

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 I of VIII**

BEFORE THE HONORABLE DENNIS C. KOLENDA, CIRCUIT JUDGE

Grand Rapids, Michigan - Thursday, December 2, 1993

- - -

APPEARANCES:

For the People:

MR. KEVIN M. BRAMBLE (P-38380)
Assistant Prosecuting Attorney
416 Hall of Justice
Grand Rapids, Michigan 49503
(616) 336-3577

For the Defendant:

MS. TONYA L. KRAUSE (P-42056)
Attorney at Law
200 North Division
Grand Rapids, Michigan 49503
(616) 456-7831

- - -

Reported By:

REBECCA L. RUSSO, RPR, CM, CSR-2759
Registered Professional Reporter
Official Court Reporter
(616) 774-3662

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1 **TABLE OF CONTENTS**

2 Thursday, December 2, 1993

3
4 **VOLUME I of VIII**

5 PAGE

6
7 Opening Statement by Mr. Bramble
8 (To the Stephen Turner Jury) 4
9 Opening Statement by Ms. Krause
10 (To the Stephen Turner Jury) 15
11

12 **WITNESSES: PEOPLE**

13 **LAKEYSHA CAGE**

14 (With Both Juries Present)

15 Direct Examination by Mr. Bramble 45
16

17 (With Only the Daniel Turner Jury Present)

18 Cross-Examination by Mr. Mirque 68

19 Redirect Examination by Mr. Bramble 108

20 Recross-Examination by Mr. Mirque 114
21

22 (With Only the Stephen Turner Jury Present)

23 Direct Examination (Continued)

24 by Mr. Bramble 120

25 Cross-Examination by Ms. Krause 122

1	Redirect Examination by Mr. Bramble	164
2	Recross-Examination by Ms. Krause	166
3	Redirect Examination by Mr. Bramble	170
4	Recross-Examination by Ms. Krause	170

5
6
7

8	<u>EXHIBITS:</u>	MARKED	RECEIVED
9	People's Exhibit 1 (Photograph)	52	532
10	People's Exhibit 2 (Photograph)	52	532
11	People's Exhibit 3 (Photograph)	52	532
12	People's Exhibit 4 (Photograph)	52	532
13	People's Exhibit 5 (Photograph)	52	532
14	People's Exhibit 6 (Green Case)	58	509
15	People's Exhibit 7 (Shirt)	58	532
16	People's Exhibit 8 (Panties)	66	532
17	Defense Exhibit 9 (Photograph)	70	532
18	People's Exhibit 10 (Photograph)	108	532
19	People's Exhibit 11 (Photograph)	108	532

1 Grand Rapids, Michigan

2 Thursday, December 2, 1993 .

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5 (At about 10:20 a.m. - Court in session,
6 in the presence of the Stephen Turner jury)

7 THE COURT: Mr. Bramble, you may address
8 Mr. Stephen Turner's jury.

9 MR. BRAMBLE: Thank you, your Honor, and
10 I apologize to you and the jury. I had to make
11 sure my witnesses were here and in fact ready to
12 go.

13 Ladies and gentlemen of the jury, I just
14 ran up a couple flights of stairs, so I will catch
15 my breath in a moment here.

16 This is my opportunity to tell you the
17 witnesses I will call and what facts I will
18 produce on the elements of the offense that the
19 judge will instruct you upon.

20 Now, this defendant, Stephen Turner, is
21 charged with one count of first degree criminal
22 sexual conduct. He's charged as an aider and
23 abetter in that count. In other words, he helped
24 or assisted his brother.

25 The second count is criminal sexual

1 conduct in the second degree, and that is that he
2 himself touched the prescribed areas of Lakeysha
3 Cage.

4 Now, the testimony that's going to come
5 forward, the first witness I'm going to call, and
6 I wanted to make sure she was in fact here, is in
7 fact Lakeysha Cage. She is a ten-year-old little
8 girl. She will tell you that she in fact lived
9 over at 4130 Oak Park at the time. It's an area
10 right near where the Kentwood and Grand Rapids
11 borders meet. It's an apartment complex.

12 She will testify that on this particular
13 date, July 7th, 1993, that she's out playing.
14 She's out playing on the steps near the apartment
15 of this man or his brother, and that on that day
16 she was in fact playing with some rubber bands and
17 she's playing with some sticks, and I think she'll
18 testify that she's trying to make something out of
19 these things. They're sticks and she's trying to
20 make a boat or a car or something.

21 She will testify that while she's
22 playing, the defendant's brother, Daniel Turner,
23 comes and grabs her. He takes her into their
24 apartment. This is Apartment 204 at 4139 Oak
25 Park. He takes her in there, brings her to the

1 back bedroom, this is Daniel Turner, and begins to
2 undress her, and does in fact undress her.

3 She will testify that Daniel Turner is
4 the one wearing the lipstick. As a matter of
5 fact, that's how he's first identified. She'll
6 testify, "The man with the lipstick on touched
7 me."

8 She will testify that during this time
9 he's touching her, he's trying to climb on top of
10 her. That he in fact at one time puts his mouth
11 on her vagina, another time engages in oral sex,
12 and during one of these occasions the defendant is
13 assisting, he's helping out, he's holding on to
14 her.

15 She'll further testify that on another
16 occasion the defendant is feeling her chest.

17 She will also testify to some other
18 things that came out a little bit during voir
19 dire. She'll testify that Daniel Turner during
20 this time, Daniel Turner, made her try on some
21 clothing, some articles of clothing and that he
22 himself had on some articles of clothing, female
23 clothing, women's clothing. They're bras and
24 padded bras, and he's having her try them on. I
25 think she'll be able to identify these things.

1 She'll further testify that during this
2 occasion she asked to leave and tells about how
3 her mother's home, and that in fact Daniel Turner
4 won't let her leave, tells her he doesn't care if
5 her mother's home, things of this nature.

6 She's also threatened at the end, by the
7 time this is all done. She's threatened if she
8 tells someone they're going to kill her, or he's
9 going to kill her.

10 Now, Lakeysha will also testify to some
11 other things in the apartment. Besides the
12 women's paraphernalia and the clothing, and so on
13 and so forth, she's going to testify that Daniel
14 Turner sets her down on his lap and has her play a
15 video game, and the video game is a video strip
16 poker.

17 She in fact plays it, and during this
18 time Daniel Turner is also touching her and
19 touching her chest, and things of this nature.

20 Now, what is the woman's clothing, what
21 is the video strip poker, what is the fact that
22 she's playing with sticks and rubber bands have to
23 do, what pieces of evidence, what are they in this
24 whole scheme?

25 I submit if you look, you will see

1 photographs and other evidence that -- one of the
2 first photographs I'm going to show Lakeysha is
3 the fact that -- you will see that evidence
4 technicians came and took photographs and actually
5 found the sticks, twigs, whatever, that Lakeysha
6 was playing with, and rubber bands, as well, and
7 weren't taken into the apartment with her as if
8 this was some willing excursion into the
9 apartment, but they remained right where Lakeysha
10 was grabbed.

11 They remained on the steps, and they're
12 in the photographs and you will see those
13 photographs.

14 Lakeysha will tell you about the video
15 strip poker, and, in fact, items were seized from
16 the apartment regarding this, computer disks and
17 television, and you will see pictures of all
18 this.

19 And, in fact, going through this, there
20 is a video strip poker game and they were able to
21 access the computer disk, and it's there and it's
22 on the disk, and you will actually see a little
23 bit of it being played. It's actually videotaped
24 instead of bringing all the video equipment in
25 here. That is there.

1 Lakeysha Cage will also testify that
2 this man with the lipstick on and the defendant
3 were together in the room, and actually took a
4 knife out and actually had some jelly, and made
5 her take this knife and actually put it to this
6 defendant's neck and pretending like they were
7 going to take a photograph of this, and told her
8 that, "If you go to the police, we're going to
9 show them this photograph, and we're going to tell
10 them you were in here and you did this, and you
11 were threatening him."

12 And again, you're dealing with a
13 ten-year-old girl here. How that is important is
14 that some of the items of clothing are seized,
15 including Lakeysha Cage's, and, in fact, there's
16 going to be testimony from some Michigan State
17 Police Crime Lab technicians that that lipstick
18 stain is found.

19 And, as a matter of fact, Dr. Steven
20 Perry will testify that, in his notes, he sees the
21 lipstick stain. He sees it on the shirt. The
22 shirt is also analyzed for the possibility of
23 there being jelly on there.

24 Lakeysha is going to say they take
25 something like strawberry or red-colored jelly and

1 put it on a knife and make it look like blood,
2 and, in fact, there's a stain on her shirt that's
3 consistent with jelly, and you will hear testimony
4 regarding that.

5 Lakeysha Cage is brought from the scene,
6 and after she talks to a couple people,
7 Officer Mesman, Officer Baar -- and you will find
8 out there's a lot of commotion going on at this
9 time, a great deal of commotion.

10 Some things are asked of Lakeysha.
11 Later some other things are asked of her, and I
12 think you will get the picture that instead of
13 having leading questions asked of her, she's
14 allowed to sit down and tell the story and tell
15 what happened, and describe the entire incident to
16 Detective Vazquez.

17 It all comes forward and it all comes
18 out, and it's her telling the story and it's not
19 an officer asking a question during, right during
20 the incident where the mother has confronted
21 Daniel Turner, where the father is there, where
22 the police are there.

23 Dr. Perry will testify that Lakeysha
24 does come in to St. Mary's Hospital. The nurse
25 will testify again as to statements taken pursuant

1 to medical treatment and diagnosis, and Lakeysha
2 tells her again that, in fact, the defendant
3 Daniel Turner grabs her, takes her to the
4 apartment, puts his mouth on her vagina, makes
5 him -- or makes her, allows her to place his penis
6 in her mouth.

7 And she will testify as to what they
8 told her, what Daniel Turner told her why she
9 couldn't tell.

10 Dr. Perry will also testify that
11 Lakeysha, when they were attempting --
12 Mrs. Marble, Lakeysha's mom, will testify that
13 they wanted to do an examination, physical
14 examination of her vaginal area, and this
15 examination could not be done because Lakeysha at
16 that time was either so upset, or just the actual
17 doing of it caused in fact pain. She wouldn't
18 allow it to be done.

19 The doctor told her, told her mother
20 that there are basically two options: "You can
21 hold her down and we can have people hold her down
22 and we can conduct the examination, pelvic
23 examination that way, or we can anesthetize her
24 and put her under and do it that way."

25 Mrs. Marble will testify she chose to do

1 neither. She wasn't going to have her daughter
2 traumatized anymore.

3 So an examination wasn't done at that
4 time. However, later on, again, some two weeks
5 later she's examined again, and she's examined at
6 the Child Assessment Center. At that time another
7 medical history is taken, and again you will hear
8 testimony regarding that statement, again being
9 that the defendant, Daniel Turner, grabs -- he
10 takes her into the room, takes her into the
11 apartment, and the acts are described that were
12 perpetrated.

13 You will hear testimony from Dr. Cox.
14 He takes a history, and again, this is some two
15 weeks later, and does an examination, although you
16 will hear testimony that at one time Lakeysha
17 mentions something about the defendant either
18 trying to or penetrating her with his penis.

19 She's never told anyone else that, and
20 the doctor will testify there are no physical
21 findings in her vaginal area. But I submit to
22 you, we charged him with two counts, one involving
23 the mouth to her vagina and the second involving
24 the defendant placing his penis in her mouth.

25 MS. KRAUSE: For the record,

1 Mr. Prosecutor, which defendant?

2 MR. BRAMBLE: Excuse me, Daniel Turner,
3 I'm sorry.

4 MR. BRAMBLE: I have to give two opening
5 statements here, and if I'm confused or provide
6 information on one defendant as to the other,
7 again, you're here to try and to decide only the
8 allegations involving Stephen Turner.

9 And the allegations are, as I said, that
10 he assisted, he helped in some way, however small,
11 his brother in this matter in the first degree
12 criminal sexual conduct and the second degree
13 criminal sexual conduct we allege he actually
14 perpetrated. He was the one doing the touching.

15 And when you look at Lakeysa's
16 testimony and what she tells you, you will find
17 that when a search warrant is conducted of the
18 residence of Apartment 204, the things she
19 described being there, the video disks, the video
20 games, the women's clothing, all that is present.

21 I submit when the facts come out, the
22 evidence is going to indicate this defendant was
23 involved, although at the scene the defendant
24 tells you that in fact, oh, yes, he'd been there
25 all day, but he'd been sleeping all the time.

1 You're also going to hear some testimony
2 about a statement taken later that's going to
3 directly contradict that.

4 I submit to you that when all is done
5 here, you're going to find out that the defendant
6 never told the truth the first time when he was
7 allowed to give a statement, and he never told the
8 truth --

9 MS. KRAUSE: Okay, your Honor, that's
10 argument. The prosecutor is allowed to tell what
11 he thinks he can prove, not to draw conclusions
12 therefrom.

13 THE COURT: I think saying that a
14 statement was untrue is a statement of supposed
15 facts, and you may proceed, Mr. Bramble.

16 MR. BRAMBLE: Thank you, your Honor.

17 Two statements: One, "I was there all
18 the time, but I was sleeping." The next one will
19 be directly contradictory to that.

20 The facts will indicate the defendant is
21 guilty of first degree criminal sexual conduct in
22 assisting his brother in the acts described. The
23 facts will also indicate that he engaged in some
24 touching, he engaged in some fondling of Lakeysha
25 Cage.

1 When the facts all come out, they will
2 reflect that the defendant is guilty of all those
3 charges.

4 On behalf of Lakeysa Cage, on behalf of
5 the People of the State of Michigan, I'll ask that
6 your verdict reflect that, as well.

7 THE COURT: Miss Krause?

8 MS. KRAUSE: Thank you, your Honor.

9 Good morning, ladies and gentlemen. I'm
10 glad you got the soft seats this morning.

11 The prosecutor has thrown out a big
12 fishnet here, and the purpose of the fishnet is to
13 catch the fish here, the people who he alleges
14 committed these awful, terrible, horrible things
15 against Lakeysa Cage.

16 Seemingly, two fish have been caught.
17 Now, one of those fish might be a keeper, but I
18 submit to you that the other fish is one that you
19 must practice the theory of catching the keeper.
20 You might keep Dan Turner, but you've got to throw
21 Stephen Turner back into the water.

22 As I tell you now what I expect the
23 evidence to be in this case, I want you to
24 remember three key phrases. No assistance, no
25 act, and no alignment. Let me repeat those. No

1 assistance, no act, and no alignment.

2 Let me tell you what I mean by those
3 phrases.

4 First of all, no assistance. You've
5 heard a lot of talk about the fact that my client,
6 Stephen Turner, is charged with aiding and
7 abetting his brother Daniel Turner in committing
8 an act of criminal sexual conduct in the first
9 degree.

10 That means, to establish that, the
11 prosecutor must show, first of all, that Daniel
12 Turner actually committed an act of CSC First. I
13 don't think the evidence will show you that he
14 has, but we'll get back to that in a minute.

15 He has to show that in some way Stephen
16 Turner assisted his brother in doing that, and
17 that if he did an act of assistance, he had to
18 intend it to be an act of assistance.

19 Now, let's assume just for a moment that
20 you believe Daniel Turner committed an act of
21 CSC First. When I say "CSC," forgive me, that
22 means criminal sexual conduct. There is going to
23 be no evidence presented to you in this case that
24 shows Stephen Turner did anything to assist his
25 brother.

1 Lakeysha will tell you that she's
2 outside playing in front of her apartment with
3 some sticks and rubber bands, and while she's
4 doing that, a man with lipstick, red lipstick,
5 comes up to her, grabs her. She will tell you
6 that it was a man with red lipstick and she will
7 say that it was Daniel Turner, not my client,
8 Stephen.

9 She will tell you that she's dragged
10 into the apartment from one end of the apartment
11 all the way to the back by the man with red
12 lipstick, Daniel Turner, not my client, Stephen.

13 She will tell you that once she's in the
14 back bedroom, the man with red lipstick undresses
15 her, undresses himself, gets on top of her, and
16 fondles her.

17 There may be some testimony of oral sex
18 performed on Lakeysha and Lakeysha on Dan, and
19 there may be some talk about the defendant Daniel
20 Turner ejaculating in the back bedroom. But
21 again, she will identify this as being done by
22 Daniel Turner, not my client, Stephen.

23 She will tell you Dan was in the room.
24 My client, Stephen, was not. In fact, Lakeysha is
25 going to tell you that at some point my client,

1 Stephen, walks into the room, the back bedroom.
2 When he does, Daniel Turner asks him to help him
3 hold Lakeysha down, and Lakeysha is going to tell
4 you that my client, Stephen, refused. He said no.

5 You're going to hear then that Lakeysha
6 is taken back out into the living room. While in
7 the living room the defendant Daniel Turner has
8 her play computer games. You will hear that it
9 was Dan, not my client, Stephen.

10 You will hear Lakeysha tell you that at
11 some point my client, Stephen, left the apartment
12 all together. At some point, according to
13 Lakeysha, after Stephen leaves the apartment there
14 is more sexual assaults performed on her by the
15 defendant Daniel Turner, not my client, Stephen.

16 That leaves one possible thing the
17 prosecutor can try to show you as an act of
18 assistance by Stephen Turner to help his brother
19 Dan commit this criminal sexual conduct in the
20 first degree. That's the photograph.

21 Lakeysha is going to tell you that the
22 brothers, both Dan and Steve, staged a photograph,
23 where she was to hold a knife with peanut butter
24 on it up to my client, Stephen Turner. That Dan
25 took a picture of it. Her impression or her

1 understanding, she'll tell you, of why this was
2 done was so that the police wouldn't believe her
3 if she said anything. There is no photograph.

4 Okay, that takes us to the second thing
5 I asked you to keep in mind, no act.

6 Stephen is charged with committing the
7 substantive offense of criminal sexual conduct in
8 the second degree. For purposes of this opening,
9 inappropriate sexual touching.

10 You will hear Lakeysha say -- let me
11 back up a second.

12 You heard in Mr. Bramble's opening that
13 most everything focuses on the defendant Daniel
14 Turner. Most of the acts that you will hear
15 described, most of the testimony from Lakeysha is
16 going to center on Daniel Turner.

17 What she says about Stephen is limited,
18 and remember back to what I just said about the
19 times he's not in the room, not in the apartment,
20 and it's an act she specifically says he does not
21 do. But this act of sexual touching is supposed
22 to have occurred somewhere in the middle of all
23 this.

24 Lakeysha is going to tell you that
25 Stephen grabbed her and took her out of the

1 bedroom, took her out to the living room, dragging
2 her the whole way. It's unclear at this point,
3 and I'm not sure which way she's going to say it,
4 whether he was fondling her breasts as he dragged
5 her or whether once he got her to the living room
6 he fondled her breasts at that point.

