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Trial Transcript 12-14-16

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-FC

DEXTER TAYLOR

Defendant.

_____/

JURY TRIAL

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, December 14, 2016

APPEARANCES:

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TABLE OF CONTENTS

WITNESSES

PAGE

None .

E X H I B I T S

Offered Received

None .

1 Detroit, Michigan

2 Wednesday, December 14, 2016

3 At approximately 10:02 a.m.

4 - - -

5 THE COURT: This is case number
6 2016-007780-01. People of the State of Michigan
7 versus Dexter Burrell Taylor. Here today for a
8 continuation of a jury trial. Your appearances for
9 the record please.

10 MS. DILLON: Good morning, your Honor.
11 Susan Dillon on behalf of the People.

12 THE COURT: Good morning, Ms. Dillon.

13 MR. BROWN: Good morning, your Honor. May
14 it please the Court, Mark Brown appearing on behalf
15 Mr. Dexter Taylor who is present in court.

16 THE COURT: Good morning, Mr. Brown, and
17 good morning to you, Mr. Taylor.

18 DEFENDANT TAYLOR: Good morning, your
19 Honor.

20 THE COURT: All right. Last night when we
21 left off, Mr. Brown, the People had rested and I
22 have denied your motion for a directed verdict. Are
23 you now prepared for me to voir dire your client as
24 to his right to remain silent?

25 MR. BROWN: Yes, ma'am.

1 THE COURT: All right. Mr. Taylor, can
2 you please stand. Can you raise your right hand?
3 Do you solemnly swear or affirm that the testimony
4 you'll will now give in the cause pending before
5 this Court will be the truth, the whole truth and
6 nothing but the truth?

7 DEFENDANT TAYLOR: I didn't plan on
8 testifying, your Honor.

9 THE COURT: No, no, no. Hold on. I just
10 need you to swear to tell the truth.

11 DEFENDANT TAYLOR: Yes, ma'am.

12 THE COURT: Okay. Put your hand down.
13 Now, Mr. Taylor, are you under the influence of any
14 drugs, alcohol or any substance that is affecting
15 your ability to make decisions today?

16 DEFENDANT TAYLOR: No, ma'am, I'm not.

17 THE COURT: Sir, do you understand that
18 you have a 5th Amendment right to remain silent and
19 that if you choose to exercise your right to remain
20 silent I will instruct this jury that they cannot
21 and should not use your silence against you?

22 DEFENDANT TAYLOR: Yes, ma'am, your Honor.

23 THE COURT: Have you had an opportunity to
24 discuss this issue with your attorney, Mr. Brown? I
25 don't want you to tell me anything that he said to

1 time to think about all of these issues?

2 DEFENDANT TAYLOR: Yes, I have, your
3 Honor.

4 THE COURT: And have you reached your own
5 decision as to what you think is best for you to do?

6 DEFENDANT TAYLOR: Yes, I have, your
7 Honor.

8 THE COURT: And what is your choice today?

9 DEFENDANT TAYLOR: I'd like to plead the
10 5th and not take the stand, your Honor.

11 THE COURT: Has anyone threatened you or
12 forced you to get you to remain silent?

13 DEFENDANT TAYLOR: No they haven't, your
14 Honor.

15 THE COURT: You've made this decision on
16 your own because you believe that's what's in your
17 best interest to do?

18 DEFENDANT TAYLOR: Yes, I have, your
19 Honor.

20 THE COURT: All right. Mr. Brown, is
21 there anything that you would like to further
22 clarify for your client for the record?

23 MR. BROWN: It might be redundant but, Mr.
24 Taylor, you and I have had many conversations at the
25 jail, probably not as many as you've wanted to have,

1 but we've had many conversations at the jail about
2 this case, right?

3 DEFENDANT TAYLOR: Yes, we have.

4 MR. BROWN: And we've discussed strategy
5 in this case, like the Judge said, and we've
6 discussed whether or not you were going to testify
7 or not testify; is that correct?

8 DEFENDANT TAYLOR: Yes, we have.

9 MR. BROWN: And I've told the reasons I
10 thought maybe it might be good to testify, the
11 reasons I thought maybe might not be good to testify
12 but I always told you it's your choice, right?

13 DEFENDANT TAYLOR: Yes, sir, you did.

14 MR. BROWN: So your satisfied that you are
15 making the decision? I didn't make the decision for
16 you; is that correct?

17 DEFENDANT TAYLOR: Yes, sir, I am.

18 THE COURT: Okay. You can be seated.
19 I'll let the jury know that they can't hold their
20 silence against you.

21 MR. BROWN: Thank you. Judge, when we
22 broke last night I started thinking a little bit and
23 I thought about the fact that I'm moving now for a
24 mistrial.

25 THE COURT: Okay.

1 MR. BROWN: And the reason I'm moving for
2 a mistrial is a couple things. One, is that during
3 the time that Sergeant -- what's your position?

4 OFFICER TUSKI: Detective.

5 MR. BROWN: Detective Tuski, Tuski
6 testified he mentioned another case and I'm saying
7 he said another case which is something that we
8 know, we all know that then the jury then sent
9 questions that they keyed in on that, number one.

