, or were you –

3 A No. She was scared.

4 Q Was she crying to the point that she couldn't talk, or could she  
5 verbalize?

6 A She was gasping for air.

7 Q Had you ever seen your daughter like that before?

8 A No.

9 Q What did you do when you got there?

10 A I signed her out of school and I took her out of the Dean's Office and  
11 we walked to my car. And that's when she told me what happened.

12 Q Was she still crying?

13 A Yes.

14 Q In your car?

15 A Yes.

16 Q Was anybody else in the car but you and her?

17 A Just me and her.

18 Q What did she tell you in the car?

19 A She said she was in her room laying down and –

20 MR. COX: Objection, hearsay.

21 MS. KOLLINS: Excited utterance, Your Honor.

22 THE COURT: Counsel approach.

23 (Bench conference begins)

24 MS. KOLLINS: She's assaulted at 8:30 in the morning. She's a 14-year-old





1 THE COURT: -- not go over the whole thing.

2 MS. KOLLINS: One general statement.

3 THE COURT: (Indiscernible). Thank you.

4 (Bench conference concluded)

5 BY MS. KOLLINS:

6 Q Pardon me, Ms. Allen.

7 A Um-hm.

8 Q Can you tell us what T [REDACTED] told you when you got in the car?

9 A She said she was in her room laying down and Tyrone came in her  
10 room and threw her onto the other bed, and she tried to grab for her phone. He  
11 threw it, breaking her case. He told her he would snap her neck if she screamed  
12 or say anything. Then she said he ripped off her panties and drug her into the --  
13 well, took her into the living room, threw her on the floor, where he took his finger  
14 and inserted it in her vagina. And then he took it out and rubbed his penis across  
15 her vagina.

16 Q I assume that information caused you some concern?

17 A Yes.

18 Q What was your first reaction?

19 A I was hurt.

20 Q Hurt for your child, hurt for yourself? What do you mean?

21 A I was just hurt for my child. I couldn't be there for her.

22 Q Did that information cause you to take any action?

23 A Yes. I would drive -- After she told me that in the car, I was on my way  
24 to the house and I called Tyrone on his cell phone.

1 Q Were you able to reach him on his cell phone?

2 A Yes.

3 Q Did you talk to him?

4 A Yes. I told him what T[REDACTED]a had told me, and he said she was lying  
5 and that he would meet me. He said, Where can I meet you? And I told him meet  
6 me at the house.

7 Q Did he meet you at the house?

8 A Yes, him and his grandmother.

9 Q His grandmother's name again is?

10 A Miss Verlene.

11 Q Miss Verlene. Do you know her last name?

12 A No.

13 Q Okay. How long did it take before you got to your house and he  
14 brought his grandmother to the house?

15 A I pulled in and he was like probably five minutes away.

16 Q And you had T[REDACTED]a with you?

17 A Yes.

18 Q What happened when you all met at your house?

19 A I got out of the car. He pulled up and he got out of the car. He  
20 showed me that – He had the paper that he paid my power bill, but I was talking to  
21 him about what happened. And he said T[REDACTED]a was lying, and T[REDACTED]a looked  
22 him dead in his face and told him exactly what she had told me.

23 Q Without telling me exactly what anybody said at this point, what was  
24 Mr. James' reaction to the information that you confronted him with?



1 talk to me. T [REDACTED] a went in the house and locked all doors.

2 Q And so he's pacing and he's pacing, what, in your driveway, in your  
3 yard?

4 A In the parking lot.

5 Q And is he saying anything while he's pacing?

6 A He was probably talking under his breath. I don't know.

7 Q Did his demeanor kind of stay that way?

8 A Uh, yeah.

9 Q How long did he stay at your house?

10 A It wasn't that long 'cause I was talking to the grandmother.

11 Q And just generally, what did the conversation with the grandmother  
12 have to do with?

13 A She told Tyrone to -

14 Q Without telling me what she said, just generally what were you talking  
15 to her about? The same subject matter about your daughter?

16 A Yes.

17 Q Did you make a decision to do something with all this information?

18 A Yes. I called the police.

19 Q And where did you call the police from?

20 A My cell phone.

21 Q Did you have occasion to come into our office the other day and be  
22 able to listen to that 9-1-1 call?

23 A Yes.

24 MS. KOLLINS: Your Honor, may I approach the witness?

1 THE WITNESS: You may.

2 BY MS. KOLLINS:

3 Q Ms. Allen, I'm going to show you what's been marked as State's  
4 Exhibit 4 for purposes of identification. It's previously been shown to defense  
5 counsel. Do you recognize State's Exhibit 4?

6 A Yes.

7 Q What is that?

8 A That's my 9-1-1 call.

9 Q Okay. And how is it that you know that that particular disk contains  
10 your 9-1-1 call?

11 A My initials right here.

12 Q Your initials, and you dated it the 15th of September, 2010?

13 A Yes.

14 Q Okay. And you listened to it previously for accuracy, correct?

15 A Yes.

16 MS. KOLLINS: Move for the admission of 4 and permission to publish,  
17 please.

18 MR. COX: No objection to admission or publication.

19 MS. KOLLINS: Thank you.

20 THE COURT: Four will be admitted, and go ahead and publish.

21 (Exhibit 4, the 9-1-1 call is played aloud)

22 BY MS. KOLLINS:

23 Q Ms. Allen, in your conversation with the dispatcher she asked you  
24 about penetration and you told her, no, there was no penetration. unless I

1 misunderstood you –

2 A I said no.

3 Q – but then you told me that the first conversation with your daughter  
4 there was penetration. So can you explain the difference?

5 A Well, when he stuck his finger in her, I really don't know. I'm not a  
6 doctor, I don't know.

7 Q Okay. So that wasn't because of anything your daughter told you,  
8 that was because –

9 A I didn't know.

10 Q – you didn't know. Okay. There were some voices in the background.  
11 Who all was at your house when you made that call?

12 A My mother, my father, and my brother.

13 Q And were they at your house because this happened?

14 A Yes.

15 Q Did you contact them all?

16 A No. They were there – they were on their way there when I was talking  
17 to T [REDACTED] after I talked to Tyrone.

18 Q After Tyrone left your house that day and after you made the 9-1-1  
19 call, what happened next?

20 A The officers came to my house and they took a report, and then we  
21 went to the hospital.

22 Q And when you say "we," who are you talking about?

23 A Me and T [REDACTED].

24 Q And how did you get to the hospital?

1 A The officer drove us.  
2 Q A Metro police officer?  
3 A Yes.  
4 Q In a uniform?  
5 A Yes.  
6 Q In a patrol car?  
7 A Yes.  
8 Q Okay. And what happened when you got to the hospital?  
9 A We were waiting for them to examine T[REDACTED].  
10 Q Did some other police officers show up?  
11 A Yes.  
12 Q Not somebody in uniform, somebody in plain clothes?  
13 A Yes.  
14 Q Okay. And did they talk to T[REDACTED]a there?  
15 A The CPS lady talked to T[REDACTED]a and Detective Tomaino talked to  
16 T[REDACTED].  
17 Q And you were not present for that conversation?  
18 A No. I was in the room where they were going to examine her.  
19 Q How long – Which hospital did you go to?  
20 A Sunrise Hospital.  
21 Q How long were you there?  
22 A Oh, for some hours. I don't remember how long.  
23 Q Quite awhile?  
24 A Yes.

1 Q By the time you got T [REDACTED] a to the hospital, had she calmed down  
2 any or -

3 A She was just distance - distant; wouldn't talk or anything

4 Q Is she normally a very expressive child? Is she -

5 A Yes. She's very outgoing. Always talks a lot.

6 Q But did she talk a lot about this topic?

7 A No, only when she had to talk about it.

8 Q Some days later after her examination, did you have occasion to talk  
9 to police officers again?

10 A Yes.

11 Q And why did you do that?

12 A Because I found some gloves in a Jordan box.

13 Q Where did you find those gloves?

14 A Under my bed.

15 Q In a what box?

16 A A Michael Jordan shoe box.

17 Q Okay. What kind of gloves were they?

18 A Latex gloves.

19 Q Did you put latex gloves in a Michael Jordan shoe box under your  
20 own bed?

21 A No.

22 Q Had you ever seen that before?

23 A No.

24 Q Had you seen the shoe box before?



1 A Yes.

2 Q Where did the shoe box come from?

3 A Tyrone bought him some Jordans.

4 Q Is that someplace where – I mean, do you use those type of gloves

5 in your house for anything?

6 A Not in my house.

7 Q Are those gloves that you had seen in your home before?

8 A Yes. Tyrone had them – had the gloves.

9 Q When did he have them before?

10 A When he was working at Caesars Palace in December.

11 Q As part of his job?

12 A Yes.

13 Q But those are nothing you purchased and brought into your home?

14 A No.

15 Q And that was not a place where you kept them?

16 A No.

17 Q What caused you to be looking under the bed such that you found

18 them that day? Do you remember?

19 A We were – I went back to the house to get us some clothes and shoes

20 because we – T [REDACTED] a didn't want to stay at the house. So I went to go get our

21 clothes and everything, and that's when I saw the box.

22 Q So from the day you left the hospital, did you all stay at your house

23 that night?

24 A Yes.

1 Q When did you first learn that T [REDACTED] a didn't want to stay at the  
2 house?

3 A She didn't want to stay there that night.

4 Q Did you make her?

5 A We - we were there, yes.

6 Q Where did she sleep that night?

7 A In my bed.

8 Q Is that something she routinely did?

9 A No.

10 Q Something that was not routine for her at 15?

11 A No.

12 Q What finally made you make the decision to not make her stay in the  
13 house?

14 A When we got up that morning, because all through the night she  
15 wouldn't sleep. She was crying.

16 Q So where did you take her?

17 A We went to my mother-in-law's house.

18 Q And your mother-in-law's name is?

19 A Helen Jones.

20 Q How long did you stay there?

21 A We stayed there for a couple of weeks.

22 Q Okay. Now, when you went back to get some clothes and you said  
23 you were looking for some shoes is when you came across these rubber gloves?

24 A Yes.

1 Q Do you remember how many days after May 14th that was?  
2 A It was probably a week after.  
3 Q And what did you do when you found them?  
4 A I called Detective Tomaino.  
5 Q And what, if anything, did they do?  
6 A He said –  
7 Q Without telling me what he said.  
8 A Oh, I'm sorry.  
9 Q That's okay. Did he come to your house?  
10 A Yes.  
11 Q And what did he do when he came to your house?  
12 A He took pictures and he took the gloves and put them in an envelope.  
13 Q By May of 2005 (sic), how long had you been living at the 207  
14 address?  
15 A It was almost a year. May 20th would have made a year; six days  
16 later.  
17 Q In the year prior to May 14th of 2005 (sic), had T [REDACTED] ever not  
18 wanted to stay at home for an extended period of time?  
19 A Yes. She would go over her friend's house or a relative's house.  
20 They always go on the weekends over there to different houses.  
21 Q Okay. I guess my question is, was she – Was it because she was  
22 upset like she was this –  
23 MR. COX: Objection. Calls for speculation.  
24 MS. KOLLINS: I think, again, the same response as before. It's her mom.

1 She knows what the catalyst to her actions are.

2 THE COURT: Overruled.

3 THE WITNESS: What was that?

4 BY MS. KOLLINS:

5 Q Okay. This time she was upset and didn't want to stay at the house,  
6 is what you testified to a few minutes ago, right?

7 A Yes.

8 Q Okay. These other times she would go stay with friends or whatever,  
9 was she upset the same as this time?

10 A No.

11 Q Okay. What reasons would she want to go do those things?

12 A That's something they did on the weekends, go spend the night over  
13 at a family member's house or a friend's house.

14 Q Okay. So was that social?

15 A Yes.

16 Q And not the same as what we're talking about when you stayed at your  
17 mother-in-law's for two weeks?

18 A No.

19 Q At the end of the two weeks, how was she about going home?

20 A She didn't still want to go home.

21 Q And did there come a point in time when you just made her go home?

22 A Yeah, we went home.

23 Q Did she continue to sleep in your room or did she sleep by herself?

24 A We slept on the couch.

1 Q The couch where?

2 A In my living room.

3 Q And would you be sleeping in the same room with her then?

4 A I would sleep on the couch that's across from her.

5 Q Okay. And how long did that go on?

6 A That – for another couple of weeks.

7 Q Was that anything that had been part of your routine at home before?

8 A No.

9 MS. KOLLINS: Court's indulgence.

10 BY MS. KOLLINS:

11 Q Prior to May of 2005 – or – Why do I keep saying 2005? I'm so sorry.

12 It's stuck in my head for some reason. Prior to May of 2010, prior to this incident,  
13 did T [REDACTED] go to counseling?

14 A No.

15 Q Has she subsequently been to counseling?

16 A Yes.

17 Q And how many times subsequent to May of 2010 did she go to  
18 counseling?

19 A She was going to counseling every week.

20 Q Does she continue to do so?

21 A Yes.

22 MS. KOLLINS: I'll pass the witness, Judge.

23 THE COURT: Mr. Cox?

24 MR. COX: Yes, Judge. Thank you.

CROSS-EXAMINATION

BY MR. COX:

Q Good afternoon, Ms. Allen.

A Good afternoon.

Q Now, prior to May 14th, did you request the key back from Mr. James?

A No.

Q Did you have your locks changed?

A On the day of May 14th.

Q Did you change the locks before May 14th?

A No.

Q So he had a key and you knew he had a key?

A Yes.

Q Now, when Ms. Kollins was talking to you earlier, there was some question about whether or not you were aware of whether or not Mr. James gave her a ride to school from the house or saw her walking?

A Um-hm.

Q Are you aware you gave both answers?

A No.

Q On one hand you said that, well, he saw her walking, and on the other hand she was ready to go from the house.

A He had three different stories.

Q And you gave two different –

A What he had told me.

Q – it would be two different versions of your recollection, correct?

1 A Yes.

2 Q Okay. Now, as you already testified, you made arrangements with

3 Mr. James to pay a bill for you?

4 A Yes.

5 Q Now, you've been the head of the household for a number of years?

6 A Yes.

7 Q And you're responsible for bills?

8 A Yes.

9 Q When you send a bill in, whether it's a water bill or a power bill, what

10 do you send with the check?

11 A We didn't pay with a check.

12 Q I'm asking you a question, okay?

13 A Okay.

14 Q When you send bills in to – whether it's the power company or the

15 cable bill, what do you send with your check in the mail?

16 A The bill.

17 Q Yes. If you're mailing a bill in –

18 A Um-hm.

19 Q – what do you send with the check?

20 A A money order.

21 Q Okay.

22 A I don't understand what you're saying.

23 Q Okay. We'll use the example of a money order:

24 A Um-hm.

1 Q Let's say you're going to pay Cox Cable for a month's service and  
2 you're going to pay with a money order.

3 A Um-hm.

4 Q Do you simply send in a money order to Cox Cable with nothing else  
5 with it?

6 A No, you send your bill.

7 Q And what's that? What's the bill? What does it look like?

8 A The bill that they send you with my address and everything on it;  
9 name on it.

10 Q It has your address on it. What else does it have on it?

11 A My name.

12 Q And is there also like customer identification information?

13 A Customer number.

14 Q Yeah, okay. So in this case we're talking about a power bill.

15 A Um-hm.

16 Q Now, you've paid bills in person before, have you not?

17 A Yes.

18 Q Okay. When you go pay your bill in person, what do you take with you?

19 A My address. I take my bill, but I write my name and address on a piece  
20 of paper and pay it through the drive-thru.

21 Q Okay. Now, do you take your bill with you?

22 A Sometimes. Sometimes I don't.

23 Q Okay. Now, when you – If you're going by yourself, you know all your  
24 identi– you know your information to provide it to the people you're paying the bill to,



1 correct?