7 But I submit to you that as you listen
8 to the evidence that's presented, you're going to
9 be left with the impression that it just doesn't
10 make sense, given all of her other testimony.
11 That it wouldn't have happened by Stephen Turner
12 and it wouldn't have happened the way she
13 described it.

14 That takes us to the final thing we
15 asked you to remember, no alignment. No, I'm not
16 talking about going to your chiropractor. What
17 I'm talking about is does the physical, scientific
18 evidence line up with what Lakeysha is telling
19 us. That's what I mean by "alignment," and I
20 think as you listen to the evidence, ladies and
21 gentlemen, you will see for yourselves that it
22 does not. There is no alignment.

23 She describes being ejaculated on, but
24 yet there's no physical evidence from a Woods
25 light. You heard testimony that that's a

1 fluorescent lamp that medical personnel use to
2 determine if there's the presence of semen. So
3 that scientific fact does not line up with her
4 testimony.

5 The photograph that she describes.
6 There is no photograph. That doesn't line up.

7 She will give you much testimony about
8 being dragged and grabbed and carried. There's no
9 physical evidence to support that, no bruises, no
10 scrapes, no abrasions, no trauma to her external
11 body.

12 There are other things that you will
13 hear about that as we go through the case, and I
14 will argue them in my closing argument. But you
15 will see -- and listen carefully, because the
16 scientific medical evidence, and you will be
17 presented with much of it from doctors, nurses,
18 lab technicians, police officers, does not fit
19 into alignment with her testimony.

20 I'm confident if you keep those three
21 things in mind as you listen to all the evidence
22 that's presented in this case, no assistance, no
23 act, and no alignment, you will be convinced at
24 the end of this trial that you should return a
25 verdict of not guilty against Stephen Turner for

1 aiding and abetting the commission of criminal
2 sexual conduct in the first degree against
3 Lakeysha Cage, and a verdict of not guilty for
4 criminal sexual conduct in the second degree.

5 Thank you.

6 THE COURT: Ladies and gentlemen, I
7 asked the other jury to be back at eleven. We
8 have fifteen minutes to spare, so why don't you go
9 back to your jury room.

10 We'll check to make sure they're all
11 here, and when we have everyone, we'll come on in
12 I hope right at 11:00 and be able to start the
13 proofs, and in the next fifteen minutes I can take
14 care of a few administrative things here, anyway,
15 that will help things move along.

16 I'll show you out and then counsel will
17 take care of those matters.

18 (At about 10:45 a.m. - The Stephen
19 Turner jury left the courtroom)

20 THE COURT: We're back in session with
21 Mr. Stephen Turner's case where the Court can put
22 on the record a ruling -- this Court is now
23 convened in Mr. Stephen Turner's case for purposes
24 of putting on the record a ruling which was made
25 at the bench during the course of voir dire.

1 Three of the jurors placed in the jury
2 box in the course of the voir dire, Miss Bartlett,
3 Mr. Nelson, and Mr. Kaminski, had served on a jury
4 a couple of weeks ago in front of me in the case
5 of the People versus William Crump.

6 Mr. Crump was accused and convicted by
7 that jury of two counts of criminal sexual conduct
8 in the first degree.

9 The argument was made by Mr. Stephen
10 Turner's counsel that those individuals' service
11 on that jury constitutes a basis for excusing them
12 for cause from this particular jury.

13 That argument was first advanced when
14 Mr. Kaminski was seated. He was the first of
15 those three individuals I've named to be seated.

16 At side bar I informed counsel that I
17 did not believe that that was a proper
18 interpretation of the rule, and did not believe
19 that Mr. Kaminski was excusable for cause.

20 When Miss Bartlett and Mr. Nelson were
21 seated, one side bar conference was had with
22 regard to one of those, and the same issue was
23 raised and similarly decided by the Court.

24 With regard to the other of those two
25 witnesses, I think I made it clear in the course

1 of asking if they were challenges for cause other
2 than that, so as to preserve the issue, it being
3 obvious what I was going to do, having ruled that
4 Mr. Kaminski could stay.

5 Miss Bartlett and Mr. Nelson, it was
6 Mr. Nelson, I believe, were eventually excused
7 peremptorily by defense counsel. Mr. Kaminski
8 remains on the jury.

9 The challenge for cause is based upon
10 Rule 2.511(D)(7). Obviously, that rule is a civil
11 rule of procedure. However, it is made applicable
12 to criminal cases by Rule 6.412(A).

13 The argument is made that those jurors
14 have already sat on a trial, as the rule refers
15 to, quote, "of the same issue, period," closed
16 quote.

17 There are two reasons why this Court
18 does not believe that that rule applies here.

19 First of all, I do not believe that
20 those jurors sat on a trial of the same issue. I
21 think it is significant that the rule does not say
22 "of the same charge." It says "of the same
23 issue."

24 Even, however, if it said "of the same
25 charge," it would not be applicable here because

1 we had two different charges. It's true that the
2 charge in the other case and the charge in this
3 case, at least a couple of them, is criminal
4 sexual conduct in the first degree. But, as
5 everybody knows, there are a variety of forms of
6 criminal sexual conduct in the first degree.

7 To quantify it for purposes of this
8 ruling, it might be appropriate to refer to them
9 as CSC 1-A, 1-B, 1-C, et cetera. They are in fact
10 all different crimes, simply carrying the same
11 label and carrying the same penalty because they
12 have some common elements, particularly force and
13 coercion, perhaps certainly penetration. However,
14 these are very different charges.

15 In the other case, the allegations were
16 that an adult woman was sexually penetrated by
17 means of force or coercion, and that physical
18 injury occurred as a consequence.

19 If that was proven, as it was to that
20 jury, criminal sexual conduct in the first degree
21 occurred.

22 In this case, it is alleged that sexual
23 penetration took place with a child under the age
24 of 13. While that's criminal sexual conduct in
25 the first degree, it is a much different criminal

1 sexual conduct in the first degree than the other
2 one. Therefore, we, in reality, do not have the
3 same charge.

4 Looking in fact at the rule itself,
5 which talks about "the same issue," raises a whole
6 host of questions which, I think by virtue of
7 their existence, demonstrate that it doesn't mean
8 what counsel believes it means as the predicate
9 for her challenge for cause.

10 When we're talking about "the same
11 issue," do we mean exactly the same charge with
12 exactly the same affirmative defenses and exactly
13 the same challenges to issues with witnesses?

14 "Issues" are a whole host of things.

15 If in fact we have two identical cases,
16 identical in terms of charge, identical in terms
17 of response, identical in terms of legal
18 ramifications, then maybe we have two cases
19 involving the same issue.

20 But I can't say, for the reasons I've
21 already described, that a CSC charge brought by an
22 adult woman claiming the use of force and coercion
23 and the occurrence of an injury is anywhere near
24 the same charge or issue as we're dealing with
25 here, which is a claim of sexual penetration on a

1 minor child, where there need be no force or
2 coercion and where there need be no aggravating
3 circumstance such as injury.

4 There's another reason, and that has to
5 do with, simply, a construction of this particular
6 rule.

7 I've had occasion to deal with it once
8 before in the case of the People versus Joseph
9 Jones. It was a Lake County case to which I was
10 assigned, the court file was 89-2634-FH, where
11 exactly the same argument was made.

12 The charge there was not one of CSC, but
13 assault with intent to do great bodily harm less
14 than murder, but we had jurors on one case who had
15 heard a similar charge. I ruled just as I did
16 here.

17 There was no appeal on that issue.
18 There was an appeal of the conviction, which was
19 affirmed, but there wasn't an appeal of my ruling,
20 so obviously the Court of Appeals can't have been
21 said to affirm me. But, nevertheless, I can be
22 found consistent in relying on that.

23 Michigan Rule 2.511(D) is borrowed from
24 the state of Iowa, and the state of Iowa has
25 routinely interpreted its equivalent of (D)(7) as

1 limited only to situations where a prospective
2 juror has tried the case of a co-defendant of the
3 subsequent defendant in whose case they're
4 potentially to be seated and are challenged for
5 cause.

6 It's a routine rule of construction that
7 when this state borrows a statute or rule from
8 another jurisdiction, it borrows that statute or
9 rule whole, which means with all of the legal
10 interpretations that go with it.

11 Accordingly, on the face of it, (D)(7)
12 would apply only to the situation of
13 Mr. Kaminski, for example, having sat on Daniel
14 Turner's case, then being called as a prospective
15 juror in Mr. Stephen Turner's case.

16 If that's what the rule means, then
17 obviously it doesn't apply here.

18 It may not mean that, however, by virtue
19 of Subrule (D)(8), which talks about having served
20 as a petit juror, which we talk about in a
21 criminal case based on the same transaction.

22 So it seems that we have a Rule 8 which
23 means exactly the same thing that Rule 7 means,
24 which can't be, because we have a strict rule of
25 construction which says we don't do useless

1 things, despite what the public thinks. That we
2 don't have two provisions in a rule or a statute
3 which mean exactly the same thing, because, by
4 definition, then one of them means nothing, and we
5 presume that when things are written we don't do
6 that sort of thing.

7 That does not, however, resolve the
8 issue, but simply leaves this Court to attempt to
9 find a distinction which would enable both of
10 these sub rules to have some meaning. If it can
11 do that, then it has to do that.

12 I think, frankly, I've already done that
13 by indicating that "the same issue" doesn't mean
14 "the same charge."

15 But I think there's another
16 interpretation, and that is that, in all
17 likelihood, (D)(7) applies to civil cases. That
18 (D)(8) was added to deal with the situation, that
19 could be troublesome, of one juror sitting in
20 judgment on a matter where they have already
21 formed a judgment, and that (D)(7) has reference
22 to a juror sitting on a civil case or multiple
23 civil cases arising out of the same transaction.

24 And if we give it that interpretation,
25 then the use of the word "issue" makes some sense,

1 because civil cases do not have the similarity
2 that enables us to talk about charges.

3 You might have an auto negligence case,
4 but there are no two identical auto negligence
5 cases. You can't say that because this was a
6 negligence case it's the same kind of case, as we
7 can if we're talking about a robbery being the
8 same charge as in another case.

9 So it's my judgment, frankly, that
10 whatever Rule 7 means, it does not simply mean
11 having sat on a case involving the same charge,
12 and that Rule 8 is the one that governs
13 specifically the situation we're dealing with.

14 It's the one that talks about criminal
15 cases. It requires that the juror have sat on a
16 case arising out of the same transaction. That
17 simply has not happened here.

18 So looking at the specifically
19 applicable rule, eight doesn't apply, which leads
20 to the conclusion that if seven then applies to
21 this situation, why bother having eight.

22 The fact is you don't need Sub
23 Rule 7 -- you don't need Sub Rule 8 if Sub Rule 7
24 means what defense counsel says it means, and vice
25 versa.

1 On the other hand, if seven is limited
2 to civil cases, then we have two sub rules, each
3 of which has its own independent meaning, which
4 means each of which can remain. And we then have
5 an interpretation of Sub Rule 7 which gives some
6 sense to the use of the word "issue" as opposed to
7 the use of the word "charge" or something more
8 narrow, and eliminates the problems that would
9 occur.

10 I would also note that there is nothing
11 in my ruling here which suggests that the fact
12 that a juror has in fact served on a like case
13 does not mean that there might be some other
14 reason to disqualify them.

15 And I'd like to simply read the last
16 paragraph of my opinion in Joseph Jones and then
17 deem this matter finished. Quote:

18 "Of course, the failure in any case to
19 satisfy Ground (D)(7) does not necessarily
20 mean that some other ground has not been
21 satisfied. For example, a prospective
22 juror's prior service on a case involving the
23 same offenses, but not the same parties or
24 transactions, might have biased that juror,
25 thereby leading to that juror's

1 disqualification under MCR 2.511(D)(3), might
2 have led to a state of mind or a positive
3 opinion which precludes him or her from
4 rendering a just verdict, rendering them
5 disqualified pursuant to MCR 2.511(D)(4), or
6 engendered an opinion or some conscientious
7 scruples which would improperly influence
8 that juror's verdict, rendering them
9 disqualified under MCR 2.511(D)(5). If so,
10 the juror must be excused for cause."

11 Nothing of the sort has been
12 demonstrated in this case with regard to the
13 challenged jurors. However, the defense challenge
14 is based exclusively on service in a prior trial.
15 Should one or more of those grounds be established
16 with regard to placement of jurors with prior
17 criminal experience, this Court will, of course,
18 discharge them for cause.

19 And had one of these other grounds been
20 established I would have discharged the jurors,
21 but not simply because Mr. Kaminski, Mr. Nelson,
22 and Miss Bartlett served on a jury in which the
23 charge was criminal sexual conduct of the first
24 degree.

25 What's the other matter, Miss Krause,

1 that we needed to put on the record?

2 MS. KRAUSE: There are a few brief other
3 matters, your Honor, thank you.

4 If I've already addressed this
5 yesterday, I apologize. You can tell me if I
6 have. We have been kind of doing the pre-trial
7 matters piecemeal here. But because the Court has
8 ruled on the spousal immunity issue and that my
9 client's wife may not be called to the stand, I
10 want it made perfectly clear in a pre-trial ruling
11 that the prosecutor cannot comment on his
12 exercising the privilege, nor her failure to
13 testify.

14 There are a lot of civilian witnesses
15 here and I would like those witnesses to be
16 instructed that such a matter may not -- that they
17 cannot testify to that, either.

18 THE COURT: I'm sure Mr. Bramble knows
19 to do that.

20 MS. KRAUSE: Thank you.

21 The other objection I have, your Honor,
22 is to a preliminary instruction that you gave the
23 jury yesterday in reference to aiding and
24 abetting.

25 One of the examples you gave

1 specifically said you were using it as an example
2 because you didn't think it was an issue in this
3 case.

4 I did not object at the time because I
5 was not sure which version the prosecutor was
6 going to assert in his opening statement. As we
7 heard today, he was saying that the allegations
8 are that my client held Lakeysha down during the
9 commission of the CSC First by his brother.

10 I want the objection noted on the
11 record. At this point I'm not going to ask for a
12 cautionary instruction because I don't want to
13 highlight it any further.

14 The next objection I have or cautionary
15 instruction I have is because of the close
16 quarters we're dealing with here with two juries
17 in this courtroom, I ask that the State exercise
18 extreme care in the way the evidence is handled
19 and displayed in front of the jury.

20 If something has been introduced,
21 obviously, that's fine. But I don't want evidence
22 that is not introduced sitting there in front of
23 the jury on their table for them to see and wonder
24 what it is.

25 The final issue is what we're going to

1 do with the prior allegation of abuse reference
2 Lakeysha Cage. I don't think -- we've already
3 addressed that issue, in that we've never been
4 informed what it was, and I think that issue needs
5 to be dealt with once and for all before we
6 proceed any further.

7 If it's relevant to our case, we need to
8 know it now. If it's not, we'll get off the
9 subject and continue on.

10 THE COURT: The record needs to reflect
11 that at defense counsel's request, I did sign an
12 order shortly before the Thanksgiving holiday
13 directing that counseling records of Miss Cage be
14 turned over to me in camera.

15 I did that in compliance with People
16 versus Damski. The records were on my desk Monday
17 morning. I did review them. They were easy to
18 review because they were all of three or four
19 pages.

20 I then did give copies to each counsel,
21 including the prosecutor, because there were,
22 frankly, matters in there which might be of
23 significance to both sides, in particular the
24 defense. Whether they are, of course, is a matter
25 known only to defendants and their counsel, but

1 they were entitled to know of those matters.

2 One of the reasons that I disclosed the
3 information was a handwritten notation in the
4 notes that there had been an incident of prior
5 sexual abuse of Miss Cage, and we have been trying
6 for the last couple days to find out the
7 particulars of that allegation so that it can be
8 decided whether it represents an exception to the
9 rape shield statute or not.

10 Mr. Bramble, do you know what are the
11 particulars of that allegation?

12 MR. BRAMBLE: Yes, your Honor. I spoke
13 with Mr. Marble, the victim's stepfather, this
14 morning. He is present in the courtroom for the
15 Court.

16 The Court granted the defense's motion
17 over our objection, and Mr. Marble was reluctant
18 to turn over those records because we opposed the
19 production, and I understand his reasons for being
20 reluctant to disclose those records.

21 He provided me with a real thin sketch
22 of what took place, and I can provide that for the
23 Court.

24 It was a matter alleging some
25 inappropriate touching by a female cousin who was

1 a minor at the time. It's my understanding from
2 talking to Mr. Marble that it was a touching of
3 her genital or vaginal area.

4 The only thing that was ever done was
5 Lakeysha spoke with Mr. Marble, he took the
6 information over to the mother of the female
7 cousin, discussed it with her, and it was never
8 brought to the attention of law enforcement
9 authorities, and that is the extent of it.

10 THE COURT: How old was the cousin --

11 MR. BRAMBLE: All I know is the cousin
12 was a minor.

13 THE COURT: -- at the time?

14 MR. BRAMBLE: I don't know if Mr. Marble
15 knows how old she was.

16 THE COURT: Roughly, are we talking
17 about an eight, nine year old, early teen?

18 MR. MARBLE: Early teen.

19 THE COURT: Well, 13, 14, somewhere
20 around there?

21 MR. MARBLE: Somewhere around there.

22 THE COURT: Mr. Marble, I am no more
23 interested than are you in having this matter
24 inappropriately disclosed, but if we don't deal
25 with it thoroughly, what I can almost assure you

1 is that the Court of Appeals will send this matter
2 back if there's a conviction for a second trial,
3 simply because we didn't go into it fully enough
4 under circumstances where had we gone into it,
5 nothing would have been affected.

6 So I need to know as much as I can with
7 regard to those allegations. The press reporter
8 is not here. It's just the folks involved in this
9 particular case.

10 So, as best you recall, first of all,
11 how old was the girl cousin at the time this
12 happened?

13 MR. MARBLE: To be quite honest with
14 you, I'm not sure how old she is today. This was
15 sometime back. She could have been -- she was
16 under 17 years of age.

17 THE COURT: Is she an adult now? I
18 mean, we ought know, Mr. Marble, whether someone
19 is in the vicinity of 13 or 14 or whether someone
20 is 16 or 17. I can understand not knowing whether
21 someone is 13 or 14, but what range of age?

22 MR. MARBLE: She's an adult now.

23 THE COURT: How long ago did this
24 happen?

25 MR. MARBLE: Maybe a year and a half.

1 THE COURT: Year and a half ago?

2 MR. MARBLE: Yeah.

3 THE COURT: So she's an adult now. She
4 was almost an adult then.

5 MR. MARBLE: I guess you could say that.

6 THE COURT: The matter was never taken
7 to the authorities?

8 MR. MARBLE: The matter was never taken
9 to the authorities.

10 THE COURT: How did you find out about
11 it? Did Lakeysha tell you?

12 MR. MARBLE: Lakeysha told me, and the
13 person was questioned at the time, was seeking
14 counseling for her sexual behavior, and when it
15 was brought to my attention, I felt that the best
16 thing to do was to let her mother know and my wife
17 and I deal with Lakeysha.