10 Number two, during the course of his
11 testimony he also mentioned, I showed him photos of,
12 he didn't say just I showed him photos of his Davis,
13 he said I showed him photos of some women. Now in
14 the case of a defendant showing an array just
15 because you're trying to see who a person can pick
16 out between that person but in this case, if you
17 showed photos of women then perhaps you're showing
18 him then perhaps for the jury to speculate, guess,
19 wonder about, you're showing them photos of other
20 people that might be involved in other matters so
21 for those reasons I'm asking the Court to declare a
22 mistrial. Thank you.

23 THE COURT: All right. Your response, Ms.
24 Dillon.

25 MS. DILLON: Your Honor, I'd ask that the

1 motion for mistrial be denied. First off, when
2 Officer Tuski testified in regards to how he started
3 to work on his case I believe his testimony was that
4 he was hired by the Wayne County Prosecutor's Office
5 to investigate cold cases and that he got this
6 Melvindale case because it was associated with I
7 think it something else that he was working on. He
8 didn't say it was another sexual assault case. He
9 didn't say it was a rape case. He didn't even say
10 the nature of the case and he didn't give any
11 details of that case and there was no objection
12 raised at that time as to the testimony that the
13 witness gave.

14 And then in regards to Detective Tuski
15 saying he showed photographs he basically -- I don't
16 recall exactly what his wording was, but if he said
17 he showed photographs, he said that, he just showed
18 photographs. He didn't they that he showed him
19 photographs of multiple rape victims. He said I
20 showed him photographs to see if he recognized
21 anyone. I don't see how we can then say that that
22 was implying to the jury that there were multiple
23 victims of this defendant just by that testimony
24 and, again, there was no objection raised during
25 trial yesterday when Officer Detective Tuski was on

1 the stand and made these statements so, Judge, we
2 would ask that the motion for the mistrial be
3 denied.

4 THE COURT: Well, you know, I get that
5 there was no objection raised but maybe Mr. Brown
6 didn't object at that point in front of the jury
7 because he didn't want to call more attention to it.
8 You jump up and you object then you call more
9 attention to something that he probably, I mean, I
10 can't speak for Mr. Brown. He can speak for himself
11 but I don't think that just because Mr. Brown didn't
12 object to something as a matter of trial strategy
13 that it means that he concedes to something. I
14 mean, this happened on direct examination and it was
15 your decision, trial strategy decision, and I don't
16 know why, to just not even make any effort to
17 legally introduce that evidence about that other
18 investigation. As a matter of trial strategy you
19 chose not to do that in pretrial motions and then
20 you ask the question that elicited the information
21 that you had not otherwise sought to be introduced
22 so any way. Your response, Mr. Brown?

23 MR. BROWN: Well, quite frankly, Judge, I
24 think you're correct, first off. I didn't really
25 key in so much on the case initially but when he

1 said women I thought about that and, again, I didn't
2 jump up because obviously the jury is going to say
3 oh he's really bothered by that but just leave out
4 what Mark Brown did or whatever. Let's think about
5 what we already know, you me and the prosecutor,
6 that three jurors was it?

7 THE COURT: Three.

8 MR. BROWN: That had questions, yeah,
9 questions, and their questions came on the heels of
10 that testimony so it's not something that we can
11 simply ignore and say maybe not because we know that
12 it had an affect on the jury and I can't go back
13 there and explain to them, you know, when their
14 deliberating oh make sure you don't do this or do
15 that. You can argue all day long but if something
16 as been put in their mind, particularly we talked
17 about the instruction I believe it was 2.9, CGI 2.9?

18 THE COURT: It is section three.

19 MR. BROWN: Right. That might address the
20 fact that they're not supposed to do that but we
21 already know that they did that. We already know
22 that they focused on that and so, you know,
23 obviously it's in the Court's discretion but I think
24 in the interest of justice a mistrial is necessary.
25 Thank you.

1 (At 10:12 a.m. off the record)

2 (At 10:14 a.m. back on the record)

3 THE COURT: All right. In circumstances
4 such as this the declaration of a mistrial is an
5 extreme remedy that should only be granted once all
6 other options have been explored and exhausted and I
7 think under these circumstances I'm not sure that we
8 have -- it has given rise to a situation such that
9 manifest necessity exists in order to declare a
10 mistrial and under circumstances where it's a
11 defense motion for a mistrial I don't know that
12 manifest necessity is the standard but it's still
13 under the case law that looks at these circumstances
14 that the declaration of a mistrial is not something
15 that should be taken lightly. And if you look
16 People v Anglin, 6 Mich App 666, a 1967 case and
17 People versus Hicks, 447 Mich 819, a 1994 case, I
18 think that looks at all of the -- gives the Court
19 all of the guidance that it needs in order to make a
20 determination whether or not it's appropriate to
21 grant a mistrial at this juncture, and I don't think
22 so.