2 A Correct.

3 Q Okay. That's at a window?

4 A No. I went through a drive-thru. I'll go through the drive-thru.

5 Q The drive-thru. Okay.

6 A Yes.

7 Q Now, on the day in question, you knew Mr. James was going to pay

8 your bill?

9 A Yes.

10 Q Where was he going to get the bill from?

11 A He didn't need the bill to go take to the power company.

12 Q Where was the bill located?

13 A The bill was in my house.

14 Q Okay. The bill was in your house. Thank you. Now, you testified that

15 you got communication from -- Who was it first? Was it D [REDACTED] or T [REDACTED]?

16 A D [REDACTED].

17 Q Okay. Did you call the police immediately?

18 A No.

19 Q Instead you went and you got her from school, and you testified that

20 she got into the car with you and you two were alone?

21 A Yes.

22 Q And you had a chance to hear, according to your testimony, everything

23 that T [REDACTED] a says happened?

24 A Yes.

1 Q Did you call the police then?

2 A No.

3 Q Instead, you call Mr. James?

4 A Yes.

5 Q Does he take your call?

6 A Yes.

7 Q Does he agree to meet with you?

8 A Yes.

9 Q And in fact, he does meet with you with his grandmother?

10 A Yes.

11 Q Okay. Now, you had an opportunity to talk to her alone and you had  
12 a chance to talk to her at your house?

13 A Yes.

14 Q And then you called 9-1-1?

15 A Yes.

16 Q Now, you didn't tell the police, I think maybe there wasn't penetration.  
17 That's not what you told them, did you?

18 A I didn't tell them about a penetration. I don't know if he penetrated her.

19 Q But you did, didn't you?

20 A I didn't know if he penetrated her. I said he stuck his finger in her.

21 Q No. The operator asked you a question.

22 MS. KOLLINS: Objection, argumentative. She said what she – As to the  
23 form of the question.

24 THE COURT: Sustained. Mr. Cox, if you'd like to clarify –

1 MR. COX: Okay.

2 THE COURT: – what time period you're asking about, maybe that will help.

3 MR. COX: Okay.

4 BY MR. COX:

5 Q When you called 9-1-1, the operator asked you a question. The  
6 question was, Are you aware of whether or not there was penetration? Do you  
7 recall that?

8 A And I said no, because I didn't know.

9 Q No. What did you – Do you remember what you said?

10 A I said no.

11 MS. KOLLINS: Objection.

12 THE COURT: Sustained.

13 BY MR. COX:

14 Q Okay. Do you recall saying: She said no?

15 A Yes.

16 Q Okay. So you didn't say, I think there wasn't penetration, you said  
17 "she said no."

18 A At the time, yes.

19 Q And who is she?

20 A T[REDACTED].

21 Q Okay. So after getting the full version in the car, having the meeting  
22 at your house with Mr. James and T[REDACTED], when you got on the 9-1-1 call were  
23 you being deceptive with them or were you being honest with them?

24 A I was being honest to what I've heard.

1 Q And you told the officer, "she said no," to the question, Was there  
2 penetration?

3 A I didn't ask T[REDACTED]. I just said she said no. I was upset.

4 Q So upset you would lie to the police?

5 A No. I didn't think it was a lie.

6 Q Okay. Did you tell the police that Tyrone was not supposed to be in  
7 your house that day?

8 A I probably did.

9 Q Did you tell the police when you called 9-1-1?

10 A I don't remember.

11 Q Well, did you just -

12 A They didn't ask me.

13 Q Okay, let me back up a little bit. We just heard the whole conversation.  
14 It's on tape.

15 A Um-hm.

16 Q And you heard it, too?

17 A Um-hm.

18 Q Okay. Just listening to what you said on the tape, do you recall  
19 whether or not you told the police that Tyrone was not supposed to be in your  
20 house?

21 A Yeah. Yes.

22 Q You said that on the tape?

23 A Yes.

24 MR. COX: Okay. Judge, if we could get a playback, I'd appreciate it.

1 MS. KOLLINS: Do you want a play it back now?

2 MR. COX: If you could just play back the 9-1-1 call.

3 MS. KOLLINS: Well –

4 MR. COX: Judge, I would ask that we play back the 9-1-1 call to refresh  
5 Theresa's recollection.

6 THE COURT: Okay.

7 MR. COX: And I appreciate you guys doing it because you have it on your  
8 computer.

9 (Exhibit 4, the 9-1-1 tape is played aloud)

10 BY MR. COX:

11 Q Ms. Allen, I'm going to ask you the question again. Did you tell the  
12 police that Mr. James was not supposed to be in your house?

13 A Yes.

14 Q Well, we just heard the whole 9-1-1 call.

15 A Um-hm.

16 Q Do you recall hearing that on that call?

17 A Yes.

18 Q Okay. So it's your testimony that the police were not able to locate the  
19 gloves in the house, but you were able to locate the gloves?

20 A Yes.

21 Q Is that true?

22 A Yes. I found them when I came back to the house looking for clothes.

23 Q Okay. And do you recall – You may not know this, but I'm going to ask  
24 you. If you don't know, just let me know. If you do know, please answer. Are you

1 aware of whether or not – Well, I'm going to back up. I apologize. You were there  
2 when the police officer came to look at the box?

3 A Yes. The detective. Yes.

4 Q Okay. And do you remember his name?

5 A Detective Tomaino. I think that's his name.

6 Q Okay. Do you recall whether or not the detective took prints off the  
7 box?

8 A No. He took pictures of the box and then opened the box up and put  
9 the gloves in an envelope.

10 Q Okay. Did he take the box and put it in a bag and take it with him?

11 A No, not the box. He took what was in the box.

12 Q So he didn't take fingerprints off the box and he didn't bag the box?

13 A No.

14 MR. COX: Court's indulgence. Judge, thank you, I'll pass the witness.

15 THE COURT: Okay.

16 REDIRECT EXAMINATION

17 BY MS. KOLLINS:

18 Q Ms. Allen, just a few more questions, if you don't mind?

19 A No.

20 Q Thank you. Why did you call Tyrone before you called the police?

21 A To see what he was going to say.

22 Q In the 9-1-1 call you told the lady about him putting his finger in her,  
23 right?

24 A Yes.

1 Q And you told her about Tyrone rubbing his penis on her vagina?

2 A Yes.

3 Q And she asked you about penetration?

4 A Yes.

5 Q Now, do you know – if you know – that penetration is a legal term?

6 MR. COX: Judge, this is asked and answered.

7 MS. KOLLINS: No. I think this is –

8 THE COURT: Overruled.

9 MS. KOLLINS: – redirect.

10 BY MS. KOLLINS:

11 Q Do you know that penetration is a legal term and that there is a legal  
12 definition of penetration?

13 A I just heard penetration. No.

14 Q Okay. But are you familiar – Do you know the legal definition of  
15 penetration?

16 A No.

17 Q Okay. So when you gave that information to the 9-1-1 operator, was  
18 there – I mean, did you know exactly what had happened, other than what you had  
19 told them?

20 A No.

21 Q Okay. You weren't there?

22 A No.

23 Q Does a finger in a vagina mean penetration to you?

24 A No.

1 Q Okay. Does rubbing a penis on a vagina mean penetration to you?

2 A No.

3 Q In the 9-1-1 call, did anyone ever ask you whether or not Tyrone was  
4 supposed to be at your house?

5 A I didn't hear them say that.

6 Q Okay. The Air Jordan box that was under your bed, were those adult  
7 tennis shoes or kid tennis shoes?

8 A Adult.

9 Q Adult male or female?

10 A Male.

11 Q At that time, was there any other adult male that had access to your  
12 house besides Mr. James?

13 A No.

14 Q The receipt for the power bill that you all were talking about on his  
15 cross-examination, do you remember that?

16 A Yes.

17 Q I think you testified on direct that when Mr. James came back he  
18 showed you a receipt where he had paid the power bill.

19 A Yes. He showed me the receipt.

20 Q Okay. Were you familiar with the kind of receipt that he showed you?

21 A It just had my name and my customer number on it, but Tyrone kept it.

22 Q Okay. Well, is it the kind of receipt you get when you go – like, you  
23 can pay a bill at the grocery store, right?

24 A Right.



1 Q You can pay a bill at Nevada Power?

2 A Um-hm. Yes.

3 Q Was this the kind of receipt you get from Nevada Power, or was this  
4 the kind of receipt you get from somewhere else?

5 A Nevada Power's.

6 Q Okay. So when you mentioned going through the drive-thru, what  
7 were you talking about?

8 A When you go through the drive-thru, all you need is your name and  
9 your address number, and you send your cash up.

10 Q And the drive-thru, where are we talking about?

11 A At Nevada Power.

12 Q And so this receipt was consistent with that kind of receipt you've  
13 gotten –

14 A Yes.

15 Q – when you went through the drive-thru before? Okay. Did you give  
16 him the bill that came from Nevada Power?

17 A No. He didn't need the bill.

18 Q Okay. And did he take the bill?

19 A No.

20 Q Did you see the bill again?

21 A Yes. The bill was still in my house.

22 Q Okay. And you mentioned you changed the locks. When did you do  
23 that?

24 A The same day.

1 MS. KOLLINS: No more questions, Judge.

2 THE COURT: Mr. Cox?

3 RECROSS EXAMINATION

4 BY MR. COX:

5 Q Now, Theresa, as attorneys we have clever definitions for things.

6 We have legal definitions. Do you know what penetration is? Just without any  
7 legalese or anything else?

8 A Yes.

9 Q Okay. What is it?

10 A When a woman reaches her climax.

11 Q I'm just talking penetration, general terms.

12 A When he – when a guy sticks his penis inside a woman and he –

13 Q I'm not talking about – I'm not even talking about sexually.

14 MS. KOLLINS: Judge, I'm going to object. If he's going to ask the question,  
15 please let the witness finish the answer –

16 MR. COX: I'll rephrase the question, Judge, if I can.

17 MS. KOLLINS: – instead of interrupting.

18 BY MR. COX:

19 Q Aside from any sexual context either, what does penetration mean?

20 A I don't know.

21 Q Okay. What – Now, there's a boy that lives in the house also. What's  
22 his name?

23 A My son's name is D [REDACTED].

24 Q Okay. And he has the same shoe size as Mr. James, correct?

1 A He was wearing a size eight. Mr. James wears a size eight and a half.

2 Q Pretty close, aren't they?

3 A Um-hm. Yes.

4 THE COURT: Does the jury have any questions? Okay.

5 (Bench conference begins)

6 MS. KOLLINS: Didn't I just say her bed? Did it not sound like I was talking  
7 about her master bedroom, maybe?

8 THE COURT: I thought it was a little unclear in the beginning and then  
9 clarified, I can see where -- (indiscernible).

10 MS. KOLLINS: (Indiscernible). That's fine.

11 MR. COX: The public defender doesn't object to either question from either  
12 juror -- (indiscernible).

13 THE COURT: And I'm just going to make a note on here that they crossed  
14 out this question.

15 (Bench conference concluded)

16 THE COURT: Okay. I have a couple questions for you, ma'am. Why were  
17 you looking under the bed for clothes or shoes?

18 THE WITNESS: That's where I kept my shoes.

19 THE COURT: And just to clarify, where were -- Which bed were the gloves  
20 found under?

21 THE WITNESS: Under my bed.

22 THE COURT: Okay. Any follow up from the State?

23 MS. KOLLINS: Very briefly.

24 /////

1 FURTHER REDIRECT EXAMINATION

2 BY MS. KOLLINS:

3 Q And I apologize, Ms. Allen, I thought I clarified that.

4 A That's okay.

5 Q And when you say under your bed, that is a separate bedroom from  
6 your daughter?

7 A Yes.

8 Q And again, those are nothing that you ever placed in that location?

9 A No.

10 MS. KOLLINS: Nothing else, Judge. That's it.

11 THE COURT: Mr. Cox?

12 MR. COX: No questions, Judge.

13 THE COURT: Okay. Anything else from the jurors? No.

14 Okay, thank you, ma'am. You're free to go.

15 THE WITNESS: Thank you.

16 THE COURT: State, call your next witness.

17 MR. PANDELIS: Officer Erik Meltzer.

18 OFFICER ERIK MELTZER

19 Having been called as a witness and being first duly sworn, testified as follows:

20 THE COURT: Good afternoon, sir. Could you please state your name and  
21 spell it for the record.

22 THE WITNESS: Officer Erik (Easy Robert Ida King); last name is Meltzer  
23 (Mary Easy Lincoln Tom Zero Easy Robert).

24 THE CLERK: Okay. We need that again just straight out.

1 THE COURT: Can you just do letters for us?

2 THE WITNESS: E-r-i-k. Last name is Meltzer, M-e-l-t-z-e-r.

3 THE COURT: Thank you.

4 DIRECT EXAMINATION

5 BY MR. PANDELIS:

6 Q Sir, how are you employed?

7 A I'm a police officer with Las Vegas Metro.

8 Q How long have you been employed with the Las Vegas –

9 A A little over two years.

10 Q Just make sure, because the recorder can't take down both things.

11 we're saying, so just make sure I finish the question. How long have you been  
12 employed with Metro?

13 A A little over two years.

14 Q What's your current assignment with Metro?

15 A Patrol.

16 Q What do you do on a daily basis as a patrol officer?

17 A I enforce traffic laws and answer calls for service.

18 Q What do you mean, answer calls for service?

19 A We get dispatched from Dispatch, numerous calls to a location, and  
20 then we respond to the location and take care of the call.

21 Q Okay. So oftentimes you're the first officer to arrive at a call?

22 A Yes, sir.

23 Q Were you working as a patrol officer on May 14th of 2010?

24 A Yes, sir.

1 Q And were you dispatched to a call regarding allegations of sexual  
2 abuse against an individual by the name of T [REDACTED] a H [REDACTED]?

3 A Yes, sir.

4 Q What information were you given when you received that call?

5 A I received a call that there is a possible sexual assault at 207 North  
6 Lamb, Apartment E, where the boyfriend of the victim's mother touched her.

7 Q And immediately upon getting that information, you responded to that  
8 Lamb address?

9 A Yes, sir.

10 Q Do you recall approximately what time you received that call?

11 A At 12:48 hours.

12 Q And you arrived at that Lamb address?

13 A Yes, sir.

14 Q Was it a house, an apartment?

15 A It was an apartment. It was Apartment E.

16 Q What did you do when you first arrived at the apartment?

17 A I made contact with the mother, Theresa Allen, and her daughter,  
18 T [REDACTED] a H [REDACTED].

19 Q You made contact with them. Did you speak either of them?

20 A I spoke with both of them.

21 Q And based on your conversations with them, what did you do next?

22 A After speaking with the victim, I contacted Sexual Assault Detective  
23 Tomaino.

24 Q What was it that prompted you to contact a Sexual Assault Detective?

1           A     Well, I spoke with her and she gave me the details of what happened,  
2     which was she was laying in her bedroom –

3           MR. COX: Objection, hearsay.

4           THE COURT: Sustained.

5     BY MR. PANDELIS:

6           Q     Did she disclose sexual abuse to you?

7           A     Yes, sir.

8           Q     And typically as a patrol officer when someone discloses sexual abuse  
9     to you, what will you do?

10          A     I will call a detective.

11          Q     As a patrol officer, other than being the first responder to calls  
12     oftentimes, do you investigate sexual assault cases?

13          A     The detective does.

14          Q     The detective does?

15          A     Yes, sir.

16          Q     But you have no role in the investigation?

17          A     Just determining whether there is something valid to call a detective.

18          Q     And is that what you did in this case?

19          A     Yes, sir.

20          Q     When you arrived at the apartment, you said you spoke with Theresa  
21     Allen and the victim. Was there anybody else present at the apartment?

