

# **EXHIBIT A**

1 Robin Lipetzky, Public Defender, State Bar #124769  
2 Rebecca Brackman, Deputy Public Defender, State Bar #197288  
3 Tatiana Howard, Deputy Public Defender, State Bar #335087  
4 Contra Costa County, California  
5 800 Ferry Street  
6 Martinez, CA 94553  
7 Telephone: (925) 335-8000

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF CONTRA COSTA

10 PEOPLE OF THE STATE OF CALIFORNIA,

Case No.: 05-981014-4

11 Plaintiff,

12 vs.

13 JERMAINE DEMEL DICKERSON,

14 Defendant

NOTICE OF MOTION AND MOTION TO  
VACATE WRONGFUL CONVICTION ON  
THE GROUNDS OF NEWLY DISCOVERED  
EVIDENCE PURSUANT TO PENAL CODE  
SECTION 1473.7

15 TO: DIANA BECTON, DISTRICT ATTORNEY OF CONTRA COSTA COUNTY,  
16 MARTINEZ, CALIFORNIA, OR TO ANY OF YOUR REPRESENTATIVES; AND TO  
17 THE CLERK OF THE ABOVE-ENTITLED COURT:

18 PLEASE TAKE NOTICE THAT on the abovementioned date and time, JERMAINE  
19 DEMEL DICKERSON, by and through his attorney, will move this court for an order vacating  
20 the judgement of conviction rendered by this court on December 4, 1998, in the Superior Court  
21 of Contra Costa County case number 05- 981014-4. <sup>1</sup> The basis for this motion is that newly  
22 discovered evidence of Mr. Dickerson’s innocence requires his conviction be vacated as a matter  
23 of law and in the interest of justice. (Pen. Code § 1473.7, subd. (a)(2).)


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26 <sup>1</sup> To the extent that this Motion to Vacate may be treated as a petition for Habeas Corpus relief,  
27 Petitioner respectfully requests this Court treat this petition as a request for such. (See *Owens v.*  
28 *Superior Court* (1959) 52 Cal.2d 822, 827 [“If the facts justify such relief it is immaterial that  
defendant has prayed for the wrong remedy...”].

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The motion will be based upon this notice, the accompanying memorandum of points and authorities with attached exhibits, the files and documents of the prior proceedings in this case, and any other such evidence as may be adduced at the hearing on this matter.

Dated: 6/8/21

Respectfully submitted,

  
Rebecca Brackman  
Attorney for Mr. Dickerson

**MEMORANDUM OF POINTS AND AUTHORITIES**

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2 In June of 1998, Mr. Dickerson was charged with a violation of Penal Code section 261  
3 (a)(2) (Forcible Rape), a section 12022.3(a) enhancement (Using Deadly Weapon/Firearm in  
4 Designated Sex Offense), and section 211 (Robbery). After being detained for over eight  
5 months, Mr. Dickerson pled no contest to Count One, violation of section 261(a)(2), and the  
6 section 12022.3(a) enhancement. (Exhibit A, Waiver of Formal Arraignment, Change of Plea,  
7 Sentencing, December 4, 1998.) On December 4, 1998, Mr. Dickerson was sentenced to nine  
8 years in state prison; his sentence was suspended and he was placed on formal felony probation.  
9  
10 (Id.)

11  
12 In 2012, the alleged victim and sole witness, Nataki Perry (formerly Nataki Rasheed),  
13 recanted her allegation that Mr. Dickerson was her assailant. (See Exhibit B, Reporter's  
14 Transcript of Preliminary Hearing, June 19, 1998; Exhibit C Facebook Private Message, May 29,  
15 2012.) Since Mr. Dickerson was no longer incarcerated, he had no legal remedy to challenge his  
16 conviction and demonstrate his innocence. Because of this wrongful conviction, Mr. Dickerson  
17 is required to register as a sex offender pursuant to Penal Code section 290 for life. (Exh. A. at p.  
18 3.)

19  
20 In January 2017, the Legislature enacted Penal Code section 1473.7 which permits individuals  
21 who are no longer incarcerated to challenge their conviction when "newly discovered evidence  
22 of actual innocence... requires vacation of the conviction or sentence as a matter of law or in the  
23 interest of justice." The newly discovered evidence must be of sufficient value to ensure that "it  
24 more likely than not would have changed the outcome of trial." (§ 1473, subd. (b)(3)(A).) Here,  
25 the evidence of Mr. Dickerson's innocence entitles him to relief, both as a matter of law and in  
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1 the interest of justice. Further, as provided in section 1473.7, subdivision (d), he is entitled to a  
2 hearing on the filing of this motion. (Pen. Code § 1473.7, subd. (2)(d).)

### 3 **FACTUAL AND PROCEDURAL BACKGROUND**

#### 4 **A. Preliminary Hearing Testimony**

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6 The preliminary hearing was held on June 19, 1998. The sole witness was Ms. Perry, who  
7 at the time was fifteen years old. Mr. Dickerson conditionally waived his appearance while Ms.  
8 Perry testified about her assailant's identity. The following statement of facts is derived from the  
9 testimony therein. (Exh. B.)

10  
11 Ms. Perry testified that she knew Mr. Dickerson from their mutual physical education  
12 course at El Cerrito High School. (Exh. B. at p. 22.) Mr. Perry described her assailant as an  
13 African American male with short black hair, two tattoos, discolored marking along the bottom  
14 of his face, and a nose ring. (Exh. B. at pp. 18-25.) She stated that she had little to no contact  
15 with Mr. Dickerson prior to the alleged rape and knew of his tattoos only as a result of being  
16 raped. (*Id.* at p. 26.) When Mr. Dickerson was brought into the room for the remainder of the  
17 preliminary hearing, she testified he was “[t]he one who raped me.” (Exh. B. at p. 30.)

18  
19 According to her testimony, on April 20, 1998, Mr. Dickerson met Ms. Perry at the bus  
20 stop near their school after her final course for the day. (Exh. B. at p. 32, 46.) The two engaged  
21 in minor conversation at the bus stop where Mr. Dickerson attempted to fondle her without her  
22 permission on multiple occasions. (Exh. B. at p. 33, 55.) After the brief conversation at the bus  
23 stop, Ms. Perry followed Mr. Dickerson, at his request, back to the school behind the music  
24 building. (Exh. B. at p. 34.) She stated that Mr. Dickerson informed her that he had something  
25 that he wanted to show her, and out of curiosity she followed him. (Exh. B. at p. 34.) When the  
26 two reached the dirt area near the music building, they sat and engaged in conversation for a  
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1 brief moment. (Exh. B. at p. 34.) Ms. Perry stated that Mr. Dickerson then pushed her to the  
2 ground and forced himself on top of her. (Exh. B. at p. 35.) He held her down with the weight of  
3 his torso and brandished a knife when she attempted to push from under him. (Exh. B. at p. 36-  
4 37.) He then put the knife away and proceeded to rape her. (Exh. B. at pp. 38-41.) At some point  
5 he got frustrated and stopped. (Exh. B. at p. 41.) Ms. Perry got up, fixed her clothing, and walked  
6 down the hill. (Exh. B. at p. 42.)

8 Ms. Perry testified that when she made it down the hill Mr. Dickerson appeared behind  
9 her. (Exh. B. at p. 44.) He demanded that she remove her jewelry, snatched her chain from her  
10 neck, and stole her backpack and shoes. She roamed around the area for several hours barefoot  
11 and then went to an auto parts store. (Exh. B. at pp. 44-45.) There, she told store employees that  
12 she was attacked by a group of girls who stole her things. (Exh. B. at p. 108.) The employees  
13 allowed her to use the restroom and call her parents. (Exh. B. at p. 46.) While there, a police car  
14 came into the parking lot. (*Ibid.*) Employees suggested she speak with the police; she declined.  
15 (Exh. B. at p. 93.) When her father arrived, she informed him that she had been targeted by three  
16 individuals who tried to “take her with them.” (Exh. B. at p. 93.) After approximately an hour at  
17 home, she informed her father that she had lied to him about what occurred, and instead told him  
18 that she was raped by Mr. Dickerson. (Exh. B. at p. 94.) Her father took her to the police station,  
19 where she identified Mr. Dickerson as her assailant from a photographic lineup. (Exh. B. at p. 48,  
20 102.) She was then taken to the hospital where the doctors examined her for signs of sexual  
21 assault. (Exh. B. at p. 48.)

25 The medical records indicated there were no interior vaginal, cervical, or vulval injuries.  
26 (Exh. B. at p. 119.) There was no DNA evidence or physical injuries consistent with the alleged  
27 forceful rape. (Exh. B. at p. 119.) There was one sperm cell found on Ms. Perry’s clothing and  
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1 another on Mr. Dickerson's, along with one abrasion to the exterior of Ms. Perry's vaginal area.

2 DNA analysis confirmed that Mr. Dickerson was not the source of either sperm cell.

3 The court held Mr. Dickerson to answer to both counts and the enhancement. (Exh. B. at  
4 p. 123.)

### 6 **B. Plea and Sentencing**

7 As a result of Mr. Dickerson's plea, he remains subject to lifetime registration as a sex  
8 offender under Pen. Code section 290. (Exh. A. at p.3.)

### 9 **C. Evidence of Innocence**

10 On the morning of May 5, 2012, Mr. Dickerson's wife and the mother of his three  
11 children reached out to Ms. Perry via Facebook Private Messaging. (Exh. C., at p. 127). She  
12 informed Ms. Perry that Mr. Dickerson was still dealing with the negative consequences of his  
13 plea. As a result, she encouraged Ms. Perry to "tell the truth" regarding the incident that led to  
14 his 1998 rape conviction. (Exh. C. at p. 127) In response Ms. Perry admitted to falsely accusing  
15 Mr. Dickerson of the offense against her. (*Ibid.*)

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18 I am very appreciative for you reaching out to me. I haven't thought about any of this  
19 since it happened. Yes, i (*sic*) was really raped that day but i (*sic*) will handle this ASAP.  
20 My intentions were not to take someones (*sic*) life away and i (*sic*) truly regret the wrong  
21 doing i (*sic*) played a part in. Jermaine is a good person and did not deserve any of the  
22 hardship he has been through. I cant (*sic*) give him his life back but i (*sic*) can do my part  
23 in making things better. I was a very young and ignorant girl and i (*sic*) listened to the  
24 wrong people and someone innocent got hurt. I give my blessing to you and your family.  
25 i (*sic*) have a family too and couldnt (*sic*) imagine being in this predicament. You have  
26 presented your self (*sic*) as a strong woman. i (*sic*) respect and appreciate that. i (*sic*) am,  
27 truly apologetic and will make things as right as possible. i (*sic*) will also stay in contact  
28 with you to let you [know] what is going [on] with this whole process.

(Exhibit C. at p. 127.)

26 On September 25, 2020, Contra Costa Deputy Public Defender Rebecca Brackman and  
27 Investigator Justin Hill interviewed Ms. Perry. (Exhibit D, Nataki Perry Investigation Report, p.

1 129.) Ms. Perry verified that she wrote the message, was of sound mind when she did so, and  
2 that the information stated within it was true. (Exh. D. at p. 129.) She confirmed her allegation  
3 that Mr. Dickerson was her assailant was false. (Exh. D. at p. 129.) She acknowledged that  
4 shortly after she sent the Facebook message, she was contacted by Charlotte Epps, former  
5 investigator for the Contra Costa County Public Defender's Office, regarding the incident. (Exh.  
6 D. at p. 129.) At the time of the conversation with Ms. Epps, she informed her that she was  
7 actually assaulted by a former partner who demanded that she blame Mr. Dickerson for the  
8 assault. She maintained this version of events when speaking with Ms. Brackman. She further  
9 relayed to Ms. Brackman that Mr. Dickerson did not rape her and that she felt responsible for his  
10 wrongful conviction.  
11

## 12 ARGUMENT

### 13 14 **I. MR. DICKERSON'S CONVICTION SHOULD BE VACATED BECAUSE, AS A 15 MATTER OF LAW, NEWLY DISCOVERED EVIDENCE OF ACTUAL 16 INNOCENCE EXISTS.**

17 In pertinent part, section 1473.7 provides that:

18 (a) A person no longer in criminal custody may file a motion to vacate a conviction or  
19 sentence for any of the following reasons:

20 ...

21 (2) Newly discovered evidence of actual innocence exists that requires vacation of the  
22 conviction or sentence as a matter of law or in the interests of justice.

23 ...

24 (e)(1) The court shall grant the motion to vacate the conviction or sentence if the moving  
25 party establishes, by a preponderance of the evidence, the existence of any of the grounds  
26 for relief specified in subdivision (a).

27 (e)(3) If the court grants the motion to vacate a conviction or sentence obtained through a  
28 plea of guilty or nolo contendere, the court shall allow the moving party to withdraw the  
plea.

(§ 1473.3; See also *People v. Perez* (2020) 47 Cal.App.5th 994, 997.)



1 Ms. Perry’s recantation is newly discovered evidence that entitles Mr. Dickerson to relief,  
2 both as a matter of law and in the interest of justice. As a matter of law, the new evidence  
3 requires the court to vacate Mr. Dickerson’s conviction because the evidence: (1) meets all  
4 technical requirements of “newly discovered evidence;” and (2) is of such value that it is more  
5 likely than not that it would have resulted in a different outcome of this case. Finally, the  
6 interests of justice require the reversal of a conviction that rests entirely on the testimony of a  
7 complaining witness who has consistently acknowledged the falsity of her allegation that Mr.  
8 Dickerson raped her. Justice weighs in favor of granting Mr. Dickerson relief under section  
9 1473.7.  
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12 **A. Ms. Perry’s Recantation Meets All of the Technical Requirements of the**  
13 **“Newly Discovered Evidence” Standard.**

14 “[A]lthough Penal Code section 1473.7 does not define the phrase ‘newly discovered  
15 evidence,’ the phrase has been defined elsewhere in the Penal Code. [Citation]. Those definitions  
16 consistently describe newly discovered evidence as testimony, writings or similar things  
17 described in Evidence Code section 140 (which defined ‘evidence’), *discovered after trial or*  
18 *judgment, and that with reasonable diligence could not have been discovered earlier.*  
19 [Citation.]” (*Perez, supra*, 47 Cal.App.5th at p. 999.)<sup>2</sup>  
20

21 In a similar respect, the definition for “newly discovered evidence” under Penal Code  
22 section 1473 was changed in 2016. (See *In re Masters* (2019) 7 Cal.5th 1054.) There, the court  
23 found “new evidence” to mean evidence that “could not have been discovered prior to trial by  
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27 <sup>2</sup> See *Estate of Thomas* (2004) 124 Cal.App.4th 711, 720 [‘consistent usage implies consistent  
28 meaning: ‘A word or phrase, or its derivatives, accorded a particular meaning in one part or  
portion of a law, should be accorded the same meaning in other parts or portions of law.’.]”

1 the exercise of due diligence, and is admissible and not merely cumulative, corroborative,  
2 collateral, or impeaching.” (Pen. Code § 1473 subd. (b)(3), added in 2016; See also *In re*  
3 *Masters, supra*, 7 Cal.5th at p. 1083.) The statute also requires that the evidence be credible,  
4 material, and presented without substantial delay. (*Ibid.*)

5  
6 Ms. Perry’s recantation of Mr. Dickerson’s identification could not have been discovered  
7 prior to Mr. Dickerson’s plea because it did not occur until years later. At the time of Mr.  
8 Dickerson’s plea, Ms. Perry continuously maintained that Mr. Dickerson raped her. She  
9 identified him by name and described several markings and tattoos that she claimed to have seen  
10 during the assault. (Exh. B. at p. 31.) She explained away any impeachment evidence  
11 undermining her false accusation and stated that she told two previous conflicting stories out of  
12 fear that her actual assailant would retaliate against her. (*Id.* at p. 98.) Further interviews would  
13 not have rendered a different story. Thus, this evidence could not have been discovered prior to  
14 trial with due diligence.  
15

16  
17 Mr. Dickerson did not serve any time in prison as a result of his plea. Rather, he was  
18 subject to three years of felony probation and is still required to register as a sex offender. Thus,  
19 at the time of the recantation in 2012, Mr. Dickerson had no standing to bring this evidence  
20 before the court.

21  
22 This evidence is also admissible<sup>3</sup>, as it conclusively contradicts the only basis of Mr.  
23 Dickerson’s conviction, the testimony of the prosecution’s sole witness. As a result, this new  
24 evidence goes to the heart of the issue in this case, Mr. Dickerson’s innocence.  
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28 <sup>3</sup>. “Except as otherwise provided by statute, all relevant evidence is admissible.” (Evid. Code, §  
351.) “ ‘Relevant evidence’ means evidence... having any tendency in reason to prove or

1 No physical evidence corroborated Ms. Perry's version of the assault, nor did any DNA  
2 evidence corroborate the false identification. The rape kit performed only found one abrasion to  
3 the exterior Ms. Perry's vagina, which is inconsistent with being forcefully penetrated at least  
4 three times. There were also no interior abrasions to the vaginal, cervical, or vulval area.  
5 Finally, none of the DNA test results from Ms. Perry's person or her clothing were found to be  
6 Mr. Dickerson's; and similarly, none of the DNA found on Mr. Dickerson was found to be Ms.  
7 Perry's.  
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9 Finally, the evidence is not "merely cumulative, corroborative, collateral, or  
10 impeaching," since it is relevant to the sole contested issue in the case: who raped Ms. Perry,  
11 and comes from Ms. Perry directly. "Cross-examination is subject to restriction under Evidence  
12 Code section 352 if it is cumulative or if it constitutes impeachment on collateral issues."  
13 (*People v. Greenberger* (1997) 58 Cal.App.4th 298, 352.) "But trial courts are not required to  
14 exclude all cumulative evidence and *if evidence has substantial relevance to prove material*  
15 *facts which are hotly contested and central to the case, it is not 'merely cumulative.'*" (*People*  
16 *v. Lang* (1989) 49 Cal.3d 991, 1016, emphasis added.) Evidence is "substantially or materially  
17 probative" if there is a "*reasonable probability it could have affected the outcome.*" (*In re*  
18 *Malone* (1974) 12 Cal.4th 935, 965, original emphasis, quoting *In re Wright* (1978) 78  
19 Cal.App.3d 788, 814.)  
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23 Testimony from the victim – the prosecution's only witness – who provided the only  
24 direct or circumstantial evidence of guilt is not merely collateral, cumulative, or impeaching. The  
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28 disprove any disputed fact that is of consequence to the determination of the action." (Evid.  
Code, § 210.)

1 identity of the rapist was the sole issue contested at trial, and as such, any evidence regarding the  
2 identity cannot be considered collateral. Specifically, Ms. Perry's statement that someone other  
3 than Mr. Dickerson is the actual assailant is not collateral, but rather, it is integral and material  
4 evidence of actual innocence.. For the same reason, the newly discovered evidence that Ms.  
5 Perry falsely alleged Mr. Dickerson raped her is "necessarily ... also material." (*People v. Lang*  
6 (1989) 49 Cal.3d 991, 1016.)  
7

8 **B. Ms. Perry's Recantation is of Such Value That it is More Likely Than Not**  
9 **That It Would Have Changed the Outcome of this Case.**

10 In order to warrant relief under the "newly discovered evidence" standard, the court must  
11 "determine whether the new evidence proffered by [the petitioner] entitled him to a new trial, not  
12 to predict the outcome of a future trial or to determine the ultimate issue of culpability." (*Sagin*,  
13 *supra*, 39 Cal.App.5th at p. 579.) Prior to section 1473s enactment, petitioners were required to  
14 "conclusively establish innocence," meaning that the new evidence, standing alone, was required  
15 to completely exonerate the convicted. (*Ibid.*) The *Sagin* court observed:  
16

17 "The change in the law represents an overall lower tolerance for wrongful convictions.  
18 The Legislature has chosen to more closely protect society's interest in ensuring that a  
19 person convicted of a crime is the person who committed it."