23 I think that the facts that the jury does
24 not have to hear these facts in a vacuum. I think
25 the reality is that the testimony that was elicited

1 was limited in nature. It didn't go into any detail
2 as to exactly what it was that Mr. -- that the
3 detective, the Officer-in-charge, was investigating.
4 I believe, and I could be wrong and the transcript
5 will bear it out should that become necessary at
6 some point for appellate review, but I believe what
7 the detective testified to was that he was looking
8 at another matter out of Detroit and that led him to
9 the Melvindale case involving the defendant and so
10 he just kept the case. And I do think that it's a
11 reasonable inference that the jury might be able to
12 draw given the nature of the detective's employment
13 for the Wayne County Prosecutor's Office that it was
14 related to some sort of investigation of sexual
15 misconduct or something but it could have very well
16 been also another -- by the defendant but it could
17 have very well been associated with another
18 allegation that was made by the complainant. There
19 could have been another rape kit involving the
20 complainant that led them to look at the rape kit
21 that was in Melvindale. That's just not -- it
22 doesn't only mean that it could have been something
23 involving the defendant.

24 And while I do think that perhaps the
25 Prosecution erred in it's pretrial decision to not

1 motion the matter up and have it ferreted out so
2 that this could have been addressed pretrial in a
3 clear ruling, I think the same could have been done
4 by Mr. Brown could have filed a motion in limine to
5 preclude and so any references to that other case so
6 that we wouldn't have been in this situation where
7 the detective -- every one could have been on
8 notice, one way or the other, whether this was going
9 to be an area that could have been explored and
10 addressed fully by the Prosecution in terms of
11 presentation of other bad act evidence or whether or
12 not a fine line could have been driven, drawn around
13 the parameters of what could have been elicited from
14 the detective during his testimony about his
15 investigation of how he got involved in the case and
16 everybody could have known that that area would have
17 been off limits and there would have been no
18 questions about it but, what's done is done. You
19 can't unring a bell but I don't think it is such to
20 the point that a mistrial is necessary.

21 And as it relates to Mr. Brown, your
22 recollection that the detective testified that he
23 showed the defendant pictures of women, I don't know
24 that that necessarily lends to the suggestion that
25 he was showing him pictures of multiple women that

1 were accusing him of sexual assault. I just don't
2 that and I understand that you have to err on the
3 side of caution and being a zealous advocate for
4 your client you have to address these issues and
5 drop a footnote, so to speak, to either try to get
6 relief for your client at the trial level or on the
7 appellate level if it turns out that my ruling is
8 wrong but I just don't think that, at this point,
9 anything has gone on such to necessitate the extreme
10 act of declaring a mistrial at this time.

11 I think that the curative, well, it's not
12 really a curative instruction, but the modified
13 instruction that I'm going to give the jury 2.9 that
14 they have asked questions that were not asked and
15 it's because I determined that it should not be
16 asked, that that will cure any curiosity that the
17 jurors were wondering about this other investigation
18 might have, and also, you know, there's no facts in
19 evidence about that really and so I would be happy
20 to give a further instruction but I think to do that
21 would only further draw attention to something that
22 I think would be best left alone, so if you think
23 that a further curative instruction is necessary
24 where I specifically address the officer's testimony
25 about another investigation I will consider that but

1 at this point I think it would do more harm than
2 good. Is there anything else?

3 MR. BROWN: No, your Honor.

4 THE COURT: All right. So given at this
5 point that the defense does not intend to call any
6 witnesses you'll be resting, is that true, Mr.
7 Brown?

8 MR. BROWN: Yes, ma'am.

9 THE COURT: All right. You'll each have
10 40 minutes for your closing argument. Do either of
11 you think that you need longer than that?

12 MR. BROWN: I don't think so, Judge.

13 MS. DILLON: No, Judge.

14 THE COURT: I'll let you know when you
15 reach the 20 minute mark. I'll let you know when
16 you have reach have five minutes and then when your
17 time is up, and then you'll be able to see the timer
18 that will be up too all right.

19 MS. DILLON: I'm just going to move this
20 around because --

21 THE COURT: You do whatever you want. Are
22 you saying that you're not going to use it or you
23 are?

24 MS. DILLON: I am not because I was if the
25 defendant were to testify.

1 THE COURT: Oh okay. Bring out the jury
2 please. All rise for the jury.

3 (At 10:21 a.m. jury enters the courtroom)

4 MR. BROWN: Judge, can we approach just
5 for a moment?

6 THE COURT: Sure.

7 (Sidebar discussion held off the record)

8 (At 10:22 a.m. sidebar discussion concluded)

9 THE COURT: Good morning, Ladies and
10 gentlemen.

11 THE JURY: Good morning.

12 THE COURT: I'm sorry to have the deputy
13 had to come in and tell you guys to quiet down but
14 we were on the record addressing some things and
15 because the microphones are kind of sensitive I
16 think they might have been picking you up in there
17 but at least I know you guys weren't miserable in
18 there. All right. So, Mr. Brown, at this time the
19 People have rested. Does the defense intend to call
20 any witnesses?