18 THE COURT: Was there any allegation by
19 Lakeysha that this cousin had penetrated her
20 genital area or just touched it with her hand?

21 MR. MARBLE: No, just inappropriate
22 touching.

23 THE COURT: What do you mean by
24 "inappropriate touching"?

25 MR. MARBLE: With her hand.

1 THE COURT: With her hand under her
2 clothes or over her clothes, do you know?

3 MR. MARBLE: Well, at the time Lakeysa
4 had slept with her cousin in the same bed, and
5 that morning when Lakeysa explained it to me, it
6 took place that morning. She felt her genital
7 area and threatened that if she told she would
8 physically harm her.

9 And at the time Lakeysa was not -- this
10 wasn't in our home, this was in her grandmother's
11 home, and she went to tell her grandmother, and at
12 the time that Lakeysa told me, this was, I can't
13 say if it was the same day, but when she told
14 me -- I felt something was wrong with her and I
15 asked her, and when I asked her she emotionally
16 told me what had happened.

17 THE COURT: Thank you, sir.

18 Miss Krause, do you want to make some
19 argument on the subject?

20 MS. KRAUSE: Your Honor, as it was not
21 reported to the authorities, I don't believe it is
22 a situation where we could argue it comes in under
23 a prior false accusation.

24 At this point in time it does not appear
25 that, according to Mr. Marble, what happened a

1 year and a half ago is similar enough to what is
2 alleged here or that it is going to rise to any
3 level that would make it acceptable under the rape
4 shield statute.

5 THE COURT: Mr. Mirque?

6 MR. MIRQUE: I'm not sure why it would
7 be able to come in, either, your Honor. The only
8 question I have is later on down the road when
9 we're making arguments, the prosecution's going to
10 argue, "How else could it have happened unless it
11 did," and that this is, like, information that
12 only a child would know unless it actually
13 happened, then I'm afraid that it could become
14 relevant.

15 The question of whether it comes in
16 under the rape shield statute, I have to take a
17 closer look at that statute to see whether it
18 comes in because, quite frankly, this is new
19 information to me. I can't comment on it.

20 THE COURT: Based upon what I've heard
21 thus far, I don't believe it is admissible. It
22 does not satisfy any of the specific reasons that
23 the rape shield statute says would justify its
24 admission, nor is it similar enough in any regard
25 that it would satisfy the common law exceptions

1 which the courts have drafted onto the statute in
2 order to satisfy due process requirements.

3 And I don't even think that it is
4 pertinent in rebuttal to the argument that "how
5 would a child know unless it happened," because
6 there wasn't anything unique about what happened.

7 If in fact the prior incident had
8 involved a man, an erection and ejaculation,
9 whatever, something that perhaps a child would not
10 know otherwise than having seen it once, the
11 argument that "it must have happened this time
12 because how else would she know about it" would be
13 answered, in part, by having seen it one time
14 earlier.

15 But having a female cousin simply touch
16 her in the genital area once doesn't provide any
17 kind of an education which I see in the least bit
18 pertinent in this particular case, and to admit it
19 for that reason would be to stretch the rape
20 shield statute to the point of breaking it and
21 clearly violate its objective.

22 Obviously, things can change as proofs
23 develop, and this evidence might become relevant
24 depending upon how things develop. It's not a
25 prediction that it will, simply a reservation of

1 the right to say that something has made it
2 relevant, and if something does, we'll revisit the
3 issue at that point.

4 MS. KRAUSE: Thank you, your Honor.

5 MR. MIRQUE: Thank you, your Honor.

6 THE COURT: Mr. Bramble, would you
7 please get Miss Cage up here so that when I get
8 the juries in here we can get started, rather than
9 sit and wait, and as soon as she's here let me
10 know and I'll get the juries in.

11 MR. BRAMBLE: She's just across the
12 hall, your Honor.

13 THE COURT: Let me rule with regard to
14 the evidence. Yes, the jury is sitting close to
15 the prosecution's table, but frankly, whatever is
16 on the table, any juror in this courtroom can see
17 it, anyway, even if they're sitting in the regular
18 jury box.

19 So as long as they keep it as proposed
20 right behind counsel table, we've done more than
21 what would normally happen in a typical trial to
22 obscure their view of evidence not yet received.

23 I think that's perfectly adequate.

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

25 (At about 11:20 a.m. - The Daniel Turner

1 jury returned to the courtroom)

2 (At about 11:20 a.m. - The Stephen
3 Turner jury returned to the courtroom)

4 THE COURT: Good morning, ladies and
5 gentlemen. We've had a slight change in crew
6 here.

7 This is Miss Becky Russo, who is Judge
8 Benson's court reporter. This happens to be her
9 regular courtroom. She's been kind enough to help
10 out my court reporter so she can, mine, that is,
11 get her backlog work done. That's a compliment to
12 Miss Russo, in that apparently she's got her
13 backlog caught up and can spend a couple days with
14 us.

15 So in the course of this trial you will
16 see either Miss Brown or Miss Russo here. It all
17 ends up in one set of notes, so if you do need
18 anything, as we talked about, we can get that for
19 you.

20 Mr. Bramble, you may call your first
21 witness.

22 MR. BRAMBLE: Thank you, your Honor.
23 The State would call Lakeysha Cage.

24 THE COURT: Miss Cage, would you, first
25 of all, spell your first name for us?

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THE WITNESS: L-A-K-E-Y-S-H-A.

THE COURT: Your last name is C-A-G-E?

THE WITNESS: Yes.

THE COURT: Lakeysha, do you solemnly swear or affirm that the testimony you are about to give in this cause will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

THE COURT: All right. Please remember to speak up loudly. Talk right into that microphone and don't rely on it to help you too much so that everybody can hear you.

Go ahead.

LAKEYSHA CAGE,

called by the People at 11:22 a.m. and sworn by the Court, testified:

DIRECT EXAMINATION

BY MR. BRAMBLE:

Q Lakeysha, how old are you?

A Ten.

Q Do you know your birth date?

A March the 16th. My birth date?

Q Your birth date. March 16th?

A '83.

Q Okay. Are you attending school?

1 A Yes.

2 Q What grade are you in?

3 A Fourth.

4 Q Where are you attending school? Do you know the
5 name of your school?

6 A Glendale.

7 Q I'm sorry?

8 A Glendale.

9 Q During the summer, during the month of July, were
10 you living here in Grand Rapids?

11 A Yes.

12 Q Do you know where you were living?

13 A I forgot.

14 Q Were you living in an apartment complex?

15 A Yes.

16 Q Okay. Did you have friends out and around the
17 apartment complex?

18 A Yes.

19 Q I want to draw your attention back to a particular
20 day, July 7th, 1993.

21 Do you remember a day during the summer
22 when you were playing on the steps?

23 A Yes.

24 Q What were you doing, what were you playing with on
25 the steps?

1 A Sticks and rubber bands.

2 Q What were you doing with the sticks and rubber
3 bands?

4 A I was making an arrow or a boat with 'em.

5 Q An arrow and a what?

6 A An arrow and a boat.

7 Q And what happened when you were playing with the
8 sticks and the rubber bands?

9 A The man came up and grabbed me and dragged me to
10 the apartment.

11 Q Were you able to -- how did he grab you?

12 A By the neck.

13 Q He had his arm around the back of your neck?

14 A Yeah.

15 Q And when you say "dragged" you, how did he do it?

16 A When he came up the stairs, he had grabbed me
17 behind my neck and then dragged me to the
18 apartment, and he had his hand over my mouth like
19 that (indicating).

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 off the record and out of the
25 hearing of the jury)

1 **BY MR. BRAMBLE:**

2 Q Is this person that grabbed you on the steps, is
3 he in the courtroom here?

4 A Yes.

5 Q Can you point to where he is? For the judge, can
6 you point where he's sitting, and also tell the
7 judge and tell the jury what he's wearing, what
8 color his clothes are?

9 A Yes (indicating).

10 Q Okay, what color's his shirt?

11 A Blue, light blue.

12 Q Okay, what color's his hair?

13 A Black.

14 MR. BRAMBLE: Your Honor, may the record
15 reflect the identification of Daniel Turner?

16 MR. MIRQUE: No objection by the
17 defense, your Honor.

18 THE COURT: It will so reflect.

19 **BY MR. BRAMBLE:**

20 Q Do you remember how the man you've identified, the
21 man that grabbed you, how he was dressed on that
22 date?

23 A Not really. I don't remember because I haven't
24 been thinking about it.

25 Q Okay. Did he have anything on his face?

1 A No.

2 Q Okay. Do you know what make-up is?

3 A Yes.

4 Q Okay. What things do you consider to be make-up?

5 A Lipstick and things that go on your face and up
6 there.

7 Q Okay. Did he have any of that on?

8 A Yes.

9 Q What kind of that make-up stuff did he have on?

10 A Lipstick.

11 Q When he brings you into the apartment, what does
12 he do, Lakeysa?

13 A He throws me on the mattress and then he get on
14 top of me.

15 Q Where was this mattress?

16 A It's in the living room.

17 Q What does he do when he puts you on the mattress?

18 A He get on top of me.

19 Q Did you have your clothes on?

20 A Yes.

21 Q What happens to your clothes?

22 A Before that -- after that he takes me in the
23 bedroom and then he take off, he take off my
24 clothes and then he get on top of me again.

25 Q What kind of clothes were you wearing?

1 A It was -- it's kind of like a T-shirt, but it was
2 orange, green, and black dots, and yellow.

3 Q Did he take that T-shirt off you?

4 A Yes.

5 Q What did he do when he was back in this back
6 bedroom?

7 A He got on top of me, then he felt on my chest and
8 then he urinated on me.

9 Q Where did this stuff come out from?

10 A His private part.

11 Q After he did that -- do you have a private part,
12 as well?

13 A Yes.

14 Q Where is that located?

15 A Bottom.

16 Q Kind of in the lower part of your body?

17 A Uh-huh. Not the back, but in front.

18 Q Okay. After he urinates on you, what does he do
19 then?

20 A His brother come in. He told -- his brother told
21 him to get that "B" out of his bedroom, and then
22 he takes me to the front and then he had me trying
23 on bras and panties, and he stuffed a cotton ball
24 in the bra.

25 Q Okay. He said get that what out of here?

1 A "B."

2 Q What -- did he say "B" or did he say something
3 else?

4 A Bitch.

5 Q Okay. Now, who said "get that B" or "get that
6 bitch" out of there?

7 A (Indicating)

8 Q Which one are you talking about?

9 A The one with the tie on and the gray coat thing
10 and the bluish shirt.

11 MR. BRAMBLE: Your Honor, may the record
12 reflect the identification of Stephen Turner?

13 THE COURT: It may.

14 **BY MR. BRAMBLE:**

15 Q Now, does the second guy you've just identified,
16 does he look the same as he did on that day?

17 A No.

18 Q Okay. Explain to the jury, Lakeysha, how does he
19 look different?

20 A He didn't have no beard.

21 Q Now, after this man comes in and says this, what
22 does the other defendant do? What does the man
23 with the lipstick do?

24 A He had me trying on bras and panties and he
25 stuffed cotton balls in 'em. It's flat and he

1 stuffed it on the side.

2 Q Who tried those on?

3 A What?

4 Q Who had you try those on?

5 A The one with the lipstick.

6 (People's Exhibits 1 through 5 were
7 marked for identification by the Court Reporter)

8 BY MR. BRAMBLE:

9 Q Lakeysha, I'm going to show you what is marked
10 People's Proposed Exhibit 1. Do you recognize
11 what's depicted in that, what's shown in that
12 photograph?

13 A Yes.

14 Q And what is it, please?

15 A Rubber band and stick, and it was the thing that I
16 was playing with, the rubber band and stick.

17 Q Okay. Is that the steps you were playing on?

18 A Yes.

19 Q Okay. Is this another picture of those steps? I
20 think that's number five.

21 A Yes.

22 Q Okay. Now, you've already testified that the man
23 with the beard on changed his appearance, or has a
24 beard now, and I'd ask you to look at People's
25 Proposed Exhibit 2. Do you recognize that?

1 A Yes.

2 Q Does that show how the man with the beard on
3 looked on that date?

4 A Yes.

5 Q Lakeysha, after you were asked to, told to try on
6 this bra and all that kind of stuff, what else
7 happened?

8 A We played a video game called naked poker.

9 Q Who put the video game in the machine?

10 A The man with the lipstick.

11 Q And where were you seated or where were you when
12 you were playing this game?

13 A On his lap.

14 Q What was he doing when you were sitting on his
15 lap?

16 A Going through my shirt and feeling on my chest.

17 Q Who was doing that?

18 A The man with the lipstick.

19 Q What happens after that?

20 A On the video game?

21 Q What happens on the video game?

22 A I undressed his man and he was naked, and he made
23 me look at it.

24 Q You undressed his man in the game?

25 A Uh-huh.

1 Q Who made you look at it?

2 A The man with the lipstick.

3 Q Where was this game being shown? What was being
4 shown on it? What was being played on --

5 A It was a TV, but it wasn't really no TV. It was a
6 TV that is in a store for people who steal. Like
7 if you steal something, you be on camera.

8 Q Like, almost like those little TV's or monitors
9 that they have in stores, you've seen them?

10 A Yes.

11 Q Okay. Now, after you played the game, what does
12 he do, what does the man with the lipstick on do?

13 A I was -- I saw my mom when she was coming home
14 from work, and I told him I had to go home, and he
15 said no, and I was trying to get out the door and
16 he knocked me up against the wall, and I hit my
17 head and then, and then -- then I had woke up and
18 I was in the back room.

19 Q And what happened when you were back in the back
20 room?

21 A I was laying on the bed with my clothes off.

22 Q Was there anyone else in the back bedroom?

23 A The man with the lipstick.

24 Q And what did he do then?

25 A He was laying on top of me.

1 Q And what did he do when he was laying on top of
2 you?

3 A Feeling on my private part in front.

4 Q Did he feel anywhere else?

5 A No.

6 Q What was he feeling your private part with?

7 A His hand, and he had urinated in my mouth -- not
8 urinated, but put his private part in my mouth.

9 Q You're saying he didn't urinate. What did he do
10 in your mouth with his private part?

11 A He made me suck his private part in the front.

12 Q What happened when you had to suck his private
13 part?

14 A It was some, he was -- it was like white stuff
15 come out my mouth, because I had did like that
16 (indicating).

17 Q Did some white stuff go in your mouth?

18 A Uh-huh.

19 Q What did you do with the white stuff in your
20 mouth?

21 A After he, after he pushed me out the door, I went
22 downstairs and I saw my friend India, and then I
23 started spitting the stuff out and all that.

24 Q Okay. Who's your friend?

25 A India.

1 Q Did you tell her what happened?
2 A Yes.
3 Q Now, going back to when you're back in the
4 apartment, think about the man that has the beard
5 now. What did he do when you were inside the
6 apartment?
7 A When he had, when the man with the lipstick had me
8 in the apartment, he laid me on the mattress, and
9 the man with the beard, he was feeling on my
10 chest, and the other man with the lipstick was
11 feeling on my private part.
12 Q Did the man with the lipstick at that time feel
13 you with anything beside -- on your private part
14 with anything beside his hand?
15 A No.
16 Q Did he touch you with any other part of his body?
17 A No, but he made me touch his private part with my
18 hand.
19 Q Did he do anything with his mouth?
20 A No.
21 Q The man with the lipstick on, did he ever touch
22 your private part with his mouth?
23 A No.
24 Q What did he do?
25 A He felt on my private part and my chest.

1 Q Did he ever lick you at any time?

2 A Uh-huh.

3 Q Okay, when did he do that?

4 A When we was playing the game, that game. It was
5 Pac-Man, I think it was Pac-Man.

6 Q And where was he licking you?

7 A On my chest.

8 Q Did he lick you anywhere else, do you remember?

9 A No.

10 Q What other video games did you play besides poker
11 and the Pac-Man? Do you remember any others?

12 A No.

13 Q Now, when you go outside, who's the first person
14 you see?

15 A India.

16 Q Do you tell India what happened?

17 A Yes.

18 Q Then what happens?

19 A We -- after I told her what happened, we go play
20 with her other friends, Cynthia and these other
21 boys. They was chasing us and we was playing tag,
22 and they was chasing us. And I saw my dad and he
23 was in my mom car looking for me, but I stepped
24 back because I didn't want him to find me.

25 And then India had told Cynthia that,

1 told Cynthia's mother that this man was feeling on
2 me. Then I had ran to the bushes and India went
3 to go tell her, and she told me to come here and I
4 wouldn't come there.

5 I told her I was scared, and she said,
6 "Just come here." I said no, and then India was
7 standing right there and my mom was coming, and my
8 mom said, "Have you saw Lakeysha," and India say,
9 "Yeah, she over in the bushes," and she said,
10 "Come here," and she say, "What's wrong," and
11 then I said, I said that a man was feeling at me.

12 Then he was peeking out the door, and he
13 closed the door because my mom got out her car and
14 started running up the stairs, and then my mom was
15 calling my daddy, and he had came up there.

16 He had came outside and he was on his
17 knees, with his hands folded like this, and he
18 say, he said -- my momma said, "Why was you
19 feeling on my daughter," and he said, "I don't
20 know why I did it, I don't know why I did it."

21 Q Who said that?

22 A The man with the lipstick.

23 Q Now --

24 (People's Exhibits 6 and 7 were marked
25 for identification by the Court Reporter)

1 BY MR. BRAMBLE:

2 Q Lakeysha, I want you to look at what's been marked
3 People's Proposed Exhibit 6, and look inside
4 there, if you will.

5 Now, are you looking inside there now?

6 A (Nods)

7 Q Don't take anything out yet. Did you see this
8 green case?

9 A Yeah.

10 Q Okay. Where did you see it?

11 A By the bras and the boxes and those panties in the
12 boxes.

13 Q Inside the apartment?

14 A Yes.

15 Q Are there some things in that box that you're
16 holding now?

17 A I saw this right here (indicating).

18 Q Okay, pick it up and show what you're talking
19 about.

20 A (Complied)

21 Q What was done with that?

22 A He was putting it on me with the bra. He had put
23 it in the bra thing.

24 Q More than one of them in there?

25 A Yeah, this like here (indicating).

1 Q Was that used at all? Do you remember that one?

2 A Yeah, he put it in the front with a red bra and
3 with the other things like this (indicating).

4 Q How many different bras did you see in there,
5 Lakeysha?

6 A Red and white, and this one with roses, and
7 flowers.

8 Q Do you recognize -- I'll take that back from you,
9 if I can -- the item that's marked People's
10 Proposed Exhibit 7 that is before you now?

11 A Yes.

12 Q What is that, Lakeysha?

13 A My shirt that I had on when I was there.

14 Q Did you give that to the people at the hospital,
15 then?

16 A Yes.

17 Q Lakeysha, did you say you were scared when you
18 were in the bushes?

19 A Yes.

20 Q Can you explain to the jury why you were scared?

21 A Because I thought I was going to get in trouble if
22 I went home.

23 Q Why?

24 A Because I usually get in trouble when I stay
25 somewhere long.

1 Q And you'd been kept at the apartment too long?

2 A Yes. I stayed there, I think it was an hour
3 but -- at the time it seemed like it was 5:00, but
4 I had left out the house at 1:30 or something.

