

STATE OF MICHIGAN

SEVENTEENTH JUDICIAL CIRCUIT COURT (KENT COUNTY)

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THE PEOPLE OF THE
STATE OF MICHIGAN

-v-

Case No. 93-63014-FCB

STEPHEN DENNIS TURNER,

Defendant.

**JURY TRIAL
VOLUME IV of VIII**

BEFORE THE HONORABLE DENNIS C. KOLENDA, CIRCUIT JUDGE

Grand Rapids, Michigan - **Tuesday, December 7, 1993**

- - -

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STATE APPELLATE
DEFENDER OFFICE

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Grand Rapids, Michigan
Tuesday, December 7, 1993

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(At about 10:15 a.m. - The Daniel Turner jury returned to the courtroom)

(At about 10:15 a.m. - The Stephen Turner jury returned to the courtroom).

THE COURT: Mr. Bramble, you may call your next witness.

MR. BRAMBLE: Thank you, your Honor. The State would call Leslie Vandenhout.

LESLIE VANDENHOUT, R.N.,
called by the People at 10:15 a.m. and sworn by the Court, testified:

DIRECT EXAMINATION

BY MR. BRAMBLE:

Q Miss Vandenhout, are you employed?
A Yes, I am.
Q Where are you employed?
A St. Mary's Hospital, the emergency room.
Q What are your duties and responsibilities there?
A I'm a registered nurse.
Q How long have you been employed in that capacity?
A Eight-and-a-half years.

1 Q Prior to working at St. Mary's, were you employed
2 in another facility?

3 A Yes, I was a nurse, registered nurse at
4 Butterworth Hospital Emergency Room and a
5 registered nurse at Blodgett Hospital Emergency
6 Room.

7 Q Prior to being employed there, did you have to
8 undergo some medical training?

9 A Yes, I did.

10 Q Educational training?

11 A Yes, I did. I have an Associate's degree in
12 nursing from Grand Rapids Junior College and a
13 Bachelor's degree in nursing from Mercy College of
14 Detroit.

15 Q Did you have to take some testing to become an
16 R.N.?

17 A Yes, I did.

18 Q And you passed that test?

19 A Yes, I did, I have a license.

20 Q Okay. Do you have to undergo any type of testing
21 or any type of evaluation to remain certified?

22 A Yes, we do. We have competency classes that we
23 have to go to on a regular basis.

24 Q And you remain certified to this date?

25 A Yes, I am.

1 Q What do you do at St. Mary's Hospital?

2 A I'm a registered nurse there. We have a variety
3 of duties. We rotate assignments. Most of the
4 time we deal with trauma victims, multiple trauma
5 victims. We have emergent cases as well as
6 non-emergent cases.

7 We deal with patients on -- like
8 clinical assessments, people that come in for
9 non-emergent cases, as well as emergent cases. We
10 see a variety of illnesses.

11 Q Part of your duties and responsibilities is
12 obtaining medical histories for treatment and
13 diagnoses of various patients?

14 A Yes, we do triaging, all of us nurses do triaging,
15 and that is gathering subjective data, and that is
16 data that the patient themselves tells us, and
17 then objective data, and that's data that we
18 observe and write down what we see.

19 Q Were you working in this capacity on July 7, 1993?

20 A Yes, I was.

21 Q Do you remember, ma'am, what shift you were
22 working?

23 A I think I was working third shift then. I was
24 working twelve-hour shifts, seven p.m. to seven
25 a.m.

1 Q Did you have an opportunity to have contact with
2 an individual named Lakeysha Cage?

3 A Yes, I did.

4 Q Approximately what time would that have been,
5 please?

6 A Oh, a little after nine at night.

7 Q And pursuant to your duties and responsibilities,
8 did you take a medical history from her?

9 A Yes, I did.

10 Q And this was for treatment and diagnosis?

11 A Yes.

12 Q And did Lakeysha tell you or describe for you what
13 happened?

14 A Yes, she did.

15 Q And can you tell the jury what she described to
16 you?

17 A Lakeysha stated to me that she was outside where
18 she lives, and that -- and this was a fairly new
19 place. She hadn't lived at this address for very
20 long, so she wasn't familiar with the other people
21 that lived in this house.

22 And that two men came outside, and one
23 of them put his hand over her mouth and dragged
24 her into another, like an apartment. I believe it
25 was an apartment house. Put his hand over her

1 mouth and dragged her in there, and told her that
2 if she screamed, that he would kill her.

3 He proceeded on taking off her clothes.
4 She stated that he lied on top of her, felt her
5 breasts and her private parts, and she stated
6 that, "He urinated on me."

7 She also stated to me that he put his
8 private parts into her mouth and some white stuff
9 came out in her mouth, all along telling her that
10 if she did scream or say anything, that nobody
11 would believe her and that he would kill her, and
12 lied on top of her.

13 And that's basically what she said to
14 me.

15 Q Did she state that he made, this individual that
16 took her into the apartment made her suck on his
17 private parts?

18 A Yes, she did tell me that.

19 Q Did she state what came out of his private part?

20 A She said some white stuff. That's what she said
21 to me.

22 Q Where did she say it came out or where did it go?

23 A Out of his penis into her mouth.

24 Q Did she state what she did with the white stuff in
25 the mouth?

1 A She said she spit it out.

2 Q Did she say what this man did, whether or not he
3 stated that she would like doing this or would
4 enjoy this?

5 A Yes, I distinctly remember that, that she stated
6 to me that he said not to be frightened, that she
7 would like this.

8 Q Did she describe any contact with the defendant's
9 tongue and her private part?

10 A Yes, she stated to me that he did put his tongue
11 into her private parts.

12 Q Miss Vandenhout, you're aware -- let me step back
13 and ask you another thing. Was there ever any
14 discussion involving a knife?

15 A She had stated to me that he had had a knife and
16 that he said that he would use it on her if she
17 screamed.

18 Q Did she talk of a picture being taken?

19 A Yes, she did.

20 Q Please describe for the jury what Lakeysha told
21 you.

22 A Lakeysha told me --

23 MS. KRAUSE: Your Honor, I'm going to
24 object at this point in time, as this is not
25 related to medical treatment.

1 MR. BRAMBLE: I think it also goes, your
2 Honor, to 801(D)(2), I believe.

3 THE COURT: I agree, you may proceed.

4 MR. BRAMBLE: Thank you.

5 A Lakeysha stated to me that the two men took some
6 jelly, and one of the men put some jelly all over
7 him on one part of the body, I'm not exactly sure
8 what part of the body, and then forced her to
9 stand next to him and the other man took a
10 picture, stating that if she told, that they would
11 say that she stabbed this other fellow, this
12 fellow that she was in the picture with, with the
13 knife, and the jelly was supposed to resemble
14 blood.

15 Q Miss Vandenhout, were you aware that a Woods light
16 was used?

17 A Yes, I was. Dr. Steve Perry used the Woods
18 light. I believe he tried to look externally
19 around her vaginal area.

20 Q Do you have an understanding or have knowledge as
21 to why it wasn't used in her mouth area?

22 A Yes, I do.

23 Q Why would that be, please?

24 A Because when Lakeysha came into the emergency room
25 she was eating crackers and she was drinking pop.

1 And so if you're drinking pop and eating crackers,
2 any evidence would have been completely washed out
3 of her mouth, and Dr. Perry was aware of that.

4 Q Now -- and I take it this would affect the ability
5 to obtain any type of evidence or anything of that
6 nature?

7 A Yes, it does.

8 Q You wrote some of the -- you made notations on a
9 form, correct?

10 A Right.

11 Q Okay. And is it pretty much in chronological
12 order as to what she told you?

13 A Yes.

14 Q What is the first thing she told you?

15 A The first thing she told me that -- I asked her to
16 explain to me exactly what happened, and she had
17 stated to me that the man grabbed her and dragged
18 her into this other apartment.

19 Q Okay, and I want to go then to -- you talked about
20 most everything in between, but there's a note
21 that she described some pain to one of her feet?

22 A He pushed her up into a wall and she described
23 pain in her right foot.

24 Q She described being pushed up against a wall?

25 A Yes.

1 MR. BRAMBLE: I have nothing further at
2 this time.

3 MS. KRAUSE: One moment, your Honor. I
4 think we may proceed, your Honor.

5 THE COURT: Thank you.

6 Mr. Mirque?

7 **CROSS-EXAMINATION**

8 **BY MR. MIRQUE:**

9 Q Nurse Vandenhout, in your training as an emergency
10 room nurse, is there any specialization offered to
11 registered nurses in that particular field?

12 A Yes, we've taken classes at various times because
13 we work with so many variety of people, young
14 children, we have babies. We've taken classes on
15 assessment.

16 I've taken trauma classes because -- to
17 look for signs of child abuse and different
18 outwardly signs. Yes, that is a part of our
19 training to be an emergency room nurse, uh-huh, it
20 is.

21 Q When Lakeysha was eating these crackers and
22 what-have-you, had she already spoken with you
23 about the incident?

24 A When I saw her, she came into the examining room
25 eating the crackers. She was already eating the

1 crackers and had already had some pop. That was
2 already done.

3 Q So if she had gotten there before she had done
4 that and she told you that a man had ejaculated in
5 her mouth, you certainly wouldn't have allowed her
6 to be eating crackers and jelly, because that may
7 have destroyed some evidence?

8 A Yes.

9 MR. BRAMBLE: I'm going to object.
10 There was a mischaracterization that she was
11 eating crackers and jelly. It was crackers and
12 pop.

13 BY MR. MIRQUE:

14 Q I'm sorry, crackers. Do you know who gave her the
15 crackers?

16 A No, I don't.

17 Q She walked into the E.R. with a mouthful of
18 crackers, is that apparently what had happened?

19 A I didn't see her when she initially walked in. I
20 don't know who walked in with her. I saw her when
21 she walked into the emergency room. She had a bag
22 of crackers when she walked down the hallway and
23 she had some pop. So I don't know who gave that
24 to her out in the waiting room.

25 Q Okay. At any time did Lakeysha say that the man

1 had ejaculated white stuff in her pelvic area?
2 A She had told me that he lied on top of her. He
3 was nude and so was she, and her exact words were
4 that she felt that he had urinated on her, and
5 that was all that she had said to me.
6 Q And a Woods light was performed in that area to
7 determine whether that urination was seminal
8 fluid?
9 A I believe so, by Dr. Perry.
10 Q By Dr. Perry?
11 A Uh-huh.
12 Q When you were taking some of the history, you
13 mentioned that Lakeysa said that she was pushed
14 against the wall?
15 A Yes.
16 Q And she complained of some pain in her right foot?
17 A Yes, that's correct.
18 Q Did she complain of any other pain as a result of
19 that pushing?
20 A I don't remember. I can't remember.
21 Q Did she complain of pain anywhere on her body,
22 other than that of her right foot?
23 A I vaguely remember she said something about some
24 discomfort in her neck.
25 Q Did you do an external examination of her?

1 A I myself do a quick observation, but it's the
2 physician's responsibility to document his
3 physical external findings. That's part of our
4 assessment forms.

5 Q How extensive is your preliminary examination of
6 the patient?

7 A As far as what the nurse writes?

8 Q Yeah. I mean, do you get her to take all her
9 clothes off and do an examination, or is it just
10 have her sit on the chair and just --

11 A She removes her clothes. If there's any obvious
12 signs, then we do document what we see, but we do
13 not, as registered nurses, get as thorough as the
14 doctors.

15 Of course, if she came in with an
16 obvious bruise or a laceration or a big
17 black-and-blue area, I would definitely document
18 that on her, or any other patient, because that's
19 part of what we call our objective data on our
20 forms.

21 Q Now, if she was complaining of pain in the neck
22 area, did you look in that area to determine
23 whether there was --

24 A Yes.

25 Q -- whether it was bruised? Do you recall any

1 bruising?

2 A I don't recall that, no.

3 Q In your external examination, did you note any
4 bruising, any lacerations, abrasions?

5 A I don't recall, no. I don't think I did see any.

6 Q Would your notes refresh your memory or is it you
7 just don't recall?

8 A My notes would refresh my memory.

9 Q Okay. If I gave you the -- do you recognize that
10 (indicating)?

11 A Yes, that's my writing.

12 Q Okay. Do you recall whether you found any bruises
13 or lacerations?

14 A No. There's a part of the record that's missing,
15 though, because this is our part of the
16 information. But we have a triage form that --

17 Q Okay, you must be referring to this (indicating)?

18 A Yes.

19 Q Okay, I'm sorry, if this helps out. Anything that
20 would jog your memory as to bruises?

21 A No.

22 Q Or abrasions?

23 A No.

24 Q Okay. In part of the history, do you ask whether
25 the patient has changed clothes during the time

1 between the assault and the examination?

2 A Yes, we do.

3 Q And did she change clothes?

4 A No, she did not change clothes.

5 Q Do you ask whether they bathe between the --

6 A Yes, we do.

7 Q And did she bathe?

8 A No, she did not.

9 Q Do you recall seeing any lipstick on the body?

10 A She had a small stain of lipstick on the collar of

11 her clothes, and she had stated to me that one of

12 the gentlemen who was dressed up like a woman had

13 lipstick on.

14 Q Do you remember this as her shirt that evening

15 (indicating)?

16 A Yes.

17 Q Is this where the lipstick was, supposedly, on the

18 collar (indicating)?

19 A I can't remember.

20 Q As far as on the skin, there was no lipstick?

21 A I don't believe so.

22 Q If there was lipstick, it would have been noted?

23 A Excuse me?

24 Q If there was lipstick like on the breast or the

25 neck, or any part of the skin, you surely would

1 have noted that in your report?
2 A Yes, I would have.
3 Q When -- I'm sorry, part of your job is not only
4 asking questions of the patient, but you make
5 observations, isn't that correct?
6 A Yes.
7 Q And part of your progress notes are those
8 observations, those objective observations?
9 A That's correct.
10 Q And this is your triage sheet, again (indicating)?
11 A Yes.
12 Q Okay. What were your observations, your objective
13 observations during the course of that evening of
14 Lakeysa Cage?
15 A As far as?
16 Q What you saw of her. I want you to look back on
17 that sheet, and I believe your first observation
18 was at 2000, which is 8:00?
19 A Correct.

20 MS. KRAUSE: Your Honor, may we approach
21 the bench?

22 THE COURT: Yes.

23 (Counsel approached the bench and a
24 discussion was held out of the hearing of the jury
25 and off the record)

1 **BY MR. MIRQUE:**

2 Q In your observations, you mentioned that she was
3 talking with Detective Vazquez?

4 A Yes.

5 Q Is that correct?

6 A Uh-huh, yes, it is.

7 Q When Detective Vazquez was talking with Lakeysa,
8 were you present during that discussion?

9 A For part of it. Not the whole thing. I had to go
10 in and out of the observation area room.

11 Q When you were doing your examination of Lakeysa,
12 did you notice any urine smell on her?

13 A No, I did not, but her clothes were damp.

14 Q Did they smell like they had urine on them?

15 A I can't say that I smelled that, but they were
16 damp.

17 Q They were damp. Were you present when a number of
18 specimens were taken from Lakeysa?

19 A Yes, I was.

20 Q What was taken?

21 A I believe that we did pubic hair, hair on her
22 head, a swab in her mouth. Rectal and vaginal
23 cultures were not taken because she refused to
24 have a pelvic examination, or vaginal, she became
25 very upset.

1 And even after her mother talked to her
2 about it, we did not proceed with that. She was
3 hysterical.

4 Q I note in the report that a combing was done?

5 A Yes.

6 Q What's a combing?

7 A There is a comb that comes in our evidence
8 collection kit. It comes right in the kit
9 itself.

10 We pull hairs off the head and then we
11 are supposed to comb through the hair, the hair on
12 your head, as well as the pubic hairs; to take the
13 comb, the patient does it, comb through, and then
14 we wrap the comb around in a piece of tissue paper
15 that's provided, and it all goes in. It's just
16 part of our collection kit.

17 Q The combing -- do you know why they do a combing?

18 A I believe they do a combing because they want to
19 look under the microscope to see if there's any
20 signs of sperm, just another way of using it for
21 evidence, the pulled pubic hairs or the comb.

22 Q Would the combing also capture not only the
23 patient's hair, but if there was any hair by the
24 alleged assailant, that hair would also be caught
25 in that combing?

1 A I believe so, but if I can remember, she did not,
2 being the young girl that she is, did not have
3 very much pubic hair at all. So we had her -- she
4 had a very difficult time, you know.

5 On somebody else, they might have been
6 able to obtain a better specimen, but she did not
7 have much pubic hair at all. So when we ran the
8 comb through, there really wasn't much there.

9 Q What about of the head, did you do the same, pull
10 hairs?

11 A Yes.

12 Q And comb the head, too?

13 A Yes.

14 Q And for the same reason that you comb hair, that
15 you may be lucky enough to catch some hair by the
16 assailant?

17 A Yes, that's correct.

18 Q And those tests are sent to -- do you perform the
19 analysis of the test?

20 A No, we don't. We seal them up and then we -- we
21 are, we have to carry them with us at all times
22 until we hand them over to somebody that comes
23 from the Grand Rapids Police Department, and then
24 we hand it over, sign it, and put a seal on it.
25 It goes out of our hospital.

1 Q It goes to the State Lab?

2 A Yes.

3 Q Okay, thank you.

4 A You're welcome.

5 THE COURT: Miss Krause?

6 MS. KRAUSE: Thank you, your Honor.

7 **CROSS-EXAMINATION**

8 **BY MS. KRAUSE:**

9 Q Good morning.

10 A Good morning.

11 Q How are you?

12 A Good, thank you.

13 Q I want to make sure I understand the purpose of
14 the triage. Triage is to collect subjective data,
15 correct?

16 A Right.

17 Q And the subjective data is information you receive
18 from the patient?

19 A That's correct.

20 Q The objective data is what you observe?

21 A That's correct.

22 Q Now, St. Mary's has triage forms, correct?

23 A For every person that comes in, they have to
24 initially be triaged. We have assignments
25 where -- we rotate assignments.

1 Each one of our nurses takes turns to go
2 up to the triage desk. I did not initially do the
3 initial triage. Judy Gill, as far as I can
4 remember, saw her initially and did a very short
5 triage form.

6 Usually, we like to limit it so there's
7 not a lot of nurses writing documentation. They
8 just write a quick assessment, and that's usually
9 what's done in these kinds of cases. They don't
10 really get into in-depth objective data out in the
11 triage area.