22          A     There was other family members that were inside of the house.

23          Q     Did you identify those individuals?

24          A     No, sir, I did not.

1 Q About how many people were present at the apartment?  
2 A I believe I just saw a few. I don't remember exactly how many.  
3 Q Was the defendant, Mr. James, present at the apartment?  
4 A No, sir, he was not.  
5 Q Did you make an effort to determine whether or not he was at the  
6 apartment?  
7 A Yes, sir.  
8 Q And you were told he was not?  
9 A Correct.  
10 Q After you arrived at the apartment and spoke to the victim, did you  
11 receive any additional instructions from the Sexual Assault Detective?  
12 A Yes, sir. He told me to transport her down to Sunrise Hospital to get  
13 an exam.  
14 Q And by "her," you mean the victim –  
15 A The victim.  
16 Q – T [REDACTED] a H [REDACTED]?  
17 A Yes, sir.  
18 Q Did any family members accompany her?  
19 A The mother.

20 MR. PANDELIS: I'll pass the witness, Your Honor.

21 THE COURT: Mr. Page.

22 CROSS-EXAMINATION

23 BY MR. PAGE:

24 Q Good afternoon, Officer Meltzer. You testified that you were the



1 responding officer?

2 A Yes, sir.

3 Q So you were the first on the scene?

4 A Yes, sir.

5 Q And you spoke to both the mother and T [REDACTED]?

6 A Yes, sir.

7 Q And you got the story that they told you, correct?

8 A I'm sorry? Can you repeat that?

9 Q They told you the events that –

10 A Yes, sir.

11 Q – allegedly occurred? Now, you wrote a report, an Incident Report  
12 on this matter?

13 A Yes, sir.

14 Q And you wrote this report after speaking to both the mother and the  
15 alleged victim, T [REDACTED]?

16 A Yes, sir.

17 Q And when you write these reports, you try to be as thorough as  
18 possible?

19 A Yes, sir.

20 Q Because this is the first time that you speak to them and you want to  
21 make sure that everything that they say is in the report?

22 A Yes, sir.

23 Q Now, do you remember when speaking to both mother and T [REDACTED] a  
24 that they told you that he – he meaning my client, Mr. James, pulled out his penis

1 and rubbed it on the vagina but it did not go inside?

2 A That is what she said.

3 Q And that's what you put in your report?

4 A Yes, sir.

5 Q And when you spoke to her, do you remember them saying that he  
6 had no permission to be inside?

7 A No, sir.

8 Q So they did not tell that to you?

9 A No, sir.

10 Q At any time – You testified that after you heard what they told you,  
11 you called another officer, correct?

12 A I called the detective, sir.

13 Q The detective.

14 A Yes, sir.

15 Q I apologize. And did that detective ask you to search the home?

16 A Not that I recall, sir.

17 Q So he at that time did not ask you to search for any gloves?

18 A No, sir.

19 MR. PAGE: Court's indulgence, Your Honor. No further questions.

20 THE COURT: Okay. Anything else?

21 MR. PANDELIS: Just a few follow-up.

22 REDIRECT EXAMINATION

23 BY MR. PANDELIS:

24 Q Officer, Mr. Page asked you about the Incident Report that you

1 prepared in this case.

2 A Yes, sir.

3 Q And you prepared that after you went to the apartment on Lamb and  
4 arrived and spoke to the individuals at the apartment, correct?

5 A Yes, sir.

6 Q And in that Incident Report is it true that you in fact stated that the  
7 victim told you that the defendant was wearing gloves?

8 A Yes, sir.

9 Q And in that Incident Report is it also true that the victim – you stated  
10 that the victim told you that the defendant pulled her down to the ground and took  
11 off her panties?

12 A Yes, sir.

13 Q And is it true that the victim also told you and it's reflected in your  
14 Incident Report that the defendant put one of his fingers –

15 MR. COX: Objection, hearsay, Judge.

16 MR. PAGE: Objection. Judge, this is hearsay.

17 MR. PANDELIS: Your Honor, they already got into his Incident Report and  
18 I let them do it.

19 MR. PAGE: Your Honor, the –

20 THE COURT: Counsel approach.

21 (Bench conference begins)

22 THE COURT: First of all, before we get into that while I have you up here, all  
23 of you – this goes to all of you, particularly you two, but all of you, don't forget that  
24 you have microphones sitting on your tables, and you are some loud whisperers,

1 especially you three. I can hear everything you're saying at your tables, so just keep  
2 it down.

3 MR. PAGE: Does that mean that the jury also hears it?

4 THE COURT: I don't know how good their hearing is, but just keep it in line.  
5 There hasn't been much of that from the State today. There was a little yesterday,  
6 but particularly, yes, just keep it in mind that --

7 MR. PANDELIS: Understood.

8 THE COURT: I hear very well, but -- so maybe they don't, but you don't want  
9 them to hear everything you're saying.

10 MS. KOLLINS: I just asked -- (indiscernible) --

11 THE COURT: Okay -- (Indiscernible).

12 MR. PAGE: The reason why we say objection is because the reason -- we  
13 only went into the parts for impeachment purposes. They clearly said that that didn't  
14 happen, so went through it for impeachment. They're just rehashing the story at this  
15 point.

16 MS. KOLLINS: Well, if they're going to use it as a prior inconsistent then we  
17 can use it as prior consistent --

18 THE COURT: Right. Okay.

19 MS. KOLLINS: -- because they objected as hearsay when we went into it  
20 first. It was sustained. They opened it. They can't get in one line of the report and  
21 call that inconsistent and then everything else is just floating out there, It's prior  
22 consistent now, the remainder of the report.

23 MR. PAGE: We didn't say that the part -- we didn't specify where the  
24 inconsistency is.

1 MR. PANDELIS: I don't think they can pick and choose after that. I mean,  
2 once they do that, we can -- we have prior consistent statements.

3 MS. KOLLINS: (Indiscernible) -- that's a prior consistent statement, too.

4 MR. PAGE: (Indiscernible).

5 MS. KOLLINS: If you're using it to impeach mom, that's a prior inconsistent  
6 statement of mom, that is prior consistent statement of -- (inaudible). He didn't lay  
7 a foundation as to which one it was applicable to. He just said did they tell you.

8 THE COURT: Okay. How many more questions do you have on this?

9 MR. PANDELIS: Just two or three. It won't be much longer.

10 THE COURT: A couple? All right. I'm going to overrule the objection.

11 **(Bench conference concluded)**

12 MR. PANDELIS: Thank you, Your Honor.

13 BY MR. PANDELIS:

14 Q Officer, in your Incident Report it's reflected that T [REDACTED] told you  
15 that Tyrone put one of his fingers inside of her vagina. Is that what she told you  
16 that day?

17 A Yes, sir.

18 Q And did T [REDACTED] also tell you, as reflected in your Incident Report,  
19 that he pulled out his penis and rubbed it on the outside of her vagina?

20 A Yes, sir.

21 Q And finally, that T [REDACTED] told you that she told Tyrone to stop and to  
22 get off of her?

23 A Yes, sir.

24 MR. PANDELIS: Nothing further, Your Honor.

1 MR. PAGE: Nothing further, Judge.  
2 THE COURT: Okay. Anything from the jury? No?  
3 Okay. Thank you, sir, you're free to go.  
4 THE WITNESS: Thank you.  
5 MR. PANDELIS: Your Honor, can we approach?  
6 THE COURT: Sure.  
7 (Bench conference begins)  
8 MR. PANDELIS: We have one fairly quick witness, Hatchett, and then we  
9 have two long witnesses.  
10 MS. KOLLINS: So, call the quick one?  
11 THE COURT: Yeah. If you don't mind, let's call the quick one and then we  
12 can take the -- because we've only been like an hour and fifteen minutes. How long  
13 is your long one? What do you mean by long?  
14 MR. PANDELIS: The two long ones are --  
15 MS. KOLLINS: It will probably an hour at least.  
16 MR. PANDELIS: Dr. Vergara.  
17 MS. KOLLINS: And the prior bad acts victim is going to be long; I imagine  
18 an hour and a half.  
19 THE COURT: Okay. Let's do the short one and then we'll take a break and  
20 then we'll do the long ones.  
21 MR. PAGE: (Indiscernible).  
22 MS. KOLLINS: That's why we came up here. Whatever you guys want to  
23 do. If you want to take a break now and then we'll just tee it up, that's fine too.  
24 THE COURT: Well, I mean --

1 MS. KOLLINS: I just -- I don't want to leave my doctor --

2 THE COURT: (Indiscernible).

3 MS. KOLLINS: I'm sorry?

4 THE COURT: We've only been here for like an hour and fifteen minutes, and  
5 at this point, you know, we're going to be taking a break and they're going to have  
6 like two and a half hours to go, so.

7 MS. KOLLINS: Okay.

8 THE COURT: Yes, I appreciate it. Let's call the short one.

9 **(Bench conference concluded)**

10 MS. KOLLINS: Judge, the State calls Detective Hatchett.

11 **DETECTIVE TIMOTHY HATCHETT**

12 Having been called as a witness and being first duly sworn, testified as follows:

13 THE COURT: Good afternoon, sir. Could you please state your name and  
14 then spell it for the record.

15 THE WITNESS: Timothy Hatchett. T-i-m-o-t-h-y H-a-t-c-h-e-t-t.

16 THE COURT: Thank you, sir.

17 **DIRECT EXAMINATION**

18 **BY MS. KOLLINS:**

19 Q Good afternoon, sir. How are you employed?

20 A With the Las Vegas Metropolitan Police Department as a detective.

21 Q How long have you been so employed?

22 A Approximately seven years.

23 Q Seven years with Metro. How long as a detective?

24 A Currently assigned approximately a year and seven months.

1 Q To which division?  
2 A Sexual Assault, Juvenile.  
3 Q And prior to your assignment in Sexual Assault, where were you?  
4 A Part of my assignment, I was a field training officer with the patrol  
5 division.  
6 Q Turning your attention to May 14th of 2010, were you assigned as a  
7 Metro Sexual Assault detective?  
8 A Yes, I was.  
9 Q Do you know a Detective Tomaino?  
10 A Yes, I do.  
11 Q Do you routinely work cases with detectives when it's their case  
12 primarily? You guys help each other out, I guess is the question.  
13 A Yes, we do.  
14 Q Did you help Detective Tomaino out back in May of 2010 on this  
15 case?  
16 A Yes, I did.  
17 Q What is the first thing you learned about the case involving T[REDACTED] a  
18 on May 14th, 2005 (sic)?  
19 A As far as the first – I don't know what I first learned about it. I can't  
20 recall exactly what I first learned about it.  
21 Q All right. Well, let's try it like this. How did you first come to be  
22 involved in it?  
23 A The way we have it is we have a primary person each and every day  
24 who takes calls for service in regards to priority call outs. He had received a call



1 in regards to a priority call out where he had to make contact with the victim on that  
2 specific time because of certain criteria. What I recall is a check was done on the  
3 alleged suspect and he had some prior felony arrests –

4 Q I'm going to stop you right there.

5 A Okay.

6 Q Did you get an identification on the suspect?

7 A I believe he did.

8 Q Okay. Did you assist Detective Tomaino in locating the suspect?

9 A Yes, I did.

10 Q Do you see that person here in court today?

11 A Yes, I do. He's seated to the left of me.

12 Q And what is he wearing today in court?

13 A A purple shirt.

14 MS. KOLLINS: May the record reflect identification of the defendant, Tyrone  
15 James?

16 THE COURT: The record will so reflect.

17 MS. KOLLINS: Thank you.

18 BY MS. KOLLINS:

19 Q When and where did you come into contact with him?

20 A We were located at the 7-11 at Stewart and Lamb, from my recollection.

21 Q Okay. And did you stop him and talk to him there?

22 A He actually agreed to come back to that location and speak with us.

23 Q Did he give you – Was he in a vehicle?

24 A Yes, he was.

1 Q What kind of vehicle?

2 A It was a van. I cannot – from the top of my memory I can't remember  
3 the type of van.

4 Q Did he give you permission to look in that van?

5 A He did not give me permission. The driver of the vehicle gave me  
6 permission to look in the van.

7 Q Okay. And at that point did you know what, if anything, you were  
8 looking for?

9 A According to Detective Tomaino I was looking possibly for some type  
10 of gloves that are involved in this incident.

11 Q Did you find anything like that in that van?

12 A No, I didn't.

13 Q But you looked for it anyway?

14 A Yes, I did.

15 Q Okay, thank you. Do you know what time of day that was?

16 A Off the top of my head – It was definitely after noon. I can't remember  
17 exactly what specific time it was.

18 Q Mr. James agreed with you to go back down and speak with Detective  
19 Tomaino, correct?

20 A Agreed with me?

21 Q Agreed to go speak to Detective Tomaino at another location other  
22 than where you stopped the van?

23 A We didn't stop the van; just to make a correction. He came to the  
24 location. There was a warrant for his arrest for –

1 Q You were on notice that Detective Tomaino was interested in speaking  
2 with him regarding the immediate case, correct?

3 A I was on notice? Is that what you said?

4 Q Detective Tomaino is the one that told you who you were out looking  
5 for, right?

6 A Right.

7 Q Okay. So at some point Mr. James agreed to go to another location,  
8 correct?

9 A From once he arrived with me?

10 Q Yes.

11 A He was – He didn't agree.

12 Q What was your next involvement in this case?

13 A My next involvement was to advise the patrol officers to take him down  
14 to Clark County Detention Center and to wait for contact with the detective.

15 Q Okay. Were you asked by Detective Tomaino to go to the residence  
16 where this occurred?

17 A I believe we discussed it and I said that it would be a good idea if  
18 I went and made contact at the residence.

19 Q So the answer to my question is yes, you went to the residence?

20 A Yes.

21 Q And what did you do when you got there?

22 A The number one thing is there had been some time elapsed, so I just  
23 wanted to make contact since nobody had been there yet, and determine if anyone  
24 is even there and if there was any type of crime scene.

1 Q And what, if anything, did you see while you were there?

2 A When I arrived there were several children in the household and I  
3 believe the grandmother to the victim, and I asked to come in and take a quick  
4 look around. Due to the children being in the household, it was hard to determine  
5 whether there was any type of scene or anything of that nature. I looked in the  
6 room of the alleged victim's room very quickly. Didn't find anything that rose to any  
7 suspicion. I contacted Detective Tomaino and asked him how he would like me to  
8 proceed. And I also during that time, I looked in one of the garbage cans that was  
9 located I believe by the sink.

10 Q Looking for gloves?

11 A Yes.

12 Q Did you find any gloves there?

13 A No.

14 Q Were you ever directed to the mother's bedroom?

15 A No.

16 Q I'm not talking about the kids' bedroom, I'm talking about the mother's  
17 bedroom.

18 A No.

19 Q Did you go in the mother's bedroom?

20 A Not from my recollection.

21 Q And you hadn't had any report that anything had transpired in the  
22 mom's bedroom regarding this case?

23 A No.

24 MS. KOLLINS: Okay. I'll pass the witness, Judge.

1 CROSS-EXAMINATION

2 BY MR. PAGE:

3 Q Officer Hatchett, you testified that Mr. James agreed to come meet  
4 with you, correct?

5 A Correct.

6 Q And so he was cooperative?

7 A Yes, he was.

8 Q And you also testified that you went around and you started to look  
9 in the house for gloves?

10 A Not per se the gloves. I was just looking to – I hadn't determined –  
11 nobody had made contact with the house, so I was trying to determine if, A)  
12 anybody had even been there, and 2) once I noticed that were numerous children  
13 in the household, the scene kind of had been compromised at that time. I did a  
14 quick check in the child's room and just kind of made follow-up with the detective  
15 to kind of determine where he wanted me to go from there.

16 Q When you say nobody had been at the house, wasn't there another  
17 officer that went before you?

18 A I don't believe so. I believe that the victim was directed to go to  
19 Sunrise Hospital and that at that time nobody had been at the residence.