5 Q Had the man with the lipstick on told, or told you
6 anything regarding what would happen if you said
7 where you were?

8 A Yes.

9 Q What did he say would happen?

10 A He would kill me if anybody would have found out
11 that I was there.

12 Q Is this the same guy that went down to his knees
13 and told your momma?

14 A Yes.

15 Q Lakeysha, if we go back, back inside the house,
16 back inside the apartment, did either of the
17 defendants, either of the two men, the man with
18 the lipstick or the man without -- was a knife
19 ever taken out?

20 A Yes.

21 Q Okay, what did they do with that?

22 A It was in a peanut butter jar. It was a sharp
23 knife that you cut like ham and stuff with, and it
24 was a butter knife, but he used the butter
25 knife -- he had, he had put the butter knife in my

1 hand and took a picture with the man that didn't
2 have a beard, and he made it like I was going to,
3 that I was going to stab him.

4 Q Who made it out like that?

5 A The man with the lipstick.

6 Q He had you put the knife to whom?

7 A His brother.

8 Q Is that the man with the beard you're talking
9 about?

10 A Yes.

11 Q And why did the man with the lipstick tell you he
12 was doing this?

13 A If I went, if I had went to the police and told
14 them what happened, that -- what happened in the
15 apartment, that he would have said that I, that I
16 just pushed the door open with a butter knife and
17 trying to kill him, trying to kill him.

18 Q Did they put anything -- did the man with the
19 lipstick or the man with the beard put anything on
20 the knife to make it look real?

21 A Uh-huh.

22 Q What was put on it?

23 A Some jelly.

24 Q Okay. What color was the jelly?

25 A Purple.

1 Q Why did he tell you the jelly was being put on
2 there?

3 A Make like I had stabbed him.

4 Q When your mother asked, did you tell her what
5 happened?

6 A Yes.

7 Q Did you describe to her what you described to the
8 jury here, that you described to all these people
9 here?

10 A I don't understand.

11 Q Okay. Did you tell her what happened?

12 A Yes.

13 Q Okay. When the white stuff went in your mouth,
14 did you try to take some of it out when you were
15 in the apartment, spit some of it out there?

16 A No.

17 Q Okay. Now, where did they have you hold the knife
18 with the jam on it?

19 A Towards his belly.

20 Q And what was the reason for that, putting it at
21 his belly?

22 A For if I would have went and told the police that
23 he have did it, did that to me, that I would have
24 went to a home or something, and they would have
25 had evidence to show that I stabbed him in the

1 belly.

2 Q Okay, and did he, the man with the beard on, did
3 he have a shirt on?

4 A Yes.

5 Q Did you have to put the knife to him, to his belly
6 with the shirt on?

7 A Yes.

8 Q When the man with the lipstick on went to the
9 bathroom on you, urinated on you, what did you do
10 with that?

11 A Nothing.

12 Q Okay. Where did he urinate on you?

13 A The front part of the bottom of my private part.

14 MR. BRAMBLE: I have nothing further at
15 this time, your Honor.

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: Ladies and gentlemen, we
22 probably can't get much productive done in ten
23 minutes, so rather than break things up in what
24 might be an artificial way and interfere with the
25 flow of things, let's return after lunch, with

1 Mr. Daniel Turner's jury returning at 1:30 so that
2 Mr. Mirque, on behalf of his client, may question
3 Miss Cage.

4 Mr. Stephen's jury, Mr. Stephen Turner's
5 jury return at two.

6 You're certainly welcome to come back
7 any time you want. You can use the jury room as a
8 lunch room if you want, but if you do go out, be
9 back at two. I think we'll be ready for you at
10 that time.

11 There will probably be some mention in
12 today's paper, ladies and gentlemen, of this
13 case. I say that because I saw a press reporter
14 in the courtroom for the tail end of yesterday's
15 proceedings, and they usually write about
16 something when they're here.

17 So I'm not going to say, "Don't read the
18 paper," if that's what you want to do over lunch,
19 but please don't read the article about this
20 case. As a matter of fact, have someone, if you
21 can, go through the paper and if the article is
22 there, cut it out and remove the page, do
23 something so that you don't see it, because the
24 only way you can find it is to note the headline,
25 and they often say things in headlines that don't

1 get borne out at all by the content of the story.

2 So have someone do that for you if you
3 want to read the paper.

4 We'll see everybody at 1:30.

5 (At about 11:51 a.m. - Recess taken)

6 (At about 1:55 p.m. - Court in session,
7 in the presence of the Daniel Turner jury)

8 THE COURT: Mr. Mirque?

9 Miss Cage, do you want to come back up
10 and have a seat where you were before lunch?

11 I suppose I should ask, did you think of
12 anything else over lunch, Mr. Bramble, that you'd
13 like to ask before Mr. Mirque starts?

14 MR. BRAMBLE: Actually, yes, if you
15 don't mind.

16 THE COURT: Go ahead. That way, the
17 cross-examination can be responsive to what's been
18 asked.

19 That's the risk, ladies and gentlemen,
20 of taking a break.

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

23 **BY MR. BRAMBLE:**

24 Q Lakeysha, I'm going to show you what's marked
25 People's Proposed Exhibit Number 8. Can you look

1 inside there and see if you can identify those?
2 A (No response)
3 Q Have you looked at them?
4 A Yes.
5 Q What is it that's in that bag?
6 A White panties.
7 Q White what?
8 A Panties.
9 Q Okay. Do you recognize those?
10 A Yes.
11 Q Have you seen those before?
12 A (Nods)
13 Q When did you see them?
14 A When he had me trying them on.
15 Q Who had you trying them on?
16 A The man with the lipstick.
17 Q And where were you trying these on in the
18 apartment?
19 A The living room.
20 Q Did he have you try on any other panties?
21 A It was a bra and panties, they were red, and then
22 some black panties that were pink and black and
23 white.
24 Q Did he have you try on any other panties?
25 A Some black panties and a bra that was black.

1 Q Did he, being the man with the lipstick on, did he
2 try on any of those type of things?

3 A No.

4 Q Did he ever have any of those things on?

5 A Yes.

6 Q Okay. When did he have them on?

7 A You talking about me or him?

8 Q Him.

9 A Oh, he didn't have those on, I did.

10 Q Who told you to put them on?

11 A The man with the lipstick.

12 Q Was the other man ever around when that happened?

13 A He had left out the door.

14 Q He left at some point?

15 A Yeah.

16 MR. BRAMBLE: I have nothing further.

17 THE COURT: Mr. Mirque?

18 MR. MIRQUE: Thank you.

19 **CROSS-EXAMINATION**

20 **BY MR. MIRQUE:**

21 Q Lakeysa, I'm going to show you that picture that
22 Mr. Bramble showed you, this picture of the
23 steps. Do you remember that picture?

24 A Yes.

25 Q Do you remember where you were playing on those

1 steps?

2 A It wasn't on this side. I can see the other
3 picture, if I can see, because I remember sitting
4 on these steps, on these steps right here. I see
5 these steps. I was sitting by my door.

6 Q Oh, you were sitting by your door?

7 A Uh-huh.

8 Q You weren't playing on the steps?

9 A I was playing on the steps, but I wasn't
10 sitting -- I was sitting by my, by that brick
11 thing, by the brick thing that's right here
12 (indicating).

13 Q Okay. If I showed you some pictures of your
14 apartment complex, would you be able to point out
15 where you were playing?

16 A Yes.

17 Q Okay. Does this look like your apartment complex
18 (indicating)?

19 A Yes.

20 Q Could you point out where you were playing?

21 A I was right there, but I was by the bricks, right
22 here (indicating), and I was turned towards, I was
23 turned towards this way and the stairs was going
24 down that way.

25

1 (Defense Exhibit 9 was marked for
2 identification by the Court Reporter)

3 **BY MR. MIRQUE:**

4 Q You were playing with the sticks at the top of the
5 stairs?

6 A Yes, by -- the one that you look over down the
7 stairs, I was close to the bar there.

8 Q Did you at any time go back to playing with the
9 sticks after Mr. Turner took you into the
10 apartment?

11 A No, I went to go play with India after he let me
12 go.

13 Q Okay. Where in this picture are those sticks?

14 A There was the rubber band, the sticks, and the
15 thing there.

16 Q Okay, so this area here on the lower level of the
17 steps is where the sticks and stuff are, right?

18 A Yes.

19 Q Could you tell me what is above these stairs?

20 A My apartment door is right here (indicating), and
21 it's a white thing, I was sitting towards it, and
22 it's a door right here and it's a red bar.

23 Q Is there like a covering over those stairs, like a
24 patio right above this area? Is that where the
25 walkway is?

1 A Yes.

2 Q And you didn't touch the sticks after Mr. Turner
3 put you into the apartment, right?

4 A Yes.

5 Q And you were playing with the sticks at the top?

6 A Yes.

7 Q When you said that Mr. Turner grabbed you, you
8 told people in the courtroom that he grabbed you
9 by the neck. Is that what you said?

10 A Yes.

11 Q Did you say that he put his hand over your mouth?

12 A Yes.

13 Q And did he pick you up or did he just drag you?
14 How did he do this?

15 A He had his arm like this (indicating) and his hand
16 on my mouth, and he dragged me to his apartment.

17 Q Did you like kick your legs or anything?

18 A A little bit.

19 Q Did it hurt?

20 A I couldn't hardly breathe over my nose because it
21 was like this (indicating).

22 Q It was so hard that you could hardly breathe?

23 A Yes.

24 Q What about around the neck? Did it hurt around
25 the neck? Did he kind of like make you choke?

1 A Kind of --

2 Q He wasn't just kind of very gentle, but was he
3 using like a lot of force to get you in?

4 A Yes.

5 Q Do you remember the color of lipstick that he wore
6 when he did approach you?

7 A Looked like red.

8 Q Was it a dark red, a light red?

9 A Probably dark red.

10 Q Dark red, and that obviously was lipstick, right?

11 A Yes.

12 Q Was it thick or was it just dark red or neatly put
13 on? Did he put it on real thick?

14 A I didn't see when he put it on.

15 Q Did the lipstick look like it was really thick on
16 there? You know how some people put too much
17 make-up on, is that what he kind of looked like?

18 A Yeah.

19 Q Lakeysha, do you remember talking to a lady police
20 officer after all this, a Sergeant Carrier? She
21 came to the apartment complex with two other
22 police officers, two men. Not this police
23 officer, but another lady police officer.

24 A No.

25 Q You don't remember talking to her?

1 A (Shakes head)

2 Q You don't remember telling her that Daniel Turner
3 grabbed you by the middle of the waist?

4 A I don't remember.

5 Q You don't remember saying that to her? Do you
6 remember being at St. Mary's Hospital?

7 A Yes.

8 Q Do you remember that, right after all of this? Do
9 you remember talking to some of the nurses there?

10 A Yes.

11 Q Do you remember telling one of the nurses, I'm
12 sure you don't remember her name, but a Nurse
13 Gill, a Nurse Hamstra, that you told them that two
14 men grabbed you? Do you remember telling them
15 that?

16 A I told them that one man grabbed me, because the
17 other one was, when I went into -- when he brung
18 me into the apartment it was, the other man had
19 came out of the room, and I guess he had just woke
20 up.

21 Q You don't remember telling the people at
22 St. Mary's that two men grabbed you?

23 A Nuh-uh, no.

24 Q Okay. Lakeysha, I'm going to take you, once he
25 takes you into the apartment -- are you okay?

1 A (Nods)

2 Q Once he takes you into the apartment, you said
3 that he took you right into the back room?

4 A (Shakes head)

5 Q No? Where did he take you, where did he take you?

6 A He took me, he laid me on the mattress.

7 Q Where was the mattress?

8 A In the living room.

9 Q In the living room. Do you remember talking to
10 Officer Mesman, one of the first police officers
11 that came to the scene? Do you remember talking
12 to one of the men officers? There were two of
13 them. Do you remember talking to them?

14 A Yes.

15 Q Do you remember telling them that Daniel Turner
16 took you into the apartment, and then took you
17 into the back room, and then took off all your
18 clothes?

19 A No.

20 Q You don't remember that. Do you remember I asked
21 you about Sergeant Carrier, the lady police
22 officer?

23 A Yes.

24 Q Do you remember? Do you remember telling her that
25 the first thing Daniel Turner did was take you

1 into that back room?

2 A No.

3 Q You don't remember that? Do you remember a
4 Detective Karpowicz, a blond-haired lady, and she
5 was going to have a baby pretty soon?

6 A Yes.

7 Q Do you remember her? She had a little girl. But
8 do you remember telling her that Daniel Turner
9 took you from the front room into the back room?

10 A No.

11 Q You don't remember saying that, either? So you're
12 saying that, today you're telling us that the
13 first place Daniel Turner took you into was the
14 front room?

15 A Living room.

16 Q Is that what you're saying?

17 A Yes.

18 Q Once Daniel Turner then takes you on to the
19 mattress, does he throw you on to it or does he
20 sit down, or what does he do?

21 A He pushed me on the mattress and then he got on
22 top of me.

23 Q Do you remember saying that while Daniel Turner
24 was dragging you into the apartment, that you
25 banged your head on a table that was right near

1 the door?

2 A There was a wall.

3 Q You banged it on the wall when he was dragging you
4 into the apartment?

5 A That wasn't when he was dragging me through the
6 apartment, because I didn't hit my head. He threw
7 me on the mattress, and when he was playing the
8 game and I seen my momma was going to get home, he
9 said, "I don't care," and then I said, "I got to
10 go home because my momma at home."

11 Then he said a cuss word at me. Then I
12 tried to get out of his lap and go to the door,
13 and that's when I had hit my head on the wall,
14 because he was trying to stop me from going out
15 the door.

16 Q Do you remember being, do you remember being in
17 court a couple months ago and me having asked you
18 questions? Do you remember that?

19 A Yes.

20 Q Do you remember when I asked you the question,
21 where you hit your head, and you said that you
22 banged your head on the table by the door?

23 A On the wall.

24 Q You hit the wall, not the table?

25 A Yes.

1 Q When you're in that front living room, when Daniel
2 Turner threw you onto the mattress in there, is
3 that when Daniel -- I guess he used the bathroom
4 on you?

5 A No.

6 Q No? He didn't use the bathroom on you in the
7 front room?

8 A No.

9 Q So in the front room, all he did was just get on
10 top of you?

11 A And felt on my chest.

12 Q And he felt on your chest?

13 A (Nods)

14 Q Did it hurt?

15 A No.

16 Q He didn't rub it hard?

17 A No.

18 Q And after he felt on your chest -- well, let's
19 back up. Were your clothes off when he was
20 feeling your chest?

21 A No, but my shirt was up to my, right here
22 (indicating).

23 Q And he was feeling your chest. Did you have a bra
24 on at the time?

25 A No.

1 Q No bra? So he was feeling actual -- your skin?

2 A Yes.

3 Q How long did he feel your chest for? Was it a
4 minute? It probably seemed like forever, but how
5 long?

6 A Until his brother came out the room and his
7 brother had left.

8 Q So until the brother entered the room? Where did
9 his brother come from, the back room or --

10 A From the back room to the living room, and he had
11 left, and then he took me to the back room.

12 Q Who took you into the back room, the brother or
13 the man with the lipstick?

14 A The man with the lipstick.

15 Q How did he take you into the back room? Did he
16 drag you again?

17 A No, he didn't -- he told me to go back in the back
18 room.

19 Q Lakeysha, I'm going to -- can you see this? Can
20 you see this, Lakeysha?

21 A Yes.

22 MR. MIRQUE: Can you see this,
23 Mr. Bramble?

24 MR. BRAMBLE: Go ahead.

25 BY MR. MIRQUE:

1 Q Daniel Turner told you to go into this back room?
2 A Yes.
3 Q What was it like in this back room? What do you
4 remember about this back room?
5 A I really don't remember because I don't really be
6 thinking about it.
7 Q Do you remember anything on the walls of this back
8 room, any pictures?
9 A No. Only thing I remember was a little, it was a
10 stuffed animal or something.
11 Q Where was that stuffed animal? Was it right about
12 here (indicating)?
13 A You can see it when you in the kitchen.
14 Q You could see it from the kitchen?
15 A Yeah.
16 Q Right --
17 A It's about, the kitchen's right here and you could
18 see.
19 Q Here, why don't you point where you could see the
20 animal.
21 A By the kitchen, right here, and it's about right
22 over here (indicating).
23 Q That's the animal. Was it a stuffed bird?
24 A I think it was a bird. I know it was black.
25 Q So it was a black bird. That's the only thing you

1 remember about that part?

2 A Yes.

3 Q You don't remember anything on this wall
4 (indicating)?

5 A No.

6 Q Or this wall (indicating)?

7 A No.

8 Q Nothing that strikes your memory? You were taken
9 or you were called into that room by Daniel after
10 he was sitting on you in the living room?

11 A He was in the living room and he told me -- once I
12 was in the back room, he came in the back room and
13 he had took off my clothes and then he got on top
14 of me.

15 Q So you went into the back room. Did you lay down
16 on that cot that was in there, or there was, there
17 was a bed in there. Did you lay down on this bed?

18 A That's the bed? I laid on a bed, I know I laid on
19 a bed.

20 Q I'm sorry, I didn't hear you.

21 A I laid on a bed.

22 Q You laid on a bed in the back room?

23 A (Nods)

24 Q Okay. How long were you back there, a guess?

25 A I don't know.

1 Q A minute, two minutes. Probably about three hours
2 or so, or fifteen --
3 Q Fifteen minutes, fifteen minutes?
4 A Not three, but --
5 Q Fifteen minutes?
6 A Yeah.
7 Q And while you were laying on that bed, is that
8 where Daniel Turner sat on you and then used the
9 bathroom on you?
10 A Yes.
11 Q Where did that go? You said it went kind of in
12 this area (indicating). Do you remember?
13 A Right down here (indicating).
14 Q Right down here. Lakeysha, when you left the
15 apartment, did you put your clothes back on?
16 A Yes.
17 Q You didn't take any showers or baths after you
18 left the apartment to St. Mary's, did you?
19 A No.
20 Q You didn't change your clothes, did you?
21 A No.
22 Q And this gooey stuff that was here, it was white,
23 wasn't it?
24 A It was in my mouth.
25 Q When you said he went to the bathroom when you

1 were in the back room, when he went to the
2 bathroom on you and it landed here (indicating),
3 what color was that? Was that white?
4 A No.
5 Q What was it?
6 A Yellow.
7 Q It was regular bathroom yellow?
8 A (Nods)
9 Q It wasn't white?
10 A (No response)
11 Q It wasn't white?
12 A Yes.
13 Q Yes, it was white?
14 A I mean, no, it wasn't, but -- it wasn't white.
15 The white stuff was in my mouth.
16 Q Okay. After Daniel went to the bathroom on you in
17 the back room, what happened then?
18 A After he went to the bathroom?
19 Q Yeah, after you were laying down on this mattress
20 or bed in the back room and you said that he went
21 to the bathroom.
22 A Then he made me suck his private part and he was
23 feeling --
24 Q Where did he make you suck his private part, in
25 this room or in this room (indicating)? In the

1 living room or in the back room?
2 A It was in the back room.
3 Q It was in the back room, and it was at that point
4 that the white stuff came out?
5 A Yes.
6 Q And it went into your mouth?
7 A Yes.
8 Q Did you spit it out?
9 A No, not until I went outside.
10 Q When you went outside did you wipe it with your
11 mouth like that (indicating) or you just -- what
12 did you do?
13 A When I went outside by the bushes and I was
14 walking and I saw my friend India, then I spit it
15 out.
16 Q So you went -- he put his private part in your
17 mouth right here, in the back room, and the white
18 stuff went into your mouth, right?
19 A Yes.
20 Q And you didn't spit it out until you were hiding
21 in the bushes?
22 A No.
23 Q What happened in between?
24 A I was going down the stairs, because there's
25 stairs this way and stairs going on the other

1 way. Then I went down the stairs on the other
2 way, and when I got by a big rock I starts feeling
3 hot. My friend, India, she wanted me to come out
4 and play with her.