12 Q So when I ask you the question, "St. Mary's has a
13 triage form," the answer is "yes"?

14 A Yes.

15 Q Thank you. And you indicated that Nurse Gill
16 filled out the initial information --

17 A I believe so.

18 Q -- about the alleged victim?

19 A Yes.

20 Q Thank you. Now, you prepared a writing as it
21 relates to Lakeysha Cage --

22 A Yes.

23 Q -- correct?

24 A Correct.

25 Q And I believe that's called the Assault Victim

1 Medical Report?

2 A That's right.

3 Q That is part of the Michigan State Police, it's
4 part of the CSC kit?

5 A Yes, it is.

6 Q And it comes right in the kit?

7 A Yes, it does.

8 Q And part of your responsibility, then, is to fill
9 out the form?

10 A That's correct.

11 Q One of the things that you filled out, ma'am, in
12 this particular form was the patient's
13 description?

14 A That's correct.

15 Q That would be subjective, according to your
16 triage --

17 A Right.

18 Q -- information, correct?

19 A Uh-huh.

20 Q And that's number 27 on the form, is it not?

21 A That's correct.

22 Q In question number 27 on your form, you refer only
23 to one individual, is that not true?

24 A Yes.

25 Q You indicated that you remembered today that

1 Lakeysa complained of some discomfort to her
2 neck?
3 A Right.
4 Q On the form you were just talking about, ma'am --
5 question number 31 asks: "Note identification of
6 the pain in the patient's own words," is that not
7 true?
8 A Right.
9 Q You noted patient complains of pain to the right
10 foot?
11 A Correct.
12 Q You did not write anything about discomfort to the
13 neck, did you?
14 A No, I did not.
15 Q You did not personally observe any marks or
16 injuries to the neck, did you?
17 A No, I did not.
18 Q Front or back?
19 A Correct.
20 Q And just for my own information, whoever does the
21 initial contact with the patient, would they
22 assess whether or not an emergency medical
23 treatment was necessary?
24 A As far as if there was a laceration or something,
25 that a physician needed to come into the room

1 immediately?
2 Q Well, if someone appeared to be in a life or death
3 situation, they're going to be attended to
4 medically before this form is filled out, correct?
5 A Correct.
6 Q The doctor is going to take immediate action?
7 A Correct.
8 Q And that is assessed by the person who first sees
9 the patient?
10 A Right, correct.
11 Q In this particular case there was no determination
12 made that immediate medical attention was
13 necessary?
14 A Correct.
15 Q Thank you.

16 MS. KRAUSE: No further questions.
17 THE COURT: Anything more, Mr. Bramble?
18 MR. BRAMBLE: Very briefly.

19 **REDIRECT EXAMINATION**

20 **BY MR. BRAMBLE:**

21 Q Do you remember how Keysha described the pain to
22 her neck, discomfort to her neck?
23 A As an aching.
24 Q And were you present when Dr. Perry explained to
25 Mr. and Mrs. Marble the risks involved with

1 putting Lakeysa under for a pelvic examination?

2 A Yes.

3 Q He did do that?

4 A He did not do a pelvic examination, but he did
5 explain.

6 Q The risks involved?

7 A Yes.

8 MR. BRAMBLE: I have nothing further,
9 your Honor.

10 THE COURT: Anything more, Mr. Mirque?

11 MR. BRAMBLE: I guess I do have one
12 question.

13 **BY MR. BRAMBLE:**

14 Q You then put together the CSC kit and provided it
15 to the law enforcement officers?

16 A That's correct.

17 MR. BRAMBLE: Nothing further.

18 THE COURT: Mr. Mirque?

19 **RECROSS-EXAMINATION**

20 **BY MR. MIRQUE:**

21 Q In explaining the pelvic examination, did you
22 explain to the Marbles the necessity of that
23 examination?

24 A Absolutely.

25 Q And that it was important in gathering evidence

1 for this?

2 A Yes, we did. We stepped out of the room and
3 allowed the mother to have time alone with her
4 daughter.

5 Q And did you explain that the importance of
6 gathering this evidence was because it was fresh
7 and it would be most beneficial at that time?

8 A Yes.

9 Q Thank you.

10 THE COURT: Miss Krause, anything more?

11 MS. KRAUSE: Your Honor, I do have a
12 question. It's one I forgot to ask, if the Court
13 will permit me some latitude here.

14 THE COURT: Go ahead.

15 **RE-CROSS-EXAMINATION**

16 **BY MS. KRAUSE:**

17 Q What time of year was it, what we're talking about
18 in the courtroom here today? What time of year
19 was it?

20 A As far as -- gosh, I don't know, summer.

21 Q Thank you.

22 **REDIRECT EXAMINATION**

23 **BY MR. BRAMBLE:**

24 Q Did you use the word "hysterical" to describe
25 Lakeysha during this attempted pelvic examination?

1 A When Dr. Perry explained to her that she needed to
2 have an internal examination, a pelvic, she became
3 very upset.

4 MR. BRAMBLE: I have nothing further.

5 THE COURT: Thank you, ma'am. You're
6 free to go.

7 **RUTH HAMSTRA, R.N.,**
8 called by the People at 10:47 a.m. and sworn by
9 the Court, testified:

10 **DIRECT EXAMINATION**

11 **BY MR. BRAMBLE:**

12 Q Miss Hamstra, are you employed?

13 A Yes, I am.

14 Q Where are you employed?

15 A I'm employed as a nurse coordinator at the
16 Children's Assessment Center.

17 Q What are your duties and responsibilities, please?

18 A My duties are to assist a physician and to
19 facilitate the parent and the child in a medical
20 examine for sexual abuse.

21 Q Are you an L.P.N. or R.N.?

22 A I'm a registered nurse in the State of Michigan.

23 Q Briefly describe your educational background.

24 A I have one year of college education. I have
25 three years of nurse's training at Blodgett

1 Hospital School of Nursing.

2 Q Are you certified upon completion of your nursing
3 studies?

4 A I was diplomaed through Blodgett. I was certified
5 by the State of Michigan.

6 Q You've taken efforts to continue or maintain that
7 certification?

8 A Yes, I have had ongoing education, refresher
9 courses, and I recently took a one-week training
10 in San Diego at the Child Center for Protection.

11 Q How long have you been employed at your current
12 job?

13 A My current position, I have been at the Children's
14 Assessment Center since February of '93.

15 Q Before that where were you employed?

16 A I was employed in an outpatient clinic. I was
17 employed at Bethany Christian Services for five
18 years. I was employed at Lutheran Social Services
19 for one year.

20 Prior to that I was in Chicago, at an
21 outpatient clinic, for five years. I worked in
22 the state of Florida, and I worked in Michigan at
23 Blodgett Hospital, and I worked in a private
24 physician's office.

25 Q Did you have an opportunity to have contact with

1 an individual named Lakeyssha Cage?
2 A Yes, I did.
3 Q When would that have been, please?
4 A At the time of her examine at the Children's
5 Assessment Center.
6 Q What date would that have been?
7 A The day of the examine was 7-19-93.
8 Q Can you describe where this occurred?
9 A Where the examine occurred?
10 Q Please.
11 A At 901 Michigan, Northeast, at the Children's
12 Assessment Center, in the medical clinic.
13 Q And can you describe for the jury what your
14 purpose of having contact with Lakeyssha Cage was?
15 A Lakeyssha was brought in by Detective Karpowicz for
16 a medical examine.
17 Q As part of this, did you have contact with her or
18 take down a history, medical history for treatment
19 and diagnosis?
20 A I did not take a medical history. I did talk with
21 Lakeyssha and asked her why she was there, and she
22 said she was at the clinic to have an examine.
23 Q Did she describe the event?
24 A Not to me, no.
25 MS. KRAUSE: Your Honor, I'm going to

1 object. May we approach the bench?
2 THE COURT: Yes.
3 (Counsel approached the bench and a
4 discussion was held out of the hearing of the jury
5 and off the record)
6 THE COURT: Go ahead, Mr. Bramble.
7 MR. BRAMBLE: Thank you, your Honor.
8 **BY MR. BRAMBLE:**
9 Q What information did you take from Keysha?
10 A I was present when the doctor took his history and
11 I heard what she told the doctor. I myself did
12 not take a history.
13 Q You and the doctor were present and a history was
14 taken by Dr. Cox, that would be?
15 A Correct.
16 Q Okay, and what did Lakeysha describe?
17 A Dr. Cox asked her why she was there today, and she
18 said she had to have a medical examine, and he
19 asked why we had to have a medical examine. She
20 replied, "Because he licked me down there," and
21 she pointed to her vaginal area.
22 Q She pointed to her vaginal area?
23 A She pointed to her vaginal area.
24 Q And did she make any further statements to you or
25 Dr. Cox?

1 A She said, "Because he licked me down there." I
2 asked her what else he touched her with and she
3 said, "Nothing. He was weird. He had lipstick on
4 and fake breasts on. I think he was trying to be
5 a woman."

6 Q Did Dr. Cox ask any further questions in that
7 regard?

8 A Yes, he did.

9 Q Any other information elicited from Lakeysha
10 regarding this incident?

11 A Not that I recall.

12 MR. BRAMBLE: Nothing further, your
13 Honor.

14 THE COURT: Mr. Mirque?

15 MR. MIRQUE: Thank you, your Honor.

16 **CROSS-EXAMINATION**

17 **BY MR. MIRQUE:**

18 Q Miss Hamstra, you read that -- I believe this
19 comes from the assessment page -- "'Because he
20 licked me down there.' I asked her what else he
21 touched her with, and she said, 'Nothing.'"

22 A Nothing.

23 Q Did Dr. Cox say -- was there any other contact
24 involved?

25 A I don't recall.

1 Q Would, I'd ask you to look at this medical
2 examination form to refresh your memory. Did she
3 make mention of any other contact?
4 A I don't understand your question.
5 Q Did she deny any other contact?
6 A Yes, she said nothing.
7 Q But it's fair to say, it's written here, she
8 denied any other contact. Is that what that says?
9 A I understand he asked her if he touched her with
10 anything else, and she said, "Nothing."
11 Q Let me ask you what that last line in your report
12 says. You read the first half. "I think he was
13 trying to be a woman"?
14 A "She denied any other contact," is what the doctor
15 stated. That's not her statement, that's not the
16 quote.
17 Q That's the doctor's?
18 A That's the doctor's statement. But I was only
19 giving you the quote that she gave to us, that I
20 heard from her.
21 Q So the only contact that she mentioned was that he
22 put -- or he licked her in the vaginal area?
23 A That was her quote, yes.
24 Q Did you take any other history of the patient?
25 A Myself personally, no, I did not.

1 Q Who took the history?
2 A The doctor does.
3 Q There's no other nurse intervening in this matter?
4 A No, there's not. I'm the only nurse there.
5 Q All right, thank you.

6 THE COURT: Miss Krause?

7 MS. KRAUSE: I have no questions.

8 THE COURT: Anything more, Mr. Bramble?

9 MR. BRAMBLE: I have just a few.

10 **REDIRECT EXAMINATION**

11 **BY MR. BRAMBLE:**

12 Q Miss Hamstra, do you have your notes with you?

13 A Yes, I do.

14 Q Who filled out paragraph one?

15 A On the first page?

16 Q Correct.

17 A That's all done by Dr. Cox.

18 Q Okay. He apparently took some more history than
19 you were privy to?

20 A He takes a history from the child alone, the
21 mother or the child. The nurse -- he and the
22 child are alone together.

23 Q Okay, thank you.

24 THE COURT: Mr. Mirque, anything more?

25 MR. MIRQUE: No, your Honor, thank you.

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THE COURT: Miss Krause?

MS. KRAUSE: No.

THE COURT: Thank you, Miss Hamstra.
You're free to go.

THE COURT: Mr. Bramble, you may call
your next witness.

MR. BRAMBLE: Sure, your Honor. That
would be Dr. Edward Cox.

EDWARD COX, M.D.,

called by the People at 10:56 a.m. and sworn by
the Court, testified:

DIRECT EXAMINATION

BY MR. BRAMBLE:

Q Dr. Cox, you're employed?

A Yes, I'm employed by Butterworth Hospital.

Q In what capacity are you employed?

A There I'm the director of pediatric ambulatory
care.

Q What does that consist of?

A That consists of a great number of things,
including direct patient care, in certain
situations teaching medical students in pediatric
medicine, pediatric residents about outpatient
pediatrics.

I'm the co-director of the child

1 protection team at Butterworth Hospital. I do a
2 little research.

3 It's a broad range of things in the
4 medical administration and teaching of patient
5 care.

6 Q Do you have an undergraduate degree?

7 A Yes, I have a Bachelor of Arts from Wabash College
8 in Crawfordsville, Indiana.

9 Q Did you attend --

10 A Yes, I attended Indiana University Medical School
11 in Indianapolis.

12 Q You graduated there and did an internship?

13 A Yes, internshipped in pediatric residency at the
14 Riley Children's Hospital at Indiana University at
15 Indianapolis.

16 Q You became Board-certified in what areas?

17 A In pediatrics.

18 Q How does pediatrics, how is that specialized or
19 different from, let's say, a regular M.D., general
20 practitioner?

21 A Pediatrics limits -- it's the scope of practice to
22 children from shortly before they're born until
23 usually around age 21, sometimes a little longer
24 in certain situations with individuals who are
25 developmentally delayed.

1 Q You also conduct examinations of children at the
2 Children's Assessment Center?

3 A I do.

4 Q How often do you do that?

5 A Generally, once a week. Sometimes more often if
6 the need arises.

7 Q And did you have an opportunity to have contact
8 with a Lakeysa Cage on July 19th, 1993?

9 A I did.

10 Q Did you actually speak with her?

11 A Yes, I did.

12 Q Did you speak with her prior to conducting an
13 examination?

14 A Yes, I did.

15 Q Did you obtain a medical history from her?

16 A I didn't obtain a complete medical history from
17 her, as her knowledge of her past medical history
18 was limited. I believe her father accompanied her
19 that day and I spoke with him about that.

20 I did speak with her to identify myself
21 as a physician, and to tell her what we were going
22 to do that day, as part of what the medical
23 examine would consist of, to try to explain to her
24 how we would do it and what she could do to help
25 me. And I was open for any questions that she

1 would like to ask at any time, either before we
2 started or during the examine.

3 And then I tried to find out from her if
4 she knew why she was here that day, and in part of
5 talking with her and finding out what she knew
6 about why she was there, she told me that we
7 needed to check her privates.

8 And I asked her why we needed to check
9 her privates so closely, and she said it was,
10 "Because he licked me down there," and those were
11 her words.

12 And I asked her what else he touched her
13 with, and she said, "Nothing," but then added, "He
14 was weird. He had lipstick on and fake breasts,
15 and I think he was trying to be a woman."

16 Q This is taken from your notes from the Children's
17 Assessment Center medical examination form?

18 A Correct.

19 Q Who filled out the top paragraph, Doctor?

20 A Under number one?

21 Q Correct.

22 A That's my writing.

23 Q Okay. And did you obtain a further history
24 regarding this incident that you've entailed or
25 listed under paragraph one?

1 A That was taken either from the father or from the
2 police report that was available to me before I
3 saw the child.

4 Q Okay. And that lists other things that you were
5 taking into consideration as to what happened?

6 A Correct.

7 Q Okay. And did you take those things into
8 consideration?

9 A Yes, absolutely.

10 Q Okay. What type of things are we discussing here?

11 A Well, the story that I obtained was that the child
12 had apparently been forcefully dragged into an
13 apartment, where her clothes were removed and she
14 had had her vulva, which is the genital area,
15 touched by a finger and by lips and tongue, and
16 that was, generally, the most pertinent part of
17 that.

18 Q Okay. Now, you were never told or advised that
19 there had been any penetration of her vagina with
20 the penis, is that accurate?

21 A Yes, it is.

22 Q Did you conduct an examination of her?

23 A Yes, I did.

24 Q Did she verbalize or state some nervousness or
25 anxiety, apprehension, anything of that, Doctor?

1 A When we were doing the examine she said that she
2 was nervous, yes.

3 Q Okay. And what does this examination consist of?

4 A Well, we try to do a complete general physical
5 examine. We don't try to isolate or limit the
6 physical examine to just the genital area.

7 Q Why do you do that, Doctor?

8 A I do that to try to put the kids at ease. Most
9 children have had a check-up or a preschool
10 physical, and we try to do that to make sure that
11 the children are comfortable with the examine,
12 it's something that they've had before, so that
13 when we get to that point where we try to take a
14 particularly good look at the anal area and the
15 genital area, that the kids are relaxed and
16 understand that this is just part of a normal
17 physical examine.

18 Q And did you eventually do an examination of her, a
19 pelvic examination?

20 A We did a limited pelvic examination. In children
21 where I don't have a history of, in premenstrual
22 female children where I don't have a history that
23 there's been some sort of vaginal penetration, I
24 will not do a speculum examine, as I don't think
25 that that's necessary.

1 But we did do a very good physical
2 examine of her anal, genital area, yes.
3 Q Correct me if I'm wrong. Because you didn't get a
4 history of penetration, you didn't do a full or --
5 A Well, what we do is, we do an inspection of the
6 external genitalia. You look at the different
7 parts of the external genitalia, the lips of the
8 labia, then you separate the lips of the labia and
9 look at the vulva, which is that area within the
10 lips of the labia that surround the opening for
11 where the urine comes out from the bladder and the
12 opening for the vagina.

13 You look at the hymen, and if there's no
14 signs of any infection or bleeding or any obvious
15 trauma that needs to be inspected up into the
16 vagina, I do not insert a speculum to look into
17 the vagina in that sort of a situation, nor do I
18 do a digital examine of the vagina or the
19 intra-abdominal contents of -- looking at the
20 ovaries or the uterus. It's just not necessary in
21 these situations.

22 Q And it's because of the history that you obtained,
23 it wasn't necessary?

24 A Correct.

25 Q Okay. What did this examination reveal, then?

1 A Well, it revealed that this child, who was ten
2 years old, had some changes of puberty that were
3 not complete, but partial.

4 She had some pubic hair. She had some
5 changes of the hymen which indicated that the
6 increasing amount of estrogen in her bloodstream
7 from going through the pubertal changes was
8 present, and there was a scant amount of milky,
9 sort of a thin discharge from her vaginal opening,
10 which is quite normal, also, at this stage of
11 puberty.

12 But the rest of the physical examine did
13 not show any signs of trauma, no signs of scarring
14 or tearing or anything.

15 Q Okay. With the history you had provided to you,
16 were you surprised at that result?

17 A No.

18 Q Okay. Why is that, Doctor?

19 A The history that I was given did not sound like it
20 was anything that would have caused an injury to
21 the child, to the extent that it would have left
22 some signs of injury.

23 Q So it's safe to say, then, that this examination
24 was consistent, then, with the history that was
25 provided to you?

1 A Yes.

2 Q Okay, thank you.

3 MR. BRAMBLE: I have nothing further.

4 THE COURT: Mr. Mirque?

5 MR. MIRQUE: Thank you.

6 **CROSS-EXAMINATION**

7 **BY MR. MIRQUE:**

8 Q Doctor, approximately how long after the incident
9 was this examine done?

10 A I think by -- the notation I made was that the
11 incident was the week before last, so it probably
12 would have been on the order of ten days after the
13 incident.

14 Q You mentioned that you had some patient history to
15 operate with before you did your examination, is
16 that correct?

17 A Yes.

18 Q And in, I'm referring to these notes, it says
19 "Acts described by the patient and/or other
20 historian"?

21 A Yes.

22 Q And there's a lot of information regarding the
23 history of the patient that appears to be
24 described by the patient, is that correct?