20 (*Ibid.*)

21 In *Sagin*, twenty years after the petitioner was convicted of murder, investigators tested  
22 DNA evidence found and stored from the victim's autopsy. (*Ibid.*) Of the several samples tested,  
23 none of the evidence produced results that identified petitioner. (*Ibid.*) The court acknowledged  
24 that this evidence was new, since DNA testing technology did not exist at the time of the  
25 conviction. (*Ibid.*) Further, under the section 1473 standard, the evidence was found to be more  
26 likely than not to change the trial outcome. (*Ibid.*)  
27  
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1 Here, Mr. Dickerson is capable of meeting both the new and former standard. Ms. Perry's  
2 accusation was the sole evidence against Mr. Dickerson. The medical reports presented only one  
3 abrasion to Ms. Perry's vaginal area, which is inconsistent with the force described in her  
4 preliminary hearing testimony. (Exh. B. at p. 122.) The medical rape kit examination results did  
5 not produce any additional evidence to corroborate Ms. Perry's account of a violent assault. The  
6 seminal fluid tests of Ms. Perry's vaginal and rectal swabs only contained one sperm cell and Mr.  
7 Dickerson was excluded as the source by DNA testing results. The stains from her clothing  
8 contained no sperm. (Exh. B, at p. 122.) In fact, the stain found on her sweater only contained  
9 her personal DNA. Stains found on Mr. Dickerson's clothing were tested and results eliminated  
10 Ms. Perry as the source of the vaginal cells present and eliminated himself as the source of  
11 sperm. Ms. Perry's false allegation was the only evidence the prosecution offered at the  
12 preliminary hearing. Without Ms. Perry's false allegation, the prosecution would not have been  
13 capable of proving the allegations against Mr. Dickerson. Thus, without the false allegations, Mr.  
14 Dickerson would not have been held to answer to the charges against him. <sup>4</sup>

## 18 **II. THE INTERESTS OF JUSTICE DEMANDS THE REVERSAL OF MR. 19 **DICKERSON'S WRONGFUL CONVICTION.****

20 The interests of justice in this case are served by exonerating Mr. Dickerson and  
21 reversing his plea. Ms. Perry repeatedly stated that Mr. Dickerson did not rape her. Mr.  
22 Dickerson and his family have suffered under this false conviction for many years, and Ms. Perry  
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26 <sup>4</sup> Sufficient cause to hold a defendant to answer is equivalent to the reasonable or probable cause  
27 standard that is required to justify an arrest; further defined as "such a state of facts as would lead  
28 a man of ordinary caution or prudence to believe and consciously entertain a strong suspicion of  
guilt of the accused." (*Williams v. Superior Court* (1969) 71 Cal.2d 1144, 1147.

1 has suffered under the guilt of her intentional and false allegation. Mr. Dickerson is still subject  
2 to community opprobrium because he is a lifetime sex offender registration. In the interest of  
3 justice, this court must set right the wrong inflicted upon Mr. Dickerson as the result of the false  
4 allegations against him.  
5

6 **CONCLUSION**

7 For the foregoing reasons, Mr. Dickerson respectfully requests that this court vacate the  
8 judgement and set aside his wrongful conviction. Further, Mr. Dickerson is entitled to, and  
9 respectfully requests, a hearing on this motion. (Pen. Code § 1473.7 subd. (2)(d))  
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**EXHIBIT A:**

SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF CONTRA  
COSTA

WAIVER OF FORMAL ARRAIGNMENT

CHANGE OF PLEA

SENTENCING- DEPARTMENT OF CORRECTIONS

SENTENCE SUSPENDED- FORMAL PROBATION

DATED: December 4, 1998

**FILED**  
DEC - 4 1998  
K. TORRES, CLERK OF THE COURT  
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA**

DECEMBER 4 1998 Dept. 15-  
Hon. RICHARD S. FLIER, Judge K. Shambaugh, Court Clerk  
Warren E. Rupf, Sheriff M. Chatman, Reporter

PEOPLE OF THE STATE OF CALIFORNIA, PRESENT:  
v. Dep. D.A.: Jerry Chang  
JERMAINE DEMEL DICKERSON, Dep. P.D.: David Goldstein  
Defendant. Dep. P.O.: B. Pelle

CII #\* Action No. 981014-4  
NATURE OF PROCEEDINGS: **WAIVER OF FORMAL ARRAIGNMENT  
CHANGE OF PLEA  
SENTENCING - DEPARTMENT OF CORRECTIONS  
SENTENCE SUSPENDED-FORMAL PROBATION**

The Defendant is present. The Court accepts the defendant's Advisement of Rights, Waiver and Guilty/No Contest Plea Form filed this date. The defendant acknowledges his signature on said form. This is a PC 1192.5 disposition.

The defendant now requests and is permitted to withdraw his previous plea of Not Guilty. The defendant waives full re-reading of the Information and enters a plea of NOLO CONTENDERE to:

Violation of Penal Code Section 261(a)(2) (Forcible Rape), a felony as charged in Count One of the Information. Defendant also pleads nolo contendere to the Penal Code Section 12022.3(a) violation.

The Court makes the necessary findings and accepts the defendant's plea of no contest and informs Defendant that it will be treated as a guilty plea for purposes of sentencing.

The defendant waives formal arraignment for judgment and has no legal cause why judgment should not now be pronounced. The defendant waives re-referral to the Probation Officer.

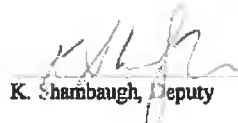
The Court sentences defendant to the California Department of Corrections for a total fixed term of 9 YEARS as follows:

Count One: The aggravated term of 6 years  
Enhancement: 3 years consecutive to Count One..

**THE COURT NOW SUSPENDS SAID SENTENCE AND PLACES DEFENDANT ON FORMAL FELONY PROBATION. SEE ORDER FOR PROBATION ATTACHED HERETO.**

The Court vacates the trial date of December 7, 1998. The Defendant is remanded. The bench warrant, if any, is exonerated.

CLERK OF THE COURT

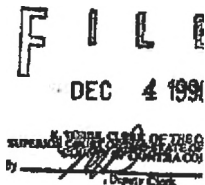
  
K. Shambaugh, Deputy

JAN 13 1999

MINUTE ORDER



Page 2  
 People v. Dickerson  
 Action No. 981014-4



**ORDER FOR PROBATION**

The Court, having read and considered the report of the Probation Officer, orders that the defendant be admitted to probation and that the imposition of judgment be suspended for a period of 3 YEARS from the date of this order, and the defendant shall comply with the following terms and conditions of probation:

- 1) Obey all laws and follow all orders of this Court.
- 2) Conduct yourself at all times in all respects according to the supervision requirements of the Probation Officer of Contra Costa County and report as directed.
- 3) Maintain an address with the Probation Officer where notice of any further proceedings may be mailed.
- 4) Not change place of residence nor leave the State of California without written permission of the Probation Officer.
- 5) Seek and maintain employment as directed by the Probation Officer, and notify the Probation Officer of any change in employment status.
- 6) Upon termination of any period of confinement in the County Jail, continue under the supervision of the Probation Officer.
- 7) If confined in the County Jail, receive one day credit for each two week period of satisfactory participation in authorized jail programs.
- 8) Not own, have in possession or under custody and control any handgun, rifle, shotgun, or other firearm whatsoever or any weapon capable of being concealed upon your person.
- 9) If arrested, use your own true name, address, date of birth and report the arrest, in writing, to the Probation Officer within five days of such arrest.

IT IS FURTHER ORDERED THAT DEFENDANT SHALL:

**ADDITIONAL CONDITIONS:**

1. **County Jail.** Be imprisoned in the Contra Costa County Jail for 365 DAYS, with 226 credits for time already confined on this charge and report to the Probation Officer within five days of your release from custody. Defendant is not eligible for electronic home detention. Counsel stipulate that Penal Code Section 2933.1 credits not apply and that 4019 credits will be calculated by the jail. If there is an actual commitment to state prison on this offense, Penal Code Section 2933.1 credits will apply at that time.

2. **Search & Seizure.** Submit your person, place of residence, storage locker, any personal property, and any vehicle under control to search and seizure by any Peace Officer at any time of the day or night.

3. **Felony Restitution.** Pay a restitution fine (per Penal Code Section 1202.4(b)) of \$200.00 all payable through the Probation Officer at a rate and manner as directed by the Probation Officer.

4. **Victim Restitution.** Pay restitution to the victim as recommended by Probation.

5. **Fine.** Pay \$200.00 pursuant to Penal Code Section 290.3.

6. **Register as Sex Offender (PC § 290).** Register pursuant to Penal Code Section 290.

7. **Probation Services Fee.** That the defendant pay for the cost of Probation Services as determined by the Probation Officer, not to exceed \$50.00 per month.

8. **Counseling.** Participate in counseling or other program at direction of probation officer.

Page 3  
People v. Dickerson  
Action No. 981014-4

[

RECEIVED  
A

9. Outpatient/Residential Treatment Program. Participate in outpatient/residential treatment program pertaining to alcohol use at the direction of the Probation Department.

10. Blood/Saliva Tests. Submit to blood saliva tests pursuant to Penal Code Section 290.2.

11. AIDS Tests. Submit to tests for the detection of the AIDS virus.

12. Stay Away Orders. No contact with victim, parents or sibling of victim. Stay at least 150 yards away from the victim. Do not annoy, contact or otherwise harass the victim. This includes the home, school or place of business.

The People move to dismiss Counts 2 and the Penal Code Section 667.61 enhancement. The motion is granted.

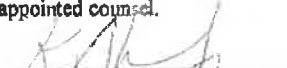
DEFENDANT IS REMANDED. BAIL, IF ANY, EXONERATED.

Dated: December 4, 1998

  
RICHARD S. FLIER  
Judge of the Superior Court

Defendant is to report to the Office of Revenue Collections within twenty days from release from custody to determine and pay costs of court appointed counsel.

CLERK OF THE COURT

  
Kathleen Shambaugh, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA

ADVISEMENT OF RIGHTS, WAIVER AND GUILTY/NO CONTEST PLEA FORM

Defendant's Name Jermaine D. Dixon Case No. 981014-4  
 Judge Flier Dept. F 211 Clerk E  
 Calendar Date 12/4/98 Reporter DEC - 4 1998  
 Municipal Court Bay K. TORRE, CLERK OF THE COURT  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA Case No. mb  
 Defendant's Attorney [Signature] Deputy Clerk

INSTRUCTIONS:

Use this form if you are pleading "guilty" or "no contest" to all or some of the felony charges against you. A "no contest" plea will be treated by the Court as a guilty plea.

If you do not understand any question on this form, ask your lawyer or the judge for assistance. YOU MAY LOSE VALUABLE RIGHTS AND SUBJECT YOURSELF TO IMPRISONMENT NOW OR IN THE FUTURE IF YOU IMPROPERLY FILL OUT THIS FORM.

INITIAL ONLY THE BOXES THAT APPLY TO YOU:

CHARGES

[Signature] 1. I have read, discussed with my attorney and understand all allegations in the complaint/information filed against me.

CONSTITUTIONAL RIGHTS

       / 2. I understand that I have the right to an attorney to represent me on the charges, and that if I am unable to afford to hire an attorney the Court will appoint an attorney to represent me at little or no charge to me, subject to reimbursement based on my ability to pay. I give up my right to be represented by an attorney.

       / 3. I understand that I have the right to a preliminary hearing before a judge at which the district attorney must prove that a crime has been committed by me. If the district attorney does not meet this burden of proof, the charges on the complaint against me would be dismissed. I give up my right to a preliminary hearing.

Defendant's Name: \_\_\_\_\_ Case No. \_\_\_\_\_


- / 4. I understand that I have the right to a speedy and public jury trial on the charges. I give up my right to a jury trial on the charges.
- / 5. I understand that I have the right to confront all witnesses against me and to question them myself or through an attorney. I give up this right.
- / 6. I understand that I have the right to call witnesses to testify on my behalf and that I may use the power of the Court to subpoena them and compel their presence in court. I give up this right.
- / 7. I understand that I have the right to remain silent and cannot be forced to testify against myself. I give up my right against self-incrimination.


CONSEQUENCES OF GUILTY/NO CONTEST PLEA


- / 8. I understand that the legal maximum state prison sentence for the charge(s) to which I am pleading guilty, including all sentence enhancements, is            years and            months, and that the maximum fine for the charge(s) is \$10,000 per charge.
- / 9. I understand that conviction of the charge(s) makes me ineligible for a grant of probation. (WHEN PROBATION INELIGIBILITY ALLEGATIONS ARE CHARGED AND ADMITTED).
- / 10. I understand that my sentence to state prison will be            years and            months.
- / 11. I understand that any state prison sentence will be followed by my being on parole for up to 4 years.
- / 12. I understand that I will not be sentenced now to state prison on the charge(s), but that I will be placed on felony probation for 3 years.
- / 13. I understand that the Court will impose conditions upon my probation. These conditions may include up to one year in the Contra Costa County jail, a fine of up to \$10,000, and other conditions that are reasonably related to the charge(s) to which I am pleading guilty.
- / 14. I understand that as a condition of probation I will serve 365 days in the Contra Costa County jail.  
*less 226 actual total served.*

Defendant's Name: \_\_\_\_\_


Case No. \_\_\_\_\_

 15. I understand that if I violate my probation conditions, the Court could revoke my probation and sentence me to the maximum term in state prison and to the maximum fine.


 16. I understand that conviction of the charge(s) will subject me to registration requirements. (WHEN DEFENDANT PLEADS TO SEX, NARCOTICS OR ARSON CHARGES)


 17. I understand that conviction of the charge(s) will require me to pay appropriate restitution to the victim(s) of my crimes and/or to pay a restitution fine of not less than \$200 and not more than \$10,000.


\_\_\_\_\_/ 18. I understand that conviction of the charge(s) will result in suspension or revocation of my California driver's license. (WHEN DEFENDANT PLEADS TO DRIVING UNDER INFLUENCE AND PRIOR CHARGES)


 19. I understand that if I am not a citizen of the United States, conviction of a crime could result in my deportation, denial of my re-entry to the United States and denial of my application for citizenship.

**VOLUNTARINESS OF PLEA**

 20. Except for what is promised to me in open court on the record, I have not been promised or offered anything by anyone that causes me to enter a guilty plea.

 21. No threat has been made against me or anyone close to me that causes me to enter a guilty plea.

 22. I have not consumed any prescription or non-prescription drugs or alcohol within the past 24 hours and I am not impaired in any manner by drugs or alcohol. I am fully able to understand these proceedings.

 23. I understand that I have the right to ask the Court to answer any question I have about the nature of the charges against me, the rights I have concerning these charges and the consequences of my guilty plea.

Defendant's Name: \_\_\_\_\_

Case No. \_\_\_\_\_

**FACTUAL BASIS OF PLEA**

*[Handwritten signature]*

   /    24. I have discussed the contents of the police reports with my attorney. I am satisfied that I know the evidence that could be used against me in trial.

   /    25. I believe and agree that a jury or judge who heard the evidence against me could find me guilty of the charges to which I am pleading guilty.

   /    26. I understand that the rights, waivers and consequences covered by this form apply to all crimes, enhancements and special clauses charged against me in this case.

*[Handwritten signature]*      12-4-98 ✓  
SIGNATURE OF DEFENDENT      DATE

I stipulate that there is a factual basis for the defendant's plea; I concur and join in my client's waivers; and I consent and agree to the entry of my client's plea.

I personally observed the defendant initial and sign this form. No person other than the defendant has initialed this form and only the defendant and I have signed it.

*[Handwritten signature]*      12/4/98  
SIGNATURE OF DEFENDANT'S ATTORNEY      DATE

359  
7/1  
M

F:6-30-98  
A:6-1-98

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA

THE PEOPLE OF THE STATE OF CALIFORNIA,

NO. 981014-4  
DA NO. X 98 00108-1  
INFORMATION

VS.

JERMAINE DEMEL DICKERSON,  
DEFENDANT./

01) PC 261(a)(2)  
02) PC 211/212.5(c)

In the Superior Court of the State of California, in and for the  
County of Contra Costa:

The District Attorney of the County of Contra Costa hereby accuses  
JERMAINE DEMEL DICKERSON, Defendant, of the crime of felony, a  
violation of PENAL CODE SECTION 261(a)(2) (FORCIBLE RAPE), committed  
as follows:

On or about April 20, 1998, at El Cerrito, in Contra Costa County,  
the Defendant, JERMAINE DEMEL DICKERSON, by means of force, violence,  
duress, menace, and fear of immediate and unlawful bodily injury,  
did unlawfully accomplish an act of sexual intercourse with and  
against the will of Jane DOE, who was not the spouse of the  
Defendant.

ENHANCEMENT  
USING DEADLY WEAPON/FIREARM  
IN DESIGNATED SEX OFFENSE

It is further alleged, pursuant to Penal Code section 12022.3(a),  
that in the commission and attempted commission of the above offense  
the Defendant, JERMAINE DEMEL DICKERSON, personally used a knife, a  
deadly weapon.

SENTENCE FIXING ALLEGATION  
DESIGNATED SEX CRIME WITH  
ONE SPECIFIED CIRCUMSTANCE

It is further alleged, pursuant to subdivisions (b) and (e) of Penal  
Code section 667.61, that in the commission of the above offense, the  
Defendant, JERMAINE DEMEL DICKERSON, personally used a knife, a  
dangerous and deadly weapon in violation of Penal Code section  
12022(b)(1).

1925-PC  
209  
8 DA  
2-4-98  
MPH

ME  
JUN 10 1998  
CLERK OF SUPERIOR COURT  
CONTRA COSTA COUNTY  
CALIFORNIA

INFORMATION RE:  
JERMAINE DEMEL DICKERSON

PAGE 2

NO. 981014-4  
DA NO. X 98 000108-1

COUNT TWO:

*Dis  
2 DA  
1192.5  
124-98  
N/A*

The District Attorney of the County of Contra Costa hereby further accuses JERMAINE DEMEL DICKERSON, Defendant, of the crime of felony, a violation of PENAL CODE SECTION 211/212.5(c) (SECOND DEGREE ROBBERY), committed as follows:

On or about April 20, 1998, at El Cerrito, in Contra Costa County, the Defendant, JERMAINE DEMEL DICKERSON, by means of force and fear, did unlawfully take personal property from the person, possession and immediate presence of Jane DOE.

DATED: June 26, 1998

GARY T. YANCEY  
District Attorney

*Gary T. Yancey*  
GERALD W. CHANG  
Deputy District Attorney

GWC:dh



MUNICIPAL COURT OF CALIFORNIA  
COUNTY OF CONTRA COSTA  
JUDICIAL DISTRICT

BAY  DELTA  MT. DIABLO  WALNUT CREEK - DANVILLE

FELONY, COMMITMENT,  
HOLDING OVER, REMANDING, FORM

CLERK'S DOCKET AND MINUTES

SUPPLEMENTAL

DEFENDANT (NAME) Nickerson, Jermaine

CASE # 166890-4

APPLICABLE ENTRIES MARKED

APPEARANCES

Deputy District Attorney Chanc

PROCEEDINGS

DATE(S) 6-19-22

Defendant and Attorney Golovotin

Voir dire by

Other

MOTIONS

Motion to Exclude Witness(es)/Spectators  Except

by 981014cl

Granted  Denied

Motion by People/Defense to/for

Argued & Submitted  Submitted Without Argument  Granted  Denied  Taken Under Submission  Other

WITNESSES  
WITNESS(ES) SWORN AND TESTIFIED FOR PEOPLE

1. Vane Doe  
2.  
3.  
4.  
5.

EXHIBITS  
EXHIBITS ON BEHALF OF THE PEOPLE

Description	Marked	Admitted
1. <u>Photo</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. <u>Photo</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. <u>medical records</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4.	<input type="checkbox"/>	<input type="checkbox"/>
5.	<input type="checkbox"/>	<input type="checkbox"/>

See Reverse Side for Additional Witnesses and Exhibits  
WITNESS(ES), SWORN AND TESTIFIED FOR DEFENDANT

1.  
2.  
3.  
4.

EXHIBITS ON BEHALF OF THE DEFENDANT

Description	Marked	Admitted
A.	<input type="checkbox"/>	<input type="checkbox"/>
B.	<input type="checkbox"/>	<input type="checkbox"/>
C.	<input type="checkbox"/>	<input type="checkbox"/>
D.	<input type="checkbox"/>	<input type="checkbox"/>

See Reverse Side for Additional Witnesses and Exhibits

People Rest  Defense Rests  No Evidence by Defendant

Closing Argument by People

Closing Argument by Defense

Rebuttal Closing by People

Submitted

PRELIMINARY EXAMINATION HELD

Preliminary examination was held on the above date and it appearing to the below named Judge that a Felony Violation of F 261(a)(2) PC has been committed and that there is sufficient cause to believe the above named defendant GUILTY thereof, it is ordered that Defendant be held to answer the same.

PLEA OF GUILTY

The above named defendant, being charged in a complaint on file in this Court under the above case number, and having entered a plea of GUILTY to a Felony Violation of \_\_\_\_\_, it is ordered that this case together with a copy of all proceedings held herein is certified to the Superior Court for this County.

PRELIMINARY EXAMINATION WAIVED

The above named defendant, being charged in a complaint on file in this Court under the above case number, and having waived preliminary examination on the charges, the Court and the District Attorney consenting thereto, it is ordered that Defendant be held to answer the same.

DISCHARGE

Defendant is Discharged as to Count # \_\_\_\_\_

Other.

SETTINGS/REFERRALS

Defendant ordered to appear in the Superior Court of Contra Costa County, Department M-1

on 7-1-22

at 11:30

for ARR

Defendant referred to Probation Department for Report

Stipulated that exhibits be returned to \_\_\_\_\_

Exhibits retained by court

Other

CUSTODIAL STATUS

DEFENDANT REMANDED to custody of Sheriff until legally discharged.

DEFENDANT RELEASED/CONTINUED on own recognizance.

DEFENDANT RELEASED on signed promise to appear.

ADMIT TO BAIL amount of \$ 150,000 and defendant is remanded to the Sheriff of this County until such bail is given.

DEFENDANT TO REMAIN FREE on cash/bail bond as posted or own recognizance.

TO THE SHERIFF: I hereby certify that the following is a true copy of the entry of the judgment or order and is your authority for the execution thereof.