5 Q After you went to the back room, though, do you
6 remember telling us that you went into the front
7 room to play some video games?

8 A Yes.

9 Q And you still had this stuff in your mouth at that
10 time?

11 A Yes.

12 Q Do you remember telling us that you played the
13 video game naked poker?

14 A Yes.

15 Q And you still had this stuff in your mouth at that
16 time?

17 A Yes.

18 Q Do you remember telling us that you played
19 Pac-Man?

20 A Yes.

21 Q And you still hadn't spit the stuff out?

22 A Yes.

23 Q Do you remember playing race car and you still had
24 this stuff in your mouth?

25 A Yes.

1 Q You didn't spit it out?
2 A No.
3 Q Didn't even wipe it out?
4 A No.
5 Q So it was just there?
6 A Yes.
7 Q How long were you playing those video games?
8 A I don't know.
9 Q How long had you played the naked poker game?
10 A That was quick.
11 Q That was a quick game, you play it for a few
12 seconds?
13 A Yes.
14 Q A minute?
15 A Few seconds.
16 Q And you won at that game, you got the man to take
17 all his clothes off?
18 A Yes, I had to get all his clothes off, win all his
19 money.
20 Q Okay, so the game works by -- there's a man that
21 you're sitting against and you're playing cards?
22 A Yes.
23 Q And if you win, he takes off a piece of clothing?
24 A Yes.
25 Q Okay, and you saw that the game went all the way

1 to its end and he had all of his clothes off?
2 A Yes.
3 Q And you played the game for a minute?
4 A I don't remember.
5 Q How many minutes was it?
6 A I don't know.
7 Q Ten minutes?
8 A I don't know how many minutes it was.
9 Q Did he take the clothes off all at once or when
10 you played the game did he take one piece of
11 clothing off at a time?
12 A One piece of clothing off at a time.
13 Q And you played this game until he had all his
14 clothes off?
15 A Yes.
16 Q Then you played Pac-Man, or was it Miss Pac-Man?
17 Which was it?
18 A I think it was Miss Pac-Man or Pac-Man.
19 Q How long did you play that game?
20 A About ten minutes.
21 Q About ten minutes?
22 A Yes.
23 Q And then you played a race car game?
24 A Yes.
25 Q What game, what kind of game was that,

1 where you --

2 A You have a stick, it's like one of the control
3 sticks and you move it forward and push buttons,
4 and just go and see if you can get to the finish
5 before the other car.

6 Q Did you like that game?

7 A It was fun.

8 Q It was fun?

9 A Yeah.

10 Q You like Miss Pac-Man?

11 A Yes.

12 Q Do you like video games?

13 A Yes.

14 Q Do you have a video game at home?

15 A Yes, Super Nintendo.

16 Q Do you have a Super Nintendo set?

17 A Yes.

18 Q Had you ever played Miss Pac-Man on a video game
19 before?

20 A I played Pac-Man, but never Miss Pac-Man.

21 Q Had you ever played a race car game?

22 A Yes, at the stores.

23 Q Stores. Okay, after you played the video
24 games -- you said that you were playing video
25 games with Mr. Turner, the man with the lipstick,

1 on his lap?

2 A Yes.

3 Q And you said that he was feeling your chest again?

4 A Yes, and he was putting his tongue on my --

5 Q He was putting his tongue?

6 A He was putting his tongue on my chest.

7 Q On your chest?

8 A Yes.

9 Q So his mouth was on your chest?

10 A Yes.

11 Q Like how? Like this (indicating)?

12 A Like his mouth all over.

13 Q His mouth was all over your chest?

14 A Like that (indicating).

15 Q Okay. But you felt his mouth against your chest?

16 A Yes.

17 Q And this was the man with the lipstick, right? It

18 wasn't the brother, was it? It was the man with

19 the lipstick?

20 A Yes.

21 Q And it was the red lipstick?

22 A Yes.

23 Q When he was rubbing your chest, was he rubbing it

24 hard or was he doing it soft?

25 A Hard.

1 Q Hard? This time it hurt?

2 A Yes.

3 Q Did he rub in your private parts at any time?

4 A When he had me trying on panties.

5 Q He was rubbing your private parts?

6 A Yes.

7 Q Did he rub hard or did he rub soft?

8 A Soft.

9 Q Soft. Lakeysha, when Mr. Turner showed you what
10 was in this case, do you remember?

11 A Yes.

12 Q You remember those things. Did you -- did he take
13 those out of the case or did he have them on?

14 A He took 'em out.

15 Q He took them out. Did you see what else was in
16 here?

17 A Yes.

18 Q Lakeysha, we're going to go back -- Lakeysha, do
19 you remember telling us about when Daniel Turner,
20 the man with the lipstick, took a picture of you?

21 A Yes.

22 Q And that you were holding a knife up to his
23 brother?

24 A Yes.

25 Q Where were you holding that knife up to, again?

1 Was it his stomach?
2 A It was his stomach or his neck, one of 'em.
3 Q You don't remember?
4 A Yes.
5 Q And there was jelly on that knife?
6 A Yes.
7 Q You're sure there was jelly? It was red or grape
8 or whatever. You're sure --
9 A It was jelly and -- I think it was peanut butter
10 laying on the table and some jelly.
11 Q But there was jelly?
12 A Yes.
13 Q When Daniel, the man with the lipstick, took the
14 picture, did he really take a picture or did he
15 just go "ch-ch"?
16 A I don't know, it was one of those, the kind of
17 camera that my mom has.
18 Q Did it flash?
19 A The one that the picture just come out, yeah, it
20 flashed.
21 Q Oh, it was a Polaroid, the kind that the picture
22 comes right out?
23 A Yes.
24 Q Oh. Did you see the picture?
25 A No.

1 Q But one came out when he took it, though, right?

2 A Yes.

3 Q Lakeysha, do you remember when the police officers
4 first came, a police officer? You probably don't
5 remember the name, but it was a man officer.

6 Do you remember an Officer Baar, by any
7 chance, a man officer? Do you remember telling
8 him what happened? Do you remember talking to a
9 police officer?

10 A Yes.

11 Q Do you remember Officer Baar saying, "Did the man
12 with the lipstick put his penis in your vagina"?

13 A Yes.

14 Q Do you remember that? Do you remember when your
15 mom said "your cat"? Do you remember your mom
16 saying that?

17 A Yes.

18 Q Do you remember saying "yes"?

19 A No.

20 Q You don't remember saying "yes"?

21 A No.

22 Q Do you remember talking to the same officer,
23 Officer Baar, and that you told him that one of
24 these two gentlemen, that they threw you against
25 the wall and that you were knocked out?

1 A No. I told them that when I tried, tried to get
2 out because my mom was home and I thought I was
3 going to get in trouble -- and I thought my mom
4 was going to come looking for me, check, like, and
5 asking through the apartments and all that,
6 because they haven't seen me since my dad had came
7 home from work. And I thought she was going to
8 come looking for me and knocking on the doors of
9 the apartment.

10 And then he came and grabbed my shirt,
11 and I tripped over part of the table and I hit my
12 head.

13 Q Now, let's go back a little bit to what you said.
14 Your mom has looked for you in the apartment
15 complex before because you'd been gone for a long
16 time?

17 A Not in the apartment, but she, like when we
18 staying on another street, she asked like some
19 neighbors every time I come -- all the time I came
20 past my apartment they said my mom been looking
21 for me, like that.

22 Q Do you get in trouble when you're not where you're
23 supposed to be?

24 A Yes.

25 Q What happens when you get in trouble when you're

1 not supposed to be where you are?

2 A Sometimes they punish me, sometimes I get whooped.

3 Q You get whooped?

4 A Yes.

5 Q Who whoops you?

6 A My mom or my dad.

7 Q They both do? Your daddy does it, too?

8 A Yeah, my dad whoops me sometimes.

9 Q Lakeysha, I'm going to take you back. Do you
10 remember the lady officer I was talking about? Do
11 you remember talking with -- the name is not going
12 to mean anything to you -- Sergeant Carrier, a
13 lady officer? I think she was probably dressed up
14 as a police officer.

15 A Did she have a camera? I remember talking to a
16 lady who had a camera.

17 Q I don't know. But there was a lady police officer
18 there, one of the first ones that got there. Do
19 you remember talking with her a little bit?

20 A No.

21 Q You don't remember telling her that when you were
22 brought in to this back room, that all of your
23 clothes were taken off?

24 A I talked to a man.

25 Q You talked to a man officer and you told him that

1 all your clothes were taken off when you were in
2 the back room?

3 A Yes.

4 Q Do you remember saying that the man with the
5 lipstick took all of his clothes off in that back
6 room just before he sat on you?

7 A Yes.

8 Q Do you remember at the first hearing we had, the
9 preliminary examination, I was asking you
10 questions and another lady lawyer was asking you
11 questions that when you were in the back room,
12 that man with the lipstick took your clothes off
13 but didn't take your panties off? Do you remember
14 saying that?

15 A Yes. Before he had used the bathroom on me he
16 just pulled down my pants. He didn't take 'em
17 off.

18 Q Lakeysha, I'm going to show you a picture that I
19 hope you will be able to recognize, if I can find
20 it.

21 You know your complex pretty well, don't
22 you?

23 A Yes.

24 Q You go out and play around, don't you?

25 A Yes.

1 Q You just don't play in the front, do you? You go
2 maybe to the next complex and play with some
3 friends or the next apartment building and play
4 with some friends?

5 A Only time I go behind the building is when we
6 playing, me and India and them playing
7 hide-and-go-seek. Otherwise, I stay in the front
8 or go over her house.

9 Q Do you know where that is?

10 A Yes.

11 Q Where is that?

12 A It's like -- I think that's the one that's down
13 the street from our apartments.

14 Q You mean by the stores?

15 A Yes.

16 Q Down by that little shopping center?

17 A Yes.

18 Q That's the place?

19 A Yes.

20 Q You're sure about that?

21 A Yes.

22 Q Now, if you were going to take this picture, could
23 you take this picture from your apartment complex
24 or would you have to leave and go down the street
25 and take a picture at the parking lot of the

1 store?

2 A Parking lot of the store.

3 Q So you'd have to leave the area?

4 A Yes.

5 Q Lakeysha, do you remember when I was first talking
6 with you a couple months ago, I asked you whether
7 you thought that Mr. Turner was kind of funny by
8 the way he dresses?

9 A Yes.

10 Q Do you remember that?

11 A Yes.

12 Q Do you remember telling me when you and your
13 little sister, I think it's "Mika"?

14 A Meeka.

15 Q Meeka, I'm sorry, Meeka. That one time, or I
16 don't know how many times, that you would kind of
17 go by the window and just kind of sneak a peek at
18 these guys?

19 A Yes.

20 Q Do you remember this apartment ever having its
21 door open when you ran by there?

22 A Yes.

23 Q Do you remember the one time that you took a
24 camera and tried to take a picture of these two
25 guys in the room? Do you remember telling me

1 that?

2 A No.

3 Q You don't? You don't remember saying at the
4 preliminary examination that you and your little
5 sister would try to go to the window, take a
6 picture, then run by? You don't remember saying
7 that?

8 A No.

9 Q Lakeysha, about -- you said that this was about
10 1:30 when you left your folks's apartment, right,
11 in the afternoon?

12 A Yeah, because my daddy was sleeping.

13 Q And do you remember how long you were playing on
14 the steps?

15 A For a long time, because I had -- I had went down
16 the stairs and there was this girl. She had blond
17 hair, and she was sitting on the rock.

18 And me and my little sister had came
19 outside and we saw her sitting on the rock, and
20 she asked us, did we see this, like a man, a black
21 boy, because a black boy was looking for her.

22 And we -- after that I had my little
23 sister go look for some sticks and rubber bands,
24 and after I came up the stairs, she went in the
25 house and I had went in the house and then I came

1 back outside. And before I went back outside, I
2 said, "Come outside with me," and she said, "No,
3 because I want to finish playing."

4 And then I went back outside and I went
5 back over where the rock was, and she still was,
6 that girl was, still was right there. And then
7 she had those rubber bands that was by -- that big
8 old ball that had rubber bands on it, she had, had
9 gave it to me because I had threw it and she had
10 gave it to me, and she had gave it back to me.

11 Then I went back up to the stairs and I
12 sat down. I already had the sticks and I had made
13 something.

14 Q About how long did that take, an hour,
15 hour-and-a-half?

16 A No, it was about one something.

17 Q Well, let me ask you this. Do you know
18 approximately what time the man with the lipstick
19 took you?

20 A It was almost 2:00.

21 Q Almost 2:00?

22 A Because it was 1:30 when I left out the apartment.

23 Q Do you remember playing ball in that area just on
24 the upstairs? Do you remember bouncing the ball
25 in that area?

1 A Yes.

2 Q About what time was that?

3 A I don't remember, because I had threw the ball. I
4 had threw the ball down and it bounced back up,
5 and I had catched it in my hand.

6 Q Was this before Mr. Turner did all this or is this
7 after?

8 A Before.

9 Q So it was before 2:00?

10 A Yes.

11 Q When you left the Turners' apartment, you went
12 where?

13 A Down by the rock.

14 Q Did you meet somebody at the rock?

15 A My friend India, she was standing down there on a
16 bike and she said, "I'm mad at you," and I said,
17 "For what," and she said 'cuz I wasn't at home
18 and she came over there to play with me.

19 And she said, "Can you play with me,"
20 and I said, "Yeah," and so I had went over there
21 and played with her.

22 And then she said, "What's wrong with
23 you," and I said, "The man," I says, "You know
24 that man that always wears lipstick and stuff?"
25 She said, "Yeah, what?" And I said, "He was

1 feeling on me."

2 She said, "Quit telling stories." I
3 said, "I ain't telling no story," and she say,
4 "Well, go tell Cynthia momma," and I said, "No,"
5 and then she went to go tell. She went to go get
6 Cynthia momma. And then I said, "No, just come
7 on, come on."

8 And then her friends, they was two boys
9 and they was chasing us because I had hit one of
10 them in the head with a rock, and my dad, he was
11 coming past in the car and my momma was in the car
12 looking for me. But then I had stepped back, and
13 after he was in the driveway I had came from
14 behind the driveway.

15 And then India went to go get Cynthia's
16 momma, but I had ran over in the bushes, and I
17 went and I sat in the bushes for a little while.
18 And then India said, "Cynthia momma, Cynthia
19 momma" -- I said, "I'm not coming." Then she
20 said, she said that she had -- she said that,
21 "Cynthia mom's going to be coming for she can see
22 what's wrong," and I said, "No."

23 And then she said, "Come on, come on,"
24 and she tried to get me out of the bushes but I
25 couldn't come. And then my momma was coming in

1 her red car and she said, "Have you saw Keysha,"
2 and India said, "Yeah, she in the bushes." And
3 then my momma said, "Come here," and then I said,
4 "No," and then she said, "Come here."

5 Then I came out the bushes and she say,
6 "What's wrong," and I said, "That man up in that
7 apartment, he was feeling on me," and then he
8 had -- he was peeking out the door. And then he
9 closed the door.

10 My momma left the car, she left the door
11 open. She ran up the stairs and my momma was
12 calling my daddy. My daddy ran up the stairs and
13 then he was on his knees saying, "I don't know why
14 I did it, I don't know why I did it."

15 Then my daddy came, my daddy had came up
16 the stairs and he had ran back in his apartment.

17 Q You mentioned something about a red car. Do you
18 remember talking with one of the police officers
19 that when you were first taken by the man with the
20 lipstick, that you saw a red car go by?

21 A Yes.

22 Q And if I'm wrong let me know, but it was a white
23 man in the car?

24 A Yes.

25 Q And he was about 20, 25, in his 20's?

1 A I don't know how old he was, but he was young.
2 And I think it was one of the boys that I played
3 football with outside with my -- my momma let us
4 stay outside and they was like, I think it was
5 about the Fourth of July and they was starting
6 fireworks. They had just came back from
7 swimming.

8 And then I had caught the ball and then
9 I asked could I play, and they say yeah, and then
10 they had left and one of them came back in a red
11 car, and then -- he was parked way down here
12 (indicating), and I guess he didn't see but I was
13 kicking, like, and he had dragged me to the
14 apartment, and that's all.

15 Q So somebody that you knew, some young gentleman
16 that plays football with you drove by in a car
17 when the man with the lipstick took you?

18 A Yes.

19 Q Do you remember the police officer who was having
20 a baby?

21 A Yes.

22 Q Did you tell her about him, the man with the red
23 car and --

24 A I don't remember.

25 Q You don't remember. Do you remember telling

1 Officer Mesman about this car, this small red car?
2 A I remember telling the officer about it, but I
3 don't remember telling anybody else about it.
4 Q And you told them that it was a friend of yours
5 who you played football with?
6 A I don't remember telling them that.
7 Q You don't ever remember saying that?
8 A Yes.
9 Q Okay. Lakeysha, did you know that you were going
10 to be in trouble when your mom found out that you
11 were gone for too long?
12 A Yes.
13 Q You were afraid that you were going to be whooped
14 on again?
15 A Yes.
16 Q Is that why you didn't go right to your mom and
17 dad after this all happened, and instead went to
18 India?
19 A Yes.
20 Q Did you get in a fight with some young men just
21 before you saw India?
22 A No, but when I was over there, yeah.
23 Q You knocked one upside the head with a rock, is
24 that what you said?
25 A Yes.