25 A There is only one positive response, and I assume

1 you're referring to the boxes that are checked on
2 the second page of the report.

3 Q Exactly, exactly.

4 A Yeah.

5 Q Now, you said there was only one box that was
6 checked "yes," but there was a lot of boxes that
7 were checked "no," is that correct?

8 A Correct.

9 Q There was no vaginal contact with the penis?

10 A Not that I obtained, no.

11 Q No vaginal contact with the finger?

12 A Not that I obtained.

13 Q Or any other foreign object?

14 A Correct.

15 Q There was no anal contact with the penis?

16 A I did not obtain that history.

17 Q Anal contact with the finger?

18 A I did not obtain that history.

19 Q Now, again, this is all from the patient?

20 A Correct.

21 Q The one thing that is checked "yes" is oral
22 copulation of the genitals of the victim by the
23 assailant?

24 A Correct.

25 Q That would mean what?

1 A That would mean, generally, that there was some
2 contact by the lips and the tongue to the external
3 genitalia, the labia majora, the labia minora, the
4 clitoris, the vulva, the opening around the
5 vagina, in that area.

6 Q And then there's another note of the assailant by
7 the victim. What does that mean?

8 A That would generally mean that the victim was
9 forced to perform oral sex on the perpetrator.

10 Q And that, again, is described by the patient?

11 A That would be the patient, if that were a positive
12 response, yes.

13 Q So you asked her whether or not she had her mouth
14 on his penis and she said no?

15 A I did not ask that particular question, no.

16 Q Okay, but somebody in your office did and that's
17 why it's checked "no"?

18 A We ask open-ended questions so that the children
19 can respond in a comfortable way. We do not ask
20 pointed "yes" or "no" questions.

21 Q There's a whole litany of other notes, but the one
22 about any fondling, licking or kissing, again,
23 "no," none described by the patient?

24 A Other than that mentioned above.

25 Q So the only incident that this patient, the victim

1 in this case, said was that there was oral
2 copulation of the genitals of the victim by the
3 assailant?

4 A Correct, that's what she told me.

5 Q Now, there is some mention of preexisting physical
6 injuries. What was the nature of that?

7 A Apparently, she'd had a couple of accidents in her
8 past. One, apparently, was a car accident and one
9 was, apparently, a car-bicycle type of accident,
10 and she'd received some bruises and abrasions from
11 that.

12 Q Were those bruises and abrasions seen by you or
13 were they described to you?

14 A No, these had occurred far too long in the past
15 for me to see bruises from those incidents.

16 Q Did you see bruises?

17 A I think I did. Yeah, there was some scattered on
18 her extremities, the typical sort of bruises that
19 you'd see in a child on the extensor surfaces, on
20 the outside of the arms and the front of the shins
21 that you'd expect to see in a very active child.

22 Q Was there anything in the entire examination
23 remarkable?

24 A She had some old chicken pox scars. She had a
25 little bulging of one of her tonsils, and she had

1 an old skin tag on her anal area that's not
2 uncommon in children.

3 But beyond that, there wasn't anything
4 that was particularly remarkable.

5 Q So you've given her a good clean bill of health?

6 A Yes.

7 MR. MIRQUE: Thank you.

8 THE COURT: Miss Krause?

9 MS. KRAUSE: Thank you, I have no
10 questions for the doctor.

11 THE COURT: Mr. Bramble?

12 **REDIRECT EXAMINATION**

13 **BY MR. BRAMBLE:**

14 Q Do bruises show up immediately, Doctor?

15 A Do bruises show up immediately?

16 Q Correct.

17 A They take some time, generally, to become visible.

18 Q I take it you've obtained a history from a number
19 of people, part of this history component?

20 A Well, I get my history from any reports that may
21 be sent to the center prior to the child coming to
22 the center for a physical examination.

23 Those can be police reports, those can
24 be from Protective Services in certain cases, and
25 I try take a history from the caretaker who brings

1 the child for the visit that particular day.

2 MR. BRAMBLE: I have nothing further.

3 THE COURT: Mr. Mirque?

4 **RECROSS-EXAMINATION**

5 **BY MR. MIRQUE:**

6 Q You responded that bruises don't necessarily show
7 up immediately, but bruises do sometimes show up
8 immediately, don't they?

9 A Would you define "immediately"?

10 Q Within a half-hour.

11 A Not necessarily, no.

12 Q How about within an hour?

13 A Well, again, it has to do, it has to do with where
14 the force is applied to the skin, how much blood
15 leaks out from the blood vessels under the skin,
16 how thick the skin is in the area where the blood
17 leaks out underneath the skin, whether the child
18 is anemic or not, and whether there's an increased
19 amount of pigment in certain situations.

20 It's quite variable. Can some bruises
21 show up very quickly, within an hour? Yes.

22 Q What about within four hours?

23 A Of course.

24 Q Thank you.

25 THE COURT: Miss Krause?

1 MS. KRAUSE: No questions, thank you,
2 your Honor.

3 MR. BRAMBLE: Nothing further, your
4 Honor.

5 THE COURT: Thank you, Doctor, you can
6 go.

7 MR. BRAMBLE: May we approach, your
8 Honor?

9 THE COURT: Yes.

10 (Counsel approached the bench and a
11 discussion held out of the hearing of the jury and
12 off the record)

13 THE COURT: Ladies and gentlemen, we are
14 waiting for one witness who was supposed to have
15 been here a few minutes ago but is a little late,
16 which you know is not at all that unusual around
17 here.

18 Why don't you go back to your jury
19 rooms, I'll go back to the office, and as soon as
20 we are notified that she's here, we'll come back
21 in here.

22 (At about 11:15 a.m. - Recess taken)

23 (At about 11:30 a.m. - The Daniel Turner
24 jury returned to the courtroom)

25 (At about 11:30 a.m. - The Stephen

1 Turner jury returned to the courtroom)

2 (People's Exhibit 13 was marked for
3 identification by the Court Reporter)

4 THE COURT: Mr. Bramble, you may call
5 your next witness.

6 MR. BRAMBLE: Thank you, your Honor,
7 that would be Karen Curtiss.

8 **KAREN CURTISS,**
9 called by the People at 11:30 a.m. and sworn by
10 the Court, testified:

11 **DIRECT EXAMINATION**

12 **BY MR. BRAMBLE:**

13 Q Miss Curtiss, you're employed?

14 A Yes.

15 Q Where are you employed?

16 A The Grand Rapids Police Department.

17 Q What are your duties and responsibilities there?

18 A I'm a crime scene technician, which requires me to
19 go to the scenes of crimes and traffic accidents,
20 to collect evidence, and photograph.

21 Q Are you a police officer?

22 A No, I'm a civilian employee.

23 Q And did you obtain or have you attended any
24 educational functions in order to do this job?

25 A Yes, I've attended basic crime scene processing

1 school, violent death school, and photography
2 school.

3 Q And let me go directly here to July 7, 1993. Were
4 you working in this capacity on that date?

5 A Yes.

6 Q Did you respond to a scene at 4130 Oak Park,
7 Apartment 204?

8 A Yes.

9 Q And your purpose in going there was to do what?

10 A To process a crime scene which was reportedly at
11 that time a CSC, which is criminal sexual conduct.

12 Q And can you state your initial observations, what
13 you were focussing on when you arrived at the
14 crime scene?

15 A When I arrived at the crime scene, I met
16 Officer Baar and Officer Mesman. They led me to
17 Apartment 204, and I photographed the exterior of
18 the building, noting some damage to the exterior
19 part of the door, and there was -- they showed me
20 the, the east stairway to the apartment.

21 The second level of the apartments had
22 sticks and a little rubber band in the middle of
23 the stairway.

24 Q And did you photograph those?

25 A Yes, I did.

1 Q And are Exhibits 1 and 5 photographs you've
2 described of the area you're describing?
3 A Yes, photos one and five show the sticks and
4 rubber band on the stairway.
5 Q Okay. Now, did you actually enter into
6 Apartment 204?
7 A Not at that time.
8 Q Okay, what did you do then?
9 A At approximately two hours later, which was just
10 after 8:00 p.m., I responded to the Kent County
11 Jail to photograph two subjects that were in the
12 custody of Officer Baar.
13 Q And did you photograph both Steven and Daniel
14 Turner?
15 A Yes, I did.
16 Q And is this the photograph of Steven (indicating)?
17 A Yes, Exhibit 2 is Steven Turner.
18 Q Okay, and you eventually -- and you photographed
19 Daniel Turner, as well?
20 A Yes, I did.
21 Q Did you respond back to Apartment 204?
22 A Yes, shortly after eleven p.m.
23 Q And did you enter the apartment at that time?
24 A Yes, I did.
25 Q Okay, and what did you do upon entering into the

1 apartment?

2 A I photographed the interior of the apartment,
3 noting the rooms and the contents of the rooms.
4 Then I completed a sketch and I took measurements
5 of the rooms, and then I began to collect evidence
6 at the direction of Detective Vazquez and
7 Detective Karpowicz.

8 Q Who else was present then in the, in the apartment
9 along with you, Apartment 204?

10 A Besides Detective Karpowicz and Vazquez, there was
11 Officer Sirard, and I believe Sergeant Carrier was
12 there briefly, but she left.

13 Q You photograph the interior?

14 A Yes.

15 Q And you did the sketch?

16 A Yes.

17 Q Is Proposed Exhibit 13 the result of that?

18 A Yes, it is.

19 Q Okay, and does this accurately reflect the layout
20 of that apartment?

21 A Yes, it does.

22 Q Starting with the living room area, what did you
23 find there?

24 A There was a computer system, there was a mattress
25 with bedding, there was a table with electronic

1 equipment, there was boxes of lingerie and a few
2 bags of lingerie.

3 I believe there was a television set and
4 a fan.

5 Q And you photographed this area?

6 A Yes.

7 Q And was there a mattress in the living room area?

8 A Yes, there was.

9 Q Does the layout reflect the mattress there and the
10 computer desk?

11 A Yes.

12 Q What was contained in the computer desk area?

13 A There was several containers of computer disks and
14 all of the computer parts, the monitor, the
15 computer disk drives, and I believe there was some
16 cosmetics on the shelves, as well, where the
17 computer was.

18 (People's Exhibit 14 was marked for
19 identification by the Court Reporter)

20 **BY MR. BRAMBLE:**

21 Q Showing you Exhibits 4 and 14, do you recognize
22 those, what's depicted in those photographs?

23 A Yes, Exhibit 4 shows the metal shelves with the
24 computer, the monitor, the two keyboards, disk
25 drives, disks, and Exhibit 14 shows a close-up of

1 the cosmetics that were on this upper shelf.

2 Q Now, there is a closet area when you move back

3 into the kitchen area, or past the kitchen area?

4 A Yes, right down the hallway, across from the

5 bathroom.

6 Q And what -- did you look inside the closet area

7 there?

8 A Yes, I did.

9 Q There is a closet inside and outside the bedroom?

10 A Yes, there is.

11 Q What was contained in this first closet outside

12 the bathroom?

13 A There were dresses.

14 (People's Exhibits 15, 16, and 17 were

15 marked for identification by the Court Reporter)

16 **BY MR. BRAMBLE:**

17 Q Did you photograph that area?

18 A Yes.

19 Q The closet?

20 A Yes.

21 Q I'm showing you what's marked 15. Does that

22 accurately depict the dresses you've described?

23 A Yes, this is, Exhibit Number 15, the closet across

24 from the bathroom.

25 Q And is marked 16 and 17 -- you described some

1 boxes and some other matter in the living room.

2 I show you 16 first. What does that

3 depict, please?

4 A Exhibit 16 shows the area on the side of the

5 mattress in the living room, showing underwear, a

6 purse, and the boxes that contained lingerie.

7 Q And 17?

8 A 17 is a photograph of drawers. I believe these

9 were in the closet that was in the bedroom.

10 Q Okay. And you're saying this was in a closet in

11 the bedroom?

12 A Yes.

13 Q And what does it contain?

14 A May I see it?

15 Q Sure (handing).

16 A It contains panty hose, looks like a bra, above it

17 is hanging some shirts, and there's cowboy boots

18 alongside it.

19 Q Now, moving into the kitchen area --

20 (People's Exhibits 18, 19, and 20 were

21 marked for identification by the Court Reporter)

22 **BY MR. BRAMBLE:**

23 Q I show you what's marked 18. Again, is this the

24 same dresser drawer -- the dresser that was

25 photographed in the back bedroom with a different

1 drawer being open?

2 A Yes, number 18 is the same dresser in the closet
3 from the bedroom.

4 Q And what's depicted there?

5 A Different drawer. Underwear and socks.

6 Q Okay, and again, moving to the kitchen area, did
7 you seize any type of tissue in that area?

8 A Did you say "tissue"?

9 Q Please.

10 A Yes, there was a bag that contained some trash,
11 appeared to be trash, and there was two tissues on
12 the kitchen floor that were alongside that bag. I
13 collected both of those.

14 Q And is this, Number 20, a photograph of at least
15 one of those tissues?

16 A Yes, Number 20 shows one tissue. I believe the
17 other one was alongside, between the cupboard and
18 the bag.

19 Q It was stuck between the cupboard and the bag?

20 A I think so, or on the floor behind the bag.

21 Q Okay. 19?

22 A 19 shows the interior of the refrigerator.

23 Q What was contained in the refrigerator?

24 A There was a jar of jelly, a jar of pickles,
25 mustard, pop, mayonnaise, ketchup.

1 Q Now, did you see anything laying out on the
2 counter or anything in the kitchen area?

3 A I remember on the table there was a jar of peanut
4 butter with a knife inside. It was an open jar.

5 Q Okay. Did you seize that item?

6 A Yes, I collected the knife.

7 (People's Exhibit 21 was marked for
8 identification by the Court Reporter)

9 **BY MR. BRAMBLE:**

10 Q I'm going to ask you to take a look at Proposed
11 Exhibit 21, the bag that's marked.

12 Would you open that up, please?

13 A Exhibit 21 is the peanut butter knife.

14 Q Is it in the same condition now as when you seized
15 it?

16 A It still has peanut butter on it.

17 (People's Exhibit 22 was marked for
18 identification by the Court Reporter)

19 **BY MR. BRAMBLE:**

20 Q I'm showing you what's marked Proposed
21 Exhibit 22. Would you open that up, the bag,
22 anyway?

23 A Exhibit 22 contains the two tissues that I
24 collected from the kitchen floor.

25 Q Are they in the same condition now as they were

1 when you seized them?

2 A Yes.

3 Q Miss Curtiss, could you take that out, both of
4 them?

5 A (Complied)

6 Q Do one or both of these have -- they're a white
7 tissue?

8 A The white tissue has something pink on it, that's
9 all I see.

10 Q Okay, if you would, put those back in.

11 A (Complied)

12 Q At some point did you move into the bathroom area?

13 A Yes, I did.

14 Q Did you search that area, as well, or look through
15 that area?

16 A Yes.

17 Q Did you look underneath the sink in that area?

18 A Yes, I did.

19 Q And what did that reveal? What did you find
20 underneath the sink?

21 A Under the sink, what I noted was a pair of white
22 panties that were wet. I collected those as
23 evidence.

24 (People's Exhibit 23 was marked for
25 identification by the Court Reporter)

1 **BY MR. BRAMBLE:**

2 Q And did you photograph those?

3 A Yes, I did.

4 Q Okay. Would you look at what's marked Proposed

5 Exhibit 23? Do you recognize that?

6 A Exhibit 23 shows the panties laying right on top

7 of the toilet paper.

8 Q Okay. I want to show you, then, what's marked as

9 People's Proposed Exhibit Number 8, and I ask you

10 to open it up and remove it from the bag.

11 A (Complied) Exhibit 8 is the panties that I

12 removed from under the bathroom sink.

13 Q Those were the wet panties?

14 A They were wet at that time. They're dry now.

15 Q Okay. Otherwise, same condition --

16 A Yes.

17 Q -- as they were when you seized them? Did you put

18 them in that bag?

19 A Yes, I did.

20 Q Is your handwriting on the bag?

21 A This is my handwriting right here that says "white

22 panties from bathroom."

23 Q Now, did you open any of the kitchen drawers in

24 the kitchen?

25 A Yes, I did.

1 Q What did you observe there?

2 A In the cupboard that was between the stove and the
3 refrigerator I observed a camera.

4 Q Did you remove that camera?

5 A Yes, I did.

6 Q Did it contain any film?

7 A Yes, a partially-exposed roll of film.

8 Q What did you do with that?

9 A I collected it as evidence. I brought it back to
10 the building. I attempted to remove the film by
11 pushing the release lever and it was jammed, so I
12 assumed that the batteries were bad.

13 I replaced the batteries and it still
14 did not work properly, so I took it into the dark
15 room to remove the film.

16 At that point it could not be removed by
17 myself, so I had one of my partners help me, and
18 he was able to remove the film, and we submitted
19 that to the lab for processing.

20 Q And was -- what do you mean by "jam," what was
21 jammed?

22 A The film would not rewind into its cannister.

23 Q Was some of the film jammed then or torn, or
24 anything of that nature?

25 A Yes, it was caught around the cylinder where it

1 wraps initially, and it would not come loose.

2 Q And were you able to develop the film or have the
3 film developed?

4 A Yes, the lab processed the photos that were
5 possible to be developed.

6 Q Okay, and I believe at least one frame was torn
7 because of the way it was jammed in there?

8 A Yes, that's true.

9 Q Is this the camera you were referring to
10 (indicating)?

11 A Yes, that's the camera.

12 (People's Exhibits 24, 25, and 26 were
13 marked for identification by the Court Reporter)

14 **BY MR. BRAMBLE:**

15 Q I'd ask you to look at the items that have been
16 marked Number 25.

17 A Exhibit Number 25 is the bedding that I collected
18 from the mattress in the living room.

19 Q Does that have any marks on it, that you can see?

20 A There's areas that have been cut out since I
21 collected it.

22 Q All right. Besides the areas that have been cut
23 out, anything about the pillowcase that's
24 different? Is it basically in the same condition?

25 A It's in the same condition as when I collected it.

1 Q Would you look at 26, please?

2 A 26 shows the items that were collected around the
3 mattress, a shirt, panties, a bra -- or, no, these
4 are panties, more panties.