20 Q When you went to the residence, you didn't meet with T [REDACTED]?

21 A No, I did not.

22 Q And when you do a search for – Well, let me backtrack. You said that  
23 the detective called you and he made mention of gloves?

24 A I don't know if he called me. I knew that – I knew gloves were

1 somehow involved. I don't recall if that was reported before we even got there or  
2 not. I searched the van, so I'm believing – I'm assuming that it was, but I can't be  
3 for sure how I was made aware of that.

4 Q And the family members that were there present, they gave you  
5 permission to search the entire house?

6 A Like I said, I did not search the entire house. It was basically I had  
7 gone to the house because nobody had been there. Once I observed that there  
8 were numerous children in the household and, you know, nobody in relation to the  
9 house there really when this occurred, I just did a real – you know, a little bit of  
10 scan of it to see if there was anything just observable, and made contact with the  
11 detective to see where I should go from there. I definitely would not call it a search.

12 MR. PAGE: No further questions.

13 MS. KOLLINS: No redirect, Judge.

14 THE COURT: Okay. Anything from the jury? No? Okay.

15 Sir, you're free to go.

16 THE WITNESS: And just as a correction I'd like to make real quickly.

17 THE COURT: There is no question. Sir –

18 MS. KOLLINS: No. There's no question pending, Detective. I'm sorry,  
19 you can't speak.

20 THE COURT: There is no question in front of you. You're free to go.

21 THE WITNESS: Okay.

22 THE COURT: Thank you.

23 THE WITNESS: All right.

24 THE COURT: We're going to go ahead and take a break – take a break

1 until three o'clock.

2           During this recess you are admonished not to talk or converse among  
3 yourselves or with anyone else on any subject connected with this trial, or read,  
4 watch or listen to any report of or commentary on the trial or any person connected  
5 with this trial by any medium of information, including without limitation newspapers,  
6 television, the Internet and radio, or form or express any opinion on any subject  
7 connected with the trial until the case is finally submitted to you.

8           We'll see you folks back at 3:00. Thank you.

9           (Court recessed from 2:41:30 p.m. until 2:57:35 p.m.)

10           (Whereupon the following proceedings were held  
11 outside the presence of the jury)

12           THE COURT: Which juror, Rick?

13           THE MARSHAL: I think it's juror number five. The one in the purple.

14           MS. KOLLINS: Judge, may we approach?

15           THE COURT: Sure. You're approaching? There's nobody –

16           MS. KOLLINS: Well, I just –

17           THE COURT: You just want to get like – up here.

18                           **(Bench conference begins)**

19           MS. KOLLINS: All right. Well, that was a train wreck. I don't know. What  
20 are you guys looking for?

21           MR. PAGE: The reason why we're deciding is we're going to have to put it  
22 on the record of what was brought up, that Tomaino told him to talk to the guy that  
23 has prior felony arrests, and that that came out.

24           MS. KOLLINS: So you're going to move for a mistrial?

1 MR. PAGE: So, yeah.

2 MS. KOLLINS: And I mean, our response is, you know, I cut him off. I don't  
3 think it was clear what he was talking about. I obviously could tell where he was  
4 going, but I don't think he finished his sentence, so I don't know that it was  
5 prejudicial. I think a limiting instruction could cure it. But it's their option whether  
6 they want that instruction, as it calls attention to what was said and perhaps, I mean,  
7 it wasn't as clear to the jury as it was to the rest of us that routinely play in the  
8 sandbox. I mean, he's a seven year cop. Why would I ever think he would do that?

9 MR. PAGE: I don't doubt that they admonished him, but obviously he had  
10 his own –

11 THE COURT: I understand that. Here's the thing. I think –

12 MS. KOLLINS: I think the warrant thing probably wasn't clear, because  
13 warrant and probable cause to arrest him immediately, I don't think that's clear.

14 THE COURT: I certainly think that wasn't clear with respect to the other  
15 thing, since we've already got a ruling that the prior act is coming in. He said the  
16 word felony arrest.

17 MS. KOLLINS: He was arrested for that.

18 THE COURT: I don't think that there is enough prejudice to warrant a mistrial  
19 at this point. It certainly would have been better if he hadn't said that. So I'm  
20 going to deny the motion for a mistrial. You know, the defense did not make a  
21 contemporaneous objection. I certainly could have instructed the jury to disregard  
22 the comments at the time. I obviously still can offer a limiting instruction if the  
23 defense would like that, but that's entirely up to you.

24 MR. PAGE: The reason no contemporaneous objection was made is we



1 didn't want to highlight the fact –

2 THE COURT: I know. I understand. I mean, obviously that's your –

3 MS. KOLLINS: That was Dan Page.

4 MR. PAGE: Oh. Is it we're still on the record? Yeah, that was Dan Page for  
5 the Public Defender's Office.

6 THE COURT: Yeah, I don't know why we're up here. But certainly that's the  
7 defense's option. So if you do not want a limiting instruction, I will not give it. The  
8 motion for a mistrial obviously is on the record. I'm denying it for those reasons.

9 Is there anything else with respect to that that you want on the record?

10 MS. KOLLINS: No. There's one juror that recognizes the other bad acts  
11 victim that we might need to –

12 THE COURT: Right.

13 MR. COX: What was that?

14 MS. KOLLINS: One of the jurors recognizes N■■■■a from school.

15 MR. COX: Really?

16 THE COURT: Right. So I'm going to have – Can you bring in that juror?

17 MS. KOLLINS: So – and I don't know if it's just –

18 THE COURT: Can you guys move back so we can actually make sure that  
19 this is all on the record? And you know what, while we're doing this, I just want to –

20 THE CLERK: She just can't get it while you guys are up there.

21 THE COURT: It's a lot easier if you're at your places.

22 And I just wanted to make a note for the record with respect to my  
23 prior ruling on the contents of the police report. The statute is NRS 47.120: "When  
24 any part of a writing or recorded statement is introduced by a party, the party may

1 be required at that time to introduce any other part of it which is relevant, and any  
2 party may introduce any other relevant parts." So that was the basis of my ruling  
3 to allow the State to introduce other consistent statements in the police report.

4 MS. KOLLINS: Thank you, Your Honor.

5 **(Bench conference concluded)**

6 (Juror Jennifer Mills enters the courtroom)

7 THE COURT: Okay. Ms. Mills.

8 JUROR MILLS: Yes.

9 THE COURT: Hi, how are you?

10 JUROR MILLS: I'm fine.

11 THE COURT: So we understand that you recognized one of the prospective  
12 witnesses who was in the hallway, and we just wanted to ask you a couple  
13 questions about that.

14 JUROR MILLS: Sure.

15 THE COURT: Do you know who the person is, or you just recognize her by  
16 sight?

17 JUROR MILLS: I recognize her by sight. I don't even know what her name is.

18 THE COURT: Okay. So it's not somebody you've ever had a conversation  
19 with?

20 JUROR MILLS: No.

21 THE COURT: Is it going to make you feel uncomfortable or like you can't do  
22 your job as a juror fairly if that person comes in and testifies as a witness?

23 JUROR MILLS: No. It's not going to make me -- I was more concerned  
24 actually for her, if it would make her feel uncomfortable, because I know her

1 teachers.

2 THE COURT: Okay.

3 JUROR MILLS: So it's not going to make – in my job, no.

4 THE COURT: Okay. Are there any questions? State?

5 MS. KOLLINS: As long as she maintains her ability to be fair and won't give

6 any greater weight to that witness' testimony than she would any others, then we're

7 fine with that record, Judge.

8 THE COURT: Okay. Mr. Cox?

9 MR. COX: So if I understand correctly, you just recognize her from school

10 and know who her teachers are?

11 JUROR MILLS: Yeah. Correct.

12 MR. COX: What was the context of knowing who she was?

13 JUROR MILLS: She is in a special program at school for kids that are kind of

14 more college-bound, so she is within a certain group of teachers that they – it's kind

15 of like a school within a school, and that's how I recognize her.

16 MR. COX: Okay, thank you.

17 THE COURT: Okay. Just through your work?

18 JUROR MILLS: Correct.

19 THE COURT: Okay, thank you, ma'am. Thank you. I really appreciate you

20 doing that. That's exactly what you're supposed to do, so I appreciate that.

21 JUROR MILLS: Okay.

22 THE MARSHAL: Do you want me to bring them all in?

23 THE COURT: Just bring them all in.

24 THE MARSHAL: You can stay right there.

1 (The jury enters the courtroom)

2 THE COURT: We're back on the record in Case Number C265506, State of  
3 Nevada versus Tyrone James. Let the record reflect the presence of all of our  
4 jurors, Mr. James with his counsel, the representatives of the D.A.'s Office, and all  
5 of the court staff.

6 MS. KOLLINS: Your Honor, at this time the State would call Dr. Vergara.

7 DR. THERESA VERGARA

8 Having been called as a witness and being first duly sworn, testified as follows:

9 THE COURT: Afternoon, ma'am. Could you please state your name and  
10 then spell it first and last for the record.

11 THE WITNESS: Yes. Dr. Theresa Vergara. T-h-e-r-e-s-a Vergara, V -as in  
12 Victor -e-r-g-a-r-a.

13 THE COURT: Thank you, ma'am.

14 DIRECT EXAMINATION

15 BY MS. KOLLINS:

16 Q Good afternoon, Dr. Vergara. Thank you for your patience today.  
17 Ma'am, how are you employed?

18 A I'm a full-time attending physician at Sunrise Children's Hospital;  
19 the Pediatric Emergency Room.

20 Q How long have you worked at your profession at Sunrise Peds E.R.?

21 A Since 1999.

22 Q And prior to that, where were you working?

23 A I was in New York; Mt. Sinai Hospital. Also a full-time attending  
24 physician at the Pediatric Emergency Room at Mt. Sinai.

1 Q And where did you get your education and your residency?

2 A At – Well, I'm double Boarded in both Pediatric and Pediatric  
3 Emergency Medicine. So after medical school in 1986, I did my pediatric residency  
4 program at St. Joseph's Hospital in Patterson, New Jersey, followed immediately by  
5 a pediatric emergency medicine fellowship at Mt. Sinai Hospital. After completing  
6 my training I worked as an attending physician. I stayed on at Mt. Sinai for about  
7 seven years until I relocated to Sunrise.

8 Q And tell me what a pediatric E.R. physician does on a daily basis.  
9 What kind of things do you do?

10 A Well, just like a pediatrician has his office, his or her office to deal with  
11 patients and take care of patients' care, my office is the pediatric emergency room,  
12 so any emergency that comes in via ambulance or any parent bringing their child in  
13 for whatever reason, fever, trauma, needs stitches, that needs medical evaluation  
14 and care.

15 Q Is a component of that practice within the Sunrise Pediatric E.R. to do  
16 sexual assault examinations on children?

17 A Yes. It's what we call a SCAN program. SCAN, S-C-A-N, Suspected  
18 Child Abuse and Neglect. It's either physical abuse or sexual abuse.

19 Q And what particular training do you have that qualifies you to perform  
20 a SCAN exam?

21 A Well, again, after a pediatric residence, you do more training and you  
22 specialize and do a pediatric emergency medicine fellowship, which is additional  
23 training, and there you do critical care in an emergent basis, as well as trauma,  
24 and of course sexual abuse or any abuse, physical abuse, abuse is trauma.

1 Q So, sexual abuse specifically was a component of that fellowship,  
2 as well as the remainder of your practice up through the time you were working at  
3 Sunrise?

4 A Absolutely.

5 Q Were you working at Sunrise in the Peds E.R. on May 14th of 2010?

6 A Yes.

7 Q And you have testified as an expert in the field of child sexual abuse  
8 and the findings in this Eighth Judicial District before, correct?

9 A Yes.

10 Q So you were working at 2:00 in the afternoon on May 14th, 2010.  
11 Tell me what the protocol is if a child presents to you at Sunrise and there's been  
12 an allegation of sexual abuse. What's the protocol that you take there?

13 A Well, just like how any patient presents to the emergency room, they  
14 come through the triage and they state their chief complaint. So it was identified  
15 as a victim of sexual abuse. Once that is identified, they get placed into a special  
16 room, Room 8, and the SCAN is initiated. So a designated nurse gets assigned to  
17 that patient and usually, again, identified as an abuse victim, so in our case –

18 Q Okay. I'm going to –

19 A Oh, go ahead.

20 Q I'm going to – before we jump ahead to this case, I just want to ask you  
21 a few questions about kind of what happens during the course of that examination.

22 You said there's a triage portion. What does that mean?

23 A Well, triage is, again, the chief complaint. You get your vital signs.  
24 We identify any emergencies. If someone has breathing difficulty or active bleeding

1 they get triage quicker into the unit and appropriately so we could take care of that  
2 patient promptly.

3 Q So if – my word, not your words, but when we were speaking the other  
4 day, that's kind of a wellness portion of the exam; treat anything that immediately  
5 needs to be taken care of; if there's a high fever, if there's a broken bone, something  
6 like that, right?

7 A Right. It gets identified as such and gets treated as such. Correct.

8 Q Okay. And then there is the sexual assault component or the  
9 examination of the genitalia, which is a separate component of that process, right?

10 A Correct. We examine the patient head to toe, and then when it comes  
11 to the genitalia we focus and do photo documentation of that area.

12 Q Okay. And this triage portion, this initial information-seeking portion,  
13 who usually does that? Do you do that or is there a nurse that does that?

14 A Oh, there's a triage nurse.

15 Q And she takes all that information?

16 A Correct.

17 Q And either provides that to you or assists you with the remainder of  
18 the examination?

19 A Correct.

20 Q You mentioned Room 8. What's special about Room 8?

21 A Room 8 has a colposcope, which is an instrument that will help  
22 magnify the genitalia.

23 Q Now, when the triage portion of this examination is being done with a  
24 child, are they placed in a quiet room, in a different area away from the hustle-bustle

1 of the E.R.?

2 A They go directly – from triage they go directly into Room 8.

3 Q Okay. On May 14th of 2010, who accomplished your triage regarding  
4 a young lady by the name of T [REDACTED] a H [REDACTED]?

5 A The triage nurse and a designated nurse for T [REDACTED].

6 Q And that nurse's name?

7 A Pamela – Pamela –

8 Q Do you remember her last name? No?

9 A She was the designated – Gosh, no, I don't recall the last name.

10 Q Okay. First name Pamela, though?

11 A Yes.

12 Q Would it refresh your recollection to look at your report?

13 A Yes.

14 Q Do you have a copy of your report with you?

15 A Yes, I do.

16 Q Is it a full and accurate copy, the same as the District Attorney has  
17 been provided, as well as the defense?

18 A It was a copy that was provided to me by our program, yes.

19 MS. KOLLINS: Any objection, Mr. Cox?

20 MR. COX: No. No objection.

21 THE WITNESS: Pamela Douglass.

22 BY MS. KOLLINS:

23 Q Now, there are a couple different locations here in Las Vegas where  
24 kids go for sexual assault examinations, is that correct?



1 A Correct.

2 Q Sunrise being one of them?

3 A Yes.

4 Q And the other one being the Child Advocacy Center?

5 A Yes.

6 Q Is Sunrise where acute examinations take place –

7 A Yes.

8 Q – generally?

9 A Yes, generally. Correct.

10 Q Can you explain the difference to us between an acute examination

11 and an examination that would be routinely scheduled over at the Advocacy Center?

12 A If a child just happened to disclose, oh, I was abused but it was like

13 six months ago, there's no – that's not acute, okay. So acute is something that

14 happened, especially if we could forensically collect a rape kit, so within – even up

15 to five days. Three – ideally three days.

16 Q So ideally seventy-two hours –

17 A Seventy-two hours. Correct.

18 Q – is an acute examination. Okay. Now, with regard to [REDACTED] a

19 [REDACTED], what did you know from the triage and going into Room 8, if you will?