1 Q You were pretty upset about that?

2 A Yes, because he had hit me, so I threw him on the
3 ground and started hitting him back.

4 Q He hit you, so you started hitting him back?

5 A Yeah.

6 Q And this was after all this stuff in the
7 apartment?

8 A Yes.

9 Q Do you remember talking to the doctors at
10 St. Mary's, Dr. Perry?

11 A Yes, I remember talking to this woman and a man,
12 and I think it was her.

13 Q Detective Vazquez, do you remember talking to
14 those people?

15 A Yes, because this lady, she was going to give me
16 the thing that you shoot in a needle, but it was a
17 fake one, like a squirt, the squirt thing, the one
18 with the needle but it didn't have no needle. She
19 was going to give it to me but I had left.

20 Q Do you remember -- now, when you were talking, did
21 you talk to Dr. Perry separately, and
22 Detective Vazquez separately, and then the nurse
23 separately, or were they all in there together?

24 A I remember talking to -- I forgot her name, but I
25 remember talking to her separately.

1 Q Detective Vazquez? She was talking to you alone?

2 A Yes.

3 Q Was that in a room off to the side in the
4 emergency room?

5 A She was by the wall, I think it was. I think it
6 was a wall there. I think it was the thing that
7 had all the stuff on it that she was in. I think
8 it was a chair or something.

9 Q Do you remember whether there were any nurses or
10 doctors when Detective Vazquez was talking to you?

11 A No.

12 Q None of them came around?

13 A Well, they kept on coming in, and when she was
14 talking to me, then they'd go back out and then
15 they'd come back in again.

16 Q But they would do something and then
17 Detective Vazquez would stop talking, and then
18 when they were done and left, Detective Vazquez
19 started talking to you again?

20 A Yes.

21 Q How long have you and India been friends?

22 A Since I moved to Grand Rapids.

23 Q When was that?

24 A I don't remember when we moved there, but I met
25 Cynthia first, and then India. I haven't saw

1 Cynthia in a long time, but India, me and her was
2 friends ever since I moved there.

3 Q Okay, you met Cynthia first? Cynthia is your mom?

4 A No.

5 Q Your stepmom?

6 A No.

7 Q Who is that?

8 A My friend.

9 Q Oh, your friend Cynthia?

10 A Yes.

11 Q Okay. Did you live in Grand Rapids a year before
12 this happened?

13 A No.

14 Q A month?

15 A Yes.

16 Q About a month?

17 A Yes.

18 Q When you moved to Grand Rapids, did your whole
19 family move?

20 A No.

21 Q Was a sister left behind or a brother?

22 A I don't have any brothers.

23 MR. BRAMBLE: Your Honor, excuse me, I
24 guess I'm going to object at this point.

25 We're here to determine a couple issues

1 here, not when she moved here or who she moved
2 with, and I think this is getting far afield. I'd
3 object to the relevancy.

4 THE COURT: Come up to the bench and
5 talk to me about it.

6 (Counsel approached the bench, and a
7 discussion was held off the record and out of the
8 hearing of the jury)

9 **BY MR. MIRQUE:**

10 Q Lakeysha, when all of this happened, when the man
11 with the lipstick, you know, took you into his
12 apartment, were your parents going through a
13 divorce at that time?

14 MR. BRAMBLE: Your Honor, I'm going to
15 register an objection again. I don't see how
16 that's relevant.

17 THE COURT: It may be for background.
18 You can get an answer to that question, but no
19 more, Mr. Mirque.

20 **BY MR. MIRQUE:**

21 Q Lakeysha, were your parents in the process of
22 getting a divorce at the time that this happened?

23 A No.

24 Q Thank you, Lakeysha, I'm done for now.

25 THE COURT: Anymore, Mr. Bramble?

1 MR. BRAMBLE: Please, your Honor.

2 REDIRECT EXAMINATION

3 BY MR. BRAMBLE:

4 Q Okay, Lakeysha, I have just a few questions to ask
5 you. You said the man with the lipstick on said a
6 cuss word when you tried get off his lap. What
7 did he say?

8 A He told me to "Get back here," and when I was
9 getting off his lap, when I was trying to get off
10 his lap, he told me to "Get back here," and when
11 he had dragged me, I tripped over the table and I
12 hit my head.

13 Q You tripped over the table and hit your head.
14 Now, you indicated there was a stuffed animal in
15 the room?

16 A Yes.

17 (People's Exhibits 10 and 11 were marked
18 for identification by the Court Reporter)

19 BY MR. BRAMBLE:

20 Q You said it was an animal?

21 A Yes.

22 Q Do you know what kind of animal it was?

23 A I don't remember. I know it was an animal in the
24 room.

25 Q Okay. I'll show you what's marked Exhibits 10 and

1 11. Do you recognize -- those are photographs.
2 Is there a stuffed animal in there?
3 A Yes.
4 Q Okay. Is that the stuffed animal you're referring
5 to?
6 A Yes.
7 Q What does it look like to you?
8 A United States of America bird.
9 Q A United States of America bird?
10 A Yes.
11 Q Would that also be called an eagle?
12 A Yes.
13 Q Okay. And that United States of America bird
14 eagle, was that in the back room where the cot
15 was? In the back room?
16 A Yes, it was in the back room.
17 Q Okay. Now I'll hand you what's marked People's
18 Proposed Exhibit 3. Do you recognize what's
19 depicted or what's shown in that photograph?
20 A Yes.
21 Q And what would that be, Lakeysha?
22 A I don't understand.
23 Q What does that show, that photograph?
24 A A bed and a radio and some tapes and blue jeans
25 and a little end table that you eat on and some

1 books and some boxes and some tissue.

2 Q Okay. Is all that stuff in the back room?

3 A Yes.

4 Q Okay. I'll show you what's marked Exhibit 4. Do
5 you recognize that?

6 A Yes.

7 Q Okay. Do you remember you described something
8 that you said was used like in a store?

9 A Yes.

10 Q Okay, to catch people who were taking stuff?

11 A Yes.

12 Q Okay. Is that shown in here?

13 A Yes.

14 Q Okay, where is it?

15 A Right here (indicating).

16 Q Okay, that's the kind of like television set?

17 A Yes.

18 Q Okay, and is that where the video game you
19 referred to was being played?

20 A Yes.

21 Q Okay. What did the defendant say, the man with
22 the lipstick on, say when you tried to go to the
23 door and you tried to leave?

24 A He say, "Get back here."

25 Q When did he tell you what would happen if you told

1 anyone at home?

2 A He will kill me.

3 Q Okay, when did he tell you, though? When you were
4 leaving, before, when?

5 A When I was leaving he asked, he said, "Does
6 anybody at your home smoke," and I said, "Yeah, my
7 dad," and he told me if I went home, he told me
8 that the people, the man that stayed down, I think
9 it was the landlord that he wanted instead of
10 seeing him --

11 Q How many times did he tell you what would happen
12 if you told someone?

13 A Twice.

14 Q Lakeysha, can you read something for me?

15 A Yes.

16 Q Okay. Remember the other man who was asking you
17 questions asked you a lot of things about what you
18 said before and didn't say before? Do you
19 remember that?

20 A No.

21 Q Okay. He was asking you questions a little bit
22 ago about what you told people. Do you remember
23 him asking you questions about that?

24 A No.

25 Q Okay. Let me ask you something here. Do you

1 remember testifying before in this building down a
2 couple floors below?

3 A Yes.

4 Q Okay. And do you recall testifying about the
5 video game, and him playing it and you playing it?

6 A Yes.

7 Q Okay. I want you to read, this is page 16,
8 starting with the answer, "I told him," and read
9 it to yourself, please.

10 A (Complied)

11 Q Did you read that?

12 A Yes.

13 Q Okay. Now, I'm going to ask you a couple
14 questions before I get into this, but, Lakeysa --
15 and you remember everything that happened. Is it
16 easy to remember everything that happened?

17 A No.

18 Q Okay, why is that?

19 A Because I haven't been thinking about it.

20 Q You haven't been or have been?

21 A I haven't.

22 Q Okay. Did you read this over that I asked you to?

23 A Yes.

24 Q Okay, and do you recall being asked when you got
25 done with the video game what happens?

1 A Once he had threw me on the bed, and he didn't do
2 nothing else but pulled up my shirt and then start
3 feeling on my chest, and then he -- the boxes by
4 the wall, he pulled out some bras and panties and
5 stuff.

6 Q Okay. Did you talk about being thrown on the bed
7 in the living room?

8 A No.

9 Q Okay. Did you tell him then that, "He pulled down
10 my pants and he started sucking on my private
11 part"?

12 A No.

13 Q Do you remember that?

14 A No.

15 Q Okay. How much have you tried -- have you tried
16 not to think about it?

17 A Yes. My cousin Keenya, she know that, that I got
18 raped, but she try to keep my mind off of it
19 because we play a lot at school.

20 Q You have been trying to keep your mind off of it?

21 A Yes.

22 Q Okay.

23 MR. BRAMBLE: I have nothing further.

24 THE COURT: Any re-cross, Mr. Mirque?

25

1 Q Was your head laying on the pillow?
2 A Yes, but it was on the floor, because he pulled
3 the pillow from out under my head and threw it on
4 the floor.
5 Q So it was just your head on the flat bed, no head
6 on a pillow, even?
7 A Yes.
8 Q And the only thing that you can remember about
9 that back room, Lakeysha, is that stuffed American
10 bird?
11 A Yes.
12 Q I'm going to ask you to read something, just like
13 Mr. Bramble asked you to read, okay? This is page
14 eight of the preliminary transcript.
15 A The whole thing?
16 Q No, just look it over, just read the page. It's
17 not very long, it's just a few lines. I want you
18 just to look it over and see if you can remember
19 it.
20 A (Complied)
21 Q Okay. There aren't any big words in there, are
22 there, that you didn't understand?
23 A No.
24 Q It was pretty clear?
25 A Yes.

1 Q Do you remember this question, then, "Where does
2 he take you inside the apartment"? Do you
3 remember that question now?
4 A Yes.
5 Q Do you remember that you answered, "A room"?
6 A No.
7 Q You don't remember after reading this?
8 A I just read it on the paper.
9 Q Is this going to refresh your memory? Is this
10 going to help you remember?
11 A Yes.
12 Q Okay. This is the question, "Do you know -- where
13 does he take you inside the apartment?" This is
14 your answer. Do you remember saying, "A room"?
15 A No.
16 Q Do you remember the prosecutor asking you what
17 kind of room it was that he took you into? Do you
18 remember the question that the prosecutor asked
19 you?
20 A No.
21 Q You don't remember that question?
22 A No.
23 Q So you obviously don't remember that your answer
24 was the bedroom?
25 A No.

1 Q Thank you, Lakeysha.

2 THE COURT: I'd like to see counsel at
3 the bench. While they're assembling, ladies and
4 gentlemen, let me explain a little something to
5 you.

6 We've heard talk this afternoon about a
7 thing called a preliminary examination. You might
8 be interested knowing what that is.

9 It's a court proceeding, although it
10 probably isn't appropriate to call it a hearing of
11 any sort, because there aren't any decisions
12 made.

13 Whenever a charge is serious enough, a
14 criminal charge to be tried in this court, soon
15 after the charges are brought the witnesses are
16 brought together, the people accused and the
17 lawyers are brought together in a courtroom, and
18 the people who have something to say, in shortened
19 version, do it so that everybody has an idea what
20 the case is about, so that this proceeding is not
21 the first time that people are hearing things.

22 It helps prepare cases if you have some
23 idea what people are going to say.

24 In this case, that preliminary
25 examination took place on the 20th of July. It's

1 done in a courtroom. The witnesses testify under
2 oath. What they say is recorded. There's a judge
3 presiding over the proceedings to keep order, but
4 there isn't any jury and there isn't any decision
5 made as to guilt or innocence. It's simply an
6 opportunity for everybody to get educated for the
7 value that that has.

8 But, as I say, everything which is said
9 is recorded and it's common practice to make
10 reference to it during a trial, as has been made
11 hear this afternoon.

12 May I see counsel up here now?

13 (Counsel approached the bench, and a
14 discussion was held off the record and out of the
15 hearing of the jury)

16 THE COURT: Ladies and gentlemen,
17 obviously everybody needs a break about now, so
18 we're going to take one. We have to switch juries
19 and I think, frankly, the bulk of the afternoon is
20 likely to be spent with the other jury, so there's
21 no point in asking you to hang around. So for
22 you, the day is finished.

23 We're going to do the extraordinary
24 thing, because I understand everybody is
25 available, of coming back tomorrow. We normally

1 don't have trials on Friday afternoon. Obviously,
2 this two-jury arrangement prolongs things to some
3 extent, although once we get beyond some of these
4 witnesses, it will move a lot faster. But I think
5 we'll catch up a fair amount if we work tomorrow
6 afternoon.

7 Please be careful, for all the reasons
8 I've talked before, about any exposure to news
9 coverage of this, if in fact there is something in
10 today's paper, I assume there is, but I don't
11 know.

12 Also, please don't talk about it, don't
13 come to any conclusions, and simply be back in
14 your jury room 1:30 tomorrow afternoon and we'll
15 work until about four or 4:30, but no later, and
16 then break for the evening.

17 (At about 3:15 p.m. - Recess taken)

18 (At about 3:36 p.m. - Court back in
19 session, in the presence of the Stephen Turner
20 jury)

21 THE COURT: Miss Cage, do you want to
22 come back up to your seat?

23 Mr. Bramble, is there anything you want
24 to deal with before Miss Krause does her
25 cross-examination? That way we won't have to

1 break things up.

2 MR. BRAMBLE: I do. I think I only
3 dealt with a couple of things in front of one
4 jury.

5 DIRECT EXAMINATION (CONTINUED)

6 BY MR. BRAMBLE:

7 Q Keysha, I'd ask you to look again at People's
8 Proposed Exhibit 8.

9 A (Complied)

10 Q What are those, in that bag?

11 A Panties.

12 Q Okay, and what color are they?

13 A White.

14 Q Okay, and how do you remember these?

15 A I remember I tried 'em on.

16 Q Okay, who had you try 'em on?

17 A The man with the lipstick.

18 Q Okay. You testified about a TV or something that
19 you see in a store they use to catch people who
20 are stealing stuff. Do you remember testifying
21 about that?

22 A Yes.

23 Q Okay. Look at what's marked People's Proposed
24 Exhibit 4. Is that the kind of TV or monitor,
25 whatever you're talking about?

1 A Yes.

2 Q Okay. And was it a monitor like that that the
3 video games were played on?

4 A Yes.

5 Q Okay. Lakeysha, a little bit ago in front of the
6 other jury you testified about a stuffed animal in
7 a back room?

8 A Yes.

9 Q Okay. I'll show you a couple pictures marked
10 Exhibits 10 and 11. Do you recognize that?

11 A Yes.

12 Q And a little bit ago, how did you describe the
13 animal, what did you call it?

14 A A bird.

15 Q You called it --

16 A An eagle.

17 Q An eagle, okay. Where was that in the apartment?

18 A Back room.

19 Q Okay, back here (indicating)?

20 A Yes.

21 Q Okay. What was there in that back room to sleep
22 on or lie on?

23 A A bed.

24 Q Okay. I show you what's marked Exhibit 3. Do you
25 recognize that, Lakeysha?

1 A Yes.

2 Q Okay. Is that the bed you're talking about?

3 A Yes.

4 Q Is it a big bed or is it a -- how many beds were
5 there in the apartment?

6 A It was two. It was two mattresses in the living
7 room and one bed in the back room.

8 Q Okay. Was the one in the back room bigger or
9 smaller than the one in the living room?

10 A Smaller.

11 Q Okay.

12 MR. BRAMBLE: Okay, Judge, thank you.

13 THE COURT: Miss Krause?

14 MS. KRAUSE: Thank you, your Honor.

15 **CROSS-EXAMINATION**

16 **BY MS. KRAUSE:**

17 Q Hi.

18 A Hi.

19 Q Do you remember me --

20 A Yes.

21 Q -- from the last time you were in court?

22 A Yes.

23 Q Do you remember that my name is Tonya Krause?

24 A Yes.

25 Q Okay. Do you want me to call you Lakeysha or

1 would you like me to call you Miss Cage?
2 A Lakeysha.
3 Q Okay, thank you. Lakeysha, let's go back to
4 July. Can you remember back to July?
5 A Yes.
6 Q And that's what we have been talking about, isn't
7 it?
8 A Yes.
9 Q All right. You lived in an apartment complex?
10 A Yes.
11 Q And that was here in Grand Rapids, wasn't it?
12 A Yes.
13 Q Okay. Was this an apartment complex one that had
14 a lot of kids in it?
15 A A little bit.
16 Q Okay, you had some friends in the apartment
17 complex, didn't you?
18 A Yes.
19 Q And one of those friends was India?
20 A Yes.
21 Q And did you have other friends there?
22 A Yes.
23 Q Now, July, correct me if I'm wrong, but that's the
24 summertime?
25 A Yes.

1 Q And you were out on summer vacation, is that
2 right?
3 A Yes.
4 Q So you had all day long to play in the summer,
5 right?
6 A Yes.
7 Q Okay. And during the summertime would you play
8 outside with your other friends in the apartment
9 complex?
10 A Yes.
11 Q Okay. And, in fact, I think on July 7th you told
12 us you did play with some of your friends?
13 A Yes.
14 Q Both before you went inside the apartment with the
15 man with lipstick, right?
16 A Yes.
17 Q And you played with some friends after you were in
18 their apartment, right?
19 A Yes.
20 Q Okay. Now, on July 7th, I think you said you were
21 home with your sister Meeka and your stepfather,
22 right?
23 A I don't have no stepfather.
24 Q Your dad?
25 A Yes.

1 Q Okay. Is that right, is that who you were home
2 with?
3 A Yes.
4 Q Was your mom home at that time?
5 A No.
6 Q Was she at work?
7 A Yes.
8 Q Meeka is or was six at the time?
9 A Yes.
10 Q And I think you told us that your dad fell
11 asleep? Did I understand that right?
12 A Yes, he went to sleep.
13 Q Was he taking a nap?
14 A Yes.
15 Q All right. When your dad took a nap, that's when
16 you went outside?
17 A No.
18 Q All right, when did you go outside?
19 A I played with my little sister for a little while,
20 and then we had went outside, and we went over by
21 the rock and it was this girl. She was sitting on
22 the rock and she was just waiting for -- she asks
23 us if we saw a black man and my little sister say,
24 "Yeah," and then I say, "Be quiet, Meeka, you
25 know momma say not to talk to strangers," and --

1 Q Let me interrupt you just a second. This girl
2 that you saw outside by the rock, was that one of
3 your friends?

4 A No.

5 Q Did you recognize her at all as somebody from the
6 apartment complex?

7 A No.

8 Q Okay. So after you're outside with Meeka, your
9 sister, and you see this other girl?

10 A Yes.

11 Q Did you go back inside?

12 A No.

13 Q Your sister went back inside?

14 A No.

15 Q No, okay. What happened?

16 A We went by, it's a green thing, we went by and we
17 started racing for a little while. And then after
18 we got done we went back to the apartment and I
19 had got my green ball that made the rubber bands,
20 and I had threw it and it landed over there by
21 that girl.