5 Q And where were those items taken from?

6 A These items were in the area of the mattress in
7 the living room.

8 Q I'm going to show you very quickly here an item
9 that's marked Exhibit 6. Do you recognize that?

10 A I didn't collect that as evidence.

11 Q Okay, someone else did?

12 A Yes.

13 Q Okay. Did you collect other evidence from the, or
14 anything from the back bedroom?

15 A I collected the bedding and the contents of two
16 wastebaskets.

17 Q Okay.

18 (People's Exhibit 27 was marked for
19 identification by the Court Reporter)

20 **BY MR. BRAMBLE:**

21 Q Take a look at that which has been marked 27.

22 A Exhibit 27 is the aqua-colored blanket that I
23 removed from the cot that was in the back bedroom.

24 Q The cot in the back bedroom?

25 A It was a cot, yes.

1 Q Okay, and that's depicted on your diagram here?
2 A Let me double-check here where I collected that.
3 Q Okay, you're referring to your notes, then?
4 A Yes, I am. Yes, that was from -- it was a cot
5 that was in the back bedroom.
6 Q And that which is depicted in the photograph
7 that's marked 3 is the cot?
8 A Yes, Exhibit Number 3 is the cot.
9 Q A picture of the cot?
10 A Yes, it is.
11 Q Now --
12 (People's Exhibit 28 was marked for
13 identification by the Court Reporter)
14 **BY MR. BRAMBLE:**
15 Q I show you what's marked 28, and it's a box.
16 I wonder if you could tell me what's
17 contained in there?
18 A Exhibit 28 is a box of lingerie in a bag that
19 contains a red dress.
20 Q Are there red panties in there, female
21 undergarments?
22 A Yes, there is, right here (indicating).
23 Q Were there black ones in there, as well?
24 A Yes.
25 Q Do the black ones have something on them, another

1 color?

2 A There's red on them, also, a red heart.

3 Q A red what?

4 A A red heart.

5 Q Where did you seize those items from?

6 A I collected these items from the area of the

7 mattress in the living room.

8 Q And these items that you've described in the box

9 marked 28, are they in the same condition as when

10 you seized them?

11 A Yes.

12 Q Now, I want to draw your attention to the back

13 bedroom area. Do you recall going back there and

14 at least taking a look around?

15 A In the back bedroom?

16 Q Correct.

17 A Yes, I did.

18 Q Okay. Was there -- you've testified there's a

19 closet, and there was a dresser drawer here that's

20 depicted in the photographs?

21 A That's right.

22 Q Okay, also another computer area?

23 A Yes, there was.

24 Q Were there televisions or monitors of some type in

25 either of these areas?

1 A Yes, there was a monitor at each computer station.
2 Q Were there modems or areas to put in disks, and so
3 on?
4 A Yes, there was disk drives, different sizes of
5 disk drives, and I believe a modem was -- I don't
6 remember which bedroom had the modem.
7 Q Were there any stuffed animals or anything of that
8 nature, that you recall?
9 A The back bedroom had a stuffed eagle, it was brown
10 and white and yellow, that was on top of some
11 shelves or stereo system that were alongside the
12 cot, just north of the cot.
13 Q Now, that was somewhere near the cot, you said?
14 A Yes, right along the wall, north of the cot.
15 Q You photographed this area, as well?
16 A Yes.
17 Q And you took, I take it, some dimensions or
18 measured this area?
19 A Yes, I did.
20 Q Is this diagram marked 13 to scale, then?
21 A Yes, it is.
22 MR. BRAMBLE: I have nothing further at
23 this time, your Honor.
24 THE COURT: Why don't we break for
25 lunch, given the hour.

1 We will resume at 1:30, ladies and
2 gentlemen.

3 (At about 12:04 p.m. - Recess taken)

4 (At about 1:40 p.m. - Court back in
5 session, in the absence of both juries)

6 THE COURT: Court is convened without
7 either of the juries to hear a motion by
8 Miss Krause on behalf of Mr. Stephen Turner.

9 Miss Krause?

10 MS. KRAUSE: Thank you, your Honor.

11 At this time, on behalf of Mr. Stephen
12 Turner, I would like to move for a mistrial, based
13 on testimony that was elicited through Miss Karen
14 Curtiss of the Grand Rapids Police Department.

15 Specifically, I'm referring to Proposed
16 Exhibits 16 and 17, which are photographs of
17 drawers taken from the back bedroom of the
18 apartment.

19 And before I get to the specifics of
20 this, by way of background and for purposes of
21 this motion, the fact that my client is a
22 cross-dresser was ruled pre-trial to be
23 inadmissible in this case, unless one of two
24 things occurred: Either the defense opened the
25 door, which at this point, up until this point, I

1 do not believe the defense has, or the second way
2 the judge said that it may become admissible is if
3 it somehow became relevant during the course of
4 trial.

5 I believe, based on the evidence that
6 has been presented thus far, the fact that my
7 client is a cross-dresser is totally irrelevant as
8 to the State's charges against Mr. Stephen Turner,
9 and I refer specifically to the testimony of
10 Lakeysha Cage, who never indicates whatsoever that
11 my client is dressed with make-up or female's
12 clothing, or that any of the articles of female
13 clothing she was shown inside of the apartment
14 were connected to my client.

15 Given that, we now move to today, where
16 prior to Miss Curtiss's taking the stand, there
17 was an in-chambers conference. Present was
18 Mr. Bramble of the prosecutor's office and
19 Mr. Mirque, who represents Daniel Turner.

20 At that time I said my concern was I did
21 not want anything that possibly would show that my
22 client cross-dressed to be brought out in front of
23 the juries.

24 That's where we get to the Proposed
25 Exhibits 16 and 17 of the drawers, photographs of

1 the opened drawers inside the closet of the back
2 bedroom.

3 Mr. Bramble assured us in chambers that
4 no evidence of female clothing was seized from the
5 back bedroom prior to Miss Curtiss taking the
6 stand. I also believe that it was discussed
7 whether or not female clothing was in the back
8 room.

9 Be that as it may, once Miss Curtiss
10 identified that those pictures were taken in the
11 back bedroom, Mr. Bramble was surely aware of what
12 those photographs contained, i.e., panty hose and
13 female lingerie. He went the one step further and
14 asked Miss Curtiss to describe what was in those
15 drawers.

16 Now, the reason this is important and
17 the reason I think it rises to the prejudicial
18 level of a necessity for a mistrial is that there
19 is at least an inference in front of my client's
20 jury at this point that the bedroom was occupied
21 by my client.

22 Lakeysha Cage specifically testified at
23 one point she had seen Stephen Turner come out of
24 that back bedroom and it looked like he had just
25 awakened.

1 So now what we have is we have an
2 inference in front of the jury that the panty hose
3 and the bras found in the back bedroom belong to
4 my client, Stephen Turner, and it's an
5 impermissible inference in light of the Court's
6 prior ruling. And I do think, given the nature of
7 this case and the highly prejudicial nature of the
8 issue of cross-dressing, that a mistrial is
9 warranted.

10 Alternatively, if this Court does not
11 grant a mistrial, I want a cautionary instruction
12 to the jury that they are to disregard questions
13 and the answers by Miss Curtiss of the
14 information -- or, excuse me, the items in that
15 drawer.

16 I want to object now to the admission of
17 those photographs, and I would ask for a ruling on
18 that so that that does not occur in front of the
19 jury.

20 And I would like -- the third thing I'd
21 ask for, your Honor, is I want a clear ruling and
22 understanding at this point on any further
23 information about cross-dressing and female
24 clothing and lingerie as it relates to my client.

25 Thank you.

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THE COURT: Mr. Bramble?

MR. BRAMBLE: Your Honor, I would oppose the motion.

I did in chambers indicate to defense counsel and this Court that I would question Miss Curtiss about whether or not any items were seized from the back bedroom, by that I mean any items of female lingerie.

I talked to her about it. Perhaps my wording was somewhat inartful, but I said was any, either were any items seized from the back bedroom, again, items being female lingerie, or were any items of female lingerie found in the back bedroom. Her response to me was, no, she didn't believe there were.

I conveyed that to defense counsel and the Court back in chambers, and I was unaware of the fact that the items -- and they're actually found in Exhibits 17 and 18 -- were from a dresser in the closet, I believe, in the back bedroom.

So from that standpoint I don't feel in any way that I misled anyone or intentionally conveyed improper information or misinformation.

However, the testimony from Lakeysha Cage has been clear that the co-defendant, Daniel

1 Turner, produced a number of things, a bra, a bra
2 with padding in it, if you will, red underwear,
3 black underwear, by "underwear" I mean female
4 underwear. All of these items are depicted in the
5 photos that we have proposed as People's
6 Exhibits 17 and 18.

7 Regardless of where they come from, I
8 submit that if she has described them, if she has
9 talked about them, they are relevant pieces of
10 evidence. So I oppose the motion. I submit the
11 evidence, in and of itself, is relevant, and I
12 apologize to the Court.

13 I, again, in good faith made an effort
14 to determine where items of clothing were found,
15 where evidence was found, and conveyed that
16 evidence to the Court and defense counsel.

17 MS. KRAUSE: May I respond briefly to
18 that, your Honor?

19 THE COURT: Yes.

20 MS. KRAUSE: First of all, I think I
21 referred to Exhibits 16 and 17, and apparently
22 it's 17 and 18. So I ask that those corrections
23 be made in my argument to the Court.

24 But, first of all, the prosecutor
25 obviously looked at these photographs before he

1 asked Miss Curtiss to identify them.

2 Secondly, these items were not seized.
3 Lakeysha was shown underwear that was seized and
4 asked to look at that. So they're not relevant
5 under that.

6 And there's also red and black underwear
7 that has been presented to the jury that
8 apparently the prosecutor is going to try to say
9 are the ones that were shown to Lakeysha Cage by
10 Daniel Turner.

11 To say, then, that what's shown in these
12 photographs, which are items that were not seized
13 from the apartment, is relevant to back up
14 Lakeysha's story is ludicrous.

15 THE COURT: Let me see the photographs.

16 MR. BRAMBLE: Your Honor, to say it's
17 ludicrous when there are a number of different
18 panties found in there, and to be able to ask this
19 girl to determine which one of the countless
20 numbers of female lingerie that are found in there
21 is -- again, that, in and of itself, is ludicrous.

22 THE COURT: We do have as an exhibit, as
23 Miss Krause indicates, it's Exhibit 28, a red
24 dress, and lingerie that accompanied it, as I
25 recall.

1 We had the witness here sitting and
2 showing the jury red panties, black panties, and a
3 red dress. My notes say that's Exhibit 28. Have
4 you got those as something else?

5 MR. BRAMBLE: That is right down here,
6 your Honor, yes. I think those items were seized
7 from the living room area.

8 THE COURT: Do we have any padded bras
9 as exhibits in this case, other than via
10 pictures?

11 MR. BRAMBLE: In Exhibit 6 there may be
12 some padding, but I'm not sure. Not a bra, but
13 there are some pads.

14 MS. KRAUSE: And Lakeysha was asked to
15 identify those, and I believe she did.

16 MR. BRAMBLE: She identified the pads.
17 There's no bra in there.

18 THE COURT: Well, Miss Krause is correct
19 that it was and frankly still is the opinion of
20 this Court that the apparent fact that Mr. Stephen
21 Turner is also a cross-dresser is irrelevant to
22 this particular case.

23 The tendency of Mr. Daniel Turner to
24 engage in that conduct is relevant, but only
25 because the child complainant in this case

1 repeatedly identifies the individual who she says
2 engaged primarily in the assault on her as a
3 person outfitted, at least in part, in women's
4 clothes.

5 Therefore, the only way to identify
6 Mr. Daniel Turner in this case is by reference to
7 his attire on that day, and at the time he was
8 arrested, which necessarily puts in front of this
9 jury the fact that he does engage in the practice
10 of cross-dressing.

11 Mr. Stephen Turner, apparently, engages
12 in that practice, as well, but nothing said by the
13 complainant identifies him as having engaged in
14 the practice then and there, such that her
15 description of what happened doesn't require that
16 that be stated, nor does any effort on her part to
17 identify Mr. Stephen Turner's involvement depend
18 upon evidence of cross-dressing.

19 Therefore, it was and still is my
20 opinion that identifying to the jury that he is a
21 cross-dresser runs the risk of some prejudice by
22 introducing, invoking whatever stereotypes or
23 prejudice people may have against cross-dressers.

24 It's inevitable with regard to
25 Mr. Daniel Turner, and I think has been adequately

1 dealt with in voir dire, anyway, not necessarily
2 at all with regard to Mr. Stephen Turner.
3 Therefore, the prudent thing to do is avoid the
4 risk.

5 That does not quite answer the question
6 here, however, and that is whether this
7 information as now presented justifies a mistrial.

8 Miss Krause is also correct that before
9 this witness was allowed to testify in front of
10 both juries together, the Court specifically asked
11 Mr. Bramble to determine, essentially, whether her
12 testimony was going to place in the back bedroom
13 anything which might point to cross-dressing.

14 When told that nothing would, it was
15 decided that there was, therefore, no harm in
16 allowing her to testify in front of both juries.

17 We now have some evidence from that back
18 room seized or photographed that is irrelevant for
19 our purposes of cross-dressing tendencies.

20 A mistrial is not necessary, however,
21 because, frankly, that evidence doesn't point to
22 any one person. It simply establishes the
23 existence of female underwear in that room.

24 Let's not forget the fact that we have a
25 case where two individuals are apparently in this

1 house. All we have placing Mr. Stephen Turner in
2 the back bedroom is the fact that at one point in
3 the episode he came out of the back bedroom
4 looking like he had just awakened.

5 That does not itself establish that the
6 back bedroom is his. It certainly doesn't
7 establish, even if it creates reasonable thinking,
8 that the back bedroom is his, that everything in
9 the back bedroom is his.

10 It's equally possible for a jury to
11 conclude that both individuals were storing their
12 clothes back there. There clearly is nothing in
13 either of these two exhibits which says that these
14 items belong to Mr. Stephen Turner.

15 There's some, obviously, adult men's
16 clothes in the picture, and no monograms or
17 anything of that sort that tie him to the closet
18 in which these items were found and the dresser in
19 which they're found. There's nothing, as I
20 recall, in the photographs of him being arrested
21 as having him shown worn any of the clothes that
22 appear in these photographs.

23 So again, there's no way of establishing
24 that these clothes are his rather than his
25 brother's. I think at this stage of the

1 proceedings, frankly, the jury just having heard
2 only cross-dressing by Mr. Daniel Turner, is most
3 likely going to assume that these items belong to
4 him.

5 With regard to how this all happened, I
6 must commend everyone for being so deliberately
7 nonplus when the evidence was presented. I heard
8 it, too, and immediately knew what the response
9 was going to be when there was testimony about
10 these items in the dresser and closet in the back
11 bedroom, and immediately looked up to see what
12 everybody's else reaction was.

13 There wasn't any reaction from counsel,
14 so there was nothing to draw this to the jury's
15 attention.

16 With regard to a cautionary instruction,
17 I understand the request. I, frankly, think that
18 it would exacerbate rather than help the problem.

19 To tell the jury that they shouldn't at
20 all construe the items in the back bedroom as
21 belonging to Mr. Stephen Turner, and therefore
22 should not deduce anything from those items about
23 his habits, is frankly only to tell them that
24 everyone knows they're his items and that, in
25 fact, he, too, is a cross-dresser, and we

1 shouldn't be doing that.

2 So I will not give a cautionary
3 instruction.

4 With regard to the photographs, they
5 haven't been offered yet. I want to spend a few
6 more minutes thinking about it.

7 Right now I don't want any more
8 reference made to these clothes found in the back
9 bedroom. If we talk about them at all, we will
10 simply talk about them as clothes that were found
11 in the apartment.

12 What more we need do with this witness?
13 Are we finished with this witness, Mr. Bramble,
14 and we were going to move to cross-examination?
15 When were you going to move to introduce all this
16 stuff?

17 MR. BRAMBLE: I would move following --
18 I can actually move for it right now. It's all
19 been identified. There will be some additional
20 testimony about testing and some other things.

21 THE COURT: Let me ask Mr. Mirque, other
22 than Exhibits 17 and 18, do you have any objection
23 to these items being received?

24 MR. MIRQUE: The only objections I have
25 are to the contents of this case. The only thing

1 that Lakeysha Cage said she saw was the fake
2 breasts.

3 Now, when I saw this case, there was
4 sexual aids in here, and what I was a little bit
5 concerned with when Kevin was approaching the
6 matter about the contents of this case, I didn't
7 want anything to come out that was not testified
8 to by Lakeysha Cage.

9 There are some things in, unless
10 Lakeysha Cage said -- I don't believe she did say
11 that she was ever shown that case or its
12 contents. I don't believe that the case is
13 relevant. Certainly the fake breasts are, but I
14 don't see why the case, the entire contents of the
15 case would come in.

16 THE COURT: What's in the case? Well,
17 what's in the case besides fake breasts? Let me
18 see these things. I don't know what we're talking
19 about.

20 MR. MIRQUE: Couple of fake -- I don't
21 know what that is. Looks like a girdle.

22 THE COURT: Turn that over to the public
23 museum.

24 MR. MIRQUE: Two pairs of fake breasts,
25 I'm not quite sure which one Lakeysha Cage saw,

1 what appears to be a garter belt, some make-up.
2 Basically, a lot of the make-up which would go
3 over the fake breast to make it appear flesh
4 looking, I would gather.

5 THE COURT: Well, there's no harm in
6 introducing the case itself, because it simply
7 holds things more conveniently than a paper bag.

8 MR. MIRQUE: I guess if we're going to
9 introduce the case, then the case should be empty
10 and contain only the items that Lakeysha Cage said
11 that she had seen, and that being the one pair of
12 fake breasts.

13 I'm not quite sure which ones she saw.
14 Maybe it was the larger one.

15 MR. BRAMBLE: If I may respond very
16 briefly, I think defense counsel indicated she
17 never identified the case. He has the same copy
18 of the transcript I have, and I said, "Did you
19 take anything out? Did you see this green case?"
20 And the answer is, "Yeah." "How about the bras in
21 the boxes and the panties inside the compartment,"
22 and, "Yes, I saw this right here."

23 She picks up the items. She's obviously
24 identifying the case and the portion --

25 THE COURT: I think she's identified

1 enough of what was in there, with the exception of
2 what has been described as a girdle, which there
3 was no reference, or a garter belt, neither of
4 which has played any part thus far.

5 I'll receive it except for those two
6 items.

7 I guess the record should reflect there
8 was a device we discussed in chambers, and I told
9 counsel I would remove it and I did remove it.

10 MR. MIRQUE: I wasn't sure -- when I had
11 trouble opening it, if you recall, I wanted to
12 look in there and I wasn't sure what was in
13 there.

14 When we looked in it in the evidence
15 room, it was in there, and I didn't know whether
16 it had been removed.

17 MR. BRAMBLE: Based on the Court's prior
18 ruling, I removed that item. I brought it in and
19 informed defense counsel and Miss Krause that I
20 had it.

21 MS. KRAUSE: And I probably forgot.

22 MR. BRAMBLE: I remember your eyes
23 lighting up, so I told you I had removed that
24 particular item.

25 THE COURT: So other than -- so you take

1 no position on 17 or 18, Mr. Mirque? The case is
2 more what you're concerned about?

3 MR. MIRQUE: I was a little concerned
4 about the contents of the case. I wasn't quite
5 sure, not being able to look in it prior to trial,
6 whether the sexual aid was in there.

7 The garter belt and the girdle, like we
8 said, are irrelevant and probably should be
9 removed, and the fake breasts are there and
10 Lakeysha had said that they are irrelevant.

11 THE COURT: Miss Krause, any objection
12 to anything other than 17 and 18?

13 MS. KRAUSE: Yes, I do have one other
14 objection, as long as Mr. Bramble is moving for
15 the admission of all his exhibits at this point,
16 and I will caveat my objection.