20 A It was an acute – the event was at 9:00 a.m. and the patient presented

21 around 2:00 p.m. to the emergency room.

22 Q Okay. And what was the nature of the allegation that constituted the

23 sexual abuse and the purpose for the examination?

24 A Reportedly she was assaulted by an adult male with vaginal as well as

1 digital penetration.

2 Q When you say vaginal penetration, what do you mean?

3 A I mean penile and – I'm sorry. Penile and digital penetration of her  
4 vagina.

5 Q Okay. Now, tell us just generally what the component parts are of  
6 the sexual assault portion of the examination, and then we'll talk specifically about  
7 this examination, okay. Generally how does that work?

8 A Well, just like any patient, a regular emergency room chart gets  
9 generated. And then once it's identified as a sexual abuse, then additional  
10 paperwork, specifically our SCAN paperwork, another set of paperwork gets –  
11 for proper documentation. That SCAN paperwork has more pictures, so that will  
12 facilitate the doctor documenting any lesions or any findings – just to help the  
13 documentation. So it's additional paperwork because it's an abuse case.

14 Q Okay. Let me try to ask the question in a different way. You're  
15 documenting something with paperwork. What are the activities that are being  
16 documented within the paperwork that are a portion of the examination? I mean,  
17 what's being documented?

18 A Well, we do the physical examination, okay, from head to toe, and  
19 then specifically focusing on the genitalia.

20 Q Okay. When a patient – after the paperwork part is accomplished,  
21 you mentioned a colposcope, I believe. How and when is that used?

22 A The colposcope is in Room 8. So the patient – Room 8 has a bed just  
23 like a stretcher, just like any other room. The patient gets undressed into a gown,  
24 just like any other patient. Sits on the bed. Gets examined head to toe, okay, by

1 me; by the physician. And then when it's time to do the GYN exam –

2 Q GYN being gynecological?

3 A Gynecological examination. They – again, a lot of this is prepped by

4 the nurses prior to the procedure, prior to my arrival, so they know to sort of lay on

5 the bed and then put their legs in the stirrups to better visualize the genitalia.

6 Q So you photograph the genitalia with the colposcope, correct?

7 A Correct.

8 Q And that's in gynecological stirrups in a prone position. That's the way

9 those exams usually go?

10 A In a supine position, yes.

11 Q And then you swab the genitalia, correct?

12 A After digital photo documentation of the genitalia, then we proceed

13 with – in this case like a rape kit or swabbing, yes. Swabbing for collection, yes.

14 Q So swabbing is part of the rape kit, correct?

15 A Correct.

16 Q And the rape kit comes to you in a sealed condition?

17 A Sealed. Yes.

18 Q And it's a series of swabs for anywhere someone may have touched,

19 right?

20 A Correct.

21 Q And those are used on a child or an adult, right?

22 A Yes.

23 Q And then you seal them up and put them away after you swab?

24 A Correct. To maintain the chain of evidence, correct.

1 Q Correct. And did you do all that in this case?  
2 A Yes, with the help of the nurse. Yes.  
3 Q With the assistance of the nurse?  
4 A Yes.  
5 Q Pamela Douglass, who we already talked about?  
6 A (Shakes head affirmatively).  
7 Q So she filled out your checklist for you of what had transpired, gave  
8 you that information, and then you begin the examination?  
9 A Correct.  
10 Q Did you perform the same kind of gynecological examination on  
11 T [REDACTED] a H [REDACTED] that you just kind of described for us?  
12 A Yes.  
13 Q Okay. What, if anything, did you see?  
14 A On inspection there was no bruising to the external genitalia. Upon  
15 retraction of the labia majora, which is the large labia, able to see some generalized  
16 swelling to the area and the vaginal area, yes.  
17 Q And the labia majora are the outer lips of the female vagina, right?  
18 A Yes. Outer lips.  
19 Q Outer lips of the genitalia. And so when you looked inside you saw  
20 generalized swelling where?  
21 A To the introitus.  
22 Q What are some of the reasons that – Strike that. That could be  
23 caused by a penetration of some sort, correct?  
24 A Generalized swelling from trauma, yes.

1 Q From trauma; trauma being penetration?

2 A Yes.

3 Q Something being inserted?

4 A Yes.

5 Q Something being rubbed?

6 A Yes.

7 Q Okay. It could also be consistent with other things?

8 A Yes.

9 Q But not inconsistent with the reason the patient was reporting,  
10 correct?

11 A Correct. It's consistent with the – with her chief complaint of being  
12 sexually assaulted. Yes.

13 Q Consistent with her chief complaint of being digitally penetrated and  
14 having her vagina penetrated by a penis?

15 A Yes.

16 Q Okay. Or rubbed on by a penis?

17 A Yes.

18 MS. KOLLINS: Indulge me for one minute, Doctor.

19 BY MS. KOLLINS:

20 Q Did you notice any bruising? And I'm not talking about the genitalia,  
21 I'm just talking about overall on her body.

22 A No. There was no bruising.

23 Q Nothing that had developed yet?

24 A No.

1 Q Okay. Did you know whether or not rubber gloves were used during  
2 the assault?

3 A That was – It was reported.

4 Q I mean, in terms of going into the examination, of course you weren't  
5 there so you don't know, so that was a bad question. But did you know that was  
6 part of the report?

7 A Yes.

8 Q Could some of that swelling be caused by contact with latex?

9 A Well, just the friction of rubber and a moist area, correct. Yes.

10 Q The child's hymen was intact?

11 A There was no local redness or bleeding to the hymen, correct.

12 Q And would you expect to see bleeding?

13 A If it was just rubbing or just – it depends on the severity of the  
14 penetration.

15 Q Well, the female introitus and the vagina are designed to take things  
16 in and stretch, correct?

17 A Yes.

18 Q So every time you put something in a vagina, you don't necessarily  
19 tear a hymen or cause bleeding or anything like that?

20 A Just like if a female uses tampons and inserts the tampon.

21 Q So based on what you knew, was it any surprise to you that there was  
22 no tears or bleeding or anything like that?

23 A That's no surprise at all.

24 Q Okay. Now, of course there's no – Strike that. You did see swelling.

1 Did you see any other injuries, or any other sign of trauma, if you will?

2 A She was just – she complained of soreness to her lower – to her legs.

3 Q How was she emotionally during the exam? If you remember.

4 A I just remember she was cooperative.

5 Q Cooperative?

6 A Yes.

7 MS. KOLLINS: I will pass the witness, Judge.

8 THE COURT: Mr. Cox?

9 MR. COX: Thank you, Judge.

10 CROSS-EXAMINATION

11 BY MR. COX:

12 Q Good afternoon, Doctor.

13 A Hello.

14 Q Sunrise Hospital is a great place, isn't it? Great people were born  
15 there, weren't they?

16 A (No response).

17 Q Now, did you have an opportunity to make a report regarding what the  
18 findings were regarding the redness or – was it redness or swelling?

19 A Swelling. Yes, the SCAN paperwork, that portion.

20 Q I'm just going to grab it real quick. Now, when you go to document  
21 the paperwork, you have the option of putting what you find in several different  
22 categories, is that correct? Do you have your report with you?

23 A Yes. I'm flipping through it right now.

24 Q Okay. I'll refer Court, counsel and the witness to the portion where it's

1 noted "non-specific findings." And you circled swelling?

2 A Yes. Page 304 of the Child and Adolescent Sexual Abuse and Assault  
3 Forensic Medical Examination Report.

4 Q Yes, ma'am. Yes. Now, on that sheet there are lots of different  
5 categories to place findings.

6 A Yes.

7 Q Okay. The first category you have -- actually -- The first category you  
8 have would be a normal exam with a normal variant. Now, what would that category  
9 be? If you had a finding that you'd put in that category, what would that type of  
10 finding be?

11 A Uh, my examination minus the swelling.

12 Q Okay. But if it was a normal exam, that means that -- now, looking  
13 at the report, does it mean the lack of physical exam findings does not exclude the  
14 possibility of sex abuse?

15 A Correct.

16 Q Okay. So it could be something that quite frankly you'll find in any  
17 person just normally occurring, correct?

18 A Correct.

19 Q Okay. Now, the next category is the box you checked; is that fair to  
20 say?

21 A Yes.

22 Q Okay. Now, that's a non-specific finding?

23 A Correct.

24 Q And you circled swelling?



1 A Yes.

2 Q And this category, if I read the label correctly: These findings may  
3 occur in sexually abused children but may be from other causes. Correct?

4 A Correct.

5 Q Okay. Now, there's two other categories as well. Well, actually three.  
6 The second one is: Concern for abuse or trauma. In that category, if I'm correct:  
7 These findings have been noted in children with documented sexual abuse or are  
8 consistent with though not conclusive of sexual abuse. Is that correct?

9 A Yes.

10 Q Okay. So that would be a finding that is very consistent with sexual  
11 abuse but it's not conclusive, even unto itself?

12 MS. KOLLINS: Objection as to the characterization of very consistent.

13 MR. COX: I'll tell you what, Judge -

14 THE COURT: Mr. Cox, could you just rephrase the question. I'm sorry,  
15 I didn't really even quite -

16 MR. COX: I'll strike the question. I'm sure it was a poor one.

17 THE COURT: I'm just having a hard time following it.

18 BY MR. COX:

19 Q Doctor, what type of finding is that? What type of findings would fit  
20 in that category?

21 A Well, let's just say for example a female happens to fall down and  
22 straddle an edge or an object, accidentally fall and sustain some bruises. So,  
23 yes, there's bruises. There could be bleeding. But there is a story that the child  
24 accidentally fell and sat on a pointed toy or an object and sustained the bruising

1 and the injury or the bleeding, but it's from not an abuse or trauma.

2 Q Okay. But that's a finding that has been noted in children with  
3 documented sexual abuse, is that correct? Is that correct? I'm reading - I'm looking  
4 at the report.

5 A Well, because bruising and laceration of the posterior fourchette and  
6 bite marks have been found in patients that have been abused, yes.

7 Q Okay.

8 A Can be abused. Yeah.

9 Q Okay. Now, the findings you had, you did not put in that category?

10 A No, because they weren't as severe to cause any lacerations or  
11 bruising.

12 Q Okay. Now, the last or the next category is a specific finding present  
13 that indicates abuse.

14 A Yes. Or severe.

15 Q Yes. Now, what type of things would fit in that category?

16 A Well, you actually see some deep lacerations that's actively bleeding,  
17 that you have to intervene. Some are so severe they have to go to the operating  
18 room to repair.

19 Q Okay. And in that category sexual abuse is very likely. That's how  
20 the category is labeled?

21 A That, plus the history of, yes, i was raped.

22 Q Okay. So we have a category for a very specific finding, sexual abuse  
23 is very likely, and you do not check that section, correct?

24 A Correct.

1 Q Okay. We have another section for: These findings have been noted  
2 in children with documented sexual abuse. But you didn't check that category,  
3 correct?

4 A Because the injuries were not that severe. Correct.

5 Q Okay. But you didn't check -- you didn't put it in that category?

6 A Correct.

7 Q You put it in the category where these findings may occur there, but  
8 they're also from other causes?

9 A Because the findings were consistent with non-specific -- it was a  
10 non-specific finding; swelling.

11 Q Right. Okay. Now, what can cause swelling or redness to introitus,  
12 it's basically the opening to the vagina, other than sexual abuse?

13 A A urinary tract infection.

14 Q Okay, that's one. Now, in this case did we find urinary tract infection?

15 A Yes, we did.

16 Q We did. Okay. Now, there's also something -- Now, Doctor, you have  
17 to forgive me, I'm just an attorney and I don't pronounce medical things very well,  
18 so please bear with me. Strep agala--

19 A It's a bacteria.

20 MS. KOLLINS: Judge, I'm going to ask that we approach.

21 MR. COX: Sure.

22 THE COURT: Sure.

23 (Bench conference begins)

24 MS. KOLLINS: Are you going into -- (indiscernible).

1 MR. COX: That's not a -- (indiscernible).  
2 MS. KOLLINS: I didn't know where you were going, so I didn't know what  
3 you're trying to -- (indiscernible).  
4 MR. COX: This is -- I checked last night her deposition. That's (indiscernible).  
5 THE COURT: What is it?  
6 MR. COX: It's Strep. It's something that just happens -- (indiscernible).  
7 MS. KOLLINS: (Indiscernible) -- back further into her sexual history.  
8 MR. COX: Okay. (Indiscernible). Let me just give us all --  
9 THE COURT: Let me see what you've got.  
10 MR. COX: Strep agala--  
11 THE COURT: Just let me see what you've got.  
12 MR. COX: Maybe you'll recognize that. It's my understanding that it can be  
13 caused by other --  
14 THE COURT: Shhh.  
15 MS. KOLLINS: What's the relation -- (indiscernible).  
16 MR. COX: No. I'm not alleging it's an STD.  
17 (Colloquy between Mr. Cox and Ms. Kollins)  
18 THE COURT: Okay.  
19 MR. COX: This is Bryan Cox for the record. I'm not alleging STD.  
20 THE COURT: Okay. Go ahead, Mr. Cox.  
21 (Bench conference concluded)  
22 BY MR. COX:  
23 Q Doctor, rescue me here. Strep agalactiae.  
24 A That's pretty good.

1 Q What is it?

2 A It's a bacteria. Strep. Yeah.

3 Q Now, is this something that can cause swelling or redness to the

4 introitus or the opening of the vagina?

5 A Well, we have bacteria all over in our body. And I happened to swab it

6 and it grew – that particular swab in the medium that it was placed in grew strep.

7 Q Okay. So that was present in T [REDACTED] a H [REDACTED] vagina?

8 A Yes. And it can be in the normal flora of any vaginal area, yes.

9 Q Okay. It's something that just commonly can occur in women?

10 A Yes, it can.

11 Q Okay.

12 A Yes, it can.

13 Q And through just normal life you can just contract this? It's like maybe a

14 yeast infection or something like that, or a urinary tract infection?

15 A Well, we have bacteria. Like we have bacteria in our mouths, bacteria

16 under our arm pits. I mean, even after taking a shower, if you –

17 Q Okay. Now was Strep – I'm just going to call it Strep Group B –

18 A Correct.

19 Q – that's something that can cause redness at the introitus, which is the

20 opening of the vagina?

21 A Infection. Yes.

22 Q And it was present – When you sent it to the lab, this came back as

23 being present with T [REDACTED] a H [REDACTED]?

24 A Well, I only swabbed. It goes to the laboratory and it grows after like

1 three days after the fact.

2 Q Did you review the results on that?

3 A I was told, yes, it was positive.

4 Q Positive. So she did have this condition that causes swelling at introitus  
5 or the opening of the vagina?

6 A Well, I knew that just the other day.

7 Q Okay. So that – so in this case we have two – you documented two  
8 causes that had nothing to do with sexual assault that would cause redness at  
9 introitus or the opening of the vagina?

10 A At the time of the exam I only documented one –

11 Q Okay. Well –

12 A – the urinary tract infection. And I collected cultures.

13 Q And so – okay. And then later on when you got the lab results, you  
14 realized there was a second cause, a second thing that could cause the same thing?

15 A The chart – yes. The medical records indicated that it grew.

16 Q Okay. Thank you very much.

17 MR. COX: I'll pass the witness.

18 THE COURT: Okay. Ms. Kollins?

19 REDIRECT EXAMINATION

20 BY MS. KOLLINS:

21 Q Notwithstanding that, the redness to the introitus was still consistent  
22 with the history, correct?

23 A Yes.

24 Q Okay. Mr. Cox went through a couple pages of your report with you, or

1 a page, and what your available options are when you're documenting sexual assault  
2 cases?

3 A Yes.

4 Q When you document these cases, do you document them keeping in  
5 mind the history, what you've been told happened, as well as what you physically  
6 observe?