22 And I was by the rock and she gave it
23 back to me, and then I went back upstairs. And
24 then I set the ball by the stair, and then I came
25 back and went over there by the rock where the big

1 tree was at and I found some sticks.

2 And then I came back up the stairs, and
3 then I had sat down and made the boat and the
4 thing, the thing that is the arrow.

5 Q But at some point Meeka went back inside, right?

6 A Yes.

7 Q Because she wasn't outside with you when you first
8 saw the man with lipstick, right?

9 A Yes.

10 Q And you were under the impression that your dad
11 was inside the apartment sleeping?

12 A Yes.

13 Q Okay. Now, let's talk about when you first see
14 the man with the lipstick, okay?

15 A Yes.

16 Q He was the only person you saw at first, right?

17 A Yes.

18 Q And that's when you were outside by the steps?

19 A Yes.

20 Q My client, Stephen, the man with the beard and
21 mustache --

22 A Yes.

23 Q -- he was not with the man with the lipstick, was
24 he?

25 A No.

1 Q Not outside at first?

2 A Yes.

3 Q Is that correct?

4 A Yes.

5 Q The man with the lipstick was alone?

6 A Yes.

7 Q And I think you told us that the man with the
8 lipstick grabbed you?

9 A Yes.

10 Q Right, and one hand was over your mouth?

11 A Yes.

12 Q And the other arm was around your neck?

13 A Yes.

14 Q And he used some force when he did that, didn't
15 he?

16 A Yes.

17 Q You felt some pressure on your neck?

18 A Yes.

19 Q And you felt some pressure on your mouth, didn't
20 you?

21 A Yes.

22 Q And you were having a hard time breathing, weren't
23 you?

24 A Yes.

25 Q Okay. Now, the best you can tell us, Lakeysha,

1 when the man with lipstick grabbed you, how far
2 were you from your apartment?

3 A From right there to that right there (indicating).

4 Q To the end of the jury box?

5 A No, the one, the second one by the clock, going
6 towards this way.

7 Q The first one by the clock?

8 A The second one.

9 Q The second one, okay.

10 MS. KRAUSE: Would your Honor care to
11 help me out with the distance?

12 MR. BRAMBLE: Never measured it.

13 THE COURT: This room has never been
14 measured, although I know Judge Benson has asked
15 that it be measured so that this question could be
16 answered.

17 I would guess those panels are about
18 three feet wide and about four inches apart. It's
19 the tenth panel, so roughly 30 feet.

20 MS. KRAUSE: Thank you, your Honor.

21 **BY MS. KRAUSE:**

22 Q Now, let me just ask you a question. The man with
23 the lipstick, you had seen him before July 7th,
24 hadn't you?

25 A Yes.

1 Q He lived in the same apartment complex with you,
2 right?
3 A Yes.
4 Q Did you know where his apartment was before
5 July 7th?
6 A Yes.
7 Q It was on the -- it was in your same complex?
8 A Yes.
9 Q On the same level?
10 A Yes.
11 Q Do you know how many doors apart?
12 A Nine, about -- let's see, seven.
13 Q Okay. But it was on the same level as yours?
14 A Yes.
15 Q And, as I recall, Lakeysha, your apartment was on
16 the second floor, correct?
17 A Yes.
18 Q The man with the lipstick, when he grabbed you,
19 you said that one hand was on your mouth and one
20 hand was around your neck?
21 A Yes.
22 Q And there was some force?
23 A Yes.
24 Q You felt some pressure?
25 A Yes.

1 Q Did he leave one arm around your neck and one hand
2 over your mouth?
3 A Yes.
4 Q From the time he grabbed you until the time you
5 got to his apartment?
6 A Yes.
7 Q The whole time?
8 A Yes.
9 Q Okay. Were your feet on the ground or off the
10 ground when he was dragging you?
11 A On the ground.
12 Q When he was dragging you they were on the ground?
13 A Yes.
14 Q What kind of shoes did you have on?
15 A (No response)
16 Q Play shoes or dress shoes?
17 A Play shoes, but I don't remember what kind of
18 shoes I had on.
19 Q But they weren't dress shoes, you know that much?
20 A Yes.
21 Q All right. When you get to the man with the
22 lipstick's apartment -- and, by the way, at this
23 point it's still just you and him, right?
24 A Yes.
25 Q When you get to his apartment, he kicks open the

1 door, right?

2 A Yes.

3 Q And he still has one hand over your mouth?

4 A Yes.

5 Q And one hand around your neck?

6 A Yes.

7 Q Lakeysha, I think you've already looked at this
8 diagram?

9 A Yes.

10 Q You've looked at it before right now?

11 A Yes.

12 Q And you recognize this to be a sketch of the
13 apartment?

14 A Yes.

15 Q Now, when you entered the apartment, it would have
16 been down here, wouldn't it (indicating)?

17 A Yes.

18 Q And the first room you would have come into is the
19 living room, right?

20 A Yes.

21 Q By the way, Lakeysha, was your apartment similar
22 to this? Was the layout of your apartment similar
23 to the Turners?

24 A No, my apartment had two rooms, and the bathroom
25 was on this side and the kitchen was on this side

1 (indicating), and it was a table right here and it
2 was a closet right there.

3 But only thing different about my house
4 was the living room was bigger and we didn't have,
5 we didn't have no, we had a light and it
6 didn't -- at the top of the thing.

7 Q So they weren't exactly the same?

8 A Yes.

9 Q But there were some things that were alike --

10 A Yes.

11 Q -- between your apartment and the Turners?

12 A Yes.

13 Q All right. Now, let's get back to the Turners'
14 apartment. The first room you come into is the
15 living room, right?

16 A Yes.

17 Q And when you get into the living room, is Stephen
18 in the apartment?

19 A He's in the back room.

20 Q Okay, do you see him when you come in?

21 A No.

22 Q So he's not in the living room?

23 A No.

24 Q And when you enter into the living room with
25 Daniel, the man with the lipstick, he throws you

1 down on the bed?

2 A Yes.

3 Q How hard did he throw you down on the bed?

4 A Not that hard. He just pushed me down on the bed.

5 Q Did you bounce on the bed at all?

6 A Yeah, about -- this is the bed. He threw me down
7 and I bounced about that high, like that
8 (indicating).

9 Q So not much at all, maybe half an inch?

10 A Yeah.

11 Q Okay. Now, do I understand it correctly that when
12 the man with the lipstick throws you on the bed,
13 he takes your clothes off?

14 A He just pulled up my shirt.

15 Q Did he feel your breasts at that time?

16 A Yes.

17 Q And Stephen, the man with the beard, was not in
18 the living room at that time, was he?

19 A Yes.

20 Q He was?

21 A No, but I think I supposed to say "yes" instead of
22 "no."

23 Q All right, let me ask the question again, and
24 we'll go slow because this is important, isn't it?

25 A Yes.

1 Q All right. This is when you first come into the
2 apartment, Lakeysha. The man with the lipstick
3 throws you on the bed. Do we understand that
4 correctly?

5 A Yes.

6 Q And he pushes up your shirt?

7 A Yes.

8 Q And touches your chest?

9 A Yes.

10 Q At that point in time Stephen is not in the living
11 room, is he?

12 A No.

13 Q Now, after that happens do you go back and try
14 clothes on?

15 A No.

16 Q Okay. The next thing that happens is what?

17 A His brother comes from out the back room and he
18 goes out the door, and then the man with the
19 lipstick, he takes me back in the back room.

20 Q Okay. Now, let me ask you a couple questions
21 about that. I think you said earlier that you saw
22 Stephen, the man with the beard, come out of the
23 back room?

24 A Yes.

25 Q When you say "the back room," Lakeysha, do you

1 mean the bedroom?

2 A Yes.

3 Q The very last room in the apartment?

4 A Yes.

5 Q And I think you said earlier that it looked like
6 Stephen had just woke up?

7 A Yes.

8 Q Okay, and he leaves?

9 A Yes.

10 Q He leaves out of the apartment?

11 A Yes.

12 Q Okay. Does he walk, do you see him walk all the
13 way through the apartment?

14 A He looked in that closet, the one that's --

15 Q The closet right here (indicating), outside the
16 bedroom?

17 A Yes. He gets his shoes and his coat, his jacket,
18 and he goes out the front door.

19 Q And you saw him leave out the front door?

20 A Yes.

21 Q And then he was gone?

22 A Yes.

23 Q And after Stephen was gone, you're saying that the
24 man with the lipstick then dragged you all the way
25 back to the bedroom?

1 A He told me to go back into the bedroom.
2 Q So he didn't drag you?
3 A No.
4 Q Okay, he told you to go?
5 A Yes.
6 Q And you did?
7 A Yes.
8 Q And your clothes were still on at that point,
9 weren't they?
10 A Yes.
11 Q All right. Now, once you get to the back bedroom,
12 the man with the lipstick followed you in or did
13 you follow him in?
14 A He followed me in.
15 Q Was he touching you at all as he followed you?
16 A No.
17 Q Does he throw you on the cot in the back bedroom?
18 A No.
19 Q He tells you to get on the cot?
20 A Yes.
21 Q And then he takes your clothes off, that's what
22 you're telling us, right?
23 A Yes.
24 Q And he takes his clothes off?
25 A He just pulls off his shirt and pulls off his

1 pants.

2 Q I'm sorry, Lakeysa, I didn't hear what you said.

3 A He pulled off his shirt and he had on a T-shirt

4 and he pulled off his pants.

5 Q Okay, and then he got on the bed, also?

6 A Yes.

7 Q And he touches you again?

8 A Yes.

9 Q Your breast?

10 A Yes.

11 Q Now, I think you told us about while you were in

12 the back room, that the man with lipstick urinated

13 on you?

14 A Yes.

15 Q Let me back up just a step, okay? When you and

16 the man with lipstick went into the back bedroom,

17 Stephen, the man with the beard, was still gone,

18 right?

19 A Yes.

20 Q He was not in the back bedroom when the man with

21 lipstick took your clothes off, right?

22 A Yes.

23 Q Yes, which -- was Stephen in the back bedroom --

24 A No.

25 Q -- when the man with lipstick took your clothes

1 off?

2 A No.

3 Q Okay, and Stephen was not in the back bedroom when

4 the man with lipstick took his clothes off, was

5 he?

6 A I don't understand what you're saying.

7 Q Okay. Your clothes came off in the back bedroom,

8 right?

9 A Yes.

10 Q And you just told us Stephen wasn't there when

11 that happened. Stephen's the man with the

12 beard --

13 A Yes.

14 Q -- is that right?

15 A Yes.

16 Q And you also told us that the man with lipstick

17 took his clothes off in the back apartment -- I'm

18 sorry, the back bedroom?

19 A Yes.

20 Q Right?

21 A Yes.

22 Q And Stephen, the man with the beard, was not in

23 there at that time, either, was he?

24 A Yes.

25 Q Oh, he was in there?

1 A He wasn't.

2 Q Okay.

3 A If I say, if I say no, because you say was that
4 right, and I say yes.

5 Q Okay, I don't mean to confuse you, so tell me if
6 you don't understand my questions, all right?

7 A Yes.

8 Q But I think, now that we understand, you
9 understand what my questions were, right?

10 A Yes.

11 Q Stephen was not in the room when your clothes were
12 taken off?

13 A No.

14 Q Or when the man with the lipstick's clothes were
15 taken off, right?

16 A Yes.

17 Q Okay. At some point, though, I think you told us
18 that Stephen comes back in, right?

19 A Yes.

20 Q Okay, and does he come back to the back bedroom?

21 A Yes.

22 Q And at that point in time the man with the
23 lipstick tells him to do something, isn't that
24 right?

25 A Yes.

1 Q And what the man with lipstick told Stephen to do
2 was to hold you down, isn't that right?
3 A Yes.
4 Q And I think you told us that Stephen said no, he
5 wouldn't do that?
6 A Yes.
7 Q Is that correct?
8 A Yes.
9 Q And he didn't hold you down, did he?
10 A No.
11 Q And he left the back bedroom, didn't he?
12 A But he had told the man with the lipstick to, "Get
13 the 'B' out of my bedroom."
14 Q Oh, he did?
15 A Yes.
16 Q And I think you said earlier when Mr. Bramble was
17 asking you questions that the "B" word was bitch?
18 A Yes.
19 Q That's the word he used?
20 A Yes.
21 Q Okay. But also the man with lipstick had asked
22 him to hold you down, right?
23 A Yes.
24 Q And he said, Stephen said, no, he wouldn't do
25 that, correct?

1 A Yes.

2 Q All right. I don't mean to skip around here. If
3 you don't understand my question, make sure you
4 tell me, okay?

5 A Yes.

6 Q Before Stephen came into the bedroom, you said the
7 man with lipstick urinated on you?

8 A Yes.

9 Q What did it look like?

10 A Yellow.

11 Q It was yellow?

12 A Yes.

13 Q When I say the word "urine," do you know what I
14 mean?

15 A Yes.

16 Q Was it urine?

17 A You mean using the bathroom, like pee-peeing?

18 Q Uh-huh.

19 A Yes.

20 Q That's what it was, that's what it looked like to
21 you?

22 A Yes.

23 Q I think you also told us at some point some white
24 stuff came out of his private?

25 A In my mouth.

1 Q And which room was that in?
2 A The back room.
3 Q In this room (indicating)?
4 A Yes.
5 Q The bedroom. And when the white stuff came out of
6 his private in your mouth, did you spit that out
7 onto the bed?
8 A No.
9 Q Do you remember telling police officers that you
10 wiped it out on the blanket?
11 A No.
12 Q Do you remember talking to police officers at all?
13 A Yes.
14 Q And that was shortly after you left the Turners'
15 apartment, wasn't it?
16 A I remember talking to --
17 Q Miss Vazquez?
18 A Yes.
19 Q Did you talk to some male police officers?
20 A One was a man.
21 Q Woman and a man. They were asking you lots of
22 questions, weren't they?
23 A Yes.
24 Q And they wanted to know what happened, didn't
25 they?

1 A Yes.

2 Q And you tried to tell them what happened, yes?

3 A Yes.

4 Q Did the man with the lipstick, did the white stuff
5 come out of his private in your mouth before
6 Stephen came in the room or after?

7 A Before.

8 Q And what did you do with the white stuff in your
9 mouth?

10 A I waited until I got out the apartment, then I
11 spit it out when my friend India had called my
12 name.

13 Q So you were holding it in your mouth?

14 A Yes.

15 Q There comes a point when you leave the back
16 bedroom, correct?

17 A Yes.

18 Q And from the back bedroom you go where, to the
19 closet or to the living room?

20 A To the living room.

21 Q When you're back out in the living room, is that
22 when you begin playing the computer games?

23 A Yes.

24 Q And I believe you're playing computer games with
25 the man with lipstick, correct?

1 A Yes.

2 Q Did Stephen play computer games with you?

3 A No.

4 Q And did Stephen leave the apartment again?

5 A No.

6 Q Where was Stephen?

7 A He had went into the kitchen, and then he had went
8 back to the back bedroom.

9 Q Okay. Did you actually see him go back there,
10 then?

11 A Yes.

12 Q All right, so he was not in the living room with
13 you, then, when you were playing the computer
14 games?

15 A (No response)

16 Q Was Stephen with you in the living room when you
17 were playing computer games?

18 A No.

19 Q Now, I think you told us that you played Pac-Man?

20 A Yeah.

21 Q Or Ms. Pac-Man?

22 A I really don't remember which one I played, but I
23 know I played that game, then I played naked poker
24 and a racing car game.

25 Q So three different games you played?

1 A Yes, but I didn't remember it, on the race car,
2 until they had told me, then I remembered.
3 Q Okay, but now you remember that you played three
4 games?
5 A Yes.
6 Q Okay. And do you remember which one you played
7 first?
8 A Yes.
9 Q Which one?
10 A I think I played Pac-Man first.
11 Q Okay, and then which one did you play next?
12 A Naked poker.
13 Q And after you played naked poker you played --
14 A Race car.
15 Q Race car. How long do you think it was that you
16 were playing these games?
17 A I don't know.
18 Q Five minutes?
19 A I don't really know.
20 Q Was it a long time or a short time?
21 A I don't know.
22 Q Don't have any idea at all?
23 A Nope.
24 Q Okay. Let's talk about the naked poker game. The
25 naked poker game was actually on the computer

1 screen, right?

2 A Yes.

3 Q And this was where you would play cards?

4 A Yes.

5 Q And the person who lost on the computer -- there
6 was actually a person on the screen, right?

7 A Yes. If they lose all they money, you get they
8 money and then next you got to take off they
9 clothes.

10 Q Did any of the people on the computer screen ever
11 end up being naked?

12 A Yes.

13 Q So it took, they don't take all their clothes off
14 at once, right? You lose, take a piece of
15 clothing off?

16 A Yes.

17 Q Then if you lose you take another piece of
18 clothing off?

19 A Yes.

20 Q So you're telling us that you played it long
21 enough that one of the people on the computer
22 screen became naked?

23 A Yes.

24 Q Okay, and the white stuff is still in your mouth
25 while you're doing this, while you're playing the

1 game?

2 A Yes.

3 Q Okay, and I think you said you were sitting on
4 Stephen -- excuse me, Daniel Turner's lap playing?

5 A Yes.

6 Q The games, and Stephen's in the back bedroom?

7 A Yes.

8 Q Did I hear you right when you said that while you
9 were sitting on the man with lipstick's lap you
10 told him that you saw your momma's car come home?

11 A Yes.

12 Q Okay. You actually spoke those words?

13 A Yes.

14 Q Okay. Now, you've also told us that Stephen
15 Turner, the man with the beard, touched your
16 breast at some point in the apartment?

17 A Yes.

18 Q And that was when he dragged you out of the
19 bedroom, you said?

20 A When I had came -- when he brought me into the
21 living room on the mattress.

22 Q Okay. Did that happen before or after --

23 A Before.

24 Q Let me finish my question, okay? Did Stephen drag
25 you out of the back bedroom before the man with

1 the lipstick, Dan, had taken your clothes off and
2 his clothes off?
3 A No.
4 Q After, right?
5 A Yes.
6 Q After he had come into the room once?
7 A Yes.
8 Q Because, remember, you told us that Stephen came
9 in and Dan wanted Stephen to help him and Stephen
10 said no, right?
11 A Yes.
12 Q And he said something about getting you out of his
13 room?
14 A Yes.
15 Q Right, and then he left the room, right?
16 A Yes.
17 Q Are you telling us, Lakeysha, that he dragged you
18 from the bedroom to the living room?
19 A Yes.
20 Q Okay. Tell us how he dragged you.
21 A By my shirt.
22 Q By your shirt?
23 A Yes.
24 Q Is the shirt this shirt (indicating)?
25 A Yes.