17 I don't know if the Court is going to
18 rule that evidence that comes in on one defendant
19 comes in against both.

20 THE COURT: Not necessarily.

21 MS. KRAUSE: All right. Then I will --
22 I have an objection on behalf of Stephen Turner to
23 Proposed Exhibit 24, which is the camera case.

24 I do not believe they marked the case
25 and the camera independently. If they did, I'm

1 objecting to both.

2 This is a 35 millimeter camera, the
3 relevance of which in this trial I am unclear.

4 I believe where the prosecutor is going
5 with this is to establish that possibly some
6 photographs were taken of Lakeysa Cage, and this
7 is being used to verify her story. However,
8 Lakeysa Cage was very clear when she testified
9 that the photograph she was talking about was
10 taken with a Polaroid instamatic camera.

11 There can be no doubt that she was not
12 confused about that, because she described it as
13 the kind of camera where the picture comes right
14 out. We all know that to be an instamatic.

15 MR. BRAMBLE: There's a big difference
16 between an instamatic and a Polaroid.

17 MS. KRAUSE: Thank you, Mr. Prosecutor,
18 but a Polaroid where the picture immediately comes
19 out.

20 Therefore, I think to try and now
21 introduce against Stephen Turner this 35
22 millimeter camera is irrelevant. And based on
23 relevancy, I object to that exhibit against
24 Stephen Turner.

25 MR. MIRQUE: I'm going to join in that,

1 also, your Honor. I don't find any relevancy in
2 the camera, and it's clearly been identified as
3 the one in question, the Polaroid.

4 I don't know what they're trying to do
5 with this camera. It certainly has no bearing on
6 this trial or any incident that Lakeysa Cage has
7 described.

8 MR. BRAMBLE: If I may respond, your
9 Honor, I mentioned in my opening statement in
10 front of both juries the sequence of events,
11 including the, at least in front of one jury the
12 complainant indicating that she was told to hold a
13 knife to one of the defendants. There was some
14 jelly or something on it, and then a photograph
15 was taken, and I left it at that.

16 I'm not even sure I mentioned it in
17 front of Daniel Turner's jury. I'm certain that
18 Mr. Mirque did. He went so far as to say that not
19 only was there a camera there and the type of
20 camera it was, but the evidence was going to
21 indicate that the State destroyed photographs from
22 those.

23 Now, again, I always try to be above
24 board, and we did not in fact destroy the
25 photographs. In fact, I have the photographs in

1 my hand, and, in fact, they show Miss Krause's
2 client dressed up at a Mary Kay convention,
3 dressed up in female clothing.

4 So I'm at a little bit of a problem here
5 as to how to present that evidence, and contrary
6 to what defense counsel says, this film wasn't
7 destroyed. Apparently, one frame was, but not the
8 rest.

9 And so I can provide these to defense
10 counsel, but I'm kind of put in a position where I
11 have to respond to some of the things they
12 indicated during their opening statement.

13 MR. MIRQUE: Well, your Honor, nobody
14 knew that it was going to be a Polaroid. We had
15 all assumed from discovery that the camera in
16 question was going to be this 35 millimeter
17 camera. Lakeysha said, quite frankly, it was a
18 Polaroid.

19 Now, because evidence turned against the
20 prosecutor doesn't make it any less relevant or
21 irrelevant.

22 THE COURT: Frankly, with regard to the
23 camera, the truth of the matter is, nobody knows
24 what the camera was, because while the child did
25 say it was one of those cameras where the picture

1 comes out, she also at another point said, "It was
2 a camera just like my mother had," and the mother
3 testified to having borrowed a camera from a
4 sister that was not a Polaroid, as I recall.

5 MR. MIRQUE: No, I disagree.

6 MS. KRAUSE: The mother did say, she
7 used the terminology Sun 600 or Sun 6,000, which
8 is a Polaroid camera, and she did testify to
9 having a Polaroid camera, your Honor.

10 THE COURT: The simple fact, though, is
11 the child said there was a camera. Because she
12 described it as one kind of camera doesn't mean
13 that it is etched in stone that it wasn't another
14 kind of camera.

15 The definition of relevance is that it
16 has any tendency to make the existence of any fact
17 that is of consequence to the determination of the
18 action more probable or less probable than it
19 would be without the evidence.

20 Any particular item doesn't have to
21 prove anything as long as it has any tendency to
22 prove something, unless, of course, it's too
23 prejudicial.

24 I don't see any prejudice here. If the
25 jury concludes that the child clearly meant a

1 Polaroid camera, the presence of this camera only
2 proves that the child was wrong, and if the child
3 was wrong on this, she might be wrong on all kinds
4 of other things.

5 On the other hand, the finding of a
6 camera in the house does have some tendency to
7 corroborate the child's testimony that a camera
8 was used in the sequence, and I don't think the
9 admissibility of the camera can be made dependent
10 upon the precise description that she gave of it.

11 If there was something terribly,
12 terribly prejudicial about the camera, maybe we'd
13 have to look closer. But I just don't see that
14 here, so the camera will come in.

15 Now, we're not going to put in all these
16 other pictures because they don't have any bearing
17 on anything.

18 MR. MIRQUE: Well, your Honor, the
19 pictures that were contained in the camera
20 certainly do have some bearing, at least as far as
21 Daniel Turner is -- I know there's some
22 information on those pictures which could affect
23 Stephen Turner's issue of cross-dressing, but
24 those pictures are very important and --

25 THE COURT: Can't we simply tell the

1 jury that there were X number of pictures
2 developed, the last one was not developed for
3 whatever reason, and none of the pictures --

4 MR. MIRQUE: The last one was developed,
5 your Honor, and the first ones were developed.
6 It's the sequence of pictures that's important.
7 The contents of the pictures are very important,
8 showing what was contained in between those two
9 pictures.

10 THE COURT: Fine, then we'll introduce
11 the pictures against your client, Mr. Mirque, and
12 not against Miss Krause's.

13 When it comes time to show the pictures
14 to the jury, just remind me that's what we're
15 going to do, and her jury will be sent out.

16 MS. KRAUSE: Your Honor, if I may just
17 address one other issue as to the camera. I think
18 your Honor said that at this point you don't see
19 that it rises to the level of prejudice.

20 With all due respect, I disagree with
21 the Court, and the reason for my disagreement is
22 this.

23 The State has very little evidence
24 against Stephen Turner at this point to show that
25 he in any way aided or abetted his brother in the

1 commission of a CSC First.

2 One of the only things that the State
3 has linking Stephen Turner to any kind of
4 assistance to his brother is the taking of this
5 alleged photograph.

6 Lakeysha was questioned extensively
7 about the type of camera. I don't think there's
8 any question that it was clear to her that it was
9 a Polaroid camera where the picture immediately
10 comes out.

11 If my jury in any way infers that this
12 is the camera that was used on the day in
13 question, then it's an impermissible inference
14 that the jury will be drawing based on Lakeysha's
15 testimony, and the prejudice to my client is he
16 may be erroneously convicted because, as of right
17 now, that's about all they've got to show aiding
18 and abetting.

19 THE COURT: I appreciate the argument.
20 It's not what I understand to be the concept of
21 prejudice embodied in Rule 403, however, that a
22 particular item of evidence might become
23 significant to the jury to the detriment of a
24 party does not make it unfairly prejudicial.

25 The concept of unfair prejudice is best

1 described in terms of gruesome photographs, and
2 things of that sort. It proves a point, but then
3 goes on to prove too much.

4 The simple fact is the child said that a
5 photograph was taken of her. She has described a
6 particular camera. She may or may not be correct
7 in that particular description.

8 I think one thing this trial
9 demonstrates is that nobody is accepting
10 everything the child says. A lot of the defense
11 is predicated on the fact that with regard to
12 other things, she was wrong in what she's
13 describing and what she's saying.

14 I don't see why this should be treated
15 any differently. It is probative of the issue
16 here, if in fact the jury is convinced that she
17 was in fact describing another camera and it isn't
18 that camera. But the jury could also conclude
19 that she was simply talking about a photograph
20 being taken, and the presence of the camera helps
21 explain that.

22 It's probative. It's not prejudicial in
23 the sense that Rule 403 contemplates. Therefore,
24 the camera will be received.

25 I'd like to see all those photographs

1 before we introduce them.

2 With regard to Exhibits 17 and 18, the
3 more I've thought about it the more I conclude
4 that they, likewise, will be received. They don't
5 in and of themselves point to Stephen Turner.
6 They simply do, however, tend to verify some of
7 what the child said about women's underwear and
8 padded bras.

9 Therefore, they are an issue in this
10 case. The jury is entitled to hear that those
11 things were found in the house.

12 Do you want all of these photographs in,
13 Mr. Mirque?

14 MR. MIRQUE: Well, what I would like --
15 what I understand is that in the process of
16 developing, a segment of the film was not
17 developed because of exposure.

18 So what I would like to do is have the
19 picture that was taken preceding the exposed
20 picture and a picture antecedent to the exposed
21 portion, and that's the only thing I have.

22 MR. BRAMBLE: I think in his opening
23 statement he describes them as being destroyed,
24 the film being destroyed. If you're going to
25 admit them, admit them.

1 THE COURT: Is there anybody here that
2 is competent to explain to us this whole process
3 of film being exposed and being able to establish
4 that one was taken before and one was taken
5 after? I can't tell that, frankly, from these
6 pictures.

7 MR. MIRQUE: I'm going to hope that the
8 negatives have been retained. I believe that they
9 have been. I think -- it's my understanding upon
10 reviewing the negatives that that last photo, the
11 one on your lap, is the last photo on the film.

12 THE COURT: Well, you may introduce the
13 photographs, Mr. Mirque, and you may attempt to
14 establish which was the last, and if you do
15 establish it, you can argue it for whatever it's
16 worth.

17 I will, however, before we get to that,
18 insist that there be some evidence that
19 establishes when's the last and when's the first,
20 and whatever else.

21 As far as Miss Krause is concerned,
22 these photographs will not be introduced because
23 they need not be. We'll simply tell the jury that
24 there was no photograph developed of the incident
25 described by the child.

1 MR. BRAMBLE: From that camera. I guess
2 the thing is we should figure out how we're going
3 to do this. Mr. Mirque might bring that in. I
4 think that testimony is going to come through
5 Mrs. Curtiss. Perhaps we should get the juries in
6 and get going.

7 THE COURT: I think we might as well do
8 that. We'll get Mr. Mirque's jury in here first,
9 and then Mrs. Krause's will come thereafter.

10 All right, let's get them and see if we
11 can get something done here this afternoon.

12 Mr. Bramble, you need to hang on to
13 those. They aren't exhibits yet. You're finished
14 on direct, so we want the Daniel Turner jury.

15 (Defense Exhibit 29 was marked for
16 identification by the Court Reporter)

17 (At about 2:17 p.m. - The Daniel Turner
18 jury returned to the courtroom)

19 THE COURT: Miss Curtiss, do you want to
20 come back up here?

21 While Miss Curtiss is taking her seat,
22 let me answer a question that I think one of the
23 jurors on the other case asked, but you may wonder
24 the same thing.

25 I have been asked, what are these

1 computers in the courtroom. This is an
2 experimental courtroom, ladies and gentlemen.
3 These computers are here as a test project
4 sponsored and funded by -- I don't know the exact
5 name of the organization, but basically the
6 stenographers of Michigan.

7 Miss Russo happens to be one of the best
8 in the state, and she has a computer program such
9 that the computers can read a good portion of what
10 she is putting down on her machine.

11 It's the same squiggles that everyone
12 else does, but the computer has a dictionary in it
13 that can read those. So as she is taking down
14 what I'm saying and what witnesses have said,
15 there is a computer at my feet which is
16 interpreting the matters and putting them up on
17 the screens in front of the lawyers, as well as
18 could be on the screen in front of me, I just
19 happen not to be using it.

20 It is not a complete transcript. There
21 is no computer that can take into account all of
22 the particulars of every trial. So come the end
23 of the trial, my admonition is still very much in
24 place. The computer will help us get you a
25 transcript if you need one, but there still has to

1 be a fair amount of editing, if you will, looking
2 at the blanks that the computer doesn't understand
3 and having Miss Russo translate them from her
4 notes.

5 But it is a lot faster process than is
6 the typical one, where you have to start from the
7 very beginning.

8 Later this year all the courtrooms in
9 the building are going to have a complete new
10 computer system. Every judge and every clerk will
11 have a computer right here with us that will
12 enable us to do in the courtroom most of the
13 things which are done in terms of paperwork in the
14 back.

15 These computers don't do that yet.
16 These are strictly for, I guess it's call
17 real-time transcription. It's just a second
18 behind the person actually saying it.

19 It's marvelous when it works, but you
20 need an extremely competent reporter like
21 Miss Russo, and there aren't a lot in the state
22 who can do it.

23 Mr. Mirque?

24 MR. MIRQUE: Thank you, your Honor.

25 **CROSS-EXAMINATION**

1 **BY MR. MIRQUE:**

2 Q Miss Curtiss, do you have a title? What can I
3 call you, Technician Curtiss or Miss Curtiss, or
4 what?

5 A Either one is fine.

6 Q Okay, Miss Curtiss. Basically, what I want to
7 cover is a little bit of where things were found,
8 okay?

9 A Yes.

10 Q You've mentioned that a number of lingerie items
11 were found in the living room?

12 A Yes.

13 Q Now, it was a lot of stuff. We'll start from what
14 you did find and translate it onto the map.

15 So what was it that you found here
16 (indicating)?

17 A I collected two boxes of lingerie and one plastic
18 bag of lingerie.

19 Q Okay. When you say you collected two boxes, was
20 it actually in a box or you took it and put it in
21 a box?

22 A They were in a box.

23 Q Where were those boxes?

24 A On the north side of the mattress, right between
25 the mattress and the wall.

1 Q And so if I put box one (indicating)?
2 A Sure.
3 Q And box two (indicating)?
4 A Yes.
5 Q And then you found what else?
6 A There was a bag of lingerie probably around the
7 foot of the mattress, maybe more towards the, it
8 would be the west wall, because there was a
9 walk -- there was an area to walk through into the
10 kitchen.
11 So if you go a little bit more west,
12 that area, there was a bag.
13 Q A bag?
14 A Yes, plastic bag.
15 Q And that bag had some lingerie, too?
16 A Yes.
17 Q Did you find any loose articles of lingerie in
18 this area (indicating)?
19 A Yes, loose articles more on the north side of the
20 mattress and in the corner on the floor.
21 Q Here (indicating)?
22 A Right.
23 Q I'll just put "L," for lingerie.
24 A Okay.
25 Q Anywhere else?

1 A Maybe -- I think there was one thrown on top,
2 laying on top of the boxes.

3 Q Right here (indicating)?

4 A Yes, and other than that, it was the bedding from
5 that mattress and the one in the bedroom.

6 Q The bedding that was on this mattress consisted of
7 a quilt?

8 A It was a comforter, a sheet, and two pillowcases.

9 Q And, like you said, when you looked at those items
10 they were in the same condition that you found
11 them?

12 A Yes.

13 Q Was there any lingerie over here (indicating)?

14 A There were more items, but I did not collect all
15 of those. Detective Vazquez and Karpowicz were
16 collecting their own amount.

17 Q Okay. How many people were in doing this search?

18 A Four, including myself.

19 Q So each was gathering stuff?

20 A Yes.

21 Q Okay. Where was the window in this?

22 A Right above that. It appears to be a table, that
23 rectangle.

24 Q This is the window (indicating)?

25 A Yes. I believe I put slash marks to indicate the

1 window.

2 Q And this is where the computer screen and so forth
3 was (indicating)?

4 A Yes.

5 Q Where was that stuffed eagle that you had
6 mentioned?

7 A That was on a shelving unit that contained a
8 stereo on the north wall of the last bedroom,
9 right about there.

10 Q Just for sake of variety --

11 A Almost overlooking the cot, so it would be
12 alongside the cot.

13 Q Here (indicating)?

14 A Yes.

15 Q Eagle?

16 A Uh-huh.

17 Q And the knife, that was found where?

18 A On the kitchen table.

19 Q Which is (indicating)?

20 A Yes.

21 Q And the knife --

22 A It was in the jar of peanut butter.

23 Q Okay. Where was the camera found?

24 A In a drawer of a cupboard that was between the
25 stove and the refrigerator, there's a square.

1 Q Here (indicating)?
2 A Yes.
3 Q Camera?
4 A Uh-huh.
5 Q And what kind of camera was that?
6 A I believe it was a Minolta 35 millimeter camera.
7 Q Now, I know that you only did a limited search.
8 Did you run across a Polaroid camera in the
9 apartment?
10 A I do not remember seeing a Polaroid camera there.
11 Q Did you collect any Polaroid photos?
12 A No.
13 Q You mentioned that you collected the bedding from
14 this (indicating)?
15 A Yes, from the cot.
16 Q And that consisted of what?
17 A It was another comforter, a blanket, pillowcase,
18 may have been a sheet, also, on it.
19 Q And absent the excising of certain swatches, it is
20 now in the same condition that it was when you
21 found it?
22 A Yes.
23 Q Did you happen to get photographs of the entire
24 room here?
25 A Yes.

1 Q Do you recall what was on any of these walls?
2 A On the walls? Not without looking at my
3 photographs.
4 Q Okay. If you can identify the picture number and
5 then its location, I would appreciate it.
6 A These pictures do not show that wall.
7 Q Which wall are we talking about?
8 A The east and the south walls.
9 Q I'm sorry?
10 A The east wall and the south wall.
11 Q No pictures were taken of this wall (indicating)?
12 A No, they were not enlarged for this case. I
13 should have them in my file here.
14 Q Okay, if you want to take a moment to look, I'd
15 appreciate it.
16 A All of the photos have been signed out by the
17 detectives, so they would have them in custody.
18 Q Okay.
19 A I have the negatives, but that's not going to help
20 a whole lot.
21 Q What you're saying is that either
22 Detective Vazquez or --
23 A Right.
24 Q Would have those photos?
25 A Yes.

1 Q Okay, we'll come back to that when she's back.

2 When you were trying to take out the or
3 develop the film for this camera, did you
4 personally try to develop it or are you a
5 technician who develops film?

6 A No.

7 Q Did you, did you see the negatives of the film?

8 A Yes.

9 Q Do you have those there with you?

10 A They're with Mr. Bramble. There's another set.
11 The other half of the roll is also there in a
12 plastic case.

13 Q And this is where it was caught (indicating), or
14 what happened here?

15 A When my partner removed the film from the camera,
16 I assume it tore at that point. I wasn't in the
17 dark room when he removed the film, but that's the
18 way it came back from the lab.

19 Q There's no corresponding part to this, is there?

20 A No, there isn't.

21 Q Does that mean that this is the end of the roll?

22 A No, because if you look at the numbers, I believe
23 it's number ten or eleven, so that's about the mid
24 point of the roll.

25 Q Okay, and this exposed portion ends at -- maybe

1 you can help me.