DATED: 6/19/22

SEE OTHER MINUTE PAGES FOR ADDITIONAL PROCEEDINGS  
FORM #3007

011

[Signature]  
(JUDGE OF THE MUNICIPAL COURT)

**EXHIBIT B:**

**REPORTER'S TRANSCRIPPT OF PRELIMINARY HEARING**

**DATED: June 19, 1998**

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I N D E X

Witnesses for the People: Direct Cross Redirect Recross

JANE DOE 7,20 10,39,57

---o0o---

E X H I B I T S

<u>People's:</u>	<u>Ident. Evid.</u>
1 - Photo	103
2 - Photo	103
3 - Medical Records	103

---o0o---

1 FRIDAY, JUNE 19, 1998 10:45 A.M.

2 P R O C E E D I N G S

3 ---o0o---

4 THE CLERK: People of the State of California  
5 versus Jermaine Dickerson, case number 166890-4.

6 THE COURT: Okay. Appearances, please.

7 MR. CHANG: Good morning, Your Honor. Jerry  
8 Chang appearing on behalf of the People.

9 MR. GOLDSTEIN: Good morning, Judge. David  
10 Goldstein appearing with Jermaine Dickerson. He's present  
11 in Court to my left. He's in custody.

12 We're ready to proceed. Mr. Chang has let me  
13 know that he only intends to call one witness, so I won't  
14 move to exclude witnesses.

15 THE COURT: Okay.

16 MR. GOLDSTEIN: I would just ask that he notify  
17 me if that plan changes so I'd be making appropriate  
18 motion. Otherwise, we're ready to proceed.

19 THE COURT: Okay.

20 MR. GOLDSTEIN: For the Court's knowledge, I  
21 anticipate even though it's only one witness, that it's  
22 probable that we'll go past noon in light of the amount of  
23 territory I at least intend to cover.

24 How much past noon, I don't know, in terms of  
25 the afternoon calendar. But I wanted to let the court know  
26 that that's probable.

27 THE COURT: Let's cross that bridge when we  
28 come to it.

1 Okay. Are you ready to proceed?

2 MR. CHANG: Yes. I have two brief motions,  
3 Your Honor.

4 THE COURT: Okay.

5 MR. CHANG: Actually three. Pursuant to  
6 Evidence Code Section 782, I've received no written notice  
7 of request by defense counsel to inquire into the victim's  
8 prior sexual history or conduct.

9 So based on that, I would request that the  
10 Court order the defense attorney not to make that inquiry  
11 when she testifies.

12 THE COURT: Mr. Goldstein?

13 MR. GOLDSTEIN: I'd like to hear the other  
14 motions, then I'll respond to that.

15 MR. CHANG: The second motion would be that the  
16 transcript replace the victim's name as a Jane Doe.

17 MR. GOLDSTEIN: No objection to the second  
18 motion.

19 MR. CHANG: And the third request is that the  
20 Rape Crisis Center moral support person be allowed to sit  
21 next to the victim while she's testifying.

22 MR. GOLDSTEIN: No objection to either motion.  
23 What is the code section you cited, counsel?

24 MR. CHANG: 782.

25 MR. GOLDSTEIN: If I may have a moment, Judge.

26 THE COURT: Yes.

27 MR. CHANG: Evidence Code.

28 MR. GOLDSTEIN: Thank you.

1 Submitted on the motion, Judge.

2 THE COURT: That motion will be granted.

3 MR. CHANG: Thank you.

4 I'll call my first witness.

5 MR. GOLDSTEIN: Your Honor, one moment.

6 (Discussion held off the record.)

7 MR. GOLDSTEIN: I'd like to go back on the  
8 record briefly now that Mr. Chang is back.

9 Judge, the only other motion I had will be that  
10 they're not proceeding by Prop 115, but they are bringing  
11 the vickin into court, is that for the initial I.D. portion  
12 of the hearing, that the defendant be placed out of the  
13 courtroom for the identification and description questions  
14 only.

15 We believe his presence --- waive his presence  
16 and believe that procedure would promote the reliability of  
17 the fact finding procedure, and then ask that for the non  
18 I.D. questions he be brought back in.

19 THE COURT: Okay.

20 MR. CHANG: I have no objection, Your Honor, as  
21 long as were clear that we're proceeding with direct on  
22 I.D., cross on I.D., defendant will be brought back in.  
23 then I'll be able to finish my direct on the rest of the  
24 case.

25 MR. GOLDSTEIN: That's the motion that I made.

26 THE COURT: And that's the motion that will be  
27 granted.

28 MR. GOLDSTEIN: Okay.

1 THE COURT: Okay.

2 MR. CHANG: I think we need to take a waiver  
3 from the defendant, Your Honor.

4 THE COURT: Pardon?

5 MR. CHANG: We need to take a waiver from the  
6 defendant.

7 THE COURT: Yes.

8 MR. CHANG: I'll go ahead.

9 Mr. Dickerson, your entitled by law to be in  
10 this courtroom throughout the entire preliminary hearing.  
11 What's been proposed by your attorney is for the  
12 identification portion of the hearing, you'll step outside,  
13 outside of this door, so the witness can't see you.

14 You may -- I think you will be able to hear the  
15 proceedings, but you won't be able to be actually in the  
16 courtroom.

17 You understand your right to be personally  
18 present throughout the proceedings,

19 THE DEFENDANT: Yes, I do.

20 MR. CHANG: And you agree to give up that right  
21 with that understanding?

22 THE DEFENDANT: Yes, I do.

23 MR. CHANG: Thank you.

24 MR. GOLDSTEIN: Thanks, Jermaine.

25 (Whereupon, the Defendant is removed from the  
26 the courtroom.)

27 THE COURT: Okay. Before we begin, I  
28 understand that there has been a motion with regard to

1 naming the complaining witness as Jane Doe. Do you wish  
2 her to be identified as Jane Doe?

3 MR. CHANG: No. I will have her identify  
4 herself with her true name. I'm just requesting the court  
5 reporter, when preparing the transcript, use Jane Doe in  
6 lieu of her true name.

7 THE COURT: Okay.

8 THE CLERK: Ma'am, would you please stand and  
9 raise your right hand.

10 JANE DOE,

11 called as a witness on behalf of the People,  
12 having been first duly sworn, was examined  
13 and testified as follows:

14 THE CLERK: Thank you. You may be seated.  
15 Would you please state your name.

16 THE WITNESS: Jane Doe.

17 (Discussion held off the record.)

18 DIRECT EXAMINATION BY MR. CHANG:

19 Q. Miss Doe, good morning.

20 A. Good morning.

21 Q. As I told you when we met earlier today, it's  
22 important you keep your voice up so everyone can hear you.  
23 Okay?

24 A. Okay.

25 Q. Can you please tell us when you were born?

26 A. January 19, 1983.

27 Q. And in April of 1998, what school were you  
28 attending.



1 A. I was attending El Cerrito High.

2 Q. And specifically with respect to April 20th of  
3 1998, did you know a boy named Jermaine?

4 A. Yes, I did.

5 Q. Can you tell me about how tall he was back in  
6 April? Was he taller than you, for example?

7 A. Yes, he is.

8 Q. And you see me here standing in front of you?

9 A. Yes.

10 Q. Was he taller than me or shorter than me, about  
11 the same?

12 A. About the same I think.

13 Q. Can you tell us what race he was?

14 A. African-American.

15 Q. Can you tell us how dark or light his skin was?

16 A. He had dark skin.

17 Q. Can you tell us his hair length at the time?

18 A. It was short.

19 Q. By "short" can --

20 MR. GOLDSTEIN: Objection. Vague as to time of  
21 hair length.

22 MR. CHANG: Q. And I'm referring to April  
23 20th, just to make sure we're on the same page.

24 THE COURT: Overruled.

25 MR. CHANG: Q. Can you tell us how long you  
26 mean by "short"?

27 A. Shorter than yours.

28 Q. Was it close to his head, like shaved to his

1 head, or was it longer than that?

2 A. It was short. It was close to his head.

3 Q. Did he have anything unusual on his body in  
4 terms of his skin color? Do you remember?

5 A. He had -- I don't know what it was on his legs,  
6 but there was unusual markings on his upper thighs -- like  
7 on his thighs and on his legs.

8 Q. Did you notice any tattoos on his body on April  
9 20th?

10 A. Yes. There was a tattoo on one of his arms. I  
11 can't remember which one though.

12 Q. What portion of the arm did you see the tattoo  
13 on? Was it the forearm or the upper arm?

14 A. The upper arm.

15 Q. Can you tell us about how big or small the  
16 tattoo was?

17 A. I think it was big.

18 Q. Can you describe it in any more detail? What  
19 did it look like?

20 A. I saw letters but I didn't see -- but I didn't  
21 see what it said.

22 Q. How long had you known Mr. Doe since April  
23 20th?

24 A. Excuse me?

25 Q. As of April 20th, the day of this incident, how  
26 long had you known him?

27 MR. GOLDSTEIN: Mr. Dickerson?

28 MR. CHANG: I'm sorry. What did I say?

1 MR. GOLDSTEIN: Doe.

2 MR. CHANG: Q. How long had you known  
3 Mr. Dickerson?

4 A. Just from the beginning of the year. I think  
5 from the beginning of the school year. I seen him around.

6 MR. CHANG: Okay. I have no other questions on  
7 this issue, Your Honor.

8 THE COURT: Any cross on it?

9 MS. GOLDSTEIN: Yes, Judge. Thank you.

10 CROSS-EXAMINATION BY MR. GOLDSTEIN:

11 Q. Miss Doe, you said that you've known him since  
12 the beginning of this school year only; is that correct?

13 A. Yes.

14 Q. Okay. And did you have any classes together  
15 with him this school year?

16 A. Yes. Yes, I did.

17 Q. Okay. And what were those classes?

18 A. I had one P.E. class with him.

19 Q. Was this a third period P.E. class?

20 A. Yes.

21 Q. Okay. Was that -- were you still enrolled in  
22 that class at the time of April 20th of this year?

23 A. Yes.

24 Q. Okay. In that -- in -- prior to April 20th,  
25 when was the most recent time that you had seen this  
26 Jermaine individual?

27 A. I don't remember.

28 Q. Had you seen him in class that week?

1 A. No.

2 Q. Can you think in terms of weeks, months or  
3 days, the most previous time, or are you not able to do  
4 that?

5 A. I don't -- I don't remember.

6 Q. Okay. In the course of your P.E. class with  
7 him, was it the practice that the boys would sometimes  
8 dress in shorts?

9 A. Yes.

10 Q. Okay. So you had opportunity prior to April  
11 20th to see Jermaine's legs; correct?

12 A. Yes.

13 Q. Okay. That would include not just the lower  
14 leg, but the thigh -- the upper thigh; correct?

15 A. No.

16 Q. Okay. Any portion of the leg not covered by  
17 standard gym shorts you were able to see prior to April  
18 20th; correct?

19 A. Yes.

20 Q. Okay. And because he was enrolled in the class  
21 with you, I'm assuming you had several opportunities to  
22 view his legs prior to April 20th; correct?

23 A. I didn't have several. It wasn't several  
24 times, because --

25 Q. Could you provide an estimate to the court of  
26 how many times you'd seen him in P.E. class where his legs  
27 were exposed?

28 A. Maybe about two or three times.

1 Q. Okay. How about his upper arm where you  
2 describe the tattoo. Did you have any occasion to see that  
3 in P.E. class or in any other forerunner to April 20th?

4 A. I don't remember seeing it.

5 Q. And all you remember about the tattoo is that  
6 it was on one of the arms with lettering; is that correct?

7 A. Yes.

8 Q. Was there any picturing or insignia  
9 accompanying the lettering that you remember?

10 A. Could you rephrase that? I don't understand.

11 Q. Sure.

12 Were there any pictures with the lettering that  
13 you have a visual memory of?

14 A. No.

15 Q. And do you recall how big or how high the  
16 tattoo was on his arm? Strike that. That was compound.

17 Do you recall how large the tattoo was?

18 A. I don't recall how big it was. It was -- it  
19 was sort of big, but I don't recall now.

20 Q. Okay. And was it on the upper arm or the  
21 forearm or the hand? What portion of the arm was it on,  
22 ma'am?

23 A. The upper arm.

24 MR. GOLDSTEIN: May the record reflect the  
25 witness indicated by grabbing her hand on to her side upper  
26 arm?

27 THE COURT: It will so reflect.

28 MR. GOLDSTEIN: Thank you.

1 Q. Is that the correct location where I'm  
2 referring to right now with my hand, roughly?

3 A. That's the upper arm, yes.

4 Q. So it was on the side, not on a bicep or  
5 anything like that; is that correct?

6 A. Yes.

7 Q. Okay. The outer side of his arm, not the inner  
8 portion; am I correct?

9 A. The outer side.

10 Q. Okay. You told Mr. Chang just a couple of  
11 minutes ago that the hair was shaved fairly close to the  
12 head; is that correct?

13 A. Yes.

14 Q. Was that on all portions of his head that it  
15 was shaved close?

16 A. Yes.

17 Q. And, again, my question is referring to April  
18 20th? Is the answer still the same?

19 A. Yes.

20 Q. So his hair was not longer on top or on the  
21 side than it was in the other places; is that correct?

22 A. Yes.

23 Q. Okay. How about in back, was it shaved close  
24 in back as well?

25 A. I'm not sure. I don't remember.

26 Q. Okay. When you saw this individual on April  
27 20th, did the individual have any facial hair that you  
28 recall?

1 A. I can't remember.

2 Q. Okay. Did this individual have any jewelry on  
3 his face area that you recall?

4 A. He had a nose ring.

5 Q. Okay. On the side of his nose?

6 A. Yes.

7 Q. Okay. Do you recall what kind of nose ring it  
8 was?

9 A. It was a marijuana leaf.

10 Q. Was there any other jewelry that you recall  
11 seeing on Jermaine on April 20th?

12 A. No.

13 Q. How about any earrings? Anything like that?

14 A. I don't remember.

15 Q. Okay. Any necklaces, anything like that?

16 A. I don't know. I don't know.

17 Q. The only jewelry you remember is the nose ring?

18 A. Yes.

19 Q. I know you described the face color and the  
20 race of Jermaine. How would you describe the face itself,  
21 the eyes, nose and mouth?

22 Anything that you remember about that?

23 A. I'm not sure how to describe it.

24 Q. Okay. Let me go one at a time.

25 Do you remember anything unusual or significant  
26 about his eyes? For example, whether they were big, small,  
27 close together? Anything like that?

28 A. I think his eyes are small.

1 Q. Okay. How about his nose, do you remember  
2 anything in particular about it?

3 A. No. I can't remember.

4 Q. Okay. How about his mouth or lips, do you  
5 remember anything in particular about that?

6 A. No. I can't remember.

7 Q. How long of an opportunity did you have to view  
8 his face in person on April 20th? How much time were you  
9 with him such that you could view him?

10 A. I'm not sure of the time.

11 Q. Okay. Was it more than a half an hour let's  
12 say?

13 A. Yes.

14 Q. Okay. I know you don't remember the exact time  
15 prior to this that you met with him in P.E. class or that  
16 you had seen him in P.E. class, but was it a circumstance  
17 where he was just in your class or was he someone within  
18 the class that you hung out with during the course of the  
19 class?

20 A. No, I didn't hang out with him.

21 Q. Okay. So you recognized him from being in your  
22 class?

23 A. Yes.

24 Q. Okay. I believe you described the height a  
25 little bit earlier, but I didn't catch it. Could you  
26 repeat that for me?

27 A. He's a little bit taller than Mr. Chang here.  
28 He's taller -- he might be the same height or a little bit



1 taller.

2 Q. Okay. What's his height in comparison to you?

3 Was he taller than you?

4 A. He's taller than me.

5 Q. How much taller than you would you say?

6 A. I'm not sure.

7 Q. Okay. Going back to his face area, did you  
8 notice anything about his skin condition that was unusual,  
9 markings, acne, anything that you can tell the court to  
10 describe it more specifically?

11 A. I think he had some markings on his face and it  
12 was sort of discolored a little bit.

13 Q. Okay. What part of his face was discolored a  
14 little bit?

15 A. I can't remember.

16 Q. What do you mean by "discolored"? That the  
17 color on these parts of his face was different from the  
18 rest of him?

19 A. Yes. Like --

20 Q. Go ahead. I'm sorry.

21 A. Like where he had -- I don't know what it was.  
22 It was like spots or something else.

23 Q. You pointed to your neck area. Is that because  
24 the spots were around there, or was it on the face that you  
25 noticed the spots?

26 A. It was on the face.

27 Q. And what do you mean by "discoloration"? Was  
28 it a lighter color or a darker color than the rest of his

1 face, these spots?

2 A. I'm not sure. I can't remember exactly what it  
3 looked like, but I know it was -- I don't quite remember  
4 exactly what it looked like, but I know it was -- his skin,  
5 it was like messed up. I don't know what it was or  
6 anything.

7 Q. Okay. His skin on his face was somewhat messed  
8 up to use your word; is that correct?

9 A. Yes. Yes.

10 Q. And you also described earlier the legs and  
11 thighs of Jermaine; correct?

12 A. Yes.

13 Q. And what was discolored -- can you describe  
14 more specifically what you noticed or remember about his  
15 leg and thigh areas on April 20th?

16 A. Like spots like -- like spots on his legs, on  
17 his upper thigh, and a little discoloration.

18 Q. Okay. Did these spots and discoloration cover  
19 the entire leg area?

20 A. I can't remember.

21 Q. Okay. And when you refer to these spots and  
22 discoloration on his legs, are you talking about the front,  
23 back, or both?

24 A. I don't know about the back. I didn't see the  
25 back.

26 Q. So you're talking about the front?

27 A. Yes.

28 Q. Okay. Just to be clear, I asked you the

1 question about the gym outfits. But you have seen -- have  
2 you seen some of these same spots and discoloration in P.E.  
3 class that you saw on April 20th on his legs?

4 A. Yes, I did.

5 Q. Okay. You mentioned -- aside from  
6 discoloration, you also said there was some markings on his  
7 face that you recall as being/unusual.

8 A. Yes.

9 Q. And what's that? Can you describe those for  
10 the Court, location and what they were?

11 A. I don't know what it was. I can't really  
12 describe it. I don't know. It just seemed like he had --  
13 looked like patches where it was like a different color or  
14 something.

15 I didn't --

16 Q. Okay. Throughout his face?

17 A. Yes.

18 Q. Okay. He have any scarring or cuts or anything  
19 that you noticed on his face? Anything like that?

20 A. I can't remember.

21 Q. Okay. Do you recall what he was wearing on  
22 April 20th when you saw him?

23 A. I remember he had on a pair of dark colored  
24 jeans maybe. He had dark colored jeans and --

25 Q. Do you recall which dark color?

26 A. No.

27 Q. Okay. What else?

28 A. And he had on a T-shirt, a white T-shirt.

1 Q. Long or short sleeved?

2 A. Short sleeved.

3 Q. Okay. A white T-shirt and dark colored jeans;  
4 is that correct?

5 A. Yes.

6 Q. Anything else that you recall about what he was  
7 wearing on that day?

8 A. I can't remember anything else.

9 Q. He have a hat on or anything like that?

10 A. No.

11 Q. Do you recall what type of shoes he was  
12 wearing?

13 A. No, I don't.

14 Q. Okay. You mentioned some of the face and the  
15 ears and the nose in terms of jewelry. Do you recall any  
16 jewelry on his wrists or hands?

17 Any rings or watches or bracelets or stuff like  
18 that?

19 A. I don't recall any.

20 Q. Okay. Besides what you described about his  
21 clothing, do you remember anything else about his clothing?  
22 Particularly anything distinctive or marking --

23 A. No, I don't.

24 Q. Was the shirt blank or did it have lettering on  
25 it?

26 A. It was blank.

27 Q. Do you recall any labeling on the jeans at all?

28 A. No, I don't.

1 Q. Okay. And, lastly, with respect to the  
2 clothing, did the clothes appear clean, dirty, neither? Do  
3 you have a memory of that?

4 A. I don't remember.

5 MR. GOLDSTEIN: Okay. One moment, Judge. I'm  
6 just reviewing my notes here.

7 I have no further questions for the  
8 identification portion.

9 THE COURT: Anything further, Mr. Chang?

10 MR. CHANG: Not on that issue, Your Honor.

11 THE COURT: Okay. The defendant may return.

12 (Whereupon, Defendant reenters the courtroom.)

13 MR. GOLDSTEIN: Your Honor, before we resume  
14 direct, if I could have a moment with Mr. Dickerson.

15 Thank you.

16 (Discussion held off the record.)