1 Q Okay. Did he have the front or the back?
2 A The back.
3 Q Did the, did the collar of the shirt go into your
4 neck at all?
5 A Yes.
6 Q It was pulling against your throat?
7 A Yes.
8 Q Were your feet on the ground?
9 A Yes.
10 Q Do you remember when you testified in this
11 building before?
12 A Yes.
13 Q Do you remember me asking you about how Stephen
14 dragged you?
15 A No.
16 Q You don't remember that at all?
17 A No.
18 Q Well, that was a while ago, wasn't it?
19 A Yes.
20 Q And because it was a while ago that you testified,
21 that was closer in time to when all of this
22 happened, wasn't it?
23 A Yes.
24 Q We're getting kind of far away from when it
25 happened now, aren't we?

1 A Yes.

2 Q And when you testified, Lakeysha, were you
3 listening to our questions?

4 A Yes.

5 Q There was a woman prosecutor at that hearing,
6 wasn't there?

7 A Yes.

8 Q Do you remember her?

9 A Yes.

10 Q And you said earlier that you remembered me?

11 A Yes.

12 Q And do you remember Mr. Mirque?

13 A Yes.

14 Q And you listened carefully to our questions?

15 A Yes.

16 Q And you tried to answer them the best you could,
17 didn't you?

18 A Yes.

19 Q You can read, can't you?

20 A Yes.

21 Q I think you said you're in the fourth grade,
22 right?

23 A Yes.

24 Q Of course you can read, okay. And you don't
25 remember telling us that Mister, or that Stephen

1 dragged you by both hands?

2 A No.

3 Q If I show you that in writing, would that help you
4 remember whether you said that or not?

5 A Yes.

6 Q Okay.

7 THE COURT: While Miss Krause is looking
8 for that, ladies and gentlemen, let me explain
9 what this preliminary hearing is.

10 Whenever a charge is brought that's
11 serious enough to be tried in this court, and
12 there are a lot of charges that qualify in that
13 regard, a preliminary examination is held soon
14 after the charges are brought.

15 I looked in the file in this case, and
16 the hearing in this case was held on the 20th of
17 July. It's not a trial. There is no jury.
18 There's nobody who decides whether somebody is
19 guilty or innocent, or even may be guilty or
20 innocent.

21 It's simply an opportunity for the
22 parties, meaning the lawyers and the individuals
23 accused of the crime, to see some of the witnesses
24 and get a preliminary statement as to what the
25 witnesses will say.

1 It's not anywhere near as thorough as a
2 trial, but, frankly, it's obviously helpful in the
3 parties' preparation to have some idea of what
4 people are going to say before the actual trial
5 occurs.

6 That hearing is held in front of a judge
7 in this building. It's held in front of a judge
8 in a court, but it's held in this building, and
9 the judge presides, like I am, to keep order.
10 There is no jury. There are no findings of fact.
11 It's simply an opportunity to discover what's
12 going on.

13 The witnesses are under oath, just as
14 they are here. The matter is recorded just as it
15 is here, and a transcript is always prepared so
16 that the parties have it for preparation, and it's
17 fairly common to use it, as it is now being used,
18 to demonstrate things were said then that might be
19 different than now to help people refresh their
20 recollections and to do things of that sort.

21 But I don't want you to think that
22 there's been some kind of a previous proceeding
23 where somebody made some kind of decision of guilt
24 or innocence. There has not been. That's for
25 you, and you will be doing it for the first

1 instance.

2 MS. KRAUSE: Thank you, your Honor. May
3 I approach?

4 THE COURT: Yes.

5 **BY MS. KRAUSE:**

6 Q Lakeysha, I'm handing you a piece of paper, and
7 this is from the preliminary examination
8 transcript that the judge just told the jury
9 about.

10 I want you to read this, right to that
11 line, okay? You read that to yourself.

12 A (Complied)

13 Q Do you understand the words?

14 A (Nods)

15 Q You don't need me to explain any of the words?

16 A No.

17 Q Okay, and did you see the question where I asked
18 you, "When you say he dragged you, can you tell us
19 what you mean by that"? Did you read that
20 question?

21 A Yes.

22 Q And the answer that was recorded that you made
23 was, "Dragged me by both of my hands." Do you
24 remember telling me that?

25 A I don't remember, but I seen it on the paper.

1 Q When exactly, whether he was dragging you by both
2 hands or by the collar of the shirt, when exactly
3 did he touch your breast?

4 A When we was playing the video games. He touched
5 my chest and after he touched my chest he started
6 licking my chest.

7 Q Wait a minute, that's Dan, the man with the
8 lipstick, right?

9 A Yes.

10 Q Are you telling us today that it was Dan who
11 dragged you back out of the room?

12 A Who is Dan?

13 Q The man with the lipstick.

14 A Yes.

15 Q Not Stephen, the man with the beard?

16 A No.

17 Q Okay. You talked about a photograph that Stephen
18 and Dan took. Do you remember talking about that?

19 A Yes.

20 Q Okay. I'm going to ask you a few questions about
21 that. Dan, the man with lipstick, took the
22 picture, is that what you're telling us?

23 A Yes.

24 Q And the man with lipstick had you hold a knife?

25 A Yes.

1 Q And that knife was a butter knife?
2 A Yes.
3 Q And that knife had peanut butter on it, correct?
4 A Yes. It had jelly.
5 Q And there was jelly on it, too?
6 A I don't know about the peanut butter, but I saw
7 jelly.
8 Q On the knife?
9 A Yes.
10 Q You're sure about the jelly being on the knife?
11 A Yes.
12 Q But not sure about the peanut butter?
13 A Yes.
14 Q And I think you told us that the man with lipstick
15 had you hold the knife with jelly and perhaps
16 peanut butter up against Stephen, the man with the
17 beard?
18 A Yes.
19 Q And you thought that meant so that you wouldn't
20 tell the police?
21 A Yes.
22 Q Okay. Now, that was taken, that picture was taken
23 with a camera?
24 A Yes.
25 Q And that camera was an instamatic camera?

1 A Yes.

2 Q The kind where the photo comes right out?

3 A Yes.

4 Q Have you seen that kind of camera before?

5 A Yes.

6 Q Where have you seen it before?

7 A My momma has a black one.

8 Q Your momma has one like that?

9 A Yes.

10 Q Have you ever used your momma's camera before?

11 A When I take pictures of her and grandma and her
12 and my little sister.

13 Q So you have, then?

14 A Yes.

15 Q So you know how to use the camera?

16 A Yes.

17 Q Okay. Did you see the picture that came out of
18 the camera that day?

19 A No.

20 Q By the way, did the camera have a flash?

21 A Yes.

22 Q Did a flash go off when the picture was taken?

23 A Yes.

24 Q Was the flash one of those flashes that you put on
25 top?

1 A No.

2 Q What kind of flash was it?

3 A It's a little square flash that's in the front of
4 the camera.

5 Q Actually in the camera?

6 A Yes.

7 Q Okay. But you didn't see the picture that came
8 out of the camera?

9 A No.

10 Q I think you told us about -- hang on a second, I
11 lost my train of thought.

12 I think you talked to us, Lakeysha,
13 about there came a point in time when you hit your
14 head against the wall. Do you remember that?

15 A Yes.

16 Q Are you getting tired?

17 A Yes.

18 Q So am I. We're almost done, okay? Okay?

19 A Yes.

20 Q All right. You hit your head pretty hard, right?

21 A Yes.

22 Q And I think you told us it was on the coffee table
23 that you hit your head?

24 A I tripped over the table and I hit my head on the
25 wall.

1 Q Okay, pretty hard, right?

2 A Yes.

3 Q Must have been pretty hard because you're telling
4 us you passed out. Do you know what it means to
5 pass out?

6 A Yes.

7 Q When I say that, what does that mean to you?

8 A It's like you going to sleep, or it's like you're
9 going to sleep and you stay asleep for kind of
10 like a long time.

11 Q Okay. So it was like going to sleep?

12 A Yes.

13 Q You remembered going to sleep?

14 A Yes.

15 Q After you talked -- after you left the apartment
16 and after you talked to the police, you go to the
17 hospital, right?

18 A Yes.

19 Q Okay, and again a bunch of people are trying to
20 talk to you, right?

21 A Yes.

22 Q And I think Detective Vazquez was talking to you,
23 right?

24 A Yes.

25 Q And did Detective Karpowicz, the pregnant woman,

1 did she talk to you at the hospital, too?
2 A I don't remember.
3 Q But you do remember Detective Vazquez?
4 A Yes.
5 Q Nurses, did they try to talk to you?
6 A Yes.
7 Q And doctors, did they try to talk to you?
8 A Yes.
9 Q Okay. And they were asking you questions, weren't
10 they?
11 A Yes.
12 Q And they were asking questions about how you were
13 feeling?
14 A Yes.
15 Q Because they wanted to know if they needed to give
16 you any medical attention, didn't they?
17 A Yes.
18 Q And I think -- do you remember telling one of the
19 nurses or doctors that you hurt your foot?
20 A Yes.
21 Q Did you tell the nurses or doctors that you hit
22 your head and passed out?
23 A I don't remember.
24 Q I asked you a little while ago if you knew the man
25 with lipstick before July 7th. Do you remember

1 when I asked you that?

2 A Yes.

3 Q You told us yes, right?

4 A Yes.

5 Q You thought he was kind of funny, didn't you?

6 A Yes.

7 Q And there had been days before July 7th when you'd
8 seen their apartment door open?

9 A Yes.

10 Q And have you ever peeked in their window?

11 A When I walked past.

12 Q You'd just kind of look in as you'd walk by?

13 A Yes.

14 Q Did you ever tell your sister that you were going
15 to try to get a picture of the man with lipstick?

16 A No.

17 Q Never?

18 A No.

19 Q Never joked with your sister about that?

20 A No.

21 Q Do you remember telling us that you did back at
22 the preliminary examination?

23 A Would you please repeat that?

24 Q Do you remember telling us back at the preliminary
25 examination that you did joke with your sister

1 about trying to get a picture of the man with
2 lipstick?

3 A No.

4 MS. KRAUSE: May I approach the witness,
5 your Honor?

6 THE COURT: Yes.

7 MS. KRAUSE: Page 37, Mr. Bramble.

8 **BY MS. KRAUSE:**

9 Q Are you done reading that question and answer,
10 Lakeysha?

11 A Yes.

12 Q Did you understand the question and answer that
13 you just read?

14 A Yes.

15 Q And the question was, I believe it was by
16 Mr. Mirque, "Did your parents know that you were
17 sort of sneaking looks at these guys?" That was
18 the question you just read, right?

19 A Yes.

20 Q And the answer was, "I told my little sister that
21 I was going to get a camera and take pictures of
22 them, and she starts giggling at me."

23 A I don't remember saying that.

24 Q But you just read the answer?

25 A Yes.

1 Q The camera that you told us your mom had, did she
2 have it back when you lived in the apartment
3 complex back in July?

4 A Yes.

5 MS. KRAUSE: One moment, your Honor.

6 **BY MS. KRAUSE:**

7 Q Just a couple more questions. I saw that yawn.

8 Lakeysha, were you ever standing by this
9 closet (indicating)?

10 A Yes.

11 Q And were you taking -- is that where you were
12 trying on clothes?

13 A Umm, I was trying on a shirt.

14 Q That was by the closet, correct?

15 A Yes.

16 Q When you were standing by the closet, Lakeysha,
17 was this bedroom door open?

18 A Yes.

19 Q And when the bedroom door is open, that closet is
20 not very far from the kitchen, first of all,
21 right?

22 A No, it's right by the kitchen.

23 Q Right, and I think you told us earlier that you
24 could see the bedroom from the kitchen?

25 A Yes.

1 Q That you could see the stuffed animal from the
2 kitchen?

3 A Yes.

4 Q So when you were standing by the closet, it's
5 probably fair to say that you could see in the
6 room?

7 A Yes.

8 Q And the stuffed bird?

9 A Yes.

10 Q Do you remember what's on these walls in the back
11 bedroom?

12 A No.

13 MS. KRAUSE: I have no further
14 questions.

15 THE COURT: Mr. Bramble, anything more?

16 **REDIRECT EXAMINATION**

17 **BY MR. BRAMBLE:**

18 Q Lakeysa, the attorney that just got done
19 questioning you talked a lot about Daniel and what
20 he did.

21 Why don't you tell me what actually --
22 when did the man with the beard come back into the
23 apartment?

24 A When -- I don't remember.

25 Q Okay. Does he come back in the apartment?

1 A Yes.

2 Q Okay. What does he do when he comes back in the
3 apartment?

4 A He goes in the bathroom first.

5 Q Okay, then what does he do?

6 A I don't remember because I was gone.

7 Q Okay. When did this defendant -- was he there
8 when you were first dragged into the apartment,
9 the man with the beard?

10 A He was in the back room.

11 Q Okay. When does he touch you? Let me ask you
12 this. Where were you in the apartment, what room,
13 do you remember?

14 A When he touched me?

15 Q Yeah, the man with the beard.

16 A Laying on the mattress.

17 Q Okay. That would have been the mattress in the
18 living room?

19 A Yes.

20 Q Okay. And where did he touch you?

21 A On my chest.

22 Q Did he ever sit on you, do you remember?

23 A No.

24 Q Okay, lie on you?

25 A No.

1 Q Okay. Was he there when the other man with the
2 beard was lying on you at all or -- excuse me, the
3 man with the lipstick on was lying on you?

4 A No.

5 Q Okay. When was it that the man with the beard
6 said, you used that word you called the "B" word,
7 "Take her out of my room"? What room were you
8 in?

9 A The bedroom.

10 Q Okay. Did the man with the beard touch your chest
11 before he told the man with the lipstick on to
12 take you out of the room or after?

13 A Before.

14 Q Okay.

15 MR. BRAMBLE: I have nothing further.

16 **RE-CROSS-EXAMINATION**

17 **BY MS. KRAUSE:**

18 Q Lakeysha, first of all, I thought it was the man
19 with the lipstick who told Stephen, the man with
20 the beard, to hold you down?

21 A That was in the bedroom.

22 Q That was in the bedroom. Do I have the people
23 right, the man with the lipstick told his brother
24 to hold you down?

25 A Yes.

1 Q And his brother, the man with the beard, said no?
2 A Yes.
3 Q And then he left the bedroom. I thought that's
4 what you told us?
5 A Yes.
6 Q And when I just asked you a few minutes ago about
7 being dragged back into the living room and your
8 breasts being felt again, you said it was the man
9 with the lipstick?
10 A I'm talking about when I first came in the door,
11 he threw me on the couch and the man with the
12 beard, he was feeling my chest with the other man
13 that was wearing the lipstick.
14 Q When you first came in?
15 A Yes.
16 Q But when -- you told us earlier that when you
17 first came in the apartment, Lakeysa, that nobody
18 else was in the living room.
19 A Until the man came out the bedroom.
20 Q So were there three men?
21 A No.
22 Q All right. When you first came into the living
23 room, it was just you and the man with the
24 lipstick, right?
25 A Yes.

1 Q You didn't see anybody else at that point,
2 correct?

3 A Yes.

4 Q And at some point the man with the mustache and
5 beard came out?

6 A Yes.

7 Q And that's how you knew that he was in the back
8 bedroom?

9 A Yes. He didn't leave until the man with the
10 lipstick got up and turned on the video, the video
11 games. The other man was feeling on my chest.

12 Q While the man with lipstick is getting the videos
13 ready, that's when you're saying the man with the
14 beard touched your chest?

15 A Yes.

16 Q Okay, and then the man with the mustache left the
17 apartment?

18 A After he got his coat and his shoes.

19 Q After he got his coat and his shoes.

20 MS. KRAUSE: One moment, your Honor.

21 **BY MS. KRAUSE:**

22 Q Lakeysha, did your mom and dad tell you to stay
23 away from that apartment, away from the Turners'
24 apartment?

25 A No, but I told them about the man downstairs, and

1 I told them I didn't like the man downstairs, and
2 they told me to stay away from the apartment.
3 Q That's somebody altogether different, right?
4 A Yes.
5 Q Were you afraid that you'd get in trouble on
6 July 7th?
7 A Yes.
8 Q Because you were someplace you weren't supposed to
9 be?
10 A Yes.
11 Q What happens when you're someplace you're not
12 supposed to be?
13 A I get whooped for punishment.
14 Q You get whooped for punishment?
15 A Yes.
16 Q Who whoops you?
17 A My mom or my dad.
18 Q Have you ever been whooped before for being
19 someplace you weren't supposed to be?
20 A Yes.
21 Q When you were -- on those other times when you
22 were someplace you weren't supposed to be, what'd
23 you tell your mom and dad?
24 A I don't know.

25 MS. KRAUSE: I have no further questions

1 for Lakeysha.

2 **REDIRECT EXAMINATION**

3 **BY MR. BRAMBLE:**

4 Q Lakeysha, what did the man with the lipstick on
5 tell you happened if you told anyone?

6 A That he was going to kill me.

7 Q How many times did he tell you that?

8 A Twice.

9 MR. BRAMBLE: I have nothing further.

10 **RECROSS-EXAMINATION**

11 **BY MS. KRAUSE:**

12 Q The man with the beard didn't tell you that, did
13 he?

14 A No.

15 Q Thank you.

16 THE COURT: Thank you, Lakeysha. You
17 can get up from there and go home.

18 Ladies and gentlemen, it's 4:30. Let's
19 adjourn for today, but let's reconvene tomorrow
20 afternoon, since I understand everyone's available
21 at 1:30.

22 I'd like to be able to spend the whole
23 day, but Friday mornings are always occupied with
24 other things.

25 Please remember my admonitions about

1 reading anything in the paper or listening to
2 anything on television. While I doubt you will
3 hear any television or radio news, I suspect,
4 although I don't know for sure, that there is
5 something in today's paper, because there was a
6 reporter here yesterday.

7 So please simply be careful about that.
8 Have someone take anything that's in the paper out
9 before you see it, because headlines, as we said,
10 can be very different than what's in the body of
11 the story.

12 Also, please remember not to talk about
13 anything, to come to any conclusions. There's
14 still a lot more to hear, and we will reconvene at
15 1:30 tomorrow afternoon.

16 (At about 4:34 p.m. - Jury left the
17 courtroom)

18 (At about 4:34 p.m. - Proceedings
19 adjourned)

1 OFFICIAL REPORTER'S CERTIFICATE

2
3 STATE OF MICHIGAN)
4 COUNTY OF KENT) SS

5
6 I, Rebecca L. Russo, Court
7 Reporter in and for the Circuit Court for the
8 County of Kent, State of Michigan, do hereby
9 certify that I reported stenographically the
10 proceedings held in the above-entitled cause
11 before the Honorable Robert A. Benson on
12 December 2, 1993; and do further certify that the
13 foregoing transcript is a true and correct
14 transcript of my stenographic notes of said
15 proceedings so reported and transcribed by me.
16
17
18

19 Rebecca L. Russo
20 Rebecca L. Russo, CSR-2759
Official Court Reporter

21 Dated: 3.24.94
22 Grand Rapids, Michigan
23
24
25