2 A At 36. This is the unexposed portion

3 (indicating) --

4 Q Well, if this is --

5 A -- because it's clear.

6 Q If this is 36, is this the end of the roll?

7 A That's the end.

8 Q Okay, so there were no pictures here?

9 A There were none taken on the second half of the

10 roll.

11 Q Okay. What was the condition of that apartment?

12 Was it a fairly well kept place or was it kind of

13 messy?

14 A It was full of items. It was not dirty at all

15 that I remember, fairly clean, but --

16 Q When you say "full of items," that means it was a

17 chuck load of stuff?

18 A There was a lot of stuff, especially in the living

19 room, boxes, electronic equipment heaped up on the

20 table. The computer desk was full of disks and

21 computer parts.

22 Q Did anyone get -- where's the refrigerator?

23 A Right there (indicating).

24 Q Did anyone take the jelly that was out of that

25 refrigerator for processing?

1 A I did not personally. I'm not sure if anybody
2 else collected it.

3 Q I can't think of anything else I have to ask you.
4 Thank you.

5 THE COURT: Anything more, Mr. Bramble?

6 MR. BRAMBLE: Yes, your Honor, real
7 briefly.

8 **REDIRECT EXAMINATION**

9 **BY MR. BRAMBLE:**

10 Q You indicated there was a lot of stuff?

11 A Yes.

12 Q A lot of lingerie?

13 A Yes.

14 Q Many computer disks, I believe you just said?

15 A Yes, many.

16 MR. BRAMBLE: For the record, I believe
17 Exhibits 1 through 28 have been admitted from both
18 juries, your Honor?

19 THE COURT: Yes.

20 MR. BRAMBLE: Okay.

21 **BY MR. BRAMBLE:**

22 Q I'm going to show you what's marked Exhibit 16.

23 You've identified that once before, I believe?

24 A Yes. Exhibit 16 shows the area north of the
25 mattress, in the living room.

1 Q Okay. Are those some of the boxes that you're
2 referring to?

3 A Yes, this is one box that I collected that
4 contained lingerie.

5 Q Okay. I'd ask you to focus your attention to
6 what's sitting right next to that. Can you
7 describe that?

8 A Yes, it appears to be another camera.

9 Q Okay, a different camera or the same camera?

10 A Different than that one.

11 Q Different from that one. By "that one," you
12 mean 24?

13 A It's a different, yes, different size camera.

14 Q Briefly, I want you to look at exhibit --

15 MR. BRAMBLE: Excuse me, that would be
16 30 and 31. That would be 30 you're holding.

17 (People's Exhibits 30 and 31 were marked
18 for identification by the Court Reporter)

19 A Exhibit 30 is plastic cups containing cosmetics.

20 **BY MR. BRAMBLE:**

21 Q It also contains what else besides that, that you
22 pulled out besides the cups?

23 A Lipsticks, eye pencils, nail polish.

24 Q Okay. These were seized pursuant to the search
25 warrant?

1 A Yes. I'm not the one that collected these.

2 Q Okay. I'll show you what's marked 31, then.

3 A Exhibit 31 is the contents of the bathroom
4 wastebasket.

5 Q Did you seize that?

6 A Yes, I did.

7 Q Okay.

8 A Do I open it?

9 Q Please open it and describe the contents seized.

10 A There's several tissues, white tissues with
11 various colored stains, pink, kind of an amber,
12 brownish.

13 Q Where did you seize these items from?

14 A I collected these from the bathroom wastebasket.
15 This one has a darker black smudge on it with
16 pink. There's about five tissues in here, and a
17 toilet paper roll.

18 Q Okay. This claim that all the film in this
19 particular camera was destroyed, is that accurate?

20 A No, not all the film.

21 Q In fact, it was developed?

22 A Yes, we developed the roll of film.

23 Q I'll show you some items here, and I just want to
24 make clear that these were the items that were
25 developed.

1 A Yes, these photographs were what were recovered
2 from the roll of film that was in the 35
3 millimeter camera.

4 Q Okay, and what do the photographs depict, please?

5 A There's photographs of Mr. Turner, Mr. Daniel
6 Turner and Mr. Stephen Turner dressed as women at
7 a Mary Kay convention.

8 Q I'm not going to introduce all the photographs,
9 but does 32 represent --

10 (People's Exhibit 32 was marked for
11 identification by the Court Reporter)

12 A Exhibit 32 shows Mr. Stephen Turner and Mr. Daniel
13 Turner dressed with make-up on and women's
14 clothing.

15 Q Just so I'm clear, the representation early on
16 that all of this film was destroyed, in fact, this
17 is what you came up with from that camera?

18 A That's right.

19 MR. BRAMBLE: Nothing further.

20 THE COURT: Anything more, Mr. Mirque?

21 MR. MIRQUE: Yes, your Honor.

22 **RE-CROSS-EXAMINATION**

23 **BY MR. MIRQUE:**

24 Q Miss Curtiss, is what you are saying this item
25 here to be a camera?

1 A It appears to be a camera.

2 Q Can you make out the lettering that that camera
3 has on that lens?

4 A The only thing I can make out is "flash" on the
5 clear part. Can't tell the brand name.

6 Q Does it say flashlight?

7 A Yes, it appears that way. Without a magnifying
8 glass it's difficult to see that part. But I see
9 "flash" clearly.

10 Q Now, if it says flashlight on it --

11 MR. BRAMBLE: I guess I'm going to
12 object here. We're eliciting facts that simply
13 aren't in evidence.

14 MR. MIRQUE: This is in evidence.

15 MR. BRAMBLE: Your interpretation is
16 not.

17 MR. MIRQUE: I'm just asking her what
18 she can read.

19 MR. BRAMBLE: She says it says "flash."

20 **BY MR. MIRQUE:**

21 Q Can you make out the lettering underneath the word
22 "flash"?

23 A It appears to be "flashlight." I cannot tell
24 clearly, though.

25 Q Is it possible that that was an alarm clock?

1 A That's possible. I don't know.

2 Q Did you collect that item, or article?

3 A No, I did not.

4 Q Do you know if anybody happened to collect that
5 article?

6 A No, I do not know what other people collected.

7 Q Do you have a list of property that was received
8 and taken into the property management room?

9 A All of the property?

10 Q Yes.

11 A No, I do not.

12 Q Thank you.

13 THE COURT: Any more, Mr. Bramble?

14 MR. BRAMBLE: No, thank you, your Honor.

15 THE COURT: All right.

16 Ladies and gentlemen, let us switch
17 juries. If you'd go back to your jury room, we'll
18 get the other jury in. I'll let you know in a few
19 minutes about an afternoon break.

20 (At about 2:44 p.m. - The Daniel Turner
21 jury left the courtroom)

22 MR. MIRQUE: Your Honor, I would like
23 this admitted into evidence as Defendant's
24 Proposed Exhibit 29.

25 THE COURT: Which is what?

1 MR. MIRQUE: An overlay of the
2 apartment.

3 MR. BRAMBLE: It has to be kind of
4 admitted in conjunction with Exhibit 13 so that we
5 know it's an overlay. It's a clear overlay of 13,
6 and there are some markings that defense counsel
7 put on there in response to a question to
8 Technician Karen Curtiss.

9 THE COURT: Do you have any objection to
10 Exhibit 13, Mr. Mirque?

11 MR. MIRQUE: No, none whatsoever.

12 THE COURT: Okay, then 13 will be
13 admitted with its overlay.

14 MR. BRAMBLE: Thank you, your Honor.

15 MR. MIRQUE: Thank you, your Honor.

16 (At about 3:18 p.m. - The Stephen Turner
17 jury returned to the courtroom)

18 THE COURT: Miss Krause, you may
19 proceed.

20 MS. KRAUSE: Thank you, your Honor.

21 **CROSS-EXAMINATION**

22 **BY MS. KRAUSE:**

23 Q Good afternoon, Miss Curtiss.

24 A Good afternoon.

25 Q It's my understanding, Miss Curtiss, that you're

1 trained to gather evidence?

2 A Yes.

3 Q And if you gather evidence, you must also be

4 trained in how to store it?

5 A Yes.

6 Q And preserve it?

7 A Yes.

8 Q When you arrive at a crime scene, you will be

9 briefed by the officers on the scene?

10 A Yes.

11 Q You will also be briefed by the detectives who

12 show up?

13 A Yes.

14 Q In fact, do you answer to the police officers who

15 are on the scene?

16 A Yes, I do. They direct my search.

17 Q You must follow their direction?

18 A Yes, I do.

19 Q In this particular case, I think you told us that

20 Detective Vazquez was there?

21 A Yes.

22 Q I think you also told us that Detective Karpowicz

23 was there?

24 A That's right.

25 Q Both of them were giving you directions as to

1 which evidence to collect?

2 A Yes.

3 Q Right?

4 A Uh-huh.

5 Q Based on that, you collected what they told you
6 to?

7 A Yes.

8 Q Miss Curtiss, did you collect any evidence other
9 than what they told you to collect?

10 A No.

11 Q Now, earlier this morning you told us about many
12 items that you removed from the apartment at the
13 Oak Ridge (sic) apartment building?

14 A Yes.

15 Q Now, one of the things you told us you saw was a
16 jar of peanut butter, right?

17 A Yes.

18 Q You did not actually seize the jar of peanut
19 butter?

20 A That's right.

21 Q Now, you also told us that you photographed inside
22 of the refrigerator?

23 A Yes.

24 Q Those items that were in the refrigerator were not
25 removed from the apartment, were they?

1 A Not by myself. I am not sure if anybody else
2 collected.

3 Q So as you're sitting here today you have no
4 personal knowledge about the items inside the
5 refrigerator?

6 A As being collected.

7 Q As being removed from the house?

8 A Right.

9 Q All right. You work here in the building, don't
10 you?

11 A I work out of the building, essentially. I'm
12 dispatched from the building.

13 Q Sure. When you go to a crime scene, that's
14 obviously going to take you elsewhere?

15 A Yes.

16 Q But you have an office here in the building?

17 A Yes.

18 Q In your office, Miss Curtiss, is there a method
19 for storing evidence that is potentially
20 perishable?

21 A Yes, we have a refrigerator.

22 Q All right, let's talk about the peanut butter.
23 Now, first of all, I'm showing you actually what's
24 two exhibits here.

25 We have a diagram which is a scaled

1 version of a sketch you made?

2 A That's right.

3 Q And that was People's Exhibit Number 13.

4 A Yes.

5 Q Now, as you can see, there's an overlay, and I've
6 marked that as Defense Proposed Exhibit
7 Number 32.

8 A Yes.

9 Q You can see that. All right, now, the peanut
10 butter was found in the kitchen, correct?

11 A Yes.

12 Q It was found on the table?

13 A That's right.

14 Q And you have on your diagram, for the record,
15 marked a table that's directly opposite the
16 kitchen area?

17 A That's right.

18 Q Was the peanut butter in the middle of the table
19 or on one of the sides?

20 A Approximate center. If I had to pick a side, it
21 would be the north side of the table.

22 Q Here (indicating)?

23 A Yeah, maybe, right above the word "table."

24 MS. KRAUSE: For the record, I am
25 marking -- I should say I'm drawing what appears

1 to be a can. That's why I'm not an artist. Okay,
2 and next to that I'm going to mark the letters
3 "PB," for peanut butter.

4 A Sure.

5 **BY MS. KRAUSE:**

6 Q And that's approximately where you found the jar
7 of peanut butter?

8 A Yes.

9 Q I believe you told us inside the jar of peanut
10 butter was a knife?

11 A That's right.

12 Q That knife was a butter knife?

13 A Yes.

14 MS. KRAUSE: For the record, I'm drawing
15 a line inside of the can I've just drawn and
16 marking it "K," for knife.

17 **BY MS. KRAUSE:**

18 Q And we've seen that knife here in the courtroom
19 here today, haven't we?

20 A Yes.

21 Q And I believe as you were taking it out of the
22 bag, the evidence bag that it was in, you
23 commented that there was still peanut butter on
24 it?

25 A Yes. I did not remove it from the bag. I looked

1 inside, so I'm not sure if the jury saw it.

2 Q But there was some crusted peanut butter on there?

3 A There was old peanut butter on the knife.

4 Q There was no jelly on the knife, was there?

5 A I did not look for jelly. I cannot say that for
6 sure.

7 Q For the record, you are looking at People's
8 Exhibit Number 21.

9 A It does not appear to have anything other than
10 peanut butter on it.

11 Q Thank you, Miss Curtiss. Now, the table that
12 we've just talked about where you found the peanut
13 butter and the knife --

14 A Yes.

15 Q -- there were no jars of jelly on the table, were
16 there?

17 A No.

18 Q Okay. Miss Curtiss, did you retrieve -- first of
19 all, let me ask you, did you observe a Polaroid
20 camera in the living room?

21 A I did not.

22 Q Did you retrieve, then, a Polaroid camera from the
23 living room?

24 A No.

25 Q All right. For the record, I'm marking in the

1 living room the letters "CP" for camera Polaroid,
2 and also in the record there is a legend on my
3 proposed exhibit outlining my demarcations, and
4 there was no Polaroid camera in the living room?
5 A Not that I noticed.
6 Q All right. In the kitchen, did you retrieve a
7 Polaroid camera?
8 A No.
9 Q In the bathroom did you retrieve a Polaroid
10 camera?
11 A No.
12 Q And in the back bedroom did you retrieve a
13 Polaroid camera?
14 A No.
15 Q All right. Let's go through the rooms again. In
16 the living room, did you retrieve any Polaroid
17 photographs?
18 A No.
19 Q For the record, I'm using the letter "P" to mark
20 photo. Kitchen?
21 A No.
22 Q Bathroom?
23 A No.
24 Q Back bedroom?
25 A No.

1 Q And while we're referring to the back bedroom,
2 there was a cot in the back bedroom, correct?

3 A Yes.

4 Q The cot had a red and blue quilt on it?

5 A Yes.

6 Q For the record, I have marked on my overlay, or
7 I've outlined on the cot in red with blue lines to
8 mark the red and blue quilt, is that fair?

9 A Yes.

10 Q From the living room did you retrieve a shirt with
11 a jelly stain on it?

12 A I retrieved a white shirt from the living room
13 which had some stains on it, and I did not test
14 any of them to tell what was the stain.

15 Q Could you tell from observing it whether it was a
16 jelly stain?

17 A It appeared to be more of a brownish stain, so
18 assuming jelly is red, I can't say for sure what
19 it was.

20 Q All right. We'll put a "S" here, for shirt, and
21 I'll put a question mark by it, okay?

22 A Sure.

23 Q In the kitchen did you retrieve a shirt that had a
24 jelly stain on it?

25 A No.

1 Q For the record, I'm using the letter "S."
2 Bathroom, did you retrieve a shirt with jelly
3 stain on it?

4 A No.

5 Q And again, the back bedroom, did you retrieve a
6 shirt with a jelly stain on it?

7 A No.

8 MS. KRAUSE: I have no further questions
9 for Mrs. Curtiss.

10 THE COURT: Anything more, Mr. Bramble?

11 **REDIRECT EXAMINATION**

12 **BY MR. BRAMBLE:**

13 Q Exhibits 30 and 31, you identified these once
14 before. Briefly, do it for this jury.

15 A Exhibit 30 is two plastic cups that contain
16 cosmetics, eye pencils, lip gloss, lipstick, and
17 nail polish.

18 Exhibit 31 is the contents that I
19 collected from the bathroom trash basket. There
20 are about five tissues in here that have stains of
21 pink, maybe a light brown and a darker black or
22 gray, and a toilet paper roll.

23 Q You indicated you seized a shirt on
24 cross-examination.

25 A Yes.

1 Q And you said that shirt had some coloration on it,
2 some --

3 A It had some stains on it.

4 Q I'm going to ask you, is this a swatch or a
5 cutting from that shirt, as well as you can tell
6 (indicating)?

7 A Without matching it to the shirt, I can't tell.
8 It was a white shirt and it was knit. The fabric
9 appears to be the same, so I would say it's from
10 that shirt.

11 Q Those are the stains you're referring to,
12 including whatever that stuff is that's raised on
13 there?

14 A Yes.

15 Q Okay. Finally, what's marked People's Proposed
16 Exhibit 33, if you could quickly look at that and
17 identify it?

18 A Exhibit 33 is the multicolored patchwork comforter
19 that I collected from the full-size mattress in
20 the living room.

21 Q The camera you did seize, you were able to develop
22 the photographs from that?

23 A Yes.

24 Q And I believe you've testified but for one frame
25 that was destroyed or somehow ripped upon removal

1 of the jammed film?

2 A Right.

3 Q Okay.

4 MR. BRAMBLE: I have nothing further.

5 THE COURT: Anything more, Miss Krause?

6 **RE-CROSS-EXAMINATION**

7 **BY MS. KRAUSE:**

8 Q For the record, that camera you're referring to is
9 a 35 millimeter camera, is it not?

10 A Yes, it is.

11 Q Thank you.

12 MS. KRAUSE: No further questions.

13 MR. BRAMBLE: I have nothing further.

14 THE COURT: Ma'am, you may step down.

15 THE WITNESS: May I be excused?

16 THE COURT: Yes.

17 THE WITNESS: Thank you.

18 THE COURT: Mr. Bramble, do you have
19 your next witness available?

20 MR. BRAMBLE: Yes, your Honor.

21 THE COURT: Ladies and gentlemen, I was
22 asked I think by one of you what were these
23 computers in the courtroom, and I told the other
24 jury, so I'll tell you.

25 This is an experimental courtroom set up

1 by the Court Reporter's Association of Michigan,
2 if that's the correct title.

3 Those computers are connected to
4 Miss Russo's stenographic machine. They have what
5 I understand is called a dictionary in them, which
6 enables them to understand what appear to you and
7 me to be squiggles on a piece of paper that she's
8 putting down here to record what's said.

9 What the computer then does is translate
10 those into a close-to-instantaneous printout on
11 the computer screens as to what she's taking down.

12 It's not completely accurate, because,
13 frankly, it's impossible to write a dictionary
14 that anticipates every possible word that is said
15 here in terms of names and then other things. She
16 would have to fill those in.

17 But the lawyers do have available to
18 them and I will, too, if I were using it, I just
19 happen to have the machine turned off, a
20 transcript which is maybe eighty percent complete
21 and accurate.

22 If any reason develops why it needs to
23 be finalized, then Ms. Russo will do that. That
24 does not alter the admonition I gave you at the
25 beginning of the trial, which is don't rely on the

1 availability of the transcript to not listen that
2 carefully.

3 Obviously, as I said, if you need one
4 we'll get you one. To the extent that Miss Russo
5 is the stenographer, it will go a little faster
6 than it normally will, but there's a fair amount
7 of clean-up that is done before a final version
8 that is considered certifiably accurate by her
9 that can be presented.

10 It's not a computer that does anything
11 else. Frankly, before the year is out, we do
12 expect that every judge and every clerk will have
13 computer terminals right on the bench, one right
14 here in the corner and one down there that will
15 enable the doing of a lot of things that right now
16 have to be done in the office, that can be done as
17 proceedings are going on as they need them.