7 A It's actually what the physical – medical exam findings. So it's the  
8 physical findings.

9 Q Right. But like in the other category where there's a concern for abuse  
10 or trauma and there's an inconsistent history, you don't attribute it to sexual abuse  
11 because you haven't got that history. Do you see what I'm –

12 A Yes, yes. It requires a history and the examination.

13 MS. KOLLINS: Judge, I'm going to ask the Court for permission just to put  
14 this page up that Mr. Cox went through. I think it's easier if we can see it rather  
15 than –

16 THE COURT: Any objection to that, Mr. Cox?

17 MR. COX: No objection. No objection.

18 THE COURT: That's fine.

19 BY MS. KOLLINS:

20 Q Is that too small to read over there? I'm going to do it line by line.  
21 Can you see that on your screen, Doctor? I'm sure you have the same one.

22 A Yes, yes.

23 Q Let me move it up. You come to your ultimate conclusion at the end  
24 of an examination. You can never conclusively say that there is sexual abuse.

1 You can say that there's trauma, but you can never say that it's the product of  
2 sexual abuse. Correct?

3 A It's only suspected. Yes.

4 Q Okay. So category number one, a normal exam. Normal hymenal  
5 tissue. And we're just talking about a female right now. The lack of physical  
6 examination findings, that does not preclude a conclusion that a child was sexually  
7 abused, does it?

8 A Correct.

9 Q You can have an absolutely unmarked opening and you could still  
10 have sexual abuse; right?

11 A Correct.

12 Q Okay. And does that have something to do with the healing properties  
13 of the genitalia in general? I mean, you could have sexual abuse six months ago  
14 and see nothing today; right?

15 A Correct.

16 Q The vagina opening has a lot of healing properties, the same as the  
17 inside of your mouth; right?

18 A Correct.

19 Q It's a mucus membrane and it heals very quickly?

20 A Correct. And it also depends on the severe of trauma. If someone  
21 has a five-year-old and an adult decides to lick and kiss and protrude – stick their  
22 tongue, the adult tongue into the five-year-old, the child's vaginal area, what  
23 evidence would you see from that?

24 Q Right.



1           A     What evidence – When I did my examination where I retracted the  
2 labia, sustained in that – while I photo documented the examination, I guess it was  
3 a little red because I kind of pinched it open for exposure. And then an hour from  
4 now if someone asks me did the doctor touch you, well, of course I touched my  
5 patient during the examination of the genitalia, but there would be no evidence of  
6 what I just did to that patient.

7           Q     So it depends on the nature of the abuse?

8           A     And the severity of the trauma. Correct.

9           Q     And the severity of the trauma.

10          A     The contact. Yes.

11          Q     And despite any of these findings that you went through with Mr. Cox,  
12 it still doesn't preclude the fact that a child could have been sexually abused; right?

13          A     Correct.

14          Q     I mean, in any of these categories?

15          A     Correct.

16          Q     Okay. So when we talk about the non-specific findings, which could  
17 be swelling, which is what you saw here of the introitus; erythema, which is what?

18          A     Erythema. Redness.

19          Q     Okay. Labial adhesion, which is?

20          A     Well, because of the constant friction it could actually cause sort of  
21 secretions and it sort of adheres some tissue. The mucus membranes kind of get  
22 stuck together.

23          Q     And while those are non-specific, they could be attributable to sexual  
24 abuse or another explanation; right?

1 A Correct.

2 Q But in this case consistent with the history that you received?

3 A Yes.

4 Q Despite the fact that there was a diagnosis of UTI, urinary tract  
5 infection?

6 A Correct.

7 Q Okay. Now again, we're talking about levels of trauma and levels of  
8 contact, right, when we go through these categories. When you get down to the  
9 specific physical findings that are present, those are some pretty horrific acute  
10 physical findings, are they not, in that category?

11 A Yes.

12 Q Okay. And we're talking about things like transected hymens, which  
13 means you have a tear from the edge of the hymen to the base of the hymen; right?  
14 Things like that. Active bleeding.

15 A Correct. Sometimes that needs to go to the O.R. for repair.

16 Q Okay. And again, even if those – those injuries could be present for  
17 reasons other than sexual abuse?

18 A Yes. If you –

19 Q Even if you found that category?

20 A Yes.

21 Q Even if you found a specific finding, there could be an alternate  
22 explanation?

23 A Yes.

24 Q So the point being, you can – despite what the level of injury, there is

1 no way to conclusively testify there was sexual abuse – ever. Right?

2 A Correct.

3 Q Okay. And there's another page of your report that Mr. Cox I don't  
4 believe spoke about on cross-examination where you draw conclusions about  
5 abuse. And I believe that would be your page 4 of 4.

6 A Correct.

7 Q Did you come to a conclusion on page 4 of 4?

8 A Yes. Page 4 of 4 has the overall impression.

9 Q And what goes into that overall impression? Before you give us that  
10 conclusion.

11 A The overall is based on the history and the physical examination.

12 Q And what was your overall conclusion in this case?

13 A That it was probable abuse.

14 Q And why is that?

15 A Because the child has given a spontaneous, clear, detailed description  
16 of the events.

17 Q To a neutral fact-finder?

18 A Correct.

19 Q And who was the neutral fact-finder in this case?

20 A A family member. I think she initially said it to her – disclosed that to  
21 her sister.

22 Q And that abuse coupled with your – that report of abuse coupled with  
23 your examination, with or without specific findings; correct?

24 A It's consistent with probable abuse. Yes.

1 Q Okay, thank you.

2 MS. KOLLINS: No more questions, Judge.

3 THE COURT: Mr. Cox?

4 MR. COX: Just a couple, Judge.

5 RECROSS EXAMINATION

6 BY MR. COX:

7 Q Now, you mentioned that someone can have direct contact with  
8 genitalia with – you mentioned the example of a tongue, and it would never leave  
9 any evidence. Did I understand that correctly?

10 A On physical examination by the physician, yes.

11 Q Okay. Now what about –

12 A Inspection.

13 Q I'm sorry I interrupted you. You mentioned as part of the kit you do  
14 swabbing. What is that?

15 A A rape kit was done.

16 Q Okay.

17 A It's a sealed box with envelopes and swabs. Each envelope has  
18 instructions on the area to swab, and the swab gets placed into that envelope.  
19 And once all the envelopes and swabs are collected, it's sealed.

20 Q Now, are you aware whether or not some of those swabs would go  
21 for DNA testing?

22 MS. KOLLINS: Objection. Calls for speculation beyond the scope of her  
23 professional capacity.

24 THE COURT: Sustained.

1 MR. COX: Judge, I asked if she was aware as to whether or not any of those  
2 collections were for that purpose. I think she is in a position to answer that question.

3 MS. KOLLINS: Objection. The same objection. Whether some in this case,  
4 some in any case ever? That's speculative. She doesn't know.

5 MR. COX: Maybe I can lay a foundation, Judge.

6 THE COURT: Okay.

7 BY MR. COX:

8 Q Okay. is it a uniform kit that you use with these examinations?

9 A Yes, it's a standard kit.

10 Q Okay. And when you're doing the collection, is there any markings or  
11 indication of whether or not anything is being collected for purposes of DNA?

12 A What specific envelopes? No, I don't know.

13 Q You don't know?

14 A No.

15 Q So it goes in – you do these swabs –

16 A It has like seven – there's like seven envelopes with the instructions,  
17 swab here, swab here. And I swab, we collect, and then it gets sealed and then  
18 the police picks up the – picks up the box and they deal with it forensically.

19 Q In what way would they deal with it forensically? Are you aware?

20 A Like, we don't – like for example, that Strep –

21 Q Okay.

22 A – our lab, Sunrise labs grew that. So that swab went to Sunrise,  
23 versus all the kit – all the swabs from the kit. The rape kit goes to the police.

24 Q Okay. Now, the police wouldn't do any cultures or lab –

1 MS. KOLLINS: Objection. Calls for speculation as to what Metro lab does.

2 MR. COX: Fair enough.

3 THE COURT: Sustained.

4 MR. COX: I'll withdraw the question.

5 BY MR. COX:

6 Q But there are swabs done that are given to Metro that you're aware of?

7 A That gets processed by the police. Yes.

8 Q Okay. Now, as a doctor are you aware that those swabs can pick up  
9 epithelial cells or skin cells left by another individual?

10 A Yes.

11 Q Okay. So if those types of cells were found, that would be consistent  
12 with somebody else was there?

13 MS. KOLLINS: Objection. Calls for speculation. She's not a DNA expert.

14 MR. COX: It was a general question, Judge. I think she –

15 THE COURT: If she knows she can answer.

16 MR. COX: Okay.

17 THE WITNESS: It depends on the proper collection. If I was able to get a  
18 good swab.

19 BY MR. COX:

20 Q Okay, fair enough. Now, you also mentioned bruising, that sometimes  
21 bruising takes time to develop, so right away it may not show up. Is that correct?

22 A Well, first initially you get redness.

23 Q Okay.

24 A And it depends on the severity of the trauma. It can cause bruising.

1 For example, when I said that I pinched the labia to expose the introitus and  
2 sustained that during the documentation and I let go, you could probably see a little  
3 bit of redness, but I certainly did not cause any bruising.

4 Q Okay. Now, I'll give you a hypothetical. If somebody had received  
5 bruising between let's say nine and ten o'clock in the morning and you see them  
6 at two o'clock in the afternoon, would that be sufficient time for bruising to develop  
7 and perhaps be observable?

8 A It depends on the location, because there's different thickness of  
9 the skin.

10 Q Okay, fair enough. And again, in this case you did not observe  
11 bruising on the body?

12 A Correct.

13 Q You just observed a redness at the introitus, correct?

14 A The general swelling to the introitus. Yes.

15 Q General swelling. I'm sorry. Now, for a urinary tract infection or Strep  
16 B, if it's present when you checked her at two o'clock on May 15th (sic), how long  
17 would it take for that type of swelling to appear?

18 A A concurrent infection can cause additional swelling. How much of the  
19 swelling is due to what, I don't know. I just know that there's swelling.

20 Q Okay. For example, that day you recognized there was a urinary tract  
21 infection?

22 A Correct.

23 Q Okay. That could – She could have had that for a number of days;  
24 is it possible?

1 A Correct.

2 Q Okay. So the swelling could have been present days previous, and  
3 it just –

4 MS. KOLLINS: Objection. Calls for speculation to attribute it to a UTI days  
5 previous.

6 THE COURT: I'm going to overrule. If you can answer, Doctor.

7 THE WITNESS: Generalized swelling can be from anything. From a urinary  
8 tract infection, from poor hygiene, from – It's a non-specific finding.

9 BY MR. COX:

10 Q Okay. Do we know – Do you know based on what you observed how  
11 long she'd had the urinary tract infection?

12 A No.

13 Q Okay. So she could have had it for any number of days or weeks.  
14 We don't know?

15 A Correct.

16 Q Okay. And the Strep B, the Strep Group B, is that the same situation?

17 A Correct.

18 Q Okay. So she could have had that for any number of days and we  
19 don't know, based on –

20 A Well, if it's prolonged then you start having complaints of urinary tract  
21 infection, like it burns when I urinate. And she did not have any complaints of it  
22 hurts when I pee.

23 Q Okay. But it was present nonetheless?

24 A Well, we tested her urine and it was positive for a urinary tract infection.



1 Q Thank you, Doctor.

2 MR. COX: I'll pass the witness, Judge.

3 MS. KOLLINS: Judge, just based on a couple questions, may I please?

4 THE COURT: Go ahead.

5 MS. KOLLINS: Thank you.

6 FURTHER REDIRECT EXAMINATION

7 BY MS. KOLLINS:

8 Q The complaint of urinary tract infection symptoms was not in her  
9 history, correct?

10 A Correct. She had no complaints of it.

11 Q Was she running a fever?

12 A No.

13 Q No burning during urination?

14 A Correct.

15 Q So she may not even have known she had one?

16 A Correct.

17 Q Okay. Mr. Cox asked you some questions about DNA and its recovery  
18 from the human body. There's a lot of variables that go into the ability to collect  
19 DNA off the human body, is that correct?

20 A Correct.

21 Q If you bathe?

22 A Yes.

23 Q If you use the restroom?

24 A Um-hm.

1 Q Is that a yes?

2 A Yes.

3 Q If it's hot outside?

4 A Yes.

5 Q Sweating. The contact – In other words, if the contact was made with  
6 a gloved finger, you would not expect to find a transfer of epithelial cells from a  
7 hand, would you?

8 A No.

9 MR. COX: Objection. Calls for speculation.

10 THE COURT: Overruled.

11 BY MS. KOLLINS:

12 Q If a person showered or washed off? Any of those things, right?

13 A Correct.

14 Q The passage of time?

15 A Yes.

16 Q The intensity of the contact that was alleged, correct?

17 A Correct.

18 Q So all those things go into whether or not DNA is recoverable?

19 A Correct.

20 Q Okay. Because I could touch this desk right now and you may or may  
21 not be able to recover DNA from it two minutes from now or three days from now?

22 A Correct.

23 Q You just don't know, right? Okay. Thank you.

24 MS. KOLLINS: No more questions.

1 THE COURT: Okay.

2 MR. COX: No, Judge, I don't have any further questions.

3 THE COURT: Thank you. Does the jury have any questions? Okay.

4 Counsel approach.

5 (Bench conference begins)

6 MS. KOLLINS: That was -- (indiscernible).

7 MR. COX: The defendant doesn't object.

8 THE COURT: Okay.

9 (Bench conference concluded)

10 THE COURT: Doctor, was there any bruising or redness on T■■■■a's legs?

11 THE WITNESS: No.

12 THE COURT: Any follow-up from the State?

13 MS. KOLLINS: Very briefly.

14 FURTHER REDIRECT EXAMINATION

15 BY MS. KOLLINS:

16 Q In your history there was never an allegation that the person that did  
17 this to her did it using any force, was there? There was no allegation that it was  
18 forceful?

19 A Well, it wasn't consensual.

20 MR. COX: Judge, I would object. I think that mis-states the evidence we've  
21 heard.

22 BY MS. KOLLINS:

23 Q Well, consent and force are two different things, would you agree?

24 THE COURT: Overruled.

1 MS. KOLLINS: I'm sorry.

2 THE WITNESS: So there's force, yes, because there was no consent.

3 BY MS. KOLLINS:

4 Q Okay. Well, consent and force are two different things, would you  
5 agree with me there?

6 A Yes.

7 Q Okay. In the history does it indicate whether or not force was used to  
8 pry this girl's legs apart? Is there any of that indicated in the history on this victim?

9 A Yes. It was reported that her clothing was ripped open, and choked  
10 and placed down on the floor.

11 Q Would you expect to see bruising on her legs just because clothing  
12 was ripped off?

13 A No.

14 MR. COX: Objection. Calling for spec- I'm sorry.

15 THE COURT: Go ahead.

16 MS. KOLLINS: No more questions.

17 THE COURT: Any follow-up from the defense?

18 MR. COX: No, Judge.

19 THE COURT: Any additional questions from the jury? No? Okay.

20 Doctor, you're free to go. Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Mr. Pandelis.

23 MR. PANDELIS: The State's next witness is N [REDACTED] a C [REDACTED].

24 Your Honor, may we approach?

1 THE COURT: Sure.

2 (Bench conference begins)

3 MR. PANDELIS: Chris Pandelis from the D.A.'s Office. At this point I think  
4 you need to read the limiting instruction before she testifies.

5 THE COURT: Oh. Um-hm.

6 MR. COX: The instruction that I submitted did not include the last line that  
7 the State did.

8 THE COURT: Let me find it.

9 MR. COX: That's the only alteration I would make.

10 MR. PANDELIS: And I took the reasons Judge Glass stated straight out of  
11 the transcript:

12 THE COURT: Yeah, they just have their -- This was the jury instruction -- just  
13 the same -- weigh this evidence in the same manner. Obviously we don't need that  
14 at this point anyhow, so.