17 MR. GOLDSTEIN: Thanks, Judge.

18 THE COURT: Okay.

19 Mr. Chang.

20 DIRECT EXAMINATION (CONT'D) BY MR. CHANG

21 Q. Miss Doe, you've seen the defendant brought  
22 into court in custody. Do you recognize him?

23 A. Yes.

24 Q. Who do you recognize him to be?

25 A. The one who raped me.

26 Q. Is that the person you referred to as Jermaine  
27 that you saw on April 20th?

28 A. Yes.

1 Q. You were attending El Cerrito High School at  
2 the time?  
3 A. Yes, I was.  
4 Q. What grade were you in?  
5 A. Ninth grade.  
6 Q. That's here in Contra Costa County?  
7 A. Yes.  
8 Q. On April 20th, did you actually go to school  
9 that day?  
10 A. Yes, I did.  
11 Q. And do you recall when your last class ended?  
12 A. I can't remember the time.  
13 Q. Was it after lunch?  
14 A. No.  
15 Q. It was in the morning?  
16 A. My last class ended at about 4:20 -- 3:20.  
17 Q. P.M. obviously?  
18 A. Yes.  
19 Q. And after that class ended, at some point did  
20 you walk off the El Cerrito High School campus?  
21 A. Yes, I did.  
22 Q. About how much later after your last class was  
23 it?  
24 A. Maybe 15 minutes. I'm not sure.  
25 Q. And after walking off of campus, did you  
26 encounter the defendant at some point?  
27 A. Yes, I did.  
28 Q. How far from the campus were you when you first

1 encountered the defendant?

2 A. Maybe two or -- two blocks. I'm not quite  
3 sure.

4 Q. When you first saw him, was he walking or  
5 standing or in a car or what?

6 A. He was walking.

7 Q. Did the two of you begin speaking at some  
8 point?

9 A. Yes.

10 Q. And where was that conversation? Was it in  
11 that same area two blocks away from school?

12 A. Yes.

13 Q. While you talked to him, were you walking still  
14 or had you stopped?

15 A. I was -- I was stopped.

16 Q. And after you talked to him, did you guys go  
17 anywhere?

18 A. Yes.

19 Q. Where'd you go?

20 A. We went back to the school, behind the music  
21 building.

22 Q. How long had you been talking before you went  
23 back up behind the music building?

24 A. I don't remember.

25 Q. Can you give us an idea? Was it, say, less  
26 than five minutes, or more than five minutes?

27 A. More than five minutes.

28 Q. Do you know if it was more than half an hour?

1 A. It wasn't more than half an hour.

2 MR. GOLDSTEIN: Judge, I'm sorry.

3 THE COURT: Yes. You have to speak up because

4 even I'm having trouble hearing you and I'm very close.

5 THE WITNESS: Okay.

6 MR. CHANG: Q. What did you say, your last  
7 answer?

8 A. It was less than half an hour.

9 Q. Thank you.

10 Why did you go back to the campus with him?

11 A. Because he said he wanted to show me something.

12 Q. Did you have any idea what it was that he  
13 wanted to show you at the time you went back to the campus?

14 A. No, I didn't.

15 Q. Upon arriving in the area behind the music  
16 building, what did you do?

17 A. We sat -- we sat down behind the building and  
18 were talking.

19 Q. Can you describe the area you sat in?

20 A. It was like -- it was dirt down there, and we  
21 were sitting sort of close to a tree.

22 Q. Were there any people around?

23 A. No.

24 MR. GOLDSTEIN: Objection. Foundation and  
25 vague as to around where.

26 MR. CHANG: I'll rephrase it.

27 THE COURT: Overruled. That's overruled.

28 MR. CHANG: All right. Thank you.



1 Q. Did you actually sit down?  
2 A. Yes, I did.  
3 Q. And after you sat down, did you continue to  
4 talk with the defendant?  
5 A. Yes, I did.  
6 Q. What happened next?  
7 A. He started trying to push on me to make me lay  
8 back.  
9 Q. So at the time, were you sitting on your rear  
10 end?  
11 A. Yes.  
12 Q. What did you do or say when he tried to do  
13 that?  
14 A. I told him to quit playing around, quit pushing  
15 me.  
16 Q. What happened next?  
17 A. He forced me onto the ground and he was on top  
18 of me and --  
19 Q. How were you positioned when you say that you  
20 were on the ground?  
21 A. I can't remember. I was -- I can't remember  
22 which way I was sitting. I was -- I was sitting down.  
23 Before he pushed me back, I was sitting down with my hands  
24 behind -- behind me on the side, and when he pushed me back  
25 on the ground, I was laying down.  
26 Q. On your back?  
27 A. Yes.  
28 Q. And how was he positioned?

1 A. He was holding himself up over me.

2 Q. Did you say anything to him at that point?

3 A. Yeah. I was like get -- get off me. Quit  
4 playing around.

5 Q. What happened next?

6 A. He was like, "Just lay there and talk to me"  
7 and -- and all this kind of stuff.

8 Q. When he said, "Just lay there and talk to me,"  
9 what did you do?

10 A. I was trying to push him off of me because I  
11 was -- I was telling him I was ready to go and that I  
12 needed to leave.

13 Q. Was he still in the same position you've  
14 described earlier?

15 A. He was trying to force himself closer on top of  
16 me and I was pushing him away.

17 Q. Where on his body were you contacting him with  
18 your hands?

19 A. On his -- I'm not too sure exactly where I was  
20 pushing him.

21 Q. Were you pushing up and away from yourself?

22 A. Yes.

23 MR. GOLDSTEIN: Objection. Leading.

24 THE COURT: Sustained.

25 MR. GOLDSTEIN: Move to strike the answer.

26 THE COURT: Sustained. Granted.

27 MR. CHANG: Q. When you were pushing him,  
28 where was his face?

1 A. He was -- his face -- it was in front of me.

2 Q. In front of what part of your body?

3 A. In front of my face.

4 Q. How far was his face from your face as you were  
5 pushing him?

6 A. I'm not sure how far away it was.

7 Q. Can you give us a range using your hands?

8 A. He was about this far away. Maybe about this  
9 far (indicating).

10 MR. CHANG: For the record, the witness has  
11 extended her left hand approximately one foot from her  
12 face.

13 MR. GOLDSTEIN: Judge, I'd just ask that you  
14 supply the length for the record rather than the District  
15 Attorney.

16 THE COURT: It looks to be approximately a foot  
17 to 16 inches.

18 MR. GOLDSTEIN: Thank you.

19 MR. CHANG: Q. What happened next?

20 A. He started trying to take down my pants, and he  
21 started trying to pull them off.

22 Q. What did you do when he tried to do that?

23 A. I told him that I needed to leave and just to  
24 leave me alone.

25 Q. Did he actually pull your pants down?

26 A. Yeah. Yeah. Yes.

27 Q. How far?

28 A. Maybe about to my knees.

1 Q. Did you have underwear on?

2 A. Yes.

3 Q. Did he pull that down as well?

4 A. Yes.

5 Q. How far down?

6 A. To about -- my pants were about to my knees.

7 Q. Did you ever try to yell out?

8 A. Yes.

9 Q. When did you yell out?

10 A. When he was -- when he was trying to pull my  
11 pants down.

12 Q. Did you stop yelling at some point?

13 A. Yes.

14 Q. Why?

15 A. Because he pulled -- he had a knife.

16 Q. Did you first see the knife before or after he  
17 had pulled your pants down?

18 A. After.

19 Q. And where was the knife when you first saw it?

20 A. I don't remember where -- it was -- it was down  
21 close to him. I can't remember exactly where it was.

22 Q. Can you describe the knife, please?

23 A. It was a silver knife. A silver knife.

24 Q. Did you actually see the blade?

25 A. Yes.

26 Q. Can you use your fingers or hands to show us  
27 how long the blade was?

28 A. It was about this long, my index finger.

1 Q. As long as your index finger?  
2 A. Yes.  
3 Q. Did he say anything when you saw the knife?  
4 A. Yes.  
5 Q. What did he say?  
6 A. He told me that if I kept on screaming, that he  
7 would cut me up.  
8 Q. Had you ever seen that knife before on that  
9 day?  
10 A. No.  
11 Q. Did you ever see him take any of his clothes  
12 off?  
13 A. Yes.  
14 Q. Was that before or after you saw the knife?  
15 A. Before.  
16 Q. Can you tell us what you saw him do with his  
17 clothes?  
18 A. He pulled his pants down about half way.  
19 Q. Halfway meaning what? Halfway down his legs?  
20 A. Yes.  
21 Q. What happened next?  
22 A. He started trying to have sex with me.  
23 Q. Could you feel his penis at all?  
24 A. Yes.  
25 Q. At what point did you first feel it?  
26 A. When he started trying to -- he tried to put it  
27 in.  
28 Q. Where on your body did you feel it?

1 A. By my crotch area.

2 Q. And did he ever actually put it in?

3 A. Yes.

4 Q. And when he put it inside of you, was he still  
5 in that same position you've described earlier?

6 A. He was leaning one arm and he was trying to put  
7 it in.

8 Q. And were you still on your back?

9 A. Yes.

10 Q. Where was his face at the time you felt his  
11 penis?

12 A. I don't quite remember, but he was closer to  
13 me.

14 Q. Closer than what? Then before?

15 A. Yes.

16 Q. Did his body move after he put his penis inside  
17 of you?

18 A. Yes.

19 Q. Can you describe that motion, please?

20 A. He was back on both his arms to hold himself  
21 up.

22 MR. GOLDSTEIN: I'm sorry, Judge. I just  
23 couldn't hear.

24 THE WITNESS: He was back on both his arms  
25 holding himself up.

26 MR. GOLDSTEIN: Thank you.

27 MR. CHANG: Q. And how long did he stay inside  
28 of you? Are you able to give me an estimate of time?

1 A. Maybe 30 minutes. I'm not too sure.

2 Q. What were you doing while he was doing this?

3 A. I was trying to push myself up out of -- from  
4 under him.

5 Q. Were you successful at all in that 30 minute  
6 period?

7 A. No, I wasn't.

8 Q. And why not?

9 A. Because he was leaning some of his weight on  
10 me. It was hard to move.

11 Q. Was he saying anything -- was he saying  
12 anything to you during that period, that 30 minute period?

13 A. I don't remember what he said.

14 Q. Did you say anything to him during that 30  
15 minute period?

16 A. I didn't really say anything.

17 Q. Were you crying?

18 A. Yes.

19 Q. How did it end?

20 A. He -- I guess he started getting frustrated  
21 and --

22 MR. GOLDSTEIN: Objection. Move to strike that  
23 portion of the answer as speculative.

24 THE COURT: Sustained. You just need to  
25 describe what he did, not what he thought.

26 THE WITNESS: Okay. He -- he started saying  
27 stuff to me like, "I don't like you anymore," and that he  
28 didn't like me and that -- and that's it really. That's

1 all.

2 MR. CHANG: Q. Was he still inside of you when  
3 he made those comments?

4 A. Yeah.

5 Q. And throughout that 30 minute period, was he  
6 always inside of you, or did he ever pull his penis out and  
7 put it back in?

8 A. Yes.

9 Q. Yes what?

10 A. Yes, he did.

11 Q. What did he do?

12 A. He pulled his penis out.

13 Q. And how do you know it was completely out?

14 A. Because I felt it come out.

15 Q. And how many times did that happen where he  
16 actually pulled it completely out?

17 A. I think twice.

18 Q. And after the 30 minute period, can you tell us  
19 how it ended then?

20 A. He got up off of me and I left and I started  
21 walking down the hill.

22 Q. Your pants, when you got up, were they still  
23 around your legs?

24 A. Yes.

25 Q. And did you pull them up?

26 A. Yes.

27 Q. And the underwear as well?

28 A. Yes.



1 Q. Did you exit that area behind the music  
2 building through the same route you had taken in?

3 A. Yes.

4 Q. And when you left, did he make any comments to  
5 you?

6 A. He told me not to tell anyone what happened,  
7 and that if I did, he had people that had his back.

8 Q. I'm sorry, what?

9 A. He had people that had his back.

10 Q. Do you know --

11 A. Yes.

12 Q. Do you know what that means?

13 A. Like on his side.

14 Q. Did you leave that area before he did?

15 A. Yes.

16 Q. And when you left, was he with you as you left,  
17 or did you leave him behind you?

18 A. I leave -- left him behind me.

19 Q. Did you have any school books or anything with  
20 you other than your clothes that you were wearing?

21 A. Yes.

22 Q. What did you have with you?

23 A. I had my backpack.

24 Q. Did you take it with you when you left that  
25 area?

26 A. Yes.

27 Q. And did you ever see him again after you left  
28 that area?

1 A. Yes.

2 Q. Where were you when you saw him again?

3 A. I was down the hill and he came up behind me.

4 Q. And had you gone straight to that location when  
5 you saw him again?

6 A. Excuse me?

7 Q. When you left the area where this occurred and  
8 you left the schoolyard, did you go straight to that spot  
9 where you saw him again the second time?

10 A. No.

11 Q. How did you get there?

12 A. At first I ran and then I started walking.

13 Q. How was it you saw him again?

14 A. He was up -- he was up behind me. He was  
15 following me.

16 Q. Was it -- in terms of blocks, how far away was  
17 it?

18 A. I think about two -- I think about two or three  
19 blocks.

20 Q. Did he say anything to you when you saw him  
21 again down there?

22 A. Did I say anything to him?

23 Q. Did he say anything to you?

24 A. He told me to take off my jewelry and give it  
25 to him.

26 Q. Did you do that?

27 A. I didn't want to but he -- he told me I better  
28 -- had better do it, so -- but he ripped off my chain and I

1 took my earrings out.

2 Q. He ripped off your chain? Where was that  
3 chain?

4 A. It was around my neck.

5 Q. And you took your earrings off and gave them to  
6 him?

7 A. Yes.

8 Q. Did he take anything else from you?

9 A. He took my shoes.

10 Q. How did he take your shoes?

11 A. He took them off.

12 Q. He took them off or you took them off?

13 A. I took them off.

14 Q. Why'd you take them off?

15 A. Because he told me to.

16 Q. Did you ever see the knife at that point?

17 A. No.

18 Q. Did he ever threaten you with a knife at that  
19 point?

20 A. No, he didn't.

21 Q. Where'd you go from there?

22 A. I just -- I was just wandering around.

23 Q. Did you still have your backpack?

24 A. No.

25 Q. He had taken that?

26 A. Yes.

27 Q. Where'd you wander to?

28 A. I ended up at -- at a store. It's an auto

1 store.

2 Q. And while you were there, what'd you do?

3 A. I went in and I asked them could I use the  
4 phone to call home, and they said "yes."

5 Q. Did you call home?

6 A. Yes.

7 Q. Did you ever apply any ice to your face while  
8 you were there?

9 A. Yes.

10 Q. Who provided the ice to you?

11 A. One of the men who worked there.

12 Q. Where'd you put the ice?

13 A. On my eye.

14 Q. Why did you put the ice on your eye?

15 A. Because when I -- when we were up behind the  
16 school, when he was raping me, he had pushed my -- because  
17 I was trying to get up when he was trying to push back, and  
18 he -- he kept on pushing me back down, and he pushed the  
19 side of my face.

20 Q. Did it hurt?

21 A. Yes.

22 Q. Did you ever look at it later in the mirror?

23 A. Yes.

24 Q. Was it different in appearance from before this  
25 happened?

26 MR. GOLDSTEIN: Objection. Vague as to time.

27 THE WITNESS: Yes.

28 THE COURT: Sustained.

1 MR. CHANG: Q. When did you look in the  
2 mirror?

3 A. I used the bathroom once at the auto place, and  
4 I went in there and looked at it.

5 Q. And comparing it, the way it looked in the  
6 mirror at the auto place versus the way it looked before  
7 you went back up behind the music building, can you tell us  
8 the difference in appearance?

9 A. It was slightly swollen.

10 Q. How long did you remain at the auto parts  
11 store?

12 A. I can't remember. Maybe an hour.

13 Q. And how did you ultimately leave that store?

14 A. My dad came to pick me up.

15 Q. Did you go to a hospital later that night?

16 A. Yes.

17 Q. And which hospital was that?

18 A. I believe it was Brookside.

19 Q. Were you examined by any medical professionals  
20 there?

21 A. Yes.

22 MR. GOLDSTEIN: Your Honor, one moment.

23 Mr. Chang, are you intending to introduce any  
24 documentary or exhibit evidence in this hearing that I  
25 haven't yet seen?

26 MR. CHANG: I was just going to ask the Court  
27 if --

28 THE COURT: There are subpoenaed records in the

1 file.

2 MR. GOLDSTEIN: I don't need to see them now.  
3 But before I begin cross, I would like to -- if they intend  
4 to introduce them, I would like to have it available since  
5 it's an issue on direct. A chance to review it.

6 THE COURT: Okay.

7 MR. GOLDSTEIN: Thank you.

8 MR. CHANG: Q. When your dad first picked you  
9 up, did you tell him the truth about what had happened?

10 A. No, I didn't.

11 Q. What did you tell your dad?

12 A. I told him that somebody else had tried to hurt  
13 me and take me with them.

14 Q. And why'd you tell your dad that?

15 A. I was scared to tell him, and I really didn't  
16 want to talk about it. I didn't want to tell him.

17 Q. Were you crying when you were talking to your  
18 dad initially?

19 A. Yes.

20 Q. And did you tell him the truth about what had  
21 happened after you told that original falsehood?

22 A. Yes.

23 Q. When did you tell him the truth?

24 A. Maybe an hour or so after I had told him the  
25 lie.

26 Q. And that's when you went to the hospital?

27 A. No. First we went to the police station.

28 Q. And after the police station, did you go to the

1 hospital?

2 A. Yes.

3 MR. CHANG: I have no further questions, Your  
4 Honor.

5 THE COURT: Okay.

6 Cross-examination, Mr. Goldstein.

7 MR. GOLDSTEIN: Yes.

8 MR. CHANG: Your Honor, can we inquire if the  
9 witness needs a break?

10 THE COURT: Would you like to take a break --

11 THE WITNESS: Yes.

12 THE COURT: -- for a few minutes?

13 Let's take a ten minute recess.

14 MR. CHANG: Thank you.

15 (Short recess taken.)

16 THE COURT: Okay. Mr. Goldstein, are you ready  
17 to proceed?

18 MR. GOLDSTEIN: I am, Judge. Thank you.

19 MR. CHANG: Your Honor, before we proceed, may  
20 I just briefly inquire as to the Court's schedule? Do you  
21 plan on taking a 12:00 to 1:30 recess?

22 THE COURT: Either that or my court reporter  
23 will be really mad.

24 MR. CHANG: That's fine. I just needed to let  
25 the victim's father know.

26 THE COURT: That's right. 12:00 to 1:30 is our  
27 noon recess.

28 MR. GOLDSTEIN: May I proceed, Judge?

1 THE COURT: Yes, you may.

2 MR. GOLDSTEIN: Thank you. Okay.

3 CROSS-EXAMINATION (CONT'D) BY MR. GOLDSTEIN

4 Q. Miss Doe, earlier we asked you some  
5 questions about how you had recognized Jermaine from before  
6 April 20th, okay. And you mentioned the P.E. class; right?

7 A. Yes.

8 Q. You had known him before the P.E. class? Am I  
9 correct?

10 A. No.

11 Q. Okay. And I believe you also stated earlier,  
12 and correct me if I'm wrong, that within the context of  
13 that P.E. class, he was just someone in the class?

14 He wasn't like a friend of yours that you hung  
15 out with in that class; is that correct?

16 A. That's correct.

17 Q. Okay. Did you have any interactions with him  
18 in the course of that class which stand out in your mind as  
19 technically negative or positive in any way?

20 A. No.

21 Q. Okay.

22 A. I don't remember any.

23 Q. You can't remember getting into any arguments  
24 with him or on the other hand getting into talking about  
25 life, joking with him, anything like that?

26 A. No.

27 Q. He was just a boy in your third period class;  
28 is that correct?



1 A. Yes.

2 Q. All right. Do any -- I'm assuming you've got  
3 friends in that same third period class; correct?

4 A. Yes.

5 Q. Okay. Do any of those -- do you know whether  
6 any of those friends hang out with or used to hang out with  
7 Jermaine?

8 You ever seen any of them?

9 A. No.

10 Q. Talking with him?

11 A. No.

12 Q. Okay. So is it fair to say that Jermaine and  
13 you, although in the same class, were in different crowds?  
14 Not only that you weren't friends, but your group of  
15 friends did not overlap with his to the best of your  
16 knowledge?

17 A. Yes.

18 Q. Okay. You spoke with a police officer or  
19 police officers on and after that day about what happened;  
20 correct?

21 A. Yes.

22 Q. Did you name to them any of the friends in your  
23 P.E. class who also -- any of your friends or people who  
24 may have shared the same P.E. class with you and Jermaine?

25 MR. CHANG: Objection. Relevance.

26 MR. GOLDSTEIN: It goes to both her memory of  
27 the incident, her credibility, and any connection, possible  
28 connection, as to the defendant.

1 THE COURT: Sustained.

2 MR. GOLDSTEIN: Q. All right. You -- where  
3 did you physically see Jermaine for the first time on April  
4 20th?

5 A. I was at the bus -- was at a bus stop across  
6 from 7-11 and he was walking toward me.

7 Q. Do you know what street that's on?

8 A. I don't remember the name of the street.

9 Q. How far away from the school is it?

10 A. A block or two.

11 Q. Okay. And that's where you catch the bus to go  
12 home usually?

13 A. Yes.

14 Q. And at the point that you were waiting at the  
15 bus stop and you saw Jermaine walking toward you, how long  
16 had school been out by that point?