18 They will tie in all kinds of different
19 data banks we have, friend of the Court, police
20 department, probation department, Social
21 Security. We'll have all kinds of things.

22 We'll see if we can get the next jury in
23 and bring up our next witness.

24 (At about 3:37 p.m. - The Daniel Turner
25 jury returned to the courtroom)

1 THE COURT: Your next witness,
2 Mr. Bramble?

3 MR. BRAMBLE: Thank you, your Honor.
4 The State would call Robert Birr.

5 ROBERT BIRR,
6 called by the People at 3:37 p.m. and sworn by the
7 Court, testified:

8 DIRECT EXAMINATION

9 BY MR. BRAMBLE:

10 Q Mr. Birr, you're employed?

11 A Yes, I am.

12 Q Where are you employed?

13 A I'm employed presently at the Michigan State
14 Police Regional Crime Laboratory here in Grand
15 Rapids, Michigan.

16 Q And what are your duties and responsibilities
17 there?

18 A I'm assigned to the microchem trace unit at the
19 laboratory, which the primary responsibility is in
20 the area of trace evidence, which can include just
21 about anything from explosive residues, hairs,
22 fibers, and examination in arson cases.

23 I'm also assigned to the serology unit,
24 where I examine stains, suspected stains for
25 biological fluids, the identification of stains as

1 far as species is concerned, whether it's human or
2 animal, and subsequent typing of those stains.

3 Q And you've had some -- could you describe for the
4 jury your educational background?

5 A I have a Bachelor of Science degree from Michigan
6 State University through the school of criminal
7 justice, which I obtained in 1972. The criminal
8 justice program at Michigan State has a degree
9 program or background program in forensic science
10 and criminalistics which I'm present working.

11 Basically, it's the application of
12 physical sciences to the examination of
13 evidentiary-type material, physical science being
14 chemistry, math, physicians, physiology,
15 microbiology, just about any of the major science
16 groups that you would find at the university
17 level.

18 Q While being employed with the Michigan Department
19 of State Police in the forensic science division,
20 have you also attended training seminars of this
21 nature?

22 A Yes, I have.

23 Q And what would they consist of?

24 A I'm a member of an organization called the
25 Midwestern Association of Forensic Scientists,

1 have been a member since 1972, and during the
2 course of my employment, both with -- I was
3 employed with the Michigan Department of Public
4 Health in Lansing, through the office of crime
5 detection.

6 I was employed with them until 1977,
7 when the offices were merged under the Department
8 of State Police.

9 Since 1977 I have been solely employed
10 by the Department of State Police under their
11 office.

12 During the course of both my employment
13 with the Michigan Department of Public Health, as
14 well as the Michigan Department of State Police,
15 I've had the opportunity of attending several
16 schools and seminars, workshops, at the university
17 level through the professional level, as far as
18 the Midwestern Association of Forensic
19 Scientists.

20 I belong to the American Academy of
21 Forensic Scientists, as well as other programs and
22 organizations that involve themselves in the type
23 of work that I'm working in.

24 Q Mr. Birr, do you do work -- you work for the State
25 and I think you do work for the State Police?

1 A Yes, I do.

2 Q Do you also apply your expertise for other police
3 agencies throughout the county?

4 A Yes. The Regional Crime Laboratory system in the
5 State of Michigan is -- basically, we have seven
6 regional crime laboratories, and the concept of,
7 the regional crime laboratory concept is to
8 provide forensic services for a specific region of
9 the State of Michigan.

10 I started out at the regional lab system
11 in Lansing. From there I went to Bridgeport,
12 which is just outside of Saginaw, and then I was,
13 in 1985 I was transferred here to Grand Rapids.

14 Basically, we supply services for all
15 the police agencies, be it local, county, state,
16 federal level throughout the State of Michigan.

17 Q And how does this work, they submit evidence to
18 you?

19 A Yes. They, the agencies would come to the
20 laboratory with the evidence that they collected
21 at a specific crime, submit it through the
22 laboratory with a specific request, such as it may
23 be -- in the case of an assault or homicide or
24 rape case, they may request serological evidence,
25 or serological examinations.

1 In the case of arson cases, they would
2 request that the fire be examined for
3 accelerants. There may be fingerprint evidence,
4 firearms evidence, and at the time that they bring
5 their evidence to the laboratory, they request a
6 specific type of analysis to be conducted.

7 It is then assigned to that specific
8 unit and subsequently gets into the hands of the
9 analyst who would do that specific job.

10 Q I'm going to show you what's been marked People's
11 Proposed -- or Exhibit 22, and I believe your
12 numbering system calls it 26.

13 A This exhibit, is it a proposed exhibit?

14 Q No, it is Exhibit 22.

15 A Exhibit Number 22 is a brown paper bag. Again, as
16 the prosecutor pointed out, that has an item
17 number that was assigned to this specific item by
18 the analyst who analyzed this item, item
19 number 26.

20 This corresponds with an item number one
21 found in a subsequent report that was generated
22 from the examination of this item.

23 Q And what is the contents of 26?

24 A The Exhibit Number 26 contains samples of tissue
25 paper, what I would identify as tissue paper,

1 Kleenex or toilet tissue.

2 Q Okay. For purpose of the trial, that's
3 Exhibit 22. However, it's your Number 26.

4 And Proposed Exhibit 31, which I believe
5 in your numbering system is 27, could you identify
6 the contents of that?

7 A Exhibit Number 31 is again another brown paper
8 bag. On the exterior portion of the bag it has
9 the corresponding laboratory number which
10 identifies a specific case, the date at which it
11 was received, and who handled the specific item.

12 There's also some additional information
13 as far as -- that was placed on there at some
14 time. It says bathroom trash.

15 Contained within the brown paper bag is
16 a cardboard cylinder for toilet tissue and several
17 items of tissue paper, some of them supporting
18 what appear to be cosmetic stains.

19 (People's Exhibits 33, 34, and 35 were
20 marked for identification by the Court Reporter)

21 **BY MR. BRAMBLE:**

22 Q I'm showing you what is marked Proposed Exhibit
23 34. Do you recognize that item?

24 A This is a proposed exhibit?

25 Q Correct.

1 A People's Proposed Exhibit Number 34 is a small
2 manila envelope. On the exterior of the manila
3 envelope it has the corresponding case number
4 which refers to the specific case in the lab, an
5 item number, and it's got a description,
6 pillowcase, date and name and initials.

7 Contained within this exhibit is a
8 swatch of fabric -- actually, there's more than
9 one, swatches of fabric, and on the examination of
10 these swatches there appears to be some staining
11 which were compared later on with some cosmetic,
12 items of cosmetic --

13 MS. KRAUSE: Excuse me. For the record,
14 what is the lab's assigned number to the piece of
15 evidence we're talking about?

16 THE WITNESS: It was removed from the
17 pillowcase, our Laboratory Number 37.

18 MS. KRAUSE: Thank you.

19 **BY MR. BRAMBLE:**

20 Q And I'm going to show you the item that's been
21 removed from Exhibit 25, the bag that's marked
22 Exhibit 25.

23 Would that item you've just identified
24 as People's Proposed Exhibit 34, would that --

25 A Yes, they correspond -- on the corner of the

1 pillowcase is a tag, an evidence tag, and on that
2 evidence tag there is a corresponding item number
3 which corresponds to the item number found on the
4 manila envelope handed to me previously.

5 Q I show you what's marked Proposed Exhibit 35. Do
6 you recognize that item?

7 A People's Proposed Exhibit 35 is a manila
8 envelope. On the exterior of the envelope it says
9 Number 45, shirt, date and time in which the item
10 had come in contact, and the analyst who it came
11 in contact with.

12 Contained within the manila envelope is
13 a swatch of material, again that's supporting
14 apparent cosmetic stains.

15 Q I'm showing you what's been removed from a bag
16 that is marked People's Exhibit 26, and would the
17 swatch or clothing material you described in 35
18 have come from that item?

19 A Again, on the evidence tag it has the
20 corresponding Item Number 45, and it would be a
21 portion of this garment that had been removed and
22 placed in that small manila envelope.

23 Q I show you what's marked Proposed Exhibit 30.
24 This goes with it.

25 A Exhibit 30 is a brown paper bag contained within

1 the -- excuse me, to back up, it has our
2 corresponding lab number on it. It also has Item
3 Number 41, which you will find referred to in our
4 reports.

5 Contained within the brown paper bag are
6 two plastic drinking cups, and contained within
7 the drinking cups were various items of cosmetics,
8 fingernail polish, lipstick, eye liner, et cetera.

9 Also, there was one specific lipstick
10 that I looked at. There was actually four
11 different colors, three or four different colors
12 that were contained, and one was this dark, this
13 dark red lipstick which I utilized in my
14 examination in comparison with the stains found on
15 the items that were previously described.

16 Q I show you what's marked -- or it's not marked.
17 Your number is 45.

18 A This is a cardboard slide holder. It was prepared
19 by the analyst at the laboratory. Contained on,
20 first on the exterior of the slide holder is the
21 case number, the item number which the sample was
22 prepared from, date and time, and the analyst's
23 initials.

24 Contained within the slide holder is
25 actually glass slides, and on the surface of these

1 glass slides are stain smears or samples.

2 These were samples that were prepared
3 from stains that were found on Item Number 45.
4 The samples of these stained areas were placed on
5 these slides and then fixed, and then we use a
6 Christmas tree staining process for the purpose of
7 identifying sperm cells in our process
8 examination.

9 (People's Exhibit 36 was marked for
10 identification by the Court Reporter)

11 **BY MR. BRAMBLE:**

12 Q Armed with the swatches that came from here and
13 the other shirt, did you begin to do an analysis
14 or a comparison of the stains both found on the
15 tissues and the facial make-up?

16 A Yes, I did.

17 Q How do you do that, please?

18 A The initial examination was conducted on a shirt
19 that had two stains, or some stains on it. I
20 examined them visually and microscopically, and at
21 the completion of the microscopic examination I
22 tried to do some elemental examination on the
23 specific stained areas.

24 The elemental examination basically came
25 back inconclusive because of the lack of

1 sufficient amount of material within the surface
2 of these, found within these stained portions of
3 this particular item.

4 I then basically backed up from there,
5 and on a later date was submitted known samples
6 of -- basically, it was submitted samples in my
7 Item Number 41, Exhibit Number 30, the contents of
8 Number 30.

9 I then removed the contents of Number
10 30, and then attempted to duplicate the stains
11 from the various items that were obtained within
12 those items, within that specific item, the
13 lipstick, eye liner, the fingernail polish,
14 et cetera, and based on the appearance and
15 consistency of the stain, I narrowed it down to
16 the lipstick.

17 And with further examination of the
18 various lipsticks that were submitted, I was able
19 to come up with this one specific lipstick, as far
20 as showing similarity in color and appearance to
21 the stains that I found on the pillowcase and the
22 other -- the tissue and the shirt that was
23 submitted to me.

24 Q Okay. So I'm clear, you were able to, as best you
25 could, match that up with what's marked People's

1 Exhibit Number 34, the swatch or article taken
2 from the pillowcase?

3 A Yes.

4 Q And, in addition, also, were you able to do a
5 comparison and match up the stains taken from the
6 shirt that's been marked as People's Exhibit
7 Number 26, and draw a match there to that
8 lipstick, as well?

9 A The stains I found on Item Number 26 I found to be
10 very light and to the point where I did not have
11 any degree of confidence as far as making that
12 identification.

13 On the other items, I was able to
14 comfortably make the identification and
15 comparison. This is both with the naked eye, as
16 well as using a microscope. There's just not
17 enough stain on there to be able to do a good
18 comparison.

19 Q Was there some other material -- and I'm referring
20 to that (indicating). Were you asked to do some
21 further analysis of this material?

22 A This item here (indicating), I primarily just
23 focused on the cosmetic stains.

24 Yes, there is what appears to be another
25 stain on there. This was not examined any further

1 by myself, mainly because I had nothing to compare
2 it with.

3 Q Okay. I'm showing you Exhibit 7. Is there a tag
4 or marking on that item that shows your numbering
5 system?

6 A The tag found in the lower portion of the shirt is
7 identified as Item Number 8.

8 This particular item or garment was
9 examined in the laboratory, and there was a stain
10 found in the collar portion of the garment, and
11 this was removed. This portion of the stain was
12 examined by myself and compared with the evidence
13 submitted to me.

14 Q And what did that portion of the collar reveal?

15 A There was actually two light stains found on that
16 particular garment. One was, I found to be
17 consistent in appearance, again, to the lipstick.

18 There was a second stain that I first
19 examined, again, microscopically. It had a
20 reddish transparent, or translucent reddish
21 appearance to it. It was soft in consistency, and
22 I removed a small portion of it, found it to be
23 water soluble, and did some further testing and
24 got an indication of sugar.

25 Based on the consistency, appearance,

1 and the presence of sugar, I concluded that it
2 appeared to be some type of jelly or jam material.
3 Q Again, that was found on that same swatch or that
4 same portion of Exhibit 7?
5 A Yes.
6 Q Now, a number of other items were submitted to the
7 lab, as well?
8 A Yes, there was.
9 Q And what's marked as Exhibit 27?
10 A Yes, this was submitted to the laboratory.
11 Q And was an analysis done on that?
12 A Yes, there was.
13 Q And what type of analysis?
14 A The examination of this particular garment was for
15 the presence of seminal, what I'll refer to as
16 seminal stains, done by a couple of different
17 methods.
18 Q And what are those methods?
19 A The first one is using what is referred to as an
20 alternate light source which in our laboratory is
21 called a poly light.
22 This allows us to use the blanket using
23 different types of filters, and usually, or on
24 most occasions stains that are foreign to a
25 particular garment will fluoresce and show up

1 under this alternate light source.

2 These stains are then circled and later
3 examined, first using a spot test technique,
4 looking for a specific enzyme that is found in
5 seminal fluid, and then a sample of that stained
6 area is then removed and extracted with water and
7 then placed on a slide and stained in a similar
8 fashion as I described earlier for the examination
9 of human sperm cells.

10 Q And what did the results of that type of testing
11 reveal, please?

12 A There was stains that were found to be on this
13 blanket, actually, is what it is, and the
14 examination of those stains did show the presence
15 of acid phosphatase, which is the enzyme found in
16 seminal fluid, as well as the presence of sperm
17 cells.

18 Q Just so they're able to follow, that's Number 54,
19 by your numbering system?

20 A Yes, it is. It's people's Exhibit Number 27.

21 Q I'm showing you what's marked Proposed Exhibit
22 Number 33.

23 A People's Proposed Exhibit Number 33 was also
24 submitted to the laboratory. It's a clear plastic
25 bag containing a brown paper bag, and inside the

1 brown paper bag, which on our report would be
2 Exhibit Number 53, it's your People's Proposed
3 Exhibit Number 33, contained within this brown
4 paper bag is a sleeping bag.

5 This was examined in a similar fashion
6 as the previous item, the blanket that I testified
7 to.

8 Q And was this same testing procedure performed on
9 this item as was on the aqua, or pale-green
10 blanket?

11 A Yes, it was. It was examined with the poly light,
12 and then stains were identified using the poly
13 light.

14 Again, they were then followed up with
15 using the spot testing technique looking for the
16 enzyme found in seminal fluid, and the extraction
17 of these stains and the identification of sperm
18 cells.

19 Q What's the difference between finding both seminal
20 stains and actually sperm cells?

21 A Well, seminal stains actually is the composition
22 of multicomponents, and the finding of the acid
23 phosphatase is basically as an indicative type of
24 typing method for the presence of seminal fluid or
25 sperm, seminal stains.

1 The follow-up and extraction of those
2 stains in identifying the actual sperm cells is a
3 confirmation of the fact that the stain we are
4 looking at is indeed a seminal stain.

5 (People's Exhibit 37 was marked for
6 identification by the Court Reporter)

7 **BY MR. BRAMBLE:**

8 Q Showing you what's marked as Exhibit 37, is that
9 the item of material that was cut from what you
10 referred to as Item 8 in your report, and what we
11 have as People's Exhibit 7?

12 A Yes, it is.

13 Q Is that the item on which you identified lipstick
14 stains and also the jelly stains?

15 A Yes, I did.

16 Q I show you what's marked as People's Exhibit 8.
17 That I believe also has a corresponding State
18 Crime Lab number, I believe it's 31?

19 A Yes, it does.

20 Q Okay.

21 A The brown paper bag is identified as our, as you
22 said, our Item Number 31. It's People's Exhibit
23 Number 8.

24 The identification is white panties from
25 bathroom contained within this bag. It is a pair

1 of white panties.

2 Q Is that an examination like the one performed on
3 the mattress, or on the aqua blanket and the
4 multicolored blanket? Was that also performed on
5 that?

6 A Yes, it was.

7 Q Okay. The results there?

8 A Let me refer to the report.

9 Q That would assist or refresh your memory, I trust?

10 A Yes, it would. The indication in the report is
11 that there was no seminal stains found on this
12 particular garment.

13 Q Now, Mr. Birr, I refer to your report. There were
14 a few other items, specifically items of lingerie
15 that were submitted?

16 A Yes.

17 Q 43, 44, 46, 47, and 48, I believe, in your
18 numbering scheme.

19 A Yes.

20 Q And those items were checked for both hair and
21 seminal stains?

22 A That's correct.

23 Q Okay. And the results there, please?

24 A Items, those specific items that you refer to, 43,
25 44, 46, 47, and 48, we're talking about a pair of

1 black nylons, a pink bra, one pair of beige
2 panties, one pair of lavender-and-blue panties,
3 one pair of pink-and-black underwear.

4 There was no Negroid hairs found on
5 those particular items, and on items number --
6 excuse me, on the beige panties, lavender-and-blue
7 panties and pink-and-black underwear, there were
8 no seminal stains noted, either.

9 Q You had Items 32 through 36, items allegedly taken
10 from one Stephen Turner, including a pair of
11 tennis shoes, socks, underwear, pants, and shirt?

12 A Yes.

13 Q And I take it that was also checked for the type
14 of hairs you described?

15 A Yes.

16 Q And that also turned up to be negative?

17 A Yes, there was no Negroid hair found on those
18 items.

19 Q Likewise, the clothing found allegedly from the
20 Co-defendant Daniel Turner, 49 through 51, tennis
21 shoes, jeans, and one white shirt?

22 A That's correct, there was no Negroid hairs found
23 on those items.

24 Q The items that I have had you identify here today,
25 the swatches taken, which would be 34, from the

1 pillowcase, as well as from the shirt, which is
2 your Item 8, People's Exhibit 7, are all those,
3 including the swatches that you've identified on
4 People's Exhibit 26, the swatch being labeled
5 Exhibit 35, do those items remain in the same
6 condition now as when you observed and did the
7 testing on them?

8 A Yes.

9 Q Just a couple other questions.

10 Mr. Birr, have you been qualified as an
11 expert before?

12 A Yes, I have.

13 Q In what area, please?

14 A I'm sorry, what?

15 Q What areas?

16 A I have been qualified in the area of both serology
17 as well as trace, serology being the
18 identification of biological fluids, which also
19 included the examination and comparison of hairs,
20 fibers, on assault cases as well as trace
21 evidence.