21 MR. BROWN: No, your Honor, and the
22 defense rests.

23 THE COURT: All right. That means the
24 evidence and testimony in this case is done and
25 there is nothing left but for the lawyers to make to

1 you their closing arguments and for me to give you
2 my instructions on the law that applies to this
3 case. Remember what I told you early on that what
4 the lawyers say is not evidence. Their arguments,
5 at this point, are only meant to help you see --
6 help you see the way each side sees the case. They
7 will each have 40 minutes to address you but because
8 the prosecutor has the burden of proof Ms. Dillon,
9 if she wishes, can reserve a portion of her 40
10 minutes to respond to the things that are raised by
11 Mr. Brown during his closing argument, so that mean
12 Ms. Dillon, if she wishes, will have the opportunity
13 to speak to you not once but twice this morning.
14 But just because she gets to talk twice doesn't mean
15 that what she has to say is more important than what
16 Mr. Brown has to say. Their arguments are equally
17 important and just as you have paid attention
18 throughout all of the trial I ask that you pay
19 careful attention to the lawyers when they make
20 their closing arguments. If they say something
21 about the facts that differs with your collective
22 memories about what the facts, evidence or testimony
23 was then you are to rely on your own common sense, I
24 mean, your own collective memories as to what the
25 evidence or testimony was. They do their best to

1 remember but they might remember things differently
2 than you remember things but you're the judges of
3 the facts so it's what you say the facts are that
4 matters, not what the lawyers say.

5 They will -- you both have 40 minutes. I
6 think I told you you'll get a warning at 20 minutes.
7 You'll get a warning at five minutes and then I'll
8 let you know when your time is up. Whenever you're
9 ready, Ms. Dillon, you may began.

10 MS. DILLON: Your Honor, I would reserve
11 ten minutes.

12 THE COURT: No, no, you don't have to tell
13 me. That's up to you. Whenever you're ready I'll
14 start your timer.

15 MS. DILLON: Thanks, Judge. I'm ready.

16 THE COURT: All right.

17 MS. DILLON: Good morning, every one.

18 THE JURY: Good morning.

19 MS. DILLON: Thank you again for your time
20 and your patience in this matter. Thank you for
21 listening to all of the witnesses that testified,
22 all the evidence and I want to Thank you in advance
23 for following the law that the judge is going to
24 give you, following those instructions and applying
25 those to all the evidence, the testimony, everything

1 that you gleamed in the last two days.

2 It's time for justice in this case. As
3 you know, this case is 20 years old. The events
4 occurred in July of 1996 and 20 years is a long time
5 to wait for justice. It's also, because we learned
6 a long time for people to remember every single
7 detail about an event that occurred 20 years ago,
8 and it's hard to remember things from 20 years ago,
9 whether it was a happy event or a horrific event
10 and, in this case, for Rachael Davis that day in
11 July 1996 was a horrific event. I think you could
12 tell as she testified and told you what happened
13 that day, the affect that those events had on her.

14 On July 25, 1996 Rachael Davis endured
15 this horrific humiliating event that basically began
16 with her own reckless behavior. She flat out told
17 you in 1996 she was a crack user. She used crack
18 daily and to do that she went to areas where she
19 knew there would be other people like her either
20 trying to buy crack or be there smoking crack. It
21 was kind of, I believe she described it, as comfort.
22 You went to where people were doing the same things
23 that you wanted to do and you went to that part of
24 town in those areas because you knew that that's
25 what other people were going to be doing and she

1 felt comfortable with that.

2 So in 1996 she went to that area in July
3 because she was going to smoke crack and when we
4 started I had asked you a question about whether
5 anybody could be a victim of a crime. Could a drug
6 addict be a victim of a crime? Could a poor person?
7 Could a rich person? And we all agreed, you all
8 agreed, that anyone can be the victim of a crime and
9 we have that anyone in Rachael Davis. She was a
10 drug addict. She admitted that to you. She was in
11 that area and what she also admitted to you is that
12 she was standing on the street and a person came up
13 in a car and that person was the defendant. He came
14 up in a car and asked her if she wanted to get a
15 buzz on and she told you what that meant, that meant
16 that they were going to smoke crack together, so at
17 that point she's comfortable with that because
18 that's why she's in that area to be, for better for
19 worse, in her comfort zone to do what she does
20 everyday, so she told you she willingly got in the
21 car with the defendant because at that point she
22 didn't have any concerns. She got in the car with
23 the defendant and they drove off and they headed to
24 the old K-Mart in Melvindale off of Outer Drive and
25 we know from the officer's testimony, from her

1 testimony, that this K-Mart was no longer a
2 functioning K-Mart and it was a place where people
3 went to do things that they wanted to do in private
4 and what those two were going to do that day was
5 something you have to do in private because it's
6 illegal to smoke crack. It was in 1996, it's still
7 today, so they go back there and she did say in her
8 testimony she got a little uneasy because of the way
9 the defendant was driving. She said he was driving
10 pretty fast and what she thought was he's just in a
11 hurry to smoke crack and to her, again, she was a
12 little worried about the driving but she didn't
13 think any horrific was going to happen to her at
14 that point, and it wasn't until they got behind the
15 old K-Mart near the loading dock when the defendant
16 said to her "Bitch get out the car" that she knew
17 something was wrong. She immediately got scared.
18 So scared that she got out the car. Her shoes were
19 left in the car and she got out, came around. The
20 defendant got out of the car and at that point he
21 pushed her down on the ground and we're not talking
22 a nice soft grassy knoll. We're talking about a
23 loading dock area behind an abandoned store. An
24 area that's filled with garbage. We know from
25 testimony there's a broken bottle back there. We

1 know it's dirty and we know that it was cement and
2 we have exhibits that have been admitted, one, two,
3 three and four that show that area that day in July
4 of 1996. You can see when you look at these
5 photographs, there's dirt, there's trash and it's
6 cement.