15 MR. COX: I think my position is that last line is -- defeats the limiting  
16 instruction for this. This isn't limited -- evidence that's treated like everything else.  
17 The limiting instruction is intended --

18 THE COURT: We don't need to argue about that right now because I don't  
19 think that part of it anyway is relevant at this point.

20 MR. COX: Okay. It's not going to be read -- (indiscernible).

21 THE COURT: So we can deal with that when we're -- Okay.

22 (Bench conference concluded)

23 N [REDACTED] A C [REDACTED] S

24 Having been called as a witness and being first duly sworn, testified as follows:

1 THE COURT: Good afternoon, ma'am. Could you please state your name  
2 and then spell it, first and last, for the record.

3 THE WITNESS: N [REDACTED] C [REDACTED]. N [REDACTED] C [REDACTED]

4 THE COURT: Okay. And ladies and gentlemen, before Ms. C [REDACTED]  
5 testimony begins, I'm going to read you an instruction with regard to her testimony.

6 Evidence which tends to show that the defendant committed offenses  
7 other than that for which he is on trial, if believed, was not received and may not be  
8 considered by you to prove that he is a person of bad character or to prove that he  
9 has a disposition to commit crimes. Such evidence is being received and may be  
10 considered only by you for the limited purpose of proving the defendant's intent,  
11 motive, opportunity, or the absence of mistake or accident.

12 Mr. Pandelis.

13 MR. PANDELIS: Thank you.

14 DIRECT EXAMINATION

15 BY MR. PANDELIS:

16 Q N [REDACTED], how old are you?

17 A Seventeen.

18 Q When is your birthday?

19 A [REDACTED]r [REDACTED], 1992.

20 Q Do you go to school right now?

21 A Yes.

22 Q Where do you go to school?

23 A I attend Las Vegas High School.

24 Q What year are you at Las Vegas High School?

1 A 2012.

2 Q Are you in a special type of program at Las Vegas High School?

3 A Yes.

4 Q What program is that?

5 A I'm in PAL.

6 Q What was that?

7 A PAL.

8 Q What is that? Does that stand for something?

9 A Partnership of Las Vegas.

10 Q And what is that program?

11 A It -- every -- like, it's just to help us like with the business life and how

12 it is, and like every Wednesday we go to a job site.

13 Q So you have some classes geared towards business?

14 A Yes.

15 Q Do you have an interest in business after you're done with school?

16 A Yes.

17 Q What are your plans after you're done with high school?

18 A I plan to go to college and then I plan to go to a cooking school, and

19 then I plan to go to a school for being a doctor.

20 Q So one day -- You have a lot of plans. One day you'd like to become

21 a doctor?

22 A Yes.

23 Q Where do you live, N[REDACTED]?

24 A Do you want my address?

1 Q Well, no. Do you live here in Las Vegas?  
2 A Oh, yes.  
3 Q Who do you live with?  
4 A I live with my mom, my brother and my two younger sisters.  
5 Q What is your mom's name?  
6 A Tahisha Scott.  
7 Q Tahisha Scott. And you said you had two younger -- your siblings.  
8 What siblings do you have?  
9 A I have two sisters and one brother.  
10 Q You're -- Are you the oldest?  
11 A Yes.  
12 Q Tell me about your oldest sister. What's her name?  
13 A K[REDACTED] H[REDACTED].  
14 Q K[REDACTED] H[REDACTED]?  
15 A Yes.  
16 Q And how old is K[REDACTED]?  
17 A She's fourteen.  
18 Q And you have another sister. What's her name?  
19 A T[REDACTED]a (phonetic) J[REDACTED].  
20 Q T[REDACTED]a J[REDACTED]?  
21 A Yes.  
22 Q How old is T[REDACTED]?  
23 A She's nine.  
24 Q And then you said you have a brother as well?



1 A Yes.

2 Q What's your brother's name?

3 A [REDACTED] J [REDACTED]

4 Q How old is [REDACTED], [REDACTED]?

5 A Eleven.

6 Q And you live with all your siblings right now?

7 A Yes.

8 Q Do you know somebody named -- somebody else named Tyrone  
9 James, other than your brother?

10 A Yes.

11 Q Do you see that person here in the courtroom today?

12 A Yes.

13 Q Can you please point to him and describe something that he's wearing?

14 A Right there (pointing) in the purple.

15 MR. PANDELIS: Your Honor, may the record reflect she's identified the  
16 defendant, Tyrone James?

17 THE COURT: The record will so reflect.

18 BY MR. PANDELIS:

19 Q How do you know Tyrone James?

20 A He was married to my mom.

21 Q When was Tyrone -- Is he married to your mom anymore?

22 A No.

23 Q How old were you when you first met Tyrone?

24 A Um, I can only remember since I was seven, but I believe it was before

1 then, also. I just don't remember how old I was.

2 Q But you've had contact with Tyrone since at least the time you were  
3 seven years old?

4 A Yes.

5 Q What was it like -- What was it like when you first met Tyrone? Would  
6 you do things together?

7 A Yes. He used to be a maintenance man, and he'll take us, like me and  
8 my little sister with him to his job site and help him out and stuff.

9 Q Did you enjoy doing that?

10 A Yes.

11 Q And did you do that with your sister -- was it K [REDACTED]?

12 A Yes.

13 Q What other types of things would you do with Tyrone?

14 A We'll go swimming, we'll go play tennis, box and stuff like that;  
15 basketball.

16 Q Are those all things you enjoyed doing?

17 A Yes.

18 Q Did Tyrone eventually live with you?

19 A Yes.

20 Q How old were you when he started to live with you?

21 A Um, well, we moved with him first on Donna Street, and then after that  
22 he started living with us. I don't remember the age.

23 Q Okay. But you said first you moved in with him, and that was on  
24 Donna Street, you said?

1 A Yes.

2 Q And then eventually you moved and he moved in with you?

3 A Yes.

4 Q Do you remember how old -- I know you don't remember how old you  
5 were when you moved with him, but do you remember how old you were when he  
6 moved in with you?

7 A Um, well, I believe I was in like second grade, so I was probably like  
8 seven.

9 Q So it was early on, some of your earliest memories of him was when  
10 you were living with him?

11 A Yes.

12 Q Okay. N[REDACTED], do you know if your mom and Tyrone have any  
13 children together?

14 A Yes.

15 Q Who are they?

16 A T[REDACTED] and T[REDACTED], [REDACTED]

17 Q So one of your sisters, T[REDACTED], and T[REDACTED] are Tyrone's  
18 children?

19 A Yes.

20 Q Did your mom eventually split up with Tyrone?

21 A Yes.

22 Q How old were you when they split up?

23 A I was twelve.

24 Q What happened that caused them to split up?

1 A Um, it was -- what was it -- molestation charges; something like that.

2 Q Related to who?

3 A Me.

4 Q So did something happen to you about the time your mom split up  
5 with Tyrone?

6 A Yes.

7 Q And when these things happened to you, did you stop living with  
8 Tyrone at that point?

9 A Yes.

10 Q Did he find somewhere else to live or did you move?

11 A Um, we moved and he moved also.

12 Q Now, you said there were some things that happened with Tyrone that  
13 caused your mom to split up with him and then you to move. What's the first thing  
14 you remember happening with Tyrone?

15 A I remember him coming in my room and taking me to the room next  
16 door and telling me that he felt someone was touching me, and so he told me to  
17 lay down and he checked. And that's when he put his fingers in my vagina.

18 Q Who were you -- Were you living with your mom and your siblings  
19 and everyone at that point?

20 A Yes.

21 Q Do you remember how old you were when he did that?

22 A Twelve.

23 Q About how long before --

24 (Witness is crying)

1 MR. PANDELIS: T [REDACTED], do you need a tissue or anything? Or N [REDACTED].  
2 I'm sorry.

3 THE WITNESS: No, I'm fine.

4 THE COURT: Do you want to get her a glass of water?

5 MR. PANDELIS: Do you need a minute?

6 (Mr. Pandelis and Ms. Kollins talk quietly to the witness)

7 MR. COX: Your Honor, I object. If there's conversation, I would like to know  
8 about the conversation.

9 THE COURT: They're just trying to make sure she's okay.

10 MS. KOLLINS: May we approach the microphone?

11 THE COURT: It's not necessary.

12 MR. PANDELIS: T [REDACTED], if at any point you need to take a break, just let  
13 me know -- or N [REDACTED]. I'm sorry. If at any point you need to take a break, just tell  
14 me okay?

15 THE WITNESS: (Nods head affirmatively).

16 BY MR. PANDELIS:

17 Q You told me about some things that happened when Tyrone came into  
18 your room. About how long was that before you stopped living with Tyrone?

19 A Um, I don't know. I didn't keep track on no calendar or anything, so  
20 I don't know.

21 Q Was it a day before, a month before, a year before? Approximately.

22 A I'd have to say a month before.

23 Q Do you remember -- And you said earlier you were twelve years old,  
24 correct?

1 A (Nods head affirmatively).  
2 Q When you stopped living with Tyrone?  
3 A (Nods head affirmatively).  
4 Q N[REDACTED], when he came into your bedroom, do you remember what  
5 time of day it was that first time?  
6 A It had to be like midnight.  
7 Q Did you share a room with anybody else at that time?  
8 A Yes.  
9 Q Who did you share a room with?  
10 A I shared a room with my siblings, K[REDACTED], T[REDACTED] and T.J.  
11 Q Did each of you have a separate bed? What were the sleeping  
12 arrangements?  
13 A We had a bunk bed. I slept on top. The two girls slept on the bottom.  
14 And then T.J. had a race car bed -- well, T[REDACTED], J[REDACTED]  
15 Q So when Tyrone came into your room, what were your brother and  
16 your sisters doing?  
17 A They were asleep.  
18 Q And what did Tyrone say to you when he came into your room that  
19 time?  
20 A He didn't say anything. The only time he said something was when  
21 we entered the next room.  
22 Q Okay. So when he came into your room, he told you you needed to  
23 go into another room?  
24 A (No audible response).

1 Q How did he -- How did you know you had to go to another room?

2 A Because he was like behind me and we were walking towards the  
3 other room.

4 Q Where was this other room?

5 A Right next door. Like, it was -- my room was right here (motioning with  
6 hands) and the next room was like right there. It was close.

7 Q What was in that other room?

8 A It was a frontage room. It had a bed, closet, TV, everything.

9 Q So it was just an extra room --

10 A Yes.

11 Q -- that was sometimes used? Was anybody other -- Was anybody  
12 else in that room other than you and Tyrone once you got there?

13 A No.

14 Q N[REDACTED], once you got to that room with Tyrone, what did he say?

15 A He told me that he felt someone was touching me. And then he told  
16 me to lay down, and then that's when he put his finger in my vagina.

17 Q When he brought you into that room, did you have any clothes on?

18 A Yes.

19 Q Did your clothes ever come off while you were in that room?

20 A Just my pants and my underwear.

21 Q How did your pants and your underwear come off?

22 A He moved -- he removed them.

23 Q Did he remove them after he asked you if somebody was touching  
24 you?

1 A Yes.

2 Q And then you said after he asked you that and removed your pants --  
3 Or what did he do after he did that?

4 A He just kept going and then I asked him to stop and he stopped. And  
5 that's when he let me go back to my room.

6 Q Did you -- You said you went back to your room that night. Did you  
7 go back to sleep?

8 A Yes.

9 Q Did you tell anybody after it happened that time?

10 A No.

11 Q Why not?

12 A Because I thought like -- I thought it was like my mom and his idea to  
13 do that, but then I started to think it wasn't. And I didn't think it was going to happen  
14 again, so I just let it go.

15 Q After that happened, did you have any more contact with Tyrone that  
16 made you uncomfortable?

17 A Yes.

18 Q When was that?

19 A Um, it was a school day and I was in the fifth grade. My mom left for  
20 work and she took T.J., T■■■■ and T■■■■a with her because I think they were  
21 in daycare. So they went with her and it was just me and my younger sister, K■■■■.  
22 He came in my room -- No, he didn't come in my room. I don't remember.

23 Q Well, let me ask you this. You just told us about the first thing you  
24 remembered?



1 A Yes.

2 Q Do you remember -- was there something -- What's the next thing  
3 you remember happening after that event?

4 A It was -- it was the shower time. And during that shower time -- well,  
5 before that shower time we were -- there was two ways to going into the kitchen.  
6 He was ironing his shirt, and I had went through one way, then he went through the  
7 other way, and then it was like -- he was like chasing me around. Then that's when  
8 we both ended up in the living room.

9 Q What happened once you got into the living room?

10 A Um, we were -- I want to say wrestling, but it was like -- it wasn't  
11 wrestling, it was more aggressive. Like, we weren't playing around. Like, every  
12 time I tried to get up, he'll pull me back down.

13 Q So you were trying to get away?

14 A Yes.

15 Q Were you able to?

16 A No.

17 Q What happened after you were wrestling in the living room?

18 A I kept telling him to leave me alone, leave me alone. Then he finally  
19 let me alone and told me to go get in the shower. I was like, no, I don't want to,  
20 I don't want to. And he was like, Girl, go get into the shower, I'm not going to do  
21 anything to you. And then I said okay, and then that's when I went into the shower.

22 Q You went into the bathroom. Was there a door to the bathroom?

23 A Yes.

24 Q Did you lock that door?

1           A     He locked it. He said, see, I'm not going to do anything to you. He  
2     locked it. Then a couple minutes later he went in his room, I guess, and got a wire  
3     hanger and popped it back open.

4           Q     When you were in the shower, did you hear something on the door?

5           A     Yes.

6           Q     What did you hear?

7           A     I heard a pop.

8           Q     And after you heard that pop, did you see anything?

9           A     Yes.

10          Q     What did you see?

11          A     Tyrone.

12          Q     Did he -- After you saw him, did he come into the bathroom?

13          A     Yes.

14          Q     What happened after he came into the bathroom?

15          A     He came in and told me to put my foot on top of the -- around the tub,  
16     and I told him no. And then that's when he kept telling me, and then that's when  
17     I finally did it, and that's when he put his finger in my vagina.

18          Q     So he had to tell you to do that a couple times?

19          A     Yes.

20          Q     Why did you finally put your foot up?

21          A     I don't know. Because I didn't want him to like hit me or anything.

22          Q     After you put your foot up, what did Tyrone do?

23          A     He put his finger in my vagina.

24          Q     Did anything else happen in the bathroom after he put his finger in

1 your vagina?

2 A Yeah. When he was done doing that, he told me to get out of the  
3 shower. And I sat on the toilet seat and, then he picked me up and then he put  
4 me on the floor. And then on the floor he was on top of me and I was on my back,  
5 and I was trying to push him off of me, but he wouldn't get up. And at the same time  
6 he was trying to put his penis in my vagina.

7 Q Was he able to?

8 A No.

9 Q Now, what do you mean by "trying"? What was he doing?

10 A Well, like, it was -- it was on my vagina, but it wouldn't go in.

11 Q So his penis touched your vagina?

12 A Yes.

13 Q Was anybody home when you went to the bathroom and took a  
14 shower, other than you and Tyrone?

15 A Yes.

16 Q Who else was home?

17 A My younger sister, K[REDACTED].

18 Q Were you able to get K[REDACTED]'s attention at all when this happened?

19 A No.

20 Q Why not?

21 A She wouldn't wake up, because the shower was going and everything  
22 and she's a heavy sleeper. She wouldn't wake up.

23 Q Were you trying to get her attention?

24 A Yes. I screamed for K[REDACTED]. I was like, K[REDACTED], Katia, help. And I was

1 just screaming.