17 A. Maybe about 30 minutes.

18 Q. Okay. And what time did school get out that  
19 day, or what time did you get out of school that day?

20 A. I got out at 3:20.

21 Q. Okay. Were you waiting with anyone at the bus  
22 stop when you saw Jermaine approach for the first time?

23 A. No. No, I wasn't.

24 Q. Were there other people waiting at the bus stop  
25 who weren't waiting with you?

26 A. No.

27 Q. Okay. You were the only one waiting at the bus  
28 stop when Jermaine approached?

1 A. Yes.

2 Q. I assume the bus stop is right on the street or  
3 on the sidewalk?

4 A. It's on the sidewalk.

5 Q. Okay. And what happened after Jermaine  
6 approached and came up to you? Was there a conversation?

7 A. It was a little conversation.

8 Q. Okay. And you told the police officer what  
9 that conversation was about; correct?

10 A. Yes.

11 Q. Okay. And isn't it's true that in that  
12 conversation -- well, strike that.

13 Who initiated the conversation, you or him?

14 A. He did.

15 Q. Do you remember what he first said?

16 A. I don't remember what he said at first.

17 Q. Do you remember what he said during the  
18 conversation?

19 A. Yes.

20 Q. And what was that?

21 A. He asked me about the P.E. class and what we  
22 were doing in the P.E. class, and he told me that he had  
23 been kicked out.

24 Q. Okay. And indeed you hadn't seen him in the  
25 P.E. class for sometime; is that correct?

26 A. Yes.

27 Q. Okay. You don't remember exactly how much  
28 time, but he hadn't been in the P.E. class that week, for

1 example; correct?

2 A. Yes.

3 Q. Okay. So he asked you how the P.E. class was?

4 A. Yes.

5 Q. Did he address you by name when he first  
6 approached you?

7 A. I don't remember.

8 Q. What else did he talk about with you at the bus  
9 stop?

10 A. He talked about getting kicked out of the  
11 school.

12 Q. Okay.

13 A. And I can't remember anything else right now.

14 Q. Okay. Isn't it true that he made some romantic  
15 or sexual advances to you at least in terms of what he was  
16 saying to you?

17 A. Yes.

18 Q. What did he say in that regard?

19 A. He was -- actually he was trying to touch on me  
20 and trying to get -- hug me.

21 Q. He was trying to hug you?

22 A. Yes.

23 Q. What was he saying, if anything, while he was  
24 trying to hug you?

25 A. I don't remember what he said.

26 Q. Did he say that he wanted to have sex with you  
27 or get with you?

28 A. No.

1 Q. Did you tell the police officers that he stated  
2 to you that he was interested in having sex with you?

3 A. No.

4 Q. You never told the police officer that?

5 A. No.

6 Q. Okay. But you do remember talking to a police  
7 officer on the day of the incident; correct?

8 A. Yes.

9 Q. Okay. Did you tell the police officer that  
10 Jermaine tried to hug you at the bus stop?

11 A. Yes.

12 Q. Okay. How was he touching you at the bus stop?  
13 Do you recall?

14 A. He was trying to touch me on my butt and on my  
15 chest.

16 Q. What did you do when he tried to do that?

17 A. I pushed him away.

18 Q. Okay. And did you tell the police officers  
19 that part, about his attempts to touch you and you pushing  
20 him away?

21 A. Yes.

22 Q. Okay. But you don't remember nor did you tell  
23 the police officers any statements that he made about  
24 wanting to get with you or have sex with you; correct?

25 MR. CHANG: Objection, Judge. Asked and  
26 answered.

27 THE COURT: Sustained.

28 MR. GOLDSTEIN: Okay.

1 Q. What did you or he -- what happened next --  
2 strike that.

3 Did he try and hug and touch you after the  
4 initial conversation about him getting kicked out of the  
5 P.E. class and how is it?

6 A. Yes.

7 Q. Okay. And what happened after he tried --  
8 after you tried to push him away?

9 A. He just -- he kept on -- he kept on doing it,  
10 and then after like maybe two or three minutes, he stopped.

11 Q. Okay. What was he saying, if anything, to you  
12 as you were trying to push him away?

13 A. I don't remember him saying anything.

14 Q. Okay. Was he laughing, smiling, saying  
15 anything? Anything like that?

16 A. He was smiling.

17 Q. Okay. And while you were pushing him away, did  
18 you say anything to him?

19 A. I told him to quit messing with me, "quit  
20 playing around" I said.

21 Q. After those couple minutes, what happened next?  
22 Did the conversation continue after he stopped trying to  
23 hug and touch you like you were talking about?

24 A. No. I don't remember. He -- he told me  
25 something else, but I can't remember what it was about.

26 Q. Okay. In total, how long was your conversation  
27 at the bus stop before the two of you went to the school  
28 together?

1 A. Maybe 15 minutes.

2 Q. And the hugging and the touching attempts only  
3 took about two minutes of that?

4 A. About five minutes.

5 Q. Okay. Most of the time you were at the bus  
6 stop, he wasn't trying to hug and touch you, the two of you  
7 were having conversation about subjects; correct?

8 A. Yes.

9 Q. Okay. At the time during this conversation,  
10 did you see any of your friends walk by or nearby?

11 A. No.

12 Q. Okay. Were cars driving by on the street?

13 A. Yes, there was some cars.

14 Q. Okay. And you said this bus stop is right near  
15 to a 7-11?

16 A. Yes.

17 Q. Okay. It's on the same corner as the 7-11?

18 A. It's across the street from 7-11.

19 Q. Okay. What's on the corner with the bus stop?  
20 Any businesses or buildings that you can remember?

21 A. No. There's houses, that's it.

22 Q. It's residential on the side of the street that  
23 you were on?

24 A. Yes.

25 Q. Okay. At the time of your conversation with --  
26 I know you said you didn't see your friends walk by, but  
27 did you see pedestrians or other people walking up and down  
28 the street?

1           A.    I think about one person passed by.  
2           Q.    One person out of a car passed by; correct?  
3           A.    Excuse me.  
4           Q.    One person out of a car, pedestrian passed by?  
5           A.    Yes.  
6           Q.    But there were cars driving by at the time?  
7           A.    Yes.  
8           Q.    All right.  Toward the end of the conversation,  
9 did he ask you to go to the school with him?  
10          A.    Yes.  
11          Q.    Okay.  Did he say why he wanted to go to the  
12 school with you?  
13          A.    To show me something.  
14          Q.    Okay.  Did he tell you what the something was?  
15          A.    No, he didn't.  
16          Q.    Did you ask him what the something was?  
17          A.    Yes.  
18          Q.    Okay.  And he said what after you asked him?  
19          A.    He said, "You'll see it when we get there."  
20          Q.    At this time, he didn't have a knife in his  
21 hand; correct?  
22          A.    Correct.  
23          Q.    At this time, he didn't threaten to hurt you if  
24 you did not go to the school with him; correct?  
25          A.    Correct.  
26          Q.    Okay.  And how long did you talk about going  
27 back to the school before you decided to agree and go back  
28 to the school?



1 A. Maybe a minute or two minutes.

2 Q. Okay. And you did go back to the school then;  
3 correct?

4 A. Yes.

5 Q. And how long of a walk in terms of time did it  
6 take to get back to the school?

7 A. Maybe about five minutes.

8 Q. Okay. And how long of a walk in terms of  
9 blocks did it take for you to get to the school? Not the  
10 area where you initially sat in the dirt, but to the  
11 school, the borders of the school campus. That's what I'm  
12 talking about.

13 A. How many blocks?

14 Q. Yeah?

15 A. One or two I think.

16 Q. Okay. Were the two of you talking about  
17 anything in particular when you were walking back to the  
18 school?

19 A. Excuse me?

20 Q. Were the two of you -- did you have  
21 conversation as you were walking back to the school?

22 A. I just asked -- I just kept on asking him what  
23 he wanted to show me, that's it.

24 Q. And he kept continuing to refuse to tell you?

25 A. Yes.

26 Q. Okay. Earlier when he tried to hug and touch  
27 you, did you want him to do either of those things?

28 A. No.

1 Q. I'm assuming that's why you pushed him away;  
2 right?

3 A. Yes.

4 Q. I assuming that's why you told him to leave you  
5 alone?

6 A. Yes.

7 Q. Okay. And his request to go back to the school  
8 with you was made after he tried to hug and touch you and  
9 you pushed him away; correct?

10 A. Yes.

11 Q. And it was made after you told him to leave you  
12 alone; correct?

13 A. Yes.

14 Q. Why did you go back to the school with him?

15 A. I was curious. I wanted to know what he was  
16 talking about.

17 Q. Okay. Prior to this day, I know you said you  
18 weren't friends with him, but you had -- had you had, prior  
19 to this day, any sort of conversations with him like on  
20 this nature hike?

21 "How you doing, how's P.E. class," anything  
22 like that?

23 A. No.

24 Q. So is this the first real conversation you ever  
25 had with him?

26 A. Yes.

27 Q. At the bus stop?

28 A. Yes.

1 Q. Okay. Never spoke with him before in your  
2 memory; is that correct?

3 A. Yes. In my memory, yes, it is. That's it.

4 Q. But he told you during the conversation at the  
5 bus stop was -- well, strike that.

6 What exactly did he say about why he wasn't in  
7 P.E. class? You began to touch on that earlier. But did  
8 he give you reasons why he wasn't in the P.E. class?

9 A. I don't remember why, what he said why he  
10 wasn't in P.E. class. I know he told me that he had got  
11 kicked out of school.

12 Q. Okay. Had you heard before your conversation  
13 that that's why he wasn't in your P.E. class?

14 MR. CHANG: Objection. Relevance.

15 MR. GOLDSTEIN: It goes to the effect on the  
16 hearer, not for the truth of the matter asserted. It goes  
17 to her state of mind.

18 THE COURT: Overruled.

19 MR. GOLDSTEIN: Q. You can answer.

20 A. Can you repeat the question, please.

21 Q. Sure. Prior to him saying that he had been  
22 kicked out of school or kicked out of the class, had you  
23 heard prior to that that this boy Jermaine had been kicked  
24 out?

25 A. I think I heard around school. I heard from  
26 some people that he -- he didn't go there any more.

27 Q. Okay. Had you heard any information as to why  
28 he didn't go there anymore?

1 A. No.

2 Q. Okay. Did he tell you why he was kicked out of  
3 school?

4 A. I don't remember.

5 Q. Okay. And indeed you had noticed that at least  
6 for awhile he had not been in your P.E. class?

7 MR. CHANG: Objection. Asked and answered.

8 THE COURT: Sustained.

9 MR. GOLDSTEIN: Okay.

10 Q. For the period of time you didn't see him in  
11 your P.E. class, had you seen him around school at all?

12 A. I didn't see him around school.

13 Q. Okay. So you went to the school with him, and  
14 correct me if I'm wrong, because you were curious about  
15 what he wanted to show you?

16 A. Yes.

17 Q. All right. When you arrived at the school  
18 campus, did you see any teachers or students walking  
19 around?

20 A. On the side we walked up the hill, where we  
21 walked up the hill, there weren't any students or teachers  
22 around then.

23 Q. What were you referring to when you say "the  
24 hill"?

25 A. The hill that we walked up to get behind the  
26 music room.

27 Q. Okay. Is the hill on the campus itself?

28 A. Yes.

1 Q. Okay. How about before you got to the hill,  
2 when you got to the campus, to the edge of it, did you see  
3 any teachers or students around at that time?

4 A. I think there was some students down further  
5 into the school.

6 Q. Okay. Did you see any teachers around, any  
7 adults?

8 A. No, I didn't see any teachers at that time.

9 Q. Okay. The time that you got out of school,  
10 what period was that? That the 3:20 time that you got out?

11 A. It was 4:00 o'clock.

12 Q. I'm sorry?

13 A. It was 4;00 o'clock.

14 Q. Your experience at the school, how many  
15 students get out at that time?

16 MR. CHANG: Objection. Relevance.

17 THE COURT: Sustained.

18 MR. GOLDSTEIN: It goes to the presence of  
19 people on the campus.

20 THE COURT: Sustained.

21 MR. GOLDSTEIN: Q. All right. You got to  
22 campus and he said he wanted to go behind the music  
23 building?

24 A. Yes.

25 Q. Did he say that, that he wanted to take you and  
26 show you something there, when you reached campus or at the  
27 bus stop; is that where he told you what he wanted?

28 A. Excuse me.

1 Q. When did he tell you that he wanted to take you  
2 behind the music building? Was it during that initial  
3 conversation at the bus stop?

4 A. No, it wasn't.

5 Q. He just told you he wanted to take you back to  
6 school and show you something?

7 A. Yeah.

8 Q. Okay. At what point, if any, did he tell you  
9 where on school he was going to take you?

10 A. He didn't really tell me. I just --

11 Q. You just followed?

12 A. I followed him.

13 Q. Okay. And at any point prior to you getting to  
14 the dirt area where the two of you sat down, from that  
15 point backwards to the bus stop, you never saw a knife on  
16 his person; correct?

17 A. No.

18 Q. Okay. And he never threatened you with the  
19 knife or threatened you without a knife, correct, up to  
20 that point?

21 A. Yes. That's true.

22 Q. Okay. All right.

23 And he hadn't physically grabbed you, you know,  
24 move you along the way that you walked to the dirt area  
25 behind the music cubicle; correct?

26 A. Excuse me?

27 Q. You walked without him grabbing or pulling you  
28 to the musical cubicle?

1           A.    Yes.

2           Q.    Okay. All right.

3                    Now, you get to the campus, you said you walked

4 over a hill to get to the music building?

5           A.    I walked up a hill.

6           Q.    Okay. Is that a dirt hill or sidewalk hill?

7 What do you mean by that?

8           A.    Cement sidewalk.

9           Q.    Okay. And what happens when you got over the

10 hill? What was on the other side?

11          A.    I didn't -- excuse me. Could you repeat that?

12          Q.    Sure. You walked over the hill. And what's on

13 the other side of the hill where you walked?

14                  MR. CHANG: Objection. States facts not in

15 evidence.

16                  MR. GOLDSTEIN: I'm trying to get the facts

17 into evidence. I'm trying to ask her what she saw when she

18 got to the other side.

19                  MR. CHANG: She never got to the other side.

20                  THE COURT: I'm going to sustain the objection.

21 Let's take it piece by piece.

22                  MR. GOLDSTEIN: Q. When you went to the hill,

23 what did you do next? Did you walk up it?

24           A.    I walked up the hill.

25           Q.    And where did you go?

26           A.    I went behind the music room.

27           Q.    Okay. Now, when you're talking behind the

28 music room, are you talking a field behind the music room;

1 correct?

2 A. No, not a field.

3 Q. What is behind the music room? Can you please  
4 describe the area where you went?

5 A. There's like dirt and maybe a little bit of  
6 grass, and there's a tree.

7 Q. Okay. You had to walk through a fence to get  
8 to that area; correct?

9 A. No. I went under -- I went -- had to get  
10 through this part of the gate that was open.

11 Q. Okay. Let's get to that part.

12 Before you got to the place where you were  
13 sitting down, the two of you walked up to a fenced gate;  
14 correct?

15 A. Yes.

16 Q. All right. And the gate itself was locked?

17 A. It was a fenced off area.

18 Q. Okay. Was the gate closed?

19 A. Yes.

20 Q. Okay. Could you tell whether it was locked  
21 with a padlock or anything, a chain?

22 A. There was no lock.

23 Q. How did you get through it again?

24 A. I was -- went through -- there was a hole in  
25 the gate and I went through there.

26 Q. Where was the hole located, at the bottom or  
27 through the middle of the gate?

28 A. It was like close to the bottom.



1 Q. Okay. Did you go first or did Jermaine go  
2 first?

3 A. Jermaine, he jumped over. He got -- he climbed  
4 over the fence.

5 Q. Okay. Did you ask him at this point what he  
6 wanted to show you, or had you asked that prior?

7 A. I asked him.

8 Q. Again at this point?

9 A. Yes.

10 Q. And he didn't tell you?

11 A. No.

12 Q. And you went through the fence is your  
13 testimony?

14 A. Yes.

15 Q. Okay. You went through the hole and then when  
16 you got on the other side, what did the two of you do?  
17 Where did you go?

18 A. We were sort of close to a tree that was there.  
19 That was --

20 Q. I'm sorry. Finish your answer. I didn't mean  
21 to cut you off.

22 A. We sat down close to a tree.

23 MR. GOLDSTEIN: Judge, it's 12:06. Shall we  
24 recess for lunch?

25 THE COURT: That would be a good idea. Let's  
26 take our noon recess and we'll return at 1:30.

27 MR. GOLDSTEIN: Thank you, Judge.

28 Just for information purposes, Your Honor, did

1 the Court receive the co-defendant 18 count prelim as well?  
2 Is that in this department or is it in the master --

3 THE CLERK: Here.

4 MR. GOLDSTEIN: I see your clerk nodding.

5 Thank you.

6 (Discussion held off the record.)

7 (Noon recess taken.)

8 THE COURT: Good afternoon. We're back on the  
9 record in the case of the People of the State of California  
10 versus Jermaine Demel Dickerson.

11 Mr. Goldstein, are you ready to proceed?

12 MR. GOLDSTEIN: Yes, Judge. I'm just sorting  
13 out my notes. I am ready.

14 THE COURT: Okay.

15 CROSS-EXAMINATION (CONT'D) BY MR. GOLDSTEIN:

16 Q. Okay. Miss Doe, I want to take you back to  
17 before you left the campus that day, okay, April 20th,  
18 before coming into contact with Jermaine? Okay?

19 A. Yes.

20 Q. All right. Did you leave the school right  
21 after your last class was out?

22 A. I left the campus. I left the school grounds,  
23 yes, right after school was out.

24 Q. Okay. Right after your last class?

25 A. Yes.

26 Q. Okay. Did you speak with anyone before leaving  
27 the campus. Have any conversations?

28 A. Yes.

1 Q. And who was that?

2 A. One of my friends, Chaqueta, and two other

3 friend, Terrence and Fred.

4 Q. Terrence and who?

5 A. Terrence and Fred.

6 Q. Where were these conversations with the three

7 of them? The two separate ones?

8 A. Well, I walk -- I walked down the hill with my

9 friend Chaqueta.

10 Q. Okay. The hill that's on campus?

11 A. Yes.

12 Q. How were Terrence and Freddy?

13 A. We we're about -- about across the street from

14 the school, a little bit down the block.

15 Q. Okay. Was that before you met up with

16 Jermaine?

17 A. Yes.

18 Q. Okay. Or encountered Jermaine?

19 A. Yes.

20 Q. Okay. So your conversation with -- with the

21 two boys was off campus; is that right?

22 A. Yes.

23 Q. Okay. And how long were both of those

24 conversations with Chaqueta and with the two boys?

25 A. Five minutes.

26 Q. Each?

27 A. Yeah. About five minutes. Five, 10 minutes.

28 Q. Did you speak with the two boys at all close to

1 the bus stop near the 7-11 where you saw Jermaine?

2 A. No. We weren't close to the bus stop.

3 Q. Okay. And all three of these individuals that  
4 you mentioned are students at the school with you?

5 A. Yes. Except for Fred.

6 Q. Okay. Had you met with or spoken with any  
7 adults after class ended but before you left campus?

8 A. I spoke to my choir teacher for a few minutes.

9 Q. Is that Miss Hubbard?

10 A. Yes.

11 Q. Okay. And did you have the conversation with  
12 Miss Hubbard before you walked up the hill with Chaqueta?

13 A. Yes.

14 Q. Okay. And that conversation actually took  
15 place in the music cubicle; right?

16 A. Yes.

17 Q. And the music cubicle is the building which  
18 adjoins the area that you and Jermaine walked to; correct?

19 A. Yes.

20 Q. All right. And what exactly is the music  
21 cubicle? Is it a classroom?

22 A. It's a classroom.

23 Q. Okay. Does it have windows that open into the  
24 dirt area where you and Jermaine were?

25 A. No.

26 Q. Okay. Are there any windows in the music  
27 cubicle at all?

28 A. There are windows between -- if you sit down,

1 you can't see out of them because they're at the top, like  
2 closer to the ceiling.

3 Q. Could you see out of them if you're standing?

4 A. A little bit, yes.

5 Q. Okay. Where do you see out into?

6 A. You can -- they're mostly -- there's like grass  
7 and trees and such that you see, and there's like a fence  
8 in front of the grass and trees.

9 Q. And that grass and trees and fenced area is the  
10 same area that you went to with Jermaine; correct?

11 A. No.

12 Q. It's not?

13 A. No.

14 Q. How -- where is it in relation to the area that  
15 you went to with Jermaine?

16 A. It's on the other side of the cubicle.

17 Q. Okay. Is it fenced off so that it's separated  
18 from the area that you went to with Jermaine?

19 A. It's -- the area is -- the classroom is between  
20 the both rooms. So where we were is on the other side and  
21 then on the other side is the other fenced off area.