7 And at this point, Rachael Davis becomes
8 extremely scared because she gets hit with a
9 baseball bat by the defendant. She doesn't remember
10 20 years later if it was a shiny aluminum bat. She
11 doesn't remember if it was a wooden bat. She
12 doesn't remember if it was a souvenir bat, as
13 defense counsel refers to, but we know from the
14 officer's testimony and from People's exhibit ten,
15 which was the lab report from the State Police, that
16 it was one 24 and a half inch wooden baseball bat,
17 and it doesn't matter if it was a souvenir baseball
18 bat like they give to the kids on Kid's Day at Tiger
19 Stadium or if it's a bat that Miguel Cabrera would
20 use. It's a bat and in this case it's a weapon
21 because we know that it was used to hit Ms. Davis
22 during her assault.

23 So defendant forces her on the ground and,
24 again, we're talking about the loading dock, the
25 ground, cement, dirt, garbage and he assaults her.

1 He put his penis into her vagina and he commits the
2 crime of criminal sexual conduct in the first
3 degree. Rachael Davis didn't testify to this but
4 the officers did that during the assault she
5 defalcated on herself and maybe 20 years later she
6 doesn't remember that but we know that the officer's
7 found the tissue paper, the paper that was there
8 that she said she wiped herself with. We know from
9 officer now Mr. Taft's testimony that when Rachael
10 Davis was at the hospital she smelled like feces, so
11 we know that that also happened during this assault.

12 We also know that she was injured. She
13 had scrapes on her right knee and we know that she
14 had scrapes on her back. In fact, she even had an
15 abrasion on her buttock and that is from being
16 forcefully penetrated while laying on cement.

17 After she was assaulted she told you that
18 she demonstrated she froze. She laid there with her
19 eyes closed and she waited till she thought he was
20 gone and then she knew she had to get help and she
21 was screaming for help and she made her way out
22 towards an area where she knew there would be
23 traffic towards Outer Drive. Now there's some crack
24 and forth, did she crawl, did she walk, did she
25 limp. We know she didn't run and, yeah, it was a

1 great distance but she made her way out there and
2 you know she did because Mr. Diffatta happened to be
3 driving by. He has no connection to Rachael Davis,
4 to the defendant, to anyone and he happens to be
5 driving down Outer Drive and he hears a woman
6 screaming for help and he looks and he sees a woman
7 coming down and Mr. Diffatta happens to be an
8 off-duty police officer. He immediately calls
9 Melvindale Police to tell him there's a woman, tell
10 them, that needs help and he decides he's going to
11 turn back around and we all know you have to make
12 the Michigan U and we know how much time that takes,
13 but we also know from the testimony that Melvindale
14 itself is like two square miles so it's not that big
15 and lucky enough the police officers are able to
16 respond very quickly in Melvindale, and in this case
17 by the time Mr. Diffatta makes that Michigan left
18 and comes back around the officers are there.
19 Officer Hayes is there and Officer Taft is there.
20 And Officer Hayes told you that when he encountered
21 Rachael Davis she was his hysterical, hysterical.
22 She couldn't give him her name. She couldn't say
23 anything. He tried. What did he end up having to
24 do? He had to go through her purse. He found a pay
25 stub that had her name on it so he knew who she was.

1 What they got out of her, Officer Taft gleaned
2 information from her. He went to the hospital with
3 her because remember the ambulance came she went to
4 Oakwood Hospital via ambulance, and Taft said he
5 came back and shared information that he had gotten
6 with the other people that were at the time scene
7 because they had secured the scene. We know that
8 Hayes was there. Taft came back. Sergeant Bowerman
9 was there and then we also know that Sergeant
10 Marabito appeared on the scene. He came and
11 testified, and they collected evidence at the scene
12 that day. They took the photographs and they
13 collected the baseball bat so we know the baseball
14 bat existed. We know the baseball bat went for
15 fingerprint testing. We know it came back without
16 fingerprints but we know that Sergeant Marabito went
17 back to the State Police bat backup and brought it
18 back to the Melvindale Police Department. I don't
19 know what they did with it in the last 20 years but
20 we know it existed. Rachael Davis told you about
21 it. The officers saw it. It went for testing and
22 it came back.

23 We also know that the officers, based on
24 information they got from Rachael Davis went and
25 checked out that area. They looked for the broken

1 bottle that was the marker for them that she told
2 them about for where the assault took place. They
3 saw that broken bottle. She told them she had
4 defalcated on herself, they saw the evidence of
5 that. One of things that Officer Taft told you is
6 back in the day they weren't evidence techs like
7 they are today so they didn't collect every single
8 thing that they saw back there and you know just
9 from looking at the fact that we have polaroids the
10 level of technology that they had in 1996 in
11 Melvindale.

12 Well one of the things that did happen in
13 1996 was the sexual assault exam. That was
14 something that they did do in 1996, and we know that
15 Rachael Davis was taken to Oakwood Hospital where
16 she met with Valerie Johns who is now Valerie Taylor
17 and she was the nurse that performed the sexual
18 assault forensic exam on Rachael Davis, and she
19 described that exam for you. She said the first
20 thing Rachael Davis had to do was stand on top of a
21 sheet and take off her clothes. She stood there
22 naked and then she put on a gown and the nurse also
23 told you it was at that time that she observed
24 injuries on Rachael Davis. She had the abrasions on
25 the back of her shoulders. She had shoulder pain

1 and she also had the abrasion on her knee and the
2 word that she used, I want to make sure that I use
3 the right word, in her report which was admitted as
4 exhibit 11 that on her right knee that she had like
5 skin that was missing. You remember that testimony
6 because she had to -- I wanted her to define the
7 word. I think she said it was an inclusion that it
8 was skin missing off of her right knee, so that
9 injury, those injuries or consistent with the
10 testimony that Rachael Davis gave you on how she was
11 assaulted behind the old K-Mart that day.