2 Q Was Tyrone there when you were screaming for K [REDACTED]

3 A He was in the -- he was in the bathroom.

4 Q What did Tyrone do when you started screaming for your sister?

5 A He wouldn't get up.

6 Q So was he on top of you --

7 A Yes.

8 Q -- when you did this?

9 MR. PANDELIS: One moment, Your Honor.

10 (Mr. Pandelis confers with co-counsel)

11 BY MR. PANDELIS:

12 Q N [REDACTED], when he was on top of you in the bathroom, you told us about  
13 -- well, when you were in the shower his finger touched your vagina?

14 A Yes.

15 Q And then he tried to put his penis in your vagina. When he was on  
16 top of you, did any other part of his body touch any other part of your body?

17 A Well, just like his chest. That's about it. But he had a tank top on.

18 Q Do you remember a couple weeks ago testifying in court about this?

19 A Yes.

20 Q Do you remember talking about his hand being on another part of  
21 your body?

22 A Yes.

23 Q What do you remember telling the judge at that time?

24 A That he had his hand around my throat.

1 Q He had his hand on your neck?

2 A (Nods head affirmatively).

3 Q When was his hand on your neck?

4 A During the shower time.

5 Q How did that happen?

6 A Like, I was calling for K [REDACTED] and like I guess finally he got fed up with it  
7 or whatever and tried to get me to shut up, so he put his hand around my throat.

8 Q So when you were trying to get K [REDACTED]'s attention, he put his hand on  
9 your neck?

10 A Yes.

11 Q Did he say anything to you when he had his hand on your neck?

12 A No.

13 Q How did it feel when his hand was on your neck?

14 A It wasn't like he was trying to choke me, but it was just like a firm grip.

15 Q You told us about two things that happened -- Or you told us about the  
16 first thing that ever happened between you and Tyrone and then you told us about  
17 something else. Is there anything else you can remember that happened with you  
18 and Tyrone between the first time and the time you moved out?

19 A Yes. Before the shower, the one I just told you, there was one when  
20 he came in my room. And it was like -- like he jerked me out of my bed and we  
21 rushed to the other room, the next room. And he pulled my pants down, but like,  
22 it was kind of like a struggle because I was still having a grip on them. And like he  
23 was trying to pull them down. Then he finally got it down, and then that's when he  
24 tried to put his penis inside me again, but it didn't touch me that day. It just went

1 inside my butt.

2 Q I just want to back up for a second. You said he came into your room  
3 again?

4 A Yes.

5 Q What time of day was it?

6 A It was midnight. Around midnight.

7 Q So, night time?

8 A Yes.

9 Q Were you sleeping when he came in?

10 A Yes. Everybody was asleep besides him.

11 Q How did he wake you up?

12 A He jerked me out of my bed. Like, it wasn't like, come on, let's go,  
13 it was like, hurry up, let's go. Like that.

14 Q Did you make any noise?

15 A No.

16 Q And so he just moved you?

17 A Yes.

18 Q Did you notice if either of your sisters or your brother woke up?

19 A No.

20 Q And he took you back to another room?

21 A Yes.

22 Q Was it the same room you were at the first time?

23 A Yes.

24 Q And then once you got into that other room, did he put you somewhere

1 in that room?

2 A Um, we were on the bed, the futon bed.

3 Q And what happened -- Now, when you came into that room, did you  
4 have clothes on?

5 A Yes.

6 Q Did your clothes stay on?

7 A No, not my pants.

8 Q How did your pants come off, N [REDACTED]?

9 A He yanked them off.

10 Q He yanked them off?

11 A Yeah, like pulled them.

12 Q And after he pulled them off, what happened next?

13 A Well, his penis was out because I felt it hit my leg. And then I was like,  
14 stop, stop, stop.

15 Q So you were asking him to stop?

16 A Yes.

17 Q Did you try to yell out for anybody?

18 A Yes. He told me not to. He said -- He told me, don't, and if I did he  
19 was going to kill my family.

20 Q How did that make you feel when he told you that?

21 A I just -- I didn't say anything.

22 Q Did you yell out for anyone, your mom or any of your brothers -- or  
23 your brother or any of your sisters after that?

24 A No.

1 Q And you said he had his penis out and he tried to put it in your vagina?

2 A Yes.

3 Q What happened after he tried to put it in your vagina?

4 A Like, he tried to put it in my vagina but it wouldn't go. And so he tried  
5 again and I guess it slipped. It slipped and then it went into my butt.

6 Q Did you say anything when that happened?

7 A No. I just said stop.

8 Q What happened when you said stop?

9 A He stopped.

10 Q Were you able to go back to your room that night?

11 A Yes.

12 Q How did it feel when he was doing that?

13 A It was hurting me.

14 Q Did you tell him it was hurting?

15 A (Nods head affirmatively).

16 Q And what did he say when you told him it hurt?

17 A Nothing.

18 Q You talked -- How long after the first time did that happen?

19 A Um, it was -- it was spread out, because I remember some of them  
20 happened over spring break, and then like there was one in April the day like I went  
21 to the UMC and everything. That day was like a school day, so there was like two  
22 that happened during school days and then like two that happened over spring  
23 break.

24 Q The last time we were just talking about where Tyrone's penis went



1 in your butt, did you end up telling your mom or anybody else immediately after  
2 that time?

3 A No.

4 Q Did you ever end up talking to your mom about this?

5 A After everything.

6 Q After when?

7 A After his mom found out.

8 Q So was there an incident that caused her to find out?

9 A Yes. It was the last night.

10 Q Was that the incident that caused you guys to move out?

11 A Yes.

12 Q What happened that night?

13 A Um, the TV -- the TV was on, because we slept with the TV on. It was  
14 "SpongeBob," the movie.

15 Q It was -- pardon me, what movie?

16 A It was "SpongeBob," the movie.

17 Q Okay.

18 A And he came in there and I had on a black shirt and long sweats,  
19 'cause I felt like I was safe in that. And I tightened -- I always tightened the strap.  
20 And so he came in there, and like he couldn't like take me to another room or  
21 anything because that's when -- because his mom was staying with us. And so  
22 he came on top of the bed and like, he kept trying to pull down my pants. And at  
23 this time I had my closet doors behind my bunk bed so that the -- like if you -- if  
24 anything like rocked the bed or anything, it will hit the wall. So after that, after he

1 started trying to pull my pants down, he got them down but he didn't touch me that  
2 night. And I guess his mom heard the closet doors hit against the wall.

3 MR. COX: Objection, calls for speculation.

4 THE COURT: Sustained.

5 BY MR. PANDELIS:

6 Q Let me ask you this. Did somebody come into the room?

7 A Yes.

8 Q Who came into the room?

9 A His mom.

10 Q Do you know her name?

11 A Yes.

12 Q What's her name?

13 A Carol.

14 Q Was there -- When he was in the room, was he making a lot of noise?

15 A No. It wasn't a lot of noise.

16 Q Was there any noise being made in the room?

17 A Yes, just the -- my bunk bed hitting against the closet doors that was  
18 hitting the wall.

19 Q What was causing the bunk bed to hit the closet doors?

20 A The movement of me -- of him trying to get my pants down and the  
21 movement of me trying to keep them up.

22 Q And you said this time he wasn't able to get your pants off?

23 A No, he did get them off.

24 Q Oh, he did?

1 A Yes.

2 Q Okay. After his mom came into the room, what happened?

3 A Um, he jumped off the bed and he hid in the closet. And then she was  
4 screaming to my mom.

5 MR. COX: Objection, hearsay.

6 THE WITNESS: She was screaming to my mom that he's touching her.

7 MR. PAGE: Objection.

8 MR. COX: Ruling, please.

9 THE COURT: (Speaking to the witness) Hold on just a second, okay.

10 Sustained. If you could just ask a new question, an additional  
11 question, Mr. Pandelis.

12 (Speaking to the witness) Just wait and he'll ask you another question.

13 BY MR. PANDELIS:

14 Q How did -- Without telling me what your grand-- or what his mom said,  
15 what was her tone of voice like when she was saying it?

16 A Like, she was yelling.

17 Q She was yelling?

18 A Yes.

19 Q And when did she say this? Immediately when she walked in the room  
20 or sometime later?

21 A She said, Tyrone, what are you doing? That's it.

22 Q Well, without telling me what she said, was it like immediately when  
23 she walked into the room that she said this?

24 A Yes.

1 MR. PANDELIS: And Your Honor, at this time I'd offer it for present sense  
2 impression and excited utterance on behalf of the speaker.

3 MR. COX: Judge, I wouldn't object, only that this is a witness --

4 THE COURT: Do you need to approach? Counsel approach.

5 MR. COX: Okay.

6 (Bench conference begins)

7 MR. COX: I object to asking her --

8 THE COURT: Okay. What's the basis of the objection?

9 MR. COX: That they -- a further basis, Judge, this is a witness that is  
10 available but the State chooses not to call and available in the community. This  
11 person was present at the last hearing. She just wasn't called.

12 MR. PANDELIS: And has been uncooperative.

13 THE COURT: Okay. Well --

14 MS. KOLLINS: It's a present sense impression -- (indiscernible) -- excited  
15 utterance, but it's obviously -- (indiscernible). She's still under the --

16 MR. PANDELIS: The effect of -- the observation.

17 MS. KOLLINS: The effect of that startling event.

18 THE COURT: Okay. I'll overrule the objection, but again, obviously weren't  
19 not going to have -- (indiscernible).

20 MR. PANDELIS: Just the one quick statement.

21 THE COURT: Okay.

22 (Bench conference concludes)

23 BY MR. PANDELIS:

24 Q N [REDACTED], so when Tyrone's mom came into the room, her voice --

1 and said something, her voice was loud?

2 A Yes.

3 Q And she immediately said something. What was it that she said?

4 A Tyrone, what are you doing?

5 Q Did he say anything?

6 A (Shakes head negatively).

7 Q What did he do?

8 A After that he didn't do anything. We both just went into my mom's  
9 room.

10 Q And at that point did you talk to your mom about some of this?

11 A She just said, Tyrone, what did you do to her? He was like, I didn't  
12 do anything. And then I was like, Yes, you did, you touched me. And then my mom  
13 said, Get your stuff, let's go. And she told him to get out of her house.

14 Q Where did you go?

15 A We went to Southwest Medical.

16 Q Did you eventually go and talk to the police?

17 A Yes.

18 Q Did you want to talk to the police?

19 A No.

20 Q Why not?

21 A Because I knew that my mom and him had kids together, and I didn't  
22 want them to grow without their father.

23 Q Were your brother and sister -- were T [REDACTED] and T [REDACTED], J [REDACTED], were  
24 they close with Tyrone?

1 A Yes.

2 Q And you were worried -- What were you worried would happen to your  
3 brother and sister?

4 A That they'll hate me.

5 MR. COX: I'm sorry, Judge, I didn't hear that.

6 (Mr. Page confers with Mr. Cox)

7 MR. COX: Oh, okay.

8 THE COURT: N[REDACTED], are you okay or do you need a break?

9 THE WITNESS: I'm fine.

10 THE COURT: Okay.

11 BY MR. PANDELIS:

12 Q So is it fair to say on April 20th of 2005 when you met with the police,  
13 you didn't really want to talk to them about what happened?

14 A No.

15 Q And it's because of your brother and sister?

16 A Yes.

17 Q And because of that, did you really share a lot of details with the  
18 police?

19 A No. I only told them about one incident.

20 Q And after you told them about that, is it true that you really didn't agree  
21 to talk to them much more after that?

22 A Yes.

23 MR. PANDELIS: Nothing further, Your Honor.

24 THE COURT: Okay. Mr. Cox or Mr. Page?

CROSS-EXAMINATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

BY MR. PAGE:

Q N [REDACTED] a C [REDACTED], correct?

A Yes.

Q Can I call you by N [REDACTED]?

A Yes.

Q Thank you. Now, today you testified about four separate instances,  
correct?

A Yes.

Q Back in 2005, you testified that these things occurred, your mom took  
you to UMC, correct?

A No, it was Southwest Medical.

Q I'm sorry. Southwest Medical. Thank you.

A Yes.

Q And after going to Southwest Medical, you spoke to an officer, correct?

A Yes.

Q And at that time you had an opportunity to tell the officer about the four  
instances you spoke about today, correct?

A Yes.

Q But you didn't?

A No.

Q You only spoke about what you testified was the last incident today?

A Yes.

Q And that incident, you testified today that there was no touching?

1 A No.

2 Q Now, you testified that you were uncooperative with the officers?

3 A Yes.

4 Q And that you didn't want to proceed against these allegations that

5 you made?

6 A Yes.

7 Q And the reason that you said that was that you didn't want your brother

8 and sister to be -- to grow up without a father?

9 A Yes.

10 Q Now, you testified that as soon as you mentioned this allegation to

11 your mom, that Mr. James and your mom separated?

12 A Yes.

13 Q And they're living out of the house?

14 A Yes.

15 Q And they eventually got divorced?

16 A Yes.

17 Q And you testified that you have three other brothers and sisters?

18 A Yes. Two sisters and one brother.

19 Q Two sisters, one brother. The youngest two -- the sister, T [REDACTED],

20 you said?

21 A Yes.

22 Q And Tyrone?

23 A Yes.

24 Q They are the actual son -- the children of Mr. James?



1 A Yes.

2 Q And they were your concern?

3 A Yes.

4 Q Now, it's been five years since these allegations that you're making  
5 when you testified today. You've had continued contact with Mr. James?

6 A No, not after.

7 Q You haven't?

8 A No.

9 Q You've never seen Mr. James since this time?

10 A Oh, yes, I have seen him after.

11 Q What are the situations that you saw Mr. James?

12 A When he came to get the kids for the weekend and for their birthdays.

13 Q So you saw him several times coming to pick up his children?

14 A Yes.

15 Q And there were some family events?

16 A Yes.

17 Q Was this on a weekly basis?

18 A Um, only sometimes. Like, they wouldn't go over there, every, every  
19 weekend. Every other weekend they would go over there.

20 Q And did your mom still have -- still speak to Mr. James?

21 A Yes, only because of the kids.

22 MR. COX: Objection, calls for speculation.

23 (Ms. Kollins confers with Mr. Cox)

24 MR. PAGE: Court's indulgence.

1 THE COURT: Sure.

2 (Mr. Page confers with Mr. Cox)

3 BY MR. PAGE:

4 Q But it's safe to say that he had contact with his children?

5 A Yes.

6 Q Now, you testified about some horrible things today.

7 A Yes.

8 Q And I can imagine that it's affected you greatly.

9 A Yes.

10 Q You've -- You're embarrassed?

11 A No.

12 Q Have you gone through counseling for this?

13 A Yes.

14 Q And you wouldn't want -- you wouldn't wish this upon anybody, would  
15 you?

16 A What was that?

17 Q You wouldn't wish that this -- the same things happened that  
18 happened to you occurred to anybody else?

19 A No.

20 Q And that's because it could have a life-long effect, correct?

21 A Yes.

22 Q Now, did you -- But you knew that Mr. James was taking care of his  
23 children, correct?

24 A Yes.

1 Q And that he was spending time with them alone, correct?

2 A Yes.

3 Q That didn't concern you?

4 A No.

5 Q You weren't afraid for their safety?

6 A No. They uh -- they love him. They like to go over there and stuff.

7 MR. PAGE: Court's indulgence.

8 (Mr. Page confers with Mr. Cox)

9 BY MR. PAGE:

10 Q Now, you testified about -- in a hearing similar to this a couple weeks  
11 ago, correct?

12 A Yes.

13 Q And at that hearing, was your grandma present?

14 A My who?

15 Q Your grandma?

16 A No. She had to leave.

17 Q But was she present?

18 A Yes.

19 Q Now, having testified about these events and the seriousness of them,  
20 wouldn't you have wanted to protect other children from being harmed?

21 A Yes.

22 Q And isn't that counter-intuitive to your desire to have them, your  
23 brother and sister to be with --

24 MR. PANDELIS: Your Honor, I'm going to object. This is argumentative.