22 Q. Okay. When you went to speak with your choir  
23 teacher, Miss Hubbard, was class in session?

24 A. No. I had her class last, so it was after  
25 class.

26 Q. Okay. So you stayed after class and spoke with  
27 her for a little bit?

28 A. Yes.

1 Q. Okay. How long was that conversation before  
2 you left?

3 A. Not even five minutes. Well, just -- I just  
4 told her a couple things and then I left.

5 Q. When you left, was she still in the classroom?

6 A. Yes.

7 Q. Okay. Was she sitting at her desk or anything?  
8 You recall?

9 A. No, she wasn't sitting.

10 Q. Okay. Well, you left the campus, you began  
11 walking northbound on Asberry Street; correct?

12 A. Yes.

13 Q. And that's where you met up with Fred and  
14 Terrence for a few minutes and talked?

15 A. Yes.

16 Q. You also said on cross and direct examination  
17 prior to lunch that at the bus stop you made attempts to  
18 push Jermaine away from you; correct?

19 A. Yes.

20 Q. Okay. How many of those attempts did you make?

21 A. Two or three.

22 Q. Okay. You also said before lunch that you  
23 spoke with a police officer and told him what happened;  
24 correct?

25 A. Yes.

26 Q. Okay. Do you remember ever telling the police  
27 officer that you made two or three attempts to push him  
28 away while at the bus stop area?

1 MR. CHANG: I'll object as this is calling for  
2 hearsay.

3 MR. GOLDSTEIN: No. It goes to her memory and  
4 credibility, and it's not --

5 THE COURT: Overruled.

6 MR. GOLDSTEIN: Q. You may answer.

7 A. I can't remember. I think I did.

8 Q. Okay. Do you remember whether or not you told  
9 the police officer that you went to, and I quote, the  
10 grassy area behind the cubicle?

11 MR. CHANG: I'll object on the same ground,  
12 hearsay.

13 MR. GOLDSTEIN: The same reason the objection  
14 should be overruled.

15 THE COURT: Overruled.

16 MR. GOLDSTEIN: Q. You may answer.

17 A. Can you repeat the question, please.

18 Q. Sure. Do you remember telling the police  
19 officer that the two of you, you and Jermaine, went to the  
20 grassy area behind the cubicle?

21 A. I'm not sure. I don't remember.

22 Q. Okay. You stated earlier that when you looked  
23 out on the other side of the area where you and Jermaine  
24 were from the music cubicle, there is an area with grass  
25 and trees; correct?

26 A. Yeah. A little grass.

27 Q. Okay. And that area is also on campus but on  
28 the opposite side of the cubicle; right?

1 A. Yes.

2 Q. Okay. The area that you and -- that you and  
3 Jermaine went to, you testified that that area was  
4 predominantly dirt; correct?

5 A. Yes. It was mostly dirt, yes.

6 Q. Is there any grass in that area where you and  
7 Jermaine were?

8 A. I don't remember.

9 Q. Okay. But you do remember there being dirt?

10 A. Yes.

11 Q. And a tree?

12 A. Yes.

13 Q. Okay. When you got to the fence before going  
14 into that area, and I don't recall your answer, was the  
15 fence locked? Do you have a memory of that?

16 A. There was no lock. I don't think so.

17 Q. Do you remember telling the officer that the  
18 fence was locked and that's why Jermaine had to climb over  
19 the fence?

20 A. No. I don't remember telling him that.

21 Q. Is it possible you did?

22 MR. CHANG: Objection. Calls for speculation.

23 THE COURT: Sustained.

24 MR. GOLDSTEIN: Q. At the bus stop, during  
25 your conversation with Jermaine, you told him that you had  
26 to get home; correct?

27 A. I don't remember that. I think I did. I'm not  
28 sure.



1 Q. Do you remember telling the officer anything  
2 like that, that at the bus stop you told Jermaine that you  
3 had to get home?

4 A. I don't remember telling him that.

5 Q. When you got to the area of the dirt next to  
6 the tree where Jermaine sat down behind the fence, did you  
7 tell him at that point that you needed to go home?

8 Prior to anything physical happening between  
9 the two of you, did you tell him at that point that you  
10 needed to go home?

11 A. Yes, I think I did tell him that.

12 THE COURT: You have to speak up.

13 THE WITNESS: Yes, I did. Think I told him  
14 that.

15 MR. GOLDSTEIN: Q. You think that you did was  
16 the answer; is that correct?

17 A. Yes.

18 Q. Do you have a memory of Jermaine, as you said  
19 on direct examination, twice exiting your private area and  
20 then reentering?

21 Do you have a clear memory of that?

22 A. Yes.

23 Q. Okay. Prior to him drawing the knife, do you  
24 remember what you were yelling or were you just yelling?

25 A. I was just yelling.

26 Q. Okay. And did you see where or what part of  
27 his body or wherever Jermaine pulled the knife from?

28 A. I'm not sure where he pulled it out from.

1 Q. Right before you saw the knife though, he was  
2 on top of you; right?

3 A. Yes.

4 Q. And your pants had already been pulled down at  
5 this point?

6 A. Yes.

7 Q. Okay. And his pants had been pulled down at  
8 this point?

9 A. Yes.

10 Q. Okay. And you just remember, after yelling,  
11 seeing the knife in his hand at some point; is that right?

12 A. Yeah.

13 Q. Okay. Did you see, before seeing the knife,  
14 did you see him reach toward his body or away from his body  
15 at all?

16 A. I -- I saw him pull his hand down toward his  
17 waist area.

18 Q. Okay. Did you see his hand go into his waist  
19 area or under his shirt?

20 A. No.

21 Q. Okay. Up to that point, you had not seen any  
22 bulges, meaning of a weapon like nature, either on the  
23 outline of his pants or under his shirt; correct?

24 A. Correct.

25 Q. Okay. After you stated that he made the threat  
26 with the knife, you stopped screaming; is that right?

27 A. Yes.

28 Q. What did he then do with the knife after that?

1 A. I don't remember if he put it away or not.

2 Q. Okay. I believe you testified that after that,  
3 he began to try and force his penis inside of you; correct?

4 A. Yes.

5 Q. Okay. And you said that when he was doing  
6 this, he had one hand on the ground and the other hand on  
7 his privates; correct?

8 A. Yes.

9 Q. Okay. At that point, he did not have the knife  
10 in his hand; correct?

11 A. Yes.

12 Q. Okay. But you hadn't seen what he did with it?

13 A. No.

14 Q. Okay. You don't have a memory of him reaching  
15 back toward his clothing area?

16 A. I don't remember.

17 Q. All right. And when he pulled the knife the  
18 first time, you said he reached toward his waist; right?

19 A. Yes.

20 Q. But his pants were already down at the time he  
21 reached down there; correct?

22 A. Yes.

23 Q. Okay. Did you see him reach -- so you didn't  
24 see him reach down toward his knees or ankles, he reached  
25 toward his waist area?

26 A. I'm just -- I didn't see him reach all the way  
27 down. I just saw his hand move down to near his waist.

28 Q. Okay. Okay.

1                   Did this T-shirt that he was wearing, do you  
2 remember it having any pockets?

3           A.    I don't remember any pockets.

4           Q.    Okay. Was Jermaine wearing a jacket when he  
5 was on top of you?

6           A.    I don't remember.

7           Q.    Okay. I believe you testified earlier that you  
8 remembered he was wearing a T-shirt and jeans; right?

9           A.    Yes.

10          Q.    So you have no visual memory of him wearing a  
11 jacket on any part of this incident; correct?

12          A.    Correct.

13          Q.    Okay. When he reached down to his waist area,  
14 is that waist front or back or side, if you remember?

15          A.    Excuse me?

16          Q.    When he reached down right before you saw the  
17 knife, did he reach on his waist front, side, or back?

18          A.    I'm not sure. I wasn't trying to look.

19          Q.    You don't have a memory of that?

20          A.    No.

21          Q.    Okay. After he entered you, he put both -- he  
22 was leaning with both of his hands on the ground; correct?

23          A.    Yes.

24          Q.    On both sides of you; is that correct?

25          A.    Yes.

26          Q.    So his hands were not on you and you were being  
27 pressed against the ground; is that correct?

28          A.    Yes.

1 Q. At what point did he push against your eye  
2 area, the eye that you've described earlier that you looked  
3 at at Kragen's?

4 A. I was trying to push out from under him and he  
5 kept on pushing me down to the ground, back down to the  
6 ground, because I was trying to push up and from under him.

7 Q. And on one of those occasions, he pushed you on  
8 your eye or cheek area?

9 A. Yes.

10 Q. How were you trying to push out from under him?  
11 Were you placing your hands on him?

12 A. I was on the ground pushing, pushing -- trying  
13 to push myself out.

14 Q. Okay. And I'm trying to understand how you  
15 were trying to push out. Were you placing your hands on  
16 the ground next to you, trying to wiggle out?

17 A. Yes.

18 Q. Is that what you were doing?

19 A. Yes.

20 Q. Okay. At any point, did you push away by  
21 placing your hands on him at all?

22 A. Yes. That was once before, yes.

23 Q. Once before what?

24 A. I did do that.

25 Q. Once before you tried to push away by placing  
26 your hand on the ground?

27 A. On his chest.

28 Q. Do you recall whether or not your nails dug

1 into his cheek at all?

2 A. No.

3 Q. Okay. Was his shirt off at that time?

4 A. No.

5 Q. Okay. Did you ever see the defendant with the  
6 condom in hand during this incident?

7 A. No, I didn't.

8 Q. Between taking his pants down and making the  
9 attempt to enter you, did you see him place his hand in his  
10 genital area?

11 A. Yes.

12 Q. And that was at the time he was attempting to  
13 enter you; correct?

14 A. Yes.

15 Q. But before that, did you see him with anything  
16 in hand, place his hand on his penis?

17 A. No. I don't think so.

18 Q. Did you see a condom on him?

19 A. No.

20 Q. Okay. Now, you testified early that your best  
21 memory is that the rape was about 30 minutes long; correct?

22 A. Yes.

23 Q. Okay. Do you remember telling the officer that  
24 the rape itself was 30 to 60 minutes long?

25 A. I don't remember.

26 Q. Okay. What's your best memory now as to the  
27 length of time that the -- that the rape occurred?

28 MR. CHANG: Objection. Asked and answered.

1 MR. GOLDSTEIN: By him but not by me.

2 THE COURT: Sustained.

3 MR. GOLDSTEIN: Q. You said that when you were  
4 trying to push out from under him, you felt part of his  
5 weight on you and that prevented you from getting away; is  
6 that correct?

7 A. Yes.

8 Q. Okay. What part of his weight? Both his hands  
9 were on the ground; correct?

10 A. Yes.

11 Q. So the only part of his body that was on you  
12 was his lower torso, his genital area; correct?

13 A. Yes.

14 Q. Did you yell or scream or shout anything during  
15 the period that he was inside you?

16 A. No.

17 Q. Okay. Miss Doe, is it true that the area where  
18 you were is bordered on one side by the music building but  
19 on -- but on the other three sides by a chain link fence?

20 A. Yes.

21 Q. Okay. So, in other words, the area that you  
22 were in was not bordered by more than one building? The  
23 music building was the only building bordering it; correct?

24 A. Yes. And -- yes, it was.

25 Q. And these fences that bordered the rest of it  
26 were chain link or see through; correct?

27 A. Yes.

28 Q. And they're about six feet tall or about as

1 tall as I am, correct? The chain link fences?

2 A. I'm not sure how tall they are.

3 Q. Were they much taller or lower, or do you have  
4 a memory of it?

5 A. I don't remember.

6 Q. How many of those fences then opened or  
7 bordered a residential street?

8 A. Can you repeat the question.

9 Q. Sure. If you walk -- if you're in that area  
10 where you were, if you walk out the hole of the fence that  
11 you climbed through, you would still be on campus; right?

12 A. Yes.

13 Q. Let's take a look at the other two sides. One  
14 of those other two sides of the fence area opens out into  
15 where is it you were to climb over it, you would be on the  
16 street, the edge of campus; correct?

17 A. Yes.

18 Q. How about the other one, is that also on the  
19 edge of campus near a street?

20 A. It's by a house I think.

21 Q. Okay. So on two sides of this field that you  
22 were in, it's bordered by the fence which opens to  
23 residential street; correct?

24 A. Yes.

25 Q. During the time that you were in that area  
26 behind the music cubicle, did you see anyone walk by on the  
27 sidewalk?

28 A. No.



1 Q. Okay. Did you see anyone walk through the area  
2 that you were in?

3 A. No, I didn't.

4 Q. It was still light out though, correct? It was  
5 still early afternoon?

6 A. Yes.

7 Q. Okay. How long were you able to keep yelling  
8 or screaming before you saw the knife in his hand and you  
9 stopped?

10 A. It wasn't that long.

11 Q. Okay. Besides pushing against your eye, did he  
12 ever strike you in the face during this incident?

13 A. No.

14 Q. Okay. Did he ever punch you in any other area  
15 of your body besides your face?

16 A. No.

17 Q. After he said "I didn't like you anyway" and  
18 got off of you and you left the area, when did your eye  
19 start hurting at that point?

20 A. It was -- it hurt a little bit, but it didn't  
21 hurt that much. It was -- it was already hurting a little  
22 bit.

23 Q. While you were still in the field with him?

24 A. Yes.

25 Q. Okay. When you left the area, did you run to  
26 the hole in the fence and climb through it?

27 A. Yes.

28 Q. Okay. Did he run or walk after you?

1 A. I'm not sure. I wasn't watching him.

2 Q. Okay. Well, there was a time after you left  
3 that you noticed that he was following you though; correct?

4 A. Yes.

5 Q. And when was that?

6 A. When I was -- I think I was down the hill.

7 Q. What did Jermaine say to you when he drew the  
8 knife?

9 A. He told me that he would cut me up and leave me  
10 there.

11 Q. Did you tell the police officer that that's  
12 what he said when he pulled the knife?

13 A. Yes.

14 Q. Okay. When you exited the area behind the  
15 music cubicle, you went onto Stockton Street; right?

16 A. I'm not sure what the name of the street was.

17 Q. Were you -- were you at least heading toward  
18 San Pablo Avenue?

19 A. Yes.

20 Q. Okay. And were you jogging at least part of  
21 that distance?

22 A. Yes.

23 Q. Okay. While you were jogging toward San Pablo  
24 Avenue, did you see Jermaine behind you?

25 A. No.

26 Q. Okay. Did you reach San Pablo Avenue at the  
27 point before or after the point that you noticed that  
28 Jermaine was behind you?

1 A. It was before I reached San Pablo.

2 Q. Okay. And how far behind you was he when you  
3 first saw him there?

4 A. I'm not sure how far away he was.

5 Q. Okay. You testified that when he pushed on  
6 your face area, or your eye, it hurt; correct?

7 A. Yes.

8 Q. Okay. When the rape was occurring did that  
9 hurt?

10 A. Excuse me?

11 Q. When the rape was occurring, was he doing it  
12 forcefully to the point that it was hurting you?

13 A. Yes.

14 Q. Okay. In trying to push you down before you  
15 said the rape happened, okay, did he push you or grab you  
16 in a way that it hurt a different part of your body besides  
17 what you've testified about?

18 A. No.

19 Q. Okay. After this incident, your eye swelled  
20 up; right?

21 A. Yes. A little bit, yes.

22 Q. Did any other parts of your body, when you went  
23 in the bathroom at Kragen's, did you notice any other cuts  
24 or bruises or swelling on any other part of your body?

25 A. No.

26 Q. Did anything besides your eye hurt? Not  
27 talking about your private, but other parts of your body?

28 A. No.

1 Q. Okay. Did your private area hurt at that point?  
2 A. Yes.  
3 Q. Okay. Did it hurt you to the point you went to  
4 the hospital?  
5 A. Yes.  
6 Q. Oh. Okay.  
7 Did you report that pain to the doctor?  
8 A. A --  
9 Q. If you remember?  
10 A. I don't remember.  
11 Q. Okay. Did you notice whether you were cut or  
12 bruised in your private area before going to the hospital?  
13 A. No, I wasn't cut.  
14 Q. Okay. Did you have a chance to disrobe in the  
15 bathroom at Kragen's and see if you were okay?  
16 A. I didn't have a chance to.  
17 Q. Okay. Now, you testified on direct examination  
18 that you had a second encounter with Jermaine after you  
19 left campus; right?  
20 A. Yes.  
21 Q. Okay. Where exactly was that second time when  
22 he reached you, wherever you were, and demanded your  
23 backpack and jewelry and so forth?  
24 A. We were close to the BART path.  
25 Q. I'm sorry.  
26 A. The BART path. We were close to the BART path.  
27 Q. Any buildings around there?  
28 A. I don't remember.

1 Q. Do you remember telling the police that you  
2 were behind Subway Sandwiches at the time that Jermaine  
3 robbed you?

4 A. I don't remember.

5 Q. You don't remember telling the police that?

6 A. No.

7 Q. Okay. Were you in fact behind Subway  
8 Sandwiches at the time of the robbery?

9 A. I'm not sure.

10 Q. Is there a Subway Sandwich Shop in the area of  
11 your school, within a few blocks?

12 A. Yes.

13 Q. You know where one is?

14 A. Yes.

15 Q. Okay. Do you recall the street where it is?

16 A. No.

17 Q. Okay. Where is that located with respect so  
18 the BART path. Near, far?

19 A. It's not that far away.

20 Q. But it's not right there either; correct?

21 A. No.

22 Q. Okay. What do you mean by the BART path?

23 A. It's people ride their bikes and people walk on  
24 it, just like a path.

25 Q. Is it on the BART property? It's the BART  
26 parking lot area, it's going toward the trains?

27 A. If you walk on it, it passes by the parking  
28 lot.

1 Q. And that's why you call it the BART path?

2 A. It's -- I don't know.

3 Q. Okay. And the time that Jermaine ran up to you  
4 or caught up with you at the BART path, was there anyone  
5 else on the path?

6 A. I don't think so.

7 Q. Okay. You traveled that path before?

8 A. Yes.

9 Q. Okay. You traveled that path before or after  
10 school?

11 A. Yes.

12 Q. And the times that you traveled before, have  
13 you seen students or other people riding bikes or walking  
14 on the path?

15 MR. CHANG: Objection. Relevance.

16 THE COURT: Sustained.

17 MR. GOLDSTEIN: Q. What did he take from you  
18 on the BART path?

19 MR. CHANG: Objection. States facts not in  
20 evidence. She said she was close to the BART path.

21 THE COURT: Sustained.

22 MR. GOLDSTEIN: Okay.

23 Q. What did he take from you when you were close  
24 to the BART path?

25 A. My jewelry and my shoes and my backpack.

26 Q. How close were you to the BART path?

27 A. I'm not sure how close I was.

28 Q. Were you on a street when this happened, on a

1 sidewalk?

2 A. Yes.

3 Q. Okay. Is that a residential or commercial  
4 area?

5 A. I can't remember. I think it was residential.

6 Q. And you didn't see any cars drive by the point  
7 that he caught up to you; is that correct?

8 A. Yes.

9 Q. At the point, that he caught up to you, how  
10 long did it take for him to get the property and then  
11 leave? Strike that.

12 Did you leave before him, after the property  
13 was given to him?

14 A. He left before me.

15 Q. Okay. And what direction did he go?

16 A. He went in the opposite direction I was going.

17 Q. Okay. Which way were you going?

18 A. I was going toward San Pablo.

19 Q. Okay. Was he heading back to you, the street  
20 from whence -- from where he was following you?

21 A. Yes.

22 Q. How long did that encounter take where he  
23 caught up with you and demanded the property and took your  
24 chain and so forth before he left?

25 A. I'm not sure. Maybe 20 minutes maybe.

26 THE COURT: I'm sorry. I didn't hear that.

27 THE WITNESS: Maybe 20 minutes. I'm not sure.

28 MR. GOLDSTEIN: Okay.

1 Q. Were the two of you having a conversation  
2 during that time?

3 A. No.

4 Q. It was just "give me the property"?

5 A. Yes.

6 Q. And it took about 20 minutes to do that, is  
7 that your best estimate?

8 A. Part of the time. That's the time. Most of  
9 the time he was catching up with me and then it took about  
10 maybe five minutes or so for him --

11 Q. Once he caught up with you, it took about five  
12 minutes to get the property and flee?

13 A. Yes.

14 Q. Okay. Did you see any -- strike that.

15 At the time that he caught up with you, you  
16 testified earlier you did not see a knife in his hand;  
17 correct?

18 A. Correct.

19 Q. Did you see any bulging in his -- under his  
20 shirt or pants area which may be the outline of a knife or  
21 another object of that size?

22 A. I didn't notice anything.

23 Q. Okay. When he turned and went the opposite  
24 way, did you notice anything in his back pocket or under  
25 his shirt area?

26 A. No, I didn't.

27 Q. Okay. You described the blade. How about the  
28 handle? What color was it? Do you recall?



1           A.    I don't remember.

2           Q.    Was it a knife that he had to unwrap or was it  
3 just a knife that was a straight knife?

4           A.    I don't know.

5           Q.    Okay.  Where did you go after this encounter  
6 where he took -- he took your shoes; correct?

7           A.    Yes.

8           Q.    Where did you go next?

9           A.    I just wondered around down San Pablo -- I just  
10 wandered around down on San Pablo.

11          Q.    San Pablo Avenue?

12          A.    Yes.  I believe so.

13          Q.    Okay.  Do you know what the near -- you weren't  
14 saying San Pablo the city, but the avenue; correct?