12 And then we learn upon further exam the
13 doctor noted that she actually had abrasions on her
14 buttocks as well, and that's consistent with the
15 testimony and the assault that Rachael Davis
16 described for you. And we learned that after
17 Rachael Davis was put on that hospital gown a number
18 of things were done. They took her version of the
19 events and they also took samples from her and by
20 samples I believe you will recall that the nurse
21 testified and she told you that they pulled hair
22 from her head. They combed hair from her head.
23 They pulled hair, pubic hair from her, and they also
24 had her kneel or lean over a street while they
25 combed pubic hair. They took blood from her and

1 then they took swabs, and the swabs were just that;
2 Q-tips that they used to swab regions where the
3 reported assault occurred and we know in this case
4 that there was a vaginal swab that was taken and we
5 know that all the swabs, the hair samples,
6 everything was put into that collection kit, the
7 rape kit and it was sealed, and from the hospital
8 sealed kit was taken Sergeant Marabito up to
9 Michigan State Police.

10 And we know back in 1996 the only thing
11 that was done with that kit at that time was
12 Charlotte day, the serology gist, looked at the
13 slides and cut sections of the swab to determine
14 whether or not there was even any DNA there and she
15 determined that there was but at that time because
16 there was not a known suspect you heard that nothing
17 was really done with those samples at that time.
18 They were just storied at Michigan State Police.

19 Then in 2004 Michigan State Police,
20 Heather Vitta told you that they got grant money
21 hand with that grant money they processed the
22 backlog of samples that they had for unknown
23 suspects and, in this case, Rachael Davis her
24 samples were outsourced. They were outsourced to
25 Fairfax Identity Laboratories in Virginia and you

1 heard from Mr. Benedict, actually I should all him
2 doctor, Dr. Benedict Arrey, who did that DNA
3 analysis and he explained to you what they're
4 looking for and how they do it; that they take the
5 sample, they took the vaginal swab and they
6 separated DNA. They replicated copies of the DNA so
7 they have enough to work with and they took out the
8 female DNA and they matched that to their sample
9 slide of Rachael's blood so they knew that that was
10 Rachael's DNA and then they took out the male DNA,
11 and then they do their process and they look for
12 locations, the distinct locations in the DNA, and he
13 explained he had 13 locations plus one and that plus
14 one determined that it was male DNA.

15 THE COURT: You have 19 minutes.

16 MS. DILLON: Thank you, Judge. And from
17 that DNA extraction and analysis he created a DNA
18 profile of an unknown suspect and he sent that back
19 along with the samples to Heather Vitta at the
20 Michigan State Police.

21 Heather Vitta told you what her role in
22 this case was. She takes the profiles, once they're
23 developed by the DNA analysis, and put it's into the
24 database, the CODIS database, the Combined DNA Index
25 System where their sample, there's DNA in there. So

1 she put this DNA into the CODIS system in the end of
2 2004 and she also explained to you how she checks it
3 every week to see if there's a match and she got a
4 match. And she generated a report and sent that
5 report to the Melvindale Police Department to let
6 them know on March 25, 2005 we have a DNA match to
7 Rachael Davis' samples, and the sample match of her
8 vaginal swab that DNA matched Dexter Burrell Taylor.

9 Well I think we know from March of 2005
10 that the Melvindale Police Department didn't do
11 anything with that information. In fact, Officer
12 Hayes, while he was on the stand, told you the next
13 time he did anything on it was in 2012. He told one
14 of his officers to start to do an investigation.
15 They didn't get any where with that, and it wasn't
16 until Officer Tuski got involved that he
17 investigated the case again, he located Ms. Davis,
18 located her clothing in the Melvindale Police
19 Department, the rape kit in the Melvindale Police
20 Department and then located the defendant, and when
21 he met with the defendant he got a buccal swab.
22 Remember that process he told you about, and that
23 DNA from the buccal swab was sent to the Michigan
24 State Police to confirm that that matched the sample
25 from the DNA from Rachael Davis from the day of that

1 assault and it did and, at that time, Heather Vitta
2 issues her final report, People's exhibit 17, that
3 said that DNA was a match and she also explained to
4 you the statistics that she did and basically told
5 you that the chance of that being a random match
6 after essentially none. In fact it's one in 13.5
7 quadrillion for white people; one in 4.824
8 quadrillion for an African American, and one in
9 419.4 quadrillion for Hispanic. It's the defendant.