22 I have also been qualified in the area
23 of tire impressions, footwear impressions,
24 qualified in the area of reconstruction of crime
25 scenes, photography, et cetera.

1 Q And I take it that's been in the circuit courts in
2 this county?

3 A Yes.

4 Q As well as other counties?

5 A Yes. I've testified in approximately 48 of the 83
6 counties in the State of Michigan.

7 MR. BRAMBLE: Your Honor, at this time I
8 would ask that Mr. Birr in fact be qualified as an
9 expert in the forensic science division.

10 THE COURT: Objection, Counsel?

11 MR. MIRQUE: No, your Honor.

12 MS. KRAUSE: No, your Honor.

13 THE COURT: He will be.

14 MR. BRAMBLE: I have nothing further,
15 then, at this time.

16 THE COURT: May I see counsel at the
17 bench for a moment?

18 (Counsel approached the bench, and a
19 discussion was held off the record and out of the
20 hearing of the jury)

21 THE COURT: Go ahead, Mr. Mirque.

22 MR. MIRQUE: Thank you.

23 **CROSS-EXAMINATION**

24 **BY MR. MIRQUE:**

25 Q Mr. Birr, when you performed your analysis, were

1 you given any background regarding the case?

2 A The only background that I received on this
3 specific case was, was the request as far as
4 looking for cosmetic stains.

5 Q And that request comes from the detective in
6 charge of the case?

7 A Or whoever was the individual that submitted the
8 evidence to the lab.

9 Q We're going to go through the list of items,
10 apparently using the lab numbers, okay, just for
11 clarification purposes.

12 Did you prior to your analysis receive
13 samples of both Stephen Turner and Daniel Turner
14 for comparison purposes?

15 A Yes, there was samples collected from them and
16 submitted to the laboratory.

17 Q Did you receive samples of the young lady in this
18 case for comparison purposes?

19 A Yes, we did.

20 Q When you say that there were no Negroid hairs,
21 that's referring to the young lady's hairs?

22 A That's correct.

23 Q Looking at Item Number 3 on your list, an oral
24 swab, what does an oral swab, what does that
25 entail?

1 A It's a cotton tip applicator that's usually found
2 in what we refer to as our sexual assault kits.

3 It's a wooden stick applicator with a cotton tip.

4 Q And did you perform an analysis on that?

5 A Yes, there was an analysis performed on that item.

6 Q And what were the results of that analysis?

7 A There was no indication of the component of
8 seminal fluid; mainly, no indication or presence
9 of acid phosphatase found on that particular item.

10 Q Item Number 4 is what's called an oral smear.

11 What's the difference between an oral smear and an
12 oral swab?

13 A At the time that the swab is taken, the swab is
14 ran across the surface of a slide, and that slide
15 is allowed to dry and it's identified and labeled
16 as such, that it was generated from that oral
17 smear.

18 It is then that smear, that slide that
19 we examine microscopically for the presence of
20 sperm cells.

21 Q And was that slide analyzed?

22 A Yes, it was.

23 Q And what were the results of that analysis?

24 A There was no sperm cells found on that slide.

25 Q Item Number 6 refers to pubic combings, and I

1 believe that's from the young lady in this
2 instance?

3 A That's correct.

4 Q And that obviously was done at the hospital?

5 A Yes, it was.

6 Q And what is it that you're looking for within
7 those pubic combings?

8 A Primarily, foreign hairs and fibers.

9 Q Was there an analysis done of those pubic
10 combings?

11 A Yes, there was.

12 Q Did you find any foreign hairs or fibers within
13 those combings?

14 A There was no indication of a finding, no.

15 Q There were no other hairs?

16 A That's correct, Caucasian hairs.

17 Q No Caucasian hairs. Item Number 7 is head
18 combings, and again, I'm to assume that that's
19 from the young lady?

20 A Yes.

21 Q Were any foreign hairs found in that sample?

22 A No, there was no foreign hairs found.

23 Q Item Number 10 lists blue, green, and white
24 panties. We're talking about, again, the young
25 lady's panties?

1 A Yes.

2 Q Do you -- you did an analysis on those panties,
3 correct?

4 A Yes, there was an analysis on those.

5 Q Was there any -- what was the result of that
6 analysis?

7 A There was no indication of seminal stains on them,
8 as well as there was no foreign hairs, primarily,
9 particularly Caucasian hairs, found on that
10 particular sample.

11 Q Was lipstick found on those panties?

12 A No.

13 Q Turn your attention to Item Number 23 on your
14 list, and this is pubic hair combings, but this
15 time it's from Daniel Turner?

16 A That's correct.

17 Q And again, you're looking for foreign hairs?

18 A That's correct.

19 Q In this case, because the defendant is Caucasian,
20 you would be looking for Negroid hairs?

21 A Yes.

22 Q And were any found in that sample?

23 A No.

24 Q On Item Number 30 in your list, you refer to a
25 butter knife?

1 A Correct.

2 Q Did you perform an analysis on that knife?

3 A There was no evidence -- or excuse me, no
4 examination conducted on that particular item.

5 Q Was that to say that one was not directed to you
6 by detectives or that you did not feel one needed
7 to be done?

8 A It was not requested.

9 Q So you have no knowledge as to whether or not
10 there was any jelly on that knife?

11 A That's correct.

12 Q On this pillowcase, this is your Item 37?

13 A I believe so, yes.

14 Q I believe it's Item 37.

15 A Yes.

16 Q There were no Negroid hairs on this?

17 A That's correct.

18 Q No seminal stains?

19 A That's correct.

20 Q But there was just make-up?

21 A That's correct.

22 Q And this make-up was consistent with the make-up
23 that was found in the cup?

24 A Yes.

25 Q All right. Items Number 43 and 44 are a pair of

1 black nylons and a bra. Was an analysis done on
2 those items?

3 A Yes, they were examined visually.

4 Q Did you find any foreign hairs?

5 A No.

6 Q I'm sorry, any Negroid hairs?

7 A No, there was no foreign Negroid hairs found.

8 Q Item Number 45, the white shirt, where was it
9 alleged that that shirt was found?

10 A The identification on the brown paper bag that was
11 submitted states or identifies as "items near
12 living room mattress."

13 Q And you testified that that shirt had on it
14 seminal fluid?

15 A That's correct.

16 Q Were you able to do any further analysis on the
17 seminal fluid samples or the sperm samples you
18 found?

19 A There was none conducted.

20 Q You didn't do any genetic marker examinations?

21 A No, that was not examined any further.

22 Q On Item Number 8, that would be this shirt, a
23 swatch was taken?

24 A Correct.

25 Q Is it your testimony that there were two stains on

1 that?

2 A Yes, there was.

3 Q One of them turned out to be jelly?

4 A Consistent in appearance with jelly, yes.

5 Q And I believe you said the other one was
6 consistent with make-up that was found on this
7 pillowcase?

8 A Yes.

9 Q When you say "consistent," does that mean that
10 that is it or just what?

11 A Because of not being able to do any further
12 studies on it, I was only able to visually examine
13 it for color and appearance. And since it was
14 such a limited examination, the best I could say
15 is "consistent."

16 I can't say conclusively that it indeed
17 came from a particular item. It has the
18 appearance that it does.

19 Q Are there tests available to make a conclusive
20 finding that the stain on that shirt was in fact
21 the stain on that pillowcase, or from the make-up
22 that was found in those cups?

23 A Because of the manufacturing process, the stain,
24 even if I was able to identify it any further,
25 we'd always be left with the possibility or the

1 fact that there are several tubes of lipstick that
2 are manufactured at the same time.

3 So I could not say conclusively that it
4 came from a specific tube of lipstick. I could
5 say that it was found to be similar in all areas
6 of composition and appearance and color, and that
7 it could have come from that source.

8 Q Let me get this straight, then. You may not have
9 been able to say exactly that this brand of
10 lipstick was that particular stain, but there are
11 tests to conclusively say that it is lipstick?

12 A The composition of cosmetics, as far as the
13 knowledge that I have, is the fact that the
14 composition of lipstick as opposed to say a
15 composition of, say, a base cosmetic product that
16 they use on, say on your face or your eyebrows,
17 et cetera, I found it to be basically that they're
18 all basically very similar in composition.

19 They usually are some type of oil base.
20 The oils are very similar in composition. The
21 only thing that I found that distinguishes them is
22 usually in the composition of the color or the
23 appearance of the color, and the pigmentation that
24 they utilize and find within those.

25 And so one may give you a dull

1 appearance because of the fact that they use a
2 higher amount of pigmentation material, and
3 another one containing a lower amount may give you
4 a glossy appearance.

5 But actually being able to separate them
6 out and say "this is indeed a lipstick" and "this
7 is indeed a base product used on the rest of the
8 face," it would be very difficult to do based on
9 stains.

10 Q Did you do a compositional analysis of that stain
11 or did you just look at it by sight?

12 A I attempted to do a composition study on it, and I
13 found it to be too light in composition to be able
14 to do anything further with it.

15 Q So you didn't actually do any chemical testing on
16 that stain itself?

17 A Other than attempt, no.

18 Q No results were obtained from those chemical
19 tests?

20 A No conclusive results.

21 Q Chemical tests would also include any analytical
22 test other than wet bench chemistry?

23 A Yes. I would have used some instrumentation. I
24 attempted to use some instrumentation on it, but
25 it was just not found in concentrations high

1 enough to be able to do any.

2 Q What tests were done in analytical means to match
3 the composition?

4 A I attempted to identify and compare the elemental
5 composition of the material found on it.

6 Q How was that done?

7 A It was using an instrument known as "EX," which is
8 basically using x-rays to bombard the sample and
9 excite the sample, and as far as the electrons
10 becoming excited to the point where they give off
11 energy.

12 Then you have a detector that collects
13 this energy, and comparing composition by
14 basically the energy given off that's specific for
15 a specific compound.

16 Q Did you use any of the samples of make-up for a
17 standard in your x-ray analysis?

18 A No, because, as I say, I found the stain on the
19 garment was so light in composition that I was not
20 able to get any type of conclusive reading from
21 the instrument, so therefore I proceeded no
22 further.

23 Q Was anything other than the x-ray analysis done on
24 the sample?

25 A No, just visual.

1 Q Just visual. And so on your visual analysis of
2 it, you've come to the conclusion that it's
3 consistent with lipstick or base, or consistent
4 with the materials found on those other items?

5 A I found it to be consistent in appearance to one
6 of the lipsticks found in Item Number 41, and
7 that's the extent of my analysis on that.

8 Q Going back to the seminal stains, what-have-you,
9 do you know whether any of those samples were
10 preserved for DNA analysis?

11 A The normal procedure is to remove the stain and
12 preserve a sample.

13 Q So some DNA was extracted?

14 A The stain was preserved for future analysis, and
15 it would be stored in frozen storage. So,
16 therefore, if the request was made, there could be
17 an attempt.

18 Q Thank you.

19 THE COURT: Miss Krause?

20 MR. BRAMBLE: May we approach, your
21 Honor?

22 THE COURT: Yes.

23 (Counsel approached the bench, and a
24 discussion was held out of the hearing of the jury
25 and off the record)

1 THE COURT: Go ahead, Miss Krause.

2 MS. KRAUSE: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY MS. KRAUSE:

5 Q Mr. Birr, you're not a fingerprint expert, are
6 you?

7 A No.

8 Q Had the detectives or a prosecuting official asked
9 you to turn this over to a fingerprint expert,
10 certainly you would have?

11 A Yes.

12 Q All right. Now, I want to talk to you about
13 People's Exhibit Number 21, which is your
14 corresponding Number 30 --

15 A Okay.

16 Q -- the peanut butter knife, or the butter knife,
17 excuse me. There was peanut butter on it,
18 correct?

19 A I never really actually examined it because it was
20 never requested.

21 Q There was a brown item on the knife, correct?

22 A I would have to look at it again.

23 Q Sure, let me show it to you. Did you look at the
24 knife, sir?

25 A It was examined, yes. I don't recall specifically

1 looking at it, no, but it does appear to be
2 examined.

3 Q To your knowledge, that item that I just showed
4 you was not requested by the detectives or the
5 prosecuting officials to be examined or turned
6 over by you to be examined for fingerprints,
7 correct?

8 A That's correct.

9 Q All right, and I think you told Mr. Mirque that
10 there was no examination showing that jelly was
11 found on that butter knife, correct?

12 A That's correct.

13 Q All right. Now, I believe it's in Ms. Hunt's
14 report, but it's your Number 36, and there is no
15 corresponding people's number. It's a blue
16 shirt.

17 Your report indicates that no Negroid
18 hairs were found on that blue shirt?

19 A That's correct.

20 Q And no further testing was done on that blue
21 shirt, is that a fair statement?

22 A To my knowledge, no.

23 Q Moving on to People's Exhibit 35, your
24 corresponding Number 45, that's the white shirt,
25 correct?

1 A Yes.

2 Q And what was found on there were seminal stains,
3 correct?

4 A That's correct, as well as the cosmetic stains.

5 Q Those were the two stains that were found on --

6 A Two types of stain, yes.

7 Q Moving on to your Item Number 52, which there is
8 no corresponding State's number to, it is a
9 blue-and-red comforter, correct?

10 A Yes.

11 Q And the results of your testing indicate that
12 there were no Negroid hairs found on that,
13 correct?

14 A Correct.

15 Q Furthermore, there were no seminal stains found on
16 that item, correct?

17 A That's correct.

18 Q Moving down to the next item, your Item 53, which
19 is the corresponding State's Number 33, your
20 Item 54 and the State's corresponding Number 27,
21 first of all, let me ask you, when you received
22 those two items, 53 and 54, they were in a
23 cardboard box, correct?

24 If you need to refer to your notes,
25 please go ahead.

1 A Yes, they were.

2 Q They were in one box together, correct?

3 A It's identified as such, yes.

4 MS. KRAUSE: I have no further questions
5 of Mr. Birr.

6 THE COURT: Mr. Bramble?

7 MR. BRAMBLE: Real briefly, your Honor.

8 **REDIRECT EXAMINATION**

9 **BY MR. BRAMBLE:**

10 Q Regarding the testimony elicited from you by
11 Mr. Mirque involving the examination of both the
12 oral swabs -- the oral swab?

13 A Yes.

14 Q Okay. If the victim had spit out the semen, would
15 that adversely affect your ability to or the
16 ability to recover that type of evidence?

17 A Both the discharging of it by spitting it out, as
18 well as the time-frame involved from the time that
19 it was deposited to the time that it was
20 collected, would both have an effect on it.

21 Also, the fact that the victim in this
22 case was alive and not dead.

23 Q I take it because if a person's alive, they're
24 going to continue to swallow?

25 A Yes.

1 Q And that that reflex --

2 A Yes, as well as the enzyme activity as far as the
3 process, the initial processing of digesting food
4 come into play.

5 Q So it's not only that they can spit, but also
6 consume some food, let's say pop or chips and
7 crackers, would that also adversely affect the
8 ability to recover such evidence of semen or
9 seminal fluid?

10 A Yes, it would.

11 Q And if the victim were ten years old and we heard
12 testimony that she had very little or very few
13 pubic hairs, would that affect the ability to,
14 your ability to find them, if there are in fact
15 few of them on her body to begin with?

16 A That's correct.

17 Q Okay. I take it it's not unusual for you not to
18 find pubic hairs, things of this nature?

19 A In a high percentage of the cases we don't.

20 Q In a high percentage of criminal sexual conduct
21 cases?

22 A Yes.

23 Q You don't find what?

24 A Pubic and head hairs transferred, at least pubic
25 hairs. Head hairs, I would say there's a higher

1 frequency.

2 Q The blankets and so on, did they come in the same
3 box wrapped in some plastic, if you recall?

4 A When they were handed to me, here it indicates
5 that they were indeed separated.

6 MR. BRAMBLE: I have nothing further.

7 THE COURT: Mr. Mirque?

8 MR. MIRQUE: Thank you for the
9 opportunity.

10 **RECROSS-EXAMINATION**

11 **BY MR. MIRQUE:**

12 Q Mr. Birr, you seem to have alluded that eating
13 crackers and drinking pop interferes with the
14 analysis of an oral smear or saliva, oral swab or
15 saliva smear?

16 A Yes, it would.

17 Q Does that mean it's impossible?

18 A No.

19 Q And when you said that the frequency of hair, head
20 hair loss is a little bit higher than pubic hair
21 loss, what did you mean by that? What frequency
22 are we talking about?

23 A Well, as far as actual numbers, I can't give you
24 specific numbers. It's just the fact that we are
25 losing a larger portion of head hairs as opposed

1 to, as opposed to pubic hairs.

2 So, consequently, just based on that
3 knowledge alone, you would end up with a higher
4 percentage of transfer of head hairs in a normal
5 situation than which you would the pubic hair
6 region or pubic region.

7 Q And one further item that perhaps wasn't covered.
8 You've stated that you've testified in how many
9 counties around the state?

10 A I believe I'm up to 46 counties.

11 Q Have you always testified for the prosecution or
12 have you ever had the opportunity to testify for a
13 defendant?

14 A I have testified on several occasions for defense.

15 Q Thank you.

16 THE COURT: Miss Krause?

17 MS. KRAUSE: Nothing further.

18 **REDIRECT EXAMINATION**

19 **BY MR. BRAMBLE:**

20 Q Mr. Birr, when you indicate you testify for both
21 the prosecution and defense, it's because evidence
22 is evidence. The State doesn't try to hide it and
23 the defense doesn't try to hide it. It comes out
24 from you?

25 MS. KRAUSE: Objection, your Honor, to

1 Mr. Bramble's argument here.

2 THE COURT: Sustained. You can argue
3 that to the jury.

4 MR. BRAMBLE: Thank you. I have nothing
5 further.

6 THE COURT: Thank you, sir. You're free
7 to go, Mr. Birr.

8 Ladies and gentlemen, let's adjourn for
9 the day, reconvene at ten tomorrow.

10 Please remember, don't read anything in
11 the paper about this case or anything like it.
12 Don't talk to anyone about the case or think about
13 it, and with that let me say, has anyone lost your
14 parking ticket? We found one laying on the
15 floor.

16 Miss Hull will have it, and if somebody
17 doesn't have it, come and claim it. It says 9:43
18 this morning, and it's about the time that you
19 would have come in. I'll have it right here.

20 (At about 4:37 p.m. - Proceedings
21 adjourned)

22 -ooOoo-

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OFFICIAL REPORTER'S CERTIFICATE

STATE OF MICHIGAN)
) SS
COUNTY OF KENT)

I, Rebecca L. Russo, Court Reporter in and for the Circuit Court for the County of Kent, State of Michigan, do hereby certify that I reported stenographically the proceedings held in the above-entitled cause before the Honorable Robert A. Benson on December 7, 1993; and do further certify that the foregoing transcript is a true and correct transcript of my stenographic notes of said proceedings so reported and transcribed by me.

Rebecca L. Russo
Rebecca L. Russo, CSR-2759
Official Court Reporter

Dated: 3-24-94
Grand Rapids, Michigan