15          A.    Yes.

16          Q.    Do you know what were the nearest corners or  
17 cross streets where you were wandering around?

18          A.    No, I don't remember.

19          Q.    How long did you wander around before going  
20 somewhere and asking for help or calling home?

21          A.    For a few hours.

22          Q.    In those few hours, did you call the police?

23          A.    No.

24          Q.    Okay.  And this part of San Pablo where you  
25 were on, were there apartments or residences or commercial  
26 area nearby?  Do you recall?

27          A.    It was mostly commercial area.

28          Q.    Do you remember the businesses that were around

1 at that time where you were walking by?

2 A. No. I wasn't paying attention to the  
3 businesses.

4 Q. Okay. All right.

5 And after that couple hours, what did you do?

6 A. After the few hours that I was out there, I  
7 went to -- I went to the auto center.

8 Q. Okay. Did you go anywhere before going to the  
9 auto center?

10 A. No.

11 Q. Okay. Did you go to Del Norte Park before you  
12 went to the auto center?

13 A. No.

14 Q. Did you tell the police officers that you went  
15 to Del Norte Park before going to the auto center?

16 A. No.

17 Q. All right. When you went to the auto center,  
18 what did you do? What did you do?

19 A. I went in and I asked them could I use their  
20 phone.

21 Q. Okay. And they let you use one at the front  
22 counter?

23 A. Yes.

24 Q. Okay. Did you tell the men in the store that a  
25 bunch of girls had jumped you and taken your things?

26 A. Yes.

27 Q. Was that the same story that you told your dad  
28 when he arrived later?

1 A. No.

2 Q. What -- what was the first story or version  
3 that you told your father when he arrived later?

4 A. I told him that these people were messing with  
5 me and they wanted to take me with them, and they were  
6 trying to hurt me and everything. Like that.

7 Q. And you didn't mention who these people were,  
8 whether they were boys, girls, what their names were?

9 A. I told them it was a boy -- a man and two  
10 women.

11 MR. CHANG: I'm sorry, I didn't get that  
12 answer.

13 THE WITNESS: I told him it was a man and two  
14 women.

15 MR. GOLDSTEIN: Man and two women.

16 MR. CHANG: Thank you.

17 MR. GOLDSTEIN: Okay.

18 Q. It is true, is it not, that while you were in  
19 the auto center, a police car came into -- a police car  
20 came into the parking lot and an employee asked you if you  
21 wanted to contact him; correct?

22 A. Yes.

23 Q. Okay. And you said "no"; correct?

24 A. Yes.

25 Q. How long before your dad arrived did that  
26 happen?

27 A. I don't -- I don't know.

28 Q. When you called home from the auto center, who

1 did you speak with on the phone?

2 A. I spoke with my stepmother, Patricia.

3 Q. And what did you tell her?

4 A. I told her that I needed my father to come and  
5 pick me up, or I needed someone, one of them to come and  
6 pick me up.

7 Q. Did you tell her why?

8 A. No.

9 Q. Okay. Did you speak with your father at all on  
10 the phone before he came? Did he pick up the phone after  
11 your stepmother?

12 A. No.

13 Q. And she said, "Okay, I'll get him," or "send  
14 him down there"?

15 A. She said that he would be coming and get me.

16 Q. At the time you were making this call, was it  
17 night yet, was it dark out yet? Do you remember?

18 A. Yes, it was.

19 Q. Okay. So the time you went into Kragen, the  
20 sun had already gone down?

21 A. Pretty much, yes.

22 Q. All right. All right.

23 How long after you made the call did it take  
24 for your dad to arrive, if you remember?

25 A. I think about an hour.

26 Q. Okay. You were there for a while?

27 A. Yes.

28 Q. Okay. He was mad at you when he arrived;

1 correct?

2 A. Yes.

3 Q. Okay. In other words, when you went outside,  
4 he grabbed you by the arm was asking you why were you --  
5 why'd you come home late, or why didn't you come home;  
6 correct?

7 A. Yes.

8 Q. All right. That's when you told him about the  
9 three people attacking you; correct?

10 A. No. I didn't tell him that until we got home.

11 Q. Okay. Did you tell him anything in the car  
12 about what happened?

13 A. No.

14 Q. Was he asking you what was happening in the  
15 car.

16 A. No.

17 Q. Okay. What time are you supposed to come home  
18 after school?

19 A. I'm just supposed to come home right after  
20 school.. It's not a specific time that he set, but I'm  
21 supposed to come home right after school.

22 Q. You're supposed to walk right away to the bus  
23 stop and take the bus home?

24 A. Yes.

25 Q. You're not supposed to go to friend's houses or  
26 other places; correct?

27 A. Correct.

28 Q. And you've gotten in trouble in the past for

1 not coming home right after school; correct?

2 A. Correct.

3 Q. Okay. Often?

4 A. Maybe about three or four times.

5 Q. And you got in trouble specifically with your  
6 dad for not coming home right after school; correct?

7 A. Yes.

8 Q. And that's happened at least several times this  
9 school year; correct?

10 A. Yes.

11 Q. Okay. How long usually does it take you to get  
12 home from school if you walk to the bus stop and take it  
13 home?

14 A. About 20 minutes.

15 Q. Okay. Are there ever times when someone will  
16 give you a ride home and it will take less time?

17 A. No.

18 Q. Okay. So you usually take the bus?

19 A. Yes.

20 Q. Okay. So at the time you were at the bus stop  
21 with Jermaine, you knew that you were supposed to come  
22 straight home; correct?

23 A. Yes.

24 Q. Okay. You knew that Jermaine had been expelled  
25 from school or suspended from school; correct?

26 A. I heard about it, about that.

27 Q. Okay. And he told you that as well?

28 A. Yes.

1 Q. And you hadn't seen him in class; right?

2 A. Yes.

3 Q. And he was trying to hug and touch you at the  
4 bus stop?

5 A. Yes.

6 Q. And at that time, instead of going home, you  
7 went with him to the school because he wanted to show you  
8 something?

9 A. Yes.

10 Q. And is it your testimony that the only reason  
11 you went is because you were curious?

12 A. Yes.

13 Q. That's the only reason you went with him to the  
14 school?

15 A. Yes.

16 Q. Okay. You've testified earlier on direct  
17 examination that you told your dad a lie because you were  
18 scared?

19 A. Yes.

20 Q. What were you scared of?

21 A. Of what he would think and what would happen.

22 Q. You were scared of what your dad would think?

23 A. Yes.

24 Q. And what your dad might do to you by way of  
25 punishing you or not believing you; is that right?

26 A. Yes.

27 Q. So when you went to your dad, you -- and you  
28 had told him a different story, you weren't scared of

1 anything that Jermaine might do to you; correct?

2 A. Excuse me? Can you rephrase that, please?

3 Q. Sure. What you were worried about when you  
4 lied to your dad is what your dad might do to you; right?

5 A. Yes.

6 Q. Jermaine was long gone; right?

7 MR. CHANG: Objection. Vague.

8 THE COURT: Overruled.

9 MR. GOLDSTEIN: Q. You can answer.

10 A. I was still afraid of what he could do also.

11 Q. Okay. But is it fair to say that your -- the  
12 primary reason why you told a lie to him is you were  
13 worried about what your dad would do to you or what he  
14 might think?

15 A. Yes. And also because I don't want to tell him  
16 about what had happened.

17 Q. Okay. Were you also thinking in the back of  
18 your mind that you had gotten in trouble with them on other  
19 occasions for coming home late from school?

20 A. Yes.

21 Q. Okay. Have you lied to them in the past on  
22 those occasions for the reasons that you were late?

23 A. Excuse me?

24 Q. On those past times when you were late from  
25 school and got in trouble with your dad or your parents,  
26 did you tell them lies as to where you were after school  
27 and why you didn't come home on time?

28 A. I did, but afterward I would go ahead -- I



1 would tell them what really happened.

2 Q. Okay. How many times have you lied to them in  
3 the past about where you were after school when you came  
4 home late and got in trouble?

5 A. About four times.

6 Q. Okay. Each time you'd eventually tell the  
7 truth; is that your testimony?

8 A. Yes.

9 Q. Okay. And what would -- on these past  
10 occasions, around the four that your talking about, what  
11 were the sort of things that you would tell your parents or  
12 your dad as to why you didn't make it home on time?

13 A. That I was -- that I missed the bus, or that I  
14 was walking slow, or something like that.

15 Q. Okay. Had you ever told your parents before  
16 that you had gotten in a fight?

17 A. Yes.

18 Q. Okay. And that was a lie?

19 A. No.

20 Q. Okay. So there was a time when you got in a  
21 fight after school and you weren't able to come home on  
22 time?

23 A. I didn't get in a fight. The girl was  
24 threatening me.

25 Q. Okay. But that's why you were late from  
26 school?

27 A. Yes.

28 Q. And you told them that?

1 A. Yes.

2 Q. That time it was true?

3 A. Yes.

4 Q. Any other things that you told your parents by  
5 way of lying to them in terms of I didn't catch the bus,  
6 stuff like that?

7 Any other types of stories that you would tell  
8 to your dad when you where late from school and you got in  
9 trouble?

10 A. I can't remember.

11 Q. Have you been punished in the past on those  
12 four occasions for being late from school?

13 A. Yes.

14 Q. Okay. Have you been punished for lying to  
15 them?

16 A. Yes.

17 Q. Okay. And what have those punishments  
18 consisted of? Have you been grounded?

19 A. I would be grounded.

20 Q. For how long?

21 A. A month or more.

22 Q. For a month or more. How much more?

23 A. I don't know.

24 Q. Have you been grounded several times this  
25 school year for coming home late?

26 A. I think I've been grounded twice.

27 Q. This school year?

28 A. Yes.

1 Q. And the reason was you came home late and lied  
2 about it?

3 A. Yes.

4 Q. Okay. I'd assume you don't like to be  
5 grounded?

6 A. No, I don't.

7 Q. Okay. What being grounded means is you have to  
8 come home right away, you can't go out, talk to your  
9 friends, that sort of thing?

10 A. Yeah. And I can't talk on the telephone.  
11 Can't go anywhere.

12 Q. Does that include the weekend?

13 A. Yes.

14 Q. Can't do what you'd like to do?

15 A. Yes.

16 Q. Okay. Prior to April 20th, when was the most  
17 recent time you were grounded before that?

18 A. I can't remember.

19 Q. When did the month long grounding take place?  
20 This year?

21 A. Yes.

22 Q. Okay. A couple months ago? A couple months  
23 before April?

24 A. Yes.

25 Q. This school year, have you ever -- well, strike  
26 that.

27 Are there any other punishments that your  
28 parents have put upon you for coming home late and lying

1 about it besides grounding?

2 A. No.

3 Q. Okay. Do you get an allowance?

4 A. Yes. Sometimes.

5 Q. Do you stop getting your allowance when you're  
6 grounded? Is that part of the punishment?

7 A. No.

8 Q. Were you ever showed a photo, a lineup of  
9 photos by the police officer with some young black men in  
10 it after April 20th or on the some day?

11 A. Yes.

12 Q. Do you remember taking a look at a lineup like  
13 that?

14 A. Yes.

15 Q. Do you remember identifying anyone in that  
16 lineup as the person or the possible person who raped you?

17 A. Yes.

18 Q. Okay. You pointed one of the pictures out?

19 A. Yes.

20 Q. You remember what you told the officer after  
21 pointing the picture out?

22 A. I told him that that looks like him.

23 Q. Okay. You didn't tell him that was definitely  
24 him; correct?

25 A. Correct.

26 Q. You told him that looks like?

27 A. Yes. Like him, yes.

28 Q. Were you sure it was him at that point?

1 A. I believe it was him, so I told it looked like  
2 him.

3 Q. Let me take you back a little bit, behind the  
4 music cubicle, when you were on the ground on your back,  
5 okay?

6 What article of clothing were you wearing that  
7 was touching the ground?

8 A. I don't remember what I had on.

9 Q. Okay. But whatever you had on was not taken  
10 from you by Jermaine a couple of blocks away; correct?

11 A. Correct.

12 Q. So you were wearing what you had on at the time  
13 you were raped? You were wearing the same stuff at the  
14 time that your dad picked you up; right?

15 A. Yes.

16 Q. Okay. Did you get to take a look at your  
17 clothes after you got home?

18 A. No.

19 Q. Okay. What did you do with your clothes after  
20 you got home?

21 A. I went straight to the police station, to the  
22 hospital, and they took my clothes there.

23 Q. And when did they take your clothes?

24 A. The hospital.

25 Q. Okay. Did you see them after you took them  
26 off? Did you see what condition they were in?

27 A. Yes.

28 Q. Okay. And can you describe that for the Court,

1 please?

2 A. My jeans were dirty. They were -- they had  
3 brown dirt on them.

4 Q. Were they blue jeans?

5 A. Yes.

6 Q. And was the brown dirt on the back or the  
7 front?

8 A. I just recall them being there. I can't  
9 remember exactly where.

10 Q. Were they dirty on the seat area?

11 A. Yes.

12 Q. What about your top, what were you wearing as a  
13 top?

14 A. I don't remember.

15 Q. Do you remember whether whatever it was was  
16 dirty or not?

17 A. I don't remember.

18 Q. Okay. Do you remember your clothes seemed torn  
19 to you or not?

20 A. I don't -- I didn't know.

21 Q. Okay. So the only thing unusual about your  
22 clothing after this was that they appeared dirty to you?  
23 Was that fair to say?

24 A. Yes. Yes.

25 Q. Did they take all your clothing at the  
26 hospital? Shoes, everything that you had on that day?

27 A. He took my shoes. They took the rest of my  
28 clothing though.

1 Q. Who took your shoes?  
2 A. Jermaine did.  
3 Q. I apologize. The rest of your clothing was  
4 taken by the hospital?  
5 A. Yes.  
6 Q. Okay. And you went to the police, the police  
7 station before the hospital; correct?  
8 A. Yes.  
9 Q. Did you complain of pain to your eye area to  
10 the police when you were talking to them?  
11 A. I don't remember. I think I did. I'm not  
12 sure.  
13 Q. Were you at the police station for a while  
14 before going to the hospital?  
15 A. Yes.  
16 Q. Okay. Did you -- one second, Judge.  
17 (Discussion held off the record.)  
18 MR. GOLDSTEIN: Q. Did you go home before  
19 going to the police station, or did your dad take you  
20 straight to the police station?  
21 A. I went home first.  
22 Q. Okay. And once you got home, you first lied  
23 and then told them what you told the Court today?  
24 A. Yes.  
25 Q. Okay. How long were you home before you left  
26 to go to the police?  
27 A. About an hour or so.  
28 Q. And when you left the house, it was definitely

1 night at this point; right?

2 A. Yes.

3 Q. Okay. And how did -- what did your father say  
4 to you when you changed what you told him and told him what  
5 you told the Court?

6 A. Can you rephrase that, please?

7 Q. Sure. How did your father react in terms of  
8 what he said to you when you told him you had been raped?

9 MR. CHANG: Objection. Relevance.

10 THE COURT: Sustained.

11 MR. GOLDSTEIN: The point of asking the  
12 question is she stated earlier that -- may we approach so I  
13 don't do a speaking objection?

14 THE COURT: Yes.

15 (Side bar held off the record.)

16 MR. GOLDSTEIN: Q. Okay. When you went to the  
17 hospital, after you disrobed, they examined your privates;  
18 correct?

19 A. Yes.

20 Q. Did they examine other areas of your body? Did  
21 they look at your eye, for example?

22 A. No.

23 Q. Okay. Did you tell them that you felt pain in  
24 other areas of your body? Meaning the hospital, the  
25 doctors and such?

26 A. No. I don't remember.

27 Q. When you were at the police station, did you  
28 ever state to the police that you'd like to go to the



1 hospital as soon or right away, because you were feeling  
2 pain in your privates?

3 A. Could you repeat that question, please?

4 Q. Sure. Did you ever tell the police at the  
5 police station that you wanted to go to the hospital?

6 A. No. I didn't tell them that.

7 Q. Did you ever tell the police officers that at  
8 the time you were talking with them you felt pain down  
9 there in your private area?

10 A. I don't think so.

11 Q. But by the time you still -- got to the  
12 hospital, you were feeling pain down there; correct?

13 A. Yes.

14 Q. At the time the police were talking to you at  
15 the station, of course you were feeling pain in your  
16 private area; correct?

17 A. Yes.

18 Q. Okay. Did you see or feel Jermaine ejaculate  
19 during the incident?

20 First of all, you know what I mean?

21 A. Yes.

22 Q. Did you see or feel him ejaculate during the  
23 incident?

24 A. No.

25 Q. Okay. No to -- let me ask it both ways.

26 Did you see him?

27 A. No.

28 Q. Did you feel anything?

1 A. No.

2 Q. Okay. But when the rape was happening, his  
3 pants and underpants were down at least to his knee area;  
4 correct?

5 A. His pants were, yes.

6 Q. How about his underpants?

7 A. I don't remember.

8 Q. Okay.

9 A. Recall seeing them?

10 Q. Do you remember him pulling them down though  
11 off the waist area?

12 A. The pants?

13 Q. The underpants.

14 A. I don't recall seeing them.

15 Q. Okay. Do you recall feeling them?

16 A. No. I don't remember.

17 Q. Okay. Specifically what you told the Kragen  
18 people is not just some girls jumped on you and took your  
19 stuff, but some Crescent Park girls; correct?

20 A. Yes.

21 Q. Are you referring to the area, Crescent Park?

22 A. Yes.

23 Q. Who called the police from your house after you  
24 told your parents? What happened?

25 A. Excuse me?

26 Q. After you told your parents what really  
27 happened, okay, or as you stated, you lied to them, then  
28 you told them you were raped, what did you -- who called

1 the police after that?

2 A. My father took me to the police station.

3 Q. Did anyone call the police in your presence?

4 A. No.

5 Q. Did you call the police?

6 A. No.

7 Q. So he just drove you down?

8 A. Yes.

9 MR. GOLDSTEIN: Okay. I don't have much  
10 further, Judge. I'm just reviewing my notes?

11 THE COURT: Okay.

12 MR. GOLDSTEIN: Q. Did you tell the doctors  
13 whether or not you lost any consciousness during the  
14 incident?

15 A. Yes. I told them I didn't --

16 Q. Okay.

17 A. -- lose consciousness.

18 Q. And you don't have any memory of losing  
19 consciousness; correct?

20 A. No.

21 Q. Okay. Did you also tell the doctors that you  
22 were unsure whether Jermaine used a condom or not?

23 A. Yes.

24 Q. Okay. Did you tell them that he -- well,  
25 strike that.

26 You also told the doctors that he did not use  
27 the knife; correct?

28 A. Yes.

1 Q. And indeed when they examined you, you were  
2 able to look at your body and tell that you did not have  
3 bruises or cuts aside from your swollen eye; correct?

4 A. Right.

5 Q. Okay. When he first started to push you back  
6 onto the ground, did you begin to struggle with him?

7 A. A little bit. A little bit.

8 Q. And at that first point that he was pushing you  
9 back, what did your struggle consist of doing?

10 A. I tried to get up. I tried to push -- get up.

11 Q. Push him away?

12 A. Yes.

13 Q. Okay. During that initial struggle, did you  
14 scratch him or punch him or anything?

15 A. No.

16 Q. Okay.

17 (Discussion held off the record.)

18 MR. GOLDSTEIN: Q. Did you attempt to get away  
19 from him during those two occasions that he pulled out of  
20 you?

21 A. No.

22 Q. He was no longer pressing his weight against  
23 you during those two occasions; correct?

24 A. Correct. .

25 Q. But you did not try and get away?

26 A. No.

27 Q. On those occasions, those two occasions, he did  
28 not have the knife in hand; correct?

1 A. I don't remember seeing it.

2 Q. Okay. You remember seeing it that one time and  
3 one time only; correct?

4 A. Yes.

5 Q. Around the time when you were yelling?

6 A. Yes.

7 Q. Okay. How did he rip the chain off your neck?

8 A. He --

9 Q. Were you facing him when he reached for it?

10 A. Yes.

11 Q. And he grabbed it around your neck area and  
12 pulled it?

13 A. Yes.

14 Q. Okay. Did your neck area have any scratches or  
15 pain or anything after that?

16 A. I think it burned a little bit after he yanked  
17 it off. But after then, I didn't feel anything.

18 Q. So in the act of pulling it off, you felt a  
19 burning sensation?

20 A. Yes.

21 Q. But after that, you didn't feel any pain or  
22 hurt there; is that correct?

23 A. Yes.

24 Q. Okay. Did you point out to the doctor your  
25 neck area and ask that -- the doctor to examine it?

26 A. No.

27 Q. Do you remember the doctor looking at your neck  
28 area for an unusual period of time?

1 A. I don't remember.

2 Q. Okay. What type of chain was this, if you  
3 remember?

4 A. It was a silver chain and it had a heart on it.

5 Q. Do you remember what, if anything, Jermaine  
6 said to you as he was pulling it off?

7 A. No.

8 Q. Okay. You took your own earrings off and gave  
9 them to him?

10 A. Yes.

11 Q. Did he demand the earrings from you?

12 A. Yes.

13 Q. Miss Doe, were you wearing a watch on this day?

14 A. Yes.

15 Q. Okay. He didn't take your watch, did he?

16 A. No.

17 Q. You didn't give up your watch either; correct?

18 A. No.

19 MR. GOLDSTEIN: That's all I have at this time,  
20 Judge.

21 THE COURT: Anything further, Mr. Chang?

22 MR. CHANG: I have no further questions of this  
23 witness, Your Honor.

24 THE COURT: Okay. May this witness be excused?

25 MR. CHANG: Yes, Your Honor.

26 MR. GOLDSTEIN: I would just ask that she be  
27 subject to brief recall until we decide the subpoena issue  
28 that I mentioned before with the documents.