10 There's been no other evidence in this
11 case presented in regards to how this attack
12 happened that day other than Rachael Davis'
13 testimony and there were a few inconsistencies. Did
14 she voluntarily get in the car or was she forced in
15 the car? She's telling you she voluntarily got in
16 the car. Back then did she tell the police she was
17 forced to get into the car? Possibly. She doesn't
18 remember but would that really be unreasonable? If
19 you're a crack user and you voluntarily got in a car
20 to go use crack with someone would you want to tell
21 the Melvindale Police that in 1996? Probably not
22 because they're not going to believe anything from
23 that point when you tell them that you're a crack
24 user; that's probably what she was thinking.

25 Also we already discussed the baseball

1 bat. We know there was a bat. She told you she got
2 hit with a bat and it doesn't matter if it was a
3 souvenir bat or if it's a full size bat. It's a bat
4 and it's a weapon.

5 She indicated back then that during the
6 assault she had defalcated on herself and we know
7 that there was evidence of that. She indicated
8 during the assault she was forced on her knees and
9 we know she had tore up knee. She dated that during
10 the assault she was forced on her back on the ground
11 in the loading dock. This wasn't a situation where
12 she had sex in the car with the defendant. She had
13 the scrapes. She had the injuries to prove it.

14 Taking the testimony that you have heard
15 from Rachael Davis alone is enough to find guilt
16 beyond a reasonable doubt in this case but when you
17 add on top of it what the officers discovered on the
18 scene which matched what she told them, the baseball
19 bat, the feces, the dirt, the broken bottle in the
20 loading dock, that's additional evidence that adds
21 to that guilt beyond a reasonable doubt, and then
22 you take the information learned from the nurse from
23 the hospital, the injuries she noted, that's guilt
24 beyond a reasonable doubt and then you have the DNA.
25 We know that when this defendant assaulted Ms. Davis

1 me left this DNA behind. It's been thoroughly
2 tested. It was analyzed and it's a match and it's
3 guilt beyond a reasonable doubt. Thank you.

4 THE COURT: All right. You finished with
5 12 minutes and 44 seconds to spare. Mr. Brown,
6 whenever you're ready I'll start your timer.

7 MR. BROWN: Thank you. You can start now,
8 Judge. Thank you very much. You didn't start my
9 timer?

10 THE COURT: It hasn't started.

11 MS. DILLON: Sorry.

12 THE COURT: It's okay.

13 MR. BROWN: That's good.

14 MS. DILLON: Everything should be there.

15 MR. BROWN: Thank you. Ladies and
16 gentlemen, Thank you very much. I will tell you at
17 the beginning in my opening statement I was very,
18 very brief because what I said was I said I want you
19 to listen very carefully and scrutinize the
20 testimony. Also, what I told you was that I wanted
21 you to remember that you were charged with following
22 the law given to you by the Judge and I'll start out
23 with this thing that I think is very, very
24 important, that is, that there is are principals and
25 the principals are that there is a presumption of

1 innocence. It's not like you come in the courtroom
2 remember they had the old witch trials of Salem that
3 they done dunked people in the water and if you, you
4 know, survived you were able to say you weren't a
5 witch or whatever? We don't have that. What we
6 have here is we have in our system a system where
7 you are presumed to be not guilty and that
8 presumption, you're clothed with that presumption.
9 Mr. Taylor as he sits right here is clothed. He's
10 got that shield of the presumption unless the
11 prosecutor is able to overcome that presumption and
12 not just some thing that says, well, maybe he's
13 guilty or maybe he's could be if you change the
14 status. It has to be beyond a reasonable doubt so
15 if you have a reasonable doubt your verdict must be
16 not guilty; a reasonable doubt as to the elements of
17 the crime involved in this case.

18 There is I think there's a tendency among
19 people to say, you know, people like it this way,
20 that way. You want to hear both sides of the story.
21 The Judge is going to tell you that the defendant in
22 a criminal case has the absolute right to remain
23 silent and that's the kind of thing what you want to
24 hear or how you want to hear something sometimes you
25 have to act out of your personal feelings like how

1 you would like what you'd like to happen because we
2 have rules and laws, and that's what the judge is
3 going to give you, that tell you that you can't say,
4 well, Mr. Taylor didn't say anything or Mr. Brown
5 didn't say, or I didn't like Mr. Brown. I don't
6 care if like me or not, I mean, I don't want to be
7 rude but it's not about me. It's about whether or
8 not the prosecutor has proven the case beyond a
9 reasonable doubt.

10 I start out always this assumption. I say
11 this just about every time I do a closing argument I
12 tell people this: The prosecutor has the burden of
13 proof and I consider the burden of proof like a huge
14 boulder, a boulder of reasonable doubts that sits on
15 the table. Not like a little rock or pebble or, you
16 know, a big stone but a boulder of reasonable
17 doubts. That's why you have the presumption of
18 innocence because the boulder of reasonable doubts
19 are there and it's the prosecutor's function, the
20 prosecutor's duty, the prosecutor's obligation to
21 get rid of all the reasonable doubts and how do you
22 do that? You chip away at the reasonable doubts.

23 Now I'm going to tell you something that I
24 don't know if you thought I would say this any way:
25 I'm not really a shy person. I'm not really the

1 person that kind of shrinks back, you know, I will
2 come right out so when Heather Vitta testified, when
3 there was testimony by Charlotte Day, when Mr. Arrey
4 testified what questions did I -- I didn't ask them
5 any questions and the reason I didn't ask any
6 questions is because I'm not challenging the DNA.
7 I'm not challenging. I'm not saying that Mr. Taylor
8 did not have sex with Ms. Davis, okay, so I'm not
9 saying that at all. What I'm saying to you is that
10 it was not, I'm using the word because we're not
11 using the word rape, it was not CSC in the first
12 degree. It was not rape.