1 THE COURT: Okay.

2 MR. GOLDSTEIN: Then if I've reviewed it and  
3 it's the same as what I have in the discovery, we can  
4 release her.

5 THE COURT: Okay. So Miss Doe, you're excused  
6 for the moment, but not fully excused. Your subject to  
7 recall.

8 She should just wait outside?

9 MR. CHANG: Yes, just wait outside.

10 MR. GOLDSTEIN: That's fine.

11 THE COURT: Anything further, Mr. Chang?

12 MR. CHANG: May I have a moment with  
13 Mr. Goldstein?

14 THE COURT: Yes.

15 (Discussion held off the record.)

16 MR. CHANG: Your Honor, I have two photographs.  
17 And the stipulation I believe is as follows: That the two  
18 photographs, which will be mark as People's 1 and 2,  
19 accurately -- accurately reflect the defendant's appearance  
20 on April 23rd, when he was arrested.

21 THE COURT: Okay.

22 MR. GOLDSTEIN: That's correct. They're two  
23 photos, and for purposes of this hearing only, to expedite  
24 the process, we'll offer the stipulation.

25 THE COURT: Okay. Thank you.

26 MR. GOLDSTEIN: Without offering such  
27 stipulation for other parts of this litigation.

28 THE COURT: Okay.

1 MR. CHANG: And I would request that the  
2 subpoenaed medical records be marked People's 3 and subject  
3 to counsel's review.

4 I would request they be moved into evidence.

5 MR. GOLDSTEIN: I will have comments on that.  
6 If I could see the affidavit when you're done with it,  
7 Judge.

8 THE COURT: Okay. One moment.

9 MR. GOLDSTEIN: And the contents as well.

10 (Whereupon, People's Exhibit Nos. 1, 2 & 3 were  
11 marked for identification.)

12 THE COURT: Okay. Just so that you're clear,  
13 counsel, I have People's Exhibit 3. The file has two what  
14 appear to be identical copies of the same subpoenaed  
15 records.

16 They start off with the same declaration. They  
17 start and end with the same pages. I'm not going to go  
18 through and compare each page, but they feel the same.

19 Did you want to look at those?

20 MR. GOLDSTEIN: Yes. I would request a copy as  
21 well. The court clerk or Mr. Chang could make me one,  
22 again, I would appreciate it.

23 THE COURT: Do you have a copy of these  
24 records?

25 MR. CHANG: It's my understanding these records  
26 were provided in our discovery packet already.

27 THE COURT: Okay.

28 MR. GOLDSTEIN: That may be true. Let me



1 review them and see if they're there.

2 THE COURT: Okay.

3 MR. GOLDSTEIN: I don't have all of it is the  
4 bottom line. I've got some of it but not all of it.

5 THE COURT: What don't you have?

6 MR. GOLDSTEIN: After the admissions record  
7 form, there is a two page -- just double check. A two page  
8 narrative, sort of description of the patient's complaints,  
9 assessment plan, and so forth. And I don't believe I've  
10 got that, but I'm checking.

11 It doesn't look like Jerry does either.

12 Mr. Chang, excuse me.

13 THE COURT: Okay.

14 MR. GOLDSTEIN: Keep going though.

15 THE COURT: Okay.

16 MR. GOLDSTEIN: I'm assuming -- well, let me  
17 ask this: As to these two narrative pages which contain  
18 hearsay statements, are you needing that in or needing that  
19 in for the truth of the matter asserted, because that would  
20 eliminate one objection that I may make, if that's not an  
21 issue.

22 MR. CHANG: I don't need the narrative. You  
23 may leave that out if you like.

24 MR. GOLDSTEIN: I don't mind if it comes in, as  
25 long as the Court doesn't consider it --

26 THE COURT: Then I will not consider it for the  
27 truth of the matter asserted in that two page narrative  
28 signed by Doctor Koury, K-o-u-r-y.

1 MR. GOLDSTEIN: Judge, yeah, I don't have most  
2 of this. I don't have some of it, and I will request a  
3 full copy be made just to be safe.

4 It looks like the only thing that I have,  
5 Judge, is the last one, two, three, four, five -- well not  
6 the last, but the five pages beginning with the medical  
7 report with the labeling at the bottom going through the  
8 diagram.

9 THE COURT: The one entitled "medical report of  
10 sexual assault."

11 MR. GOLDSTEIN: Exactly. That's what I have.

12 THE COURT: Do you have that and the following  
13 four pages total?

14 MR. GOLDSTEIN: I have the -- yes. That's  
15 correct. But what follows that I don't have, and what  
16 precedes that I don't have.

17 THE COURT: What follows that appears to be  
18 laboratory results. I wouldn't consider those. It's  
19 necessary for the purposes of this hearing anyway.

20 MR. GOLDSTEIN: Your Honor, as to the rest of  
21 the records and the affidavit, for the purpose of this  
22 hearing, we will submit the admissibility issue.

23 THE COURT: Okay. Thank you.

24 MR. GOLDSTEIN: And request a full copy.

25 THE COURT: Okay. Since I have two copies.

26 MR. GOLDSTEIN: I'm sorry, Judge. I'm  
27 returning what's been marked People's 3.

28 THE COURT: Okay.

1 MR. CHANG: And since the stipulation is for  
2 the purposes of this hearing only, perhaps the Court can  
3 state for the record the condition of the envelopes.

4 THE COURT: They were -- the envelopes had been  
5 sealed -- it's hard to describe them as sealed, but there  
6 was one envelope within the other envelope, appear to be  
7 intact, and full sets of the records.

8 Because I have two copies, does either party  
9 wish me to make one of these copies available to -- for  
10 example, the People to then copy and provide?

11 MR. CHANG: That would make it easier on  
12 everyone I think.

13 MR. GOLDSTEIN: That's fine. As long as I  
14 leave here -- I would like to have it today. Yes. That's  
15 fine.

16 MR. CHANG: I'll walk over and copy it now.

17 THE COURT: So I am releasing the second copy  
18 of these records to Mr. Chang. And I will release it in  
19 the form of -- it's received by the Court.

20 MR. CHANG: That's the one that's marked.

21 THE COURT: This one is marked. So this  
22 document is marked. I won't give you the marked ones.

23 Which is inside an envelope from Doctor's  
24 Medical Center, with the name of the case, which was then  
25 inside an envelope addressed to the Bay Judicial District.  
26 That will be given so Mr. Chang for copying. Is there  
27 anything further by way of evidence, Mr. Chang?

28 MR. CHANG: No. The People rest.

1 THE COURT: Okay. Does the defendant wish to  
2 put on any evidence at this time?

3 MR. GOLDSTEIN: No. Just argument.

4 THE COURT: Okay. Let's have some brief  
5 argument then.

6 MR. GOLDSTEIN: With respect to Counts 1 and 2  
7 and the supporting enhancements, Judge, we're going to ask  
8 that the Court not hold Mr. Dickerson to answer and dismiss  
9 all counts and enhancements.

10 Obviously this is a credibility case. The  
11 Court has received in terms of questioning the witness's  
12 credibility, the Court has two things that I'd ask it to  
13 consider.

14 One, an admission of dishonesty on the stand as  
15 to why and what happened. Actually three things. Two, a  
16 powerful motive for her to lie as to what happened, and for  
17 her reasons for not coming late from school, past  
18 punishment, serious punishment from her father.

19 There's evidence from her own testimony that  
20 her father was angry with her from the outset, getting  
21 there at Kragen's.

22 Three and four is her story is internally  
23 inconsistent, and the medical records do not corroborate  
24 what she said.

25 First of all, in reviewing the medical records,  
26 the portion I had coming in to today's hearing, we have  
27 basically what has been reported as a 30 minute rape,  
28 forceful rape, a rape involving pain.

1           And there's no interior vaginal, cervical, or  
2 vulval injuries. The only thing mentioned in the medical  
3 records at all is what's described as a superficial  
4 abrasion toward the bottom end of her outer genitals.

5           That certainly is not consistent whatsoever  
6 with a protracted two or three or one penetration rape over  
7 the course of 30 minutes where the victim is allegedly  
8 struggling, the defendant is allegedly pushing her down,  
9 even by her head.

10           There simply is no corroborating physical  
11 evidence by way of DNA, pubic hair samples, and the  
12 description of the injuries does not support what she said.

13           Moreover her story is internally inconsistent  
14 and unbelievable. Here she goes to the bus stop. She  
15 describes the defendant as an acquaintance, only someone in  
16 her P.E. class, someone she has no history with, someone  
17 who's not in her social circumstance.

18           A positive or negative, he begins talking to  
19 her. He tells her or talks to her about the P.E. class,  
20 then allegedly he makes advances toward her, grabs her  
21 buttock area, tells her -- or grabs at her chest area as  
22 well.

23           After this stops, she then, knowing that she  
24 has to return home, knowing the defendant has been expelled  
25 from school, knowing that she has no prior notion of  
26 whether the defendant is a friendly person or not, then  
27 returns to the school, goes to the school area over a hill,  
28 under a fence, into a locked, gated field, behind the music

1 cubicle, because she was curious to see what he was going  
2 to show her.

3 Judge, teenagers lie, and although I'm quite  
4 aware of the seriousness of the charges, that is precisely  
5 why this Court must hold the District Attorney to the  
6 burden of proof.

7 Even though the burden of proof in this hearing  
8 is lower than at a jury trial, it still requires a strong  
9 suspicion or probable cause.

10 We have absolutely nothing to corroborate the  
11 witness's or the victim's as she's characterized, version  
12 of the events, and it's not because there aren't other  
13 parties that the District Attorney can bring to court. It  
14 is because in this instance there is nothing to  
15 corroborate.

16 The medical reports and the internal  
17 inconsistencies of her story and her admissions of  
18 dishonesty and a motive to lie about this exist.

19 The Court also has before it two photos. While  
20 it is true only one of the photos that it reflects  
21 Mr. Dickerson's arm, a tattoo with lettering similar if  
22 only in a general way to what the witness described, there  
23 -- the picture of his faces does not reveal at  
24 discoloration that she described.

25 Her photo identification was uncertain, and her  
26 description of the individual's face does not match the  
27 description of the person's face before you in court, by  
28 way of the defendant, in terms of spotting, discoloration,

1 blotching.

2           As to the other discoloration and supposed  
3 distinctive markings on the legs, she, of course, was in  
4 P.E. class, admitted she had seen the defendant in short  
5 pants before.

6           I don't think there's any photographic evidence  
7 on that -- and that's not really the issue that either of  
8 us are hanging our hat on.

9           But as to the issue of this witness's  
10 credibility, and whether this individual should stay in  
11 jail on these serious charges, even at a preliminary  
12 hearing, People bear the burden.

13           And this case is too -- then I am mindful of  
14 the fact that at a prelim not only is the evidentiary  
15 burden lower, but the types of evidence which can be  
16 admitted by way of hearsay is lower.

17           That does not mean that there does not come a  
18 case, particularly a case of this severity, sexual assault,  
19 possible corroboration, physical evidence not involving  
20 corroboration, particularly the severity that the Court on  
21 this state of the record should say they're possible  
22 inferences of guilt, but it's also possible from all the  
23 evidence, including her admissions of dishonesty, that he's  
24 not guilty, and I, as a magistrate, do not entertain a  
25 strong suspicion or probable cause.

26           I ask the Court to make that finding as to both  
27 counts and the enhancements.

28           THE COURT: Mr. Chang?

1 MR. GOLDSTEIN: I'm sorry. I was going to  
2 finish with one more comment.

3 It is easy -- it is difficult in these cases  
4 where the facts, if proven true, or the allegations, if  
5 taken on it's face, are true, to call doubts in the favor  
6 of the defendant because of their severity.

7 But the burden of proof requires that you do, I  
8 would suggest, and precisely because of the severity of the  
9 counts, that the District Attorney's case, one would hope  
10 that an individual such as Mr. Dickerson would not have to  
11 remain in custody one day longer without the presentation  
12 of compelling evidence to establish that strong suspicion.  
13 I don't see it here and I ask the Court to agree.

14 THE COURT: Mr. Chang, anything to add?

15 MR. CHANG: The Court witnessed the victim as  
16 she testified, and witnessed her credibility. There is no  
17 other explanation for how she lost her backpack and her  
18 shoes and her jewelry.

19 She explained why she lied to her father in the  
20 past, and she also explained to the Court that in each  
21 instance she always told the truth at the end.

22 Furthermore, the medical records do have  
23 corroborating evidence. There's evidence of an abrasion to  
24 her vaginal area.

25 There's also evidence that the examining  
26 physician observed motile sperm in her. And that's on Page  
27 5 of the Doctor's Medical Center reports that Mr. Goldstein  
28 referred to earlier as the records that he did, in fact,



1 have.

2 So I submit to the Court there is corroborating  
3 evidence of a sexual assault, and I'll submit it on that,  
4 Your Honor.

5 MR. GOLDSTEIN: Just two response points, as he  
6 had a chance to respond to me. The existence of sperm no  
7 more proves a nonconsensual act than a consensual act, and  
8 it's no longer -- it no more identifies the perpetrator --  
9 the existence -- the presence of sperm does not identify  
10 the perpetrator.

11 And her statement that she always tells the  
12 truth, in the end obviously is self serving, and cannot in  
13 and of itself rehabilitate a witness who's admitted to  
14 repeated attempts to lie for the specific reason involved  
15 in this case, not coming home from school on time, as she's  
16 directed to do by her parents.

17 Submitted.

18 THE COURT: Okay. It appears to me that the  
19 offenses set forth in the complaint, in particular, Count  
20 1, violation of Penal Code Section 261(a)(2) and Count 2,  
21 violation of Penal Code Section 211-212.5(c) having -- have  
22 been committed, and that -- as well as the supporting  
23 enhancements, and that there's sufficient cause to believe  
24 that the defendant is guilty thereof, I order that he be  
25 behind to answer to the same.

26 The case is certified to Superior Court for  
27 arraignment on?

28 THE CLERK: July 1st, 8:30..

1 MR. GOLDSTEIN: 1:30, please.

2 THE CLERK: 1:30.

3 MR. GOLDSTEIN: Your Honor, before we close the  
4 case, I had one request to make on the record.

5 THE COURT: Yes.

6 MR. GOLDSTEIN: In addition to the copy of the  
7 meds which Mr. Chang will provide to me today, I would like  
8 to make an informal discovery request pursuant to Penal  
9 Code Section 1054 that the tape, audiotape -- any  
10 audiotapes collected as evidence in this case be turned  
11 over as soon as possible.

12 In particular, that pertaining to an interview  
13 of Miss -- first name is Angel. It's the only witness  
14 interviewed in this case, named Angel, provided in the  
15 supplemental report that Mr. Chang gave to me, be turned  
16 over as soon as possible.

17 THE COURT: Mr. Chang?

18 MR. CHANG: So noted.

19 THE COURT: So noted.

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STATE OF CALIFORNIA        )  
  )    ss.  
COUNTY OF CONTRA COSTA    )


I, FRANK J. MASELLI, JR., do hereby certify:

That I am a Certified Shorthand Reporter of the State of California; that I was duly appointed shorthand reporter by the above-named Court in the foregoing entitled Court and cause;

That on the 19th day of June, 1998, I fully, truly and correctly took down in shorthand writing all of the proceedings had and all of the testimony given in said Court and cause, at the hearing in said matter;

That I thereafter fully, truly and correctly transcribed the same into typewriting, that the foregoing is a full, true and correct transcript of my shorthand notes taken at said hearing and at the time and place therein named.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, 1998.

  
FRANK J. MASELLI, JR.  
CSR No. 1496

**EXHIBIT C:**

FACEBOOK PRIVATE MESSAGE

NATAKI MARIAMA PERRY

DATED: May 29, 2012

 **Nataki Mariama Perry**

 **Nataki Mariama Perry**  
You're friends on Facebook

Former Office Assistant at Richmond Regional  
Business Administration School at University of  
California, San Diego, California

5:25 PM, 5/25

hello nataki  
i know u dont know me but im married to jermaine dickerson and wanted you to know i have been with him since 1995. we have 2 kids a daughter 12, a son 7 and a daughter on the way in sept. we have been married since 2005. we have struggled to provide for our kids because it is so hard for jermaine to find employment because of his rape conviction in 1990. he has claimed over the years that he is innocent and i have always felt that he wasnt that type of guy. because he shows so much respect to women and kids.  
people in our community have harassed and embarrassed our children.  
jermaine is sick now with liver issues and has suffered with depression and suicide over this issue, and only you and him and god know the truth... and i pray if he is innocent that one day he will be exonerated... my family has too treated me and my kids as outcast because i have married a convicted rapist my mother always down talk jermaine because of this conviction... jermaine was homeless living in alleyways and on doorsteps in the rain in cold board loaves and had to sleep anyplace he could for some years because no one in our family would let him stay with them.  
he said the only reason he pleaded guilty is because he was told if he lost that he would spend 15 to life in prison, and that he would not get a fair trial if u got on stand crying and lying on him.  
i said on th the morning a man was exonerated after 10 years when his accuser came forth to the district attorney and told the truth, and no charges were filed on her for perjury...  
id just wanted to reach out to you to say its never too late to tell the truth...and i truly believe in god... and pray that jermaine can get his life back on track.  
ps. i was really raped as a teenager by some Mexican and almost murdered in the oakland hills. they never caught the rapist. i know how it feels for real i do. but i would feel bad everyday if i helped convict the wrong person...

127



5:26 PM

I am very appreciative for you reaching out to me. I haven't thought about any of this since it happened. Yes, i was really raped that day but i will handle this ASAP. My intentions were not to take someones life away and i truly regret the wrong doing i played a part in. Jermaine is a good person and did not deserve any of the hardship he has been through. I cant give him his life back but i can do my part in making things better. I was a very young and ignorant girl and i listened to the wrong people and someone innocent got hurt. I give my blessings to you and your family. i have a family too and couldnt imagine being in this predicament. You have presented yourself as a strong woman. i respect and appreciate that. i am truly apologetic and will make things as right as possible. i will also stay in contact with you to let you what is going with this whole process.

**EXHIBIT D:**

CONTRA COSTA COUNTY PUBLIC DEFENDER'S OFFICE

INVESTIGATION REPORT

WITNESS: NATAKI PERRY

DATED: September 25, 2020

## Public Defender

800 Ferry Street  
Martinez, California 94553-1626  
925-335-8000

Robin Lipetzky  
Public Defender

## Contra Costa County



CENTRAL/EAST OFFICE  
Supervising Attorneys

Elizabeth Harrigan  
Jonathan Laba  
Michelle Dawson  
Karen Moghtader  
Patrick Cannon

### CONTRA COSTA COUNTY PUBLIC DEFENDER'S OFFICE INVESTIGATION REPORT

**To: Rebecca Brackman**  
**From: Justin Hill**  
**Re: *People v. Jermaine Demel Dickerson***  
**Witness: Nataki Perry (address: 915 Campbell Street, Oakland)**  
**Date of interview: September 25, 2020**

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On September 25, 2020, Rebecca Brackman contacted Nataki Perry by phone, and I was added to the calls. Ms. Brackman identified herself as an attorney for the Contra Costa County Public Defender's Office working for the defendant listed above and identified me as an investigator. Ms. Perry agreed to talk with us and told us:

Ms. Perry remembered sending a Facebook message to Mr. Dickerson's wife that it was a mistake she said it was Mr. Dickerson who raped her. She did not remember exactly what she said, but that was the "gist of the message." She was in her right mind when she sent it.

Sometime after that message was exchanged, someone came to Ms. Perry's house, spoke to her, and asked her questions about what exactly happened regarding the incident in question. Ms. Perry remembered the person who came to her house was a woman named Charlotte Epps, after she was given Ms. Epps's name and a description of her.

The Facebook message was read to Ms. Perry. Ms. Perry said it was "something that I did say." She did not put all of the details in the message because she did not want Mr. Dickerson's wife to have to go through all of that.

Ms. Perry feels responsible for all the things that happened with Mr. Dickerson. When asked whether her position was still that Mr. Dickerson did not rape her, Ms. Perry said, "yes."

Ms. Perry said she had been seeing an eighteen-year-old off and on since she was thirteen or fourteen years old. Everyone called him "T," and he knew a lot of people at El Cerrito High School. He was the person who raped her. Ms. Perry did not know him as well as she should have. Ms. Perry was locked in the house and could not leave. She was forced to have relations with "T" and his cousin.

"T" threatened Ms. Perry and told her that she "better say it's not" him and gave her Mr. Dickerson's name. Ms. Perry knew the name; Mr. Dickerson was in her PE class.