13 Now again you got that big boulder of
14 reasonable doubt here. You have to make your
15 decision as to how you vote in this case on the
16 evidence that's presented by the prosecutor so that
17 means that you have to consider the quality of the
18 evidence presented. Sometimes we have these trials,
19 this is not a very long trial. It's probably long
20 to you because you all would rather be some where
21 else. I should say, then I don't want to be rude.
22 Thank you very much. This is what I really want to
23 thank you for because when I'm here this is what I
24 do: I stand over here and I'm questioning witnesses
25 but I'm not looking at the witness, right. I'm

1 looking at you all because I want to see what your
2 face looks like. I want to see how you're reacting
3 to what the person is saying. In doing that it
4 means I'm not like I'm not over here looking behind
5 not knowing what you're doing. What I know is that
6 you were taking notes, some of you. You were
7 shaking your head not saying you agree with me or
8 agree with Ms. Dillon but you were paying attention
9 and I asked you to do that and I see that you were
10 doing, so I want you during the time that I have
11 here, the 35 minutes that I'm not going to take all
12 of, the 35 minutes I have here I want you to
13 remember, recollect the movie and pay attention to
14 what was presented here because, as I said, it's the
15 quality of the evidence that you have to look at
16 that the prosecutor has produced.

17 The primary witness, forget all of the
18 garbage, like I said, the DNA? The DNA is Mr.
19 Taylor's. I'm not a DNA expert. I mean I've had a
20 million DNA trials. I know the PCR method, you
21 know, we're not going through that. The question is
22 whether or not you believe not whether you can trust
23 what Ms. Davis said; that's cut through all of this
24 and that's for you to change Mr. Taylor's status you
25 have to believe what Ms. Taylor -- Ms. Davis said.

1 Now from the get go you all know what I'm
2 going to say. I said the same things because the
3 asked the witnesses the same questions because it's
4 important that you understand you can't, you know,
5 you want to put sweeten your coffee you don't mix a
6 little bit of salt with the sugar in your coffee.
7 You have to put sugar in it if you want to sweeten
8 coffee. You can't mix in a little lie or a little
9 bit of a lie and like well I didn't mean to tell
10 because then what you know is that nobody here knows
11 Ms. Davis. There's nobody. Nobody. You didn't
12 know her before. You know how you know I got kids
13 40 years old or whatever. I know which one will
14 tell a lie to me. I'd say come on now. You know I
15 know better than that because I know them because
16 I've lived with them, because I watched them because
17 I know. You don't know Ms. Davis. What you know is
18 what, forget everything else. You all know that she
19 lied. I don't care what anybody says about, well,
20 maybe it wasn't this or that. I'm not mocking you.
21 Excuse me. Maybe it was an inconsistency or -- No.
22 She lied.

23 Let's start with the first, the very first
24 lie and I said lie because you can't, you know, I
25 was in my thinking about how things worked in the

1 criminal justice system. This is what people can
2 do: People can view mistakes, I saw that. I saw
3 that young lady. I saw that man. It's like oh no
4 it's not the person. You ever walked up on somebody
5 and say hey Bob, oh sorry. I didn't know it was
6 him, because you're mistaken. So I think it's three
7 things: You can tell the truth, you can tell a lie
8 or you can be mistaken. So of course the prosecutor
9 is going to keep talking about this is 1996; that's
10 20 years exactly. Twenty years give or take a few
11 months, 20 years ago, so certainly the older I get,
12 20 minutes ago I only know what I said maybe don't.
13 Two days ago I don't know what I did. So 20 years
14 certainly you can allow for somebody to have some
15 fuzziness about exactly what happened.

16 Now in this, you know, we're talking about
17 something that if you believe Ms. Davis this is a
18 traumatic circumstance so let's start at the
19 beginning of the big trauma. This is we really we
20 know you not, you know, some things you get confused
21 about: I don't know if I was on a pink sheet or my
22 nurse's name was Sally. No. The first thing you
23 talk about when you're telling the story when you
24 talk to the police when you give the police a
25 statement, when you talk to the nurse when you give

1 her a recollection of what happened is you say, I
2 was grabbed and taken off the street. Now somebody
3 could say well that doesn't mean she wasn't raped.
4 That doesn't mean she wasn't assaulted, sexual
5 assault. This is what I said, what did I tell you?
6 I told you that she lied. Some things you can be
7 mistaken about. You can be mistaken about oh I
8 didn't know. Now I know what the prosecutor is
9 going to say and already said it and essentially is
10 going to say it again and the officer said the same
11 thing: Well, sometimes people feel like they don't
12 want to be forthright and candid with the police, so
13 let's assume. Roll back to 1996 and she said, I
14 don't want to say anything about crack and I don't
15 say that like, you know, everybody got a crack head
16 maybe they know. I got a crackhead in my family so
17 they're human beings and you love them, and you were
18 in Boy Scouts with them and all that kind of stuff
19 but they're a crackhead. A crackhead is a different
20 creature all together. A crackhead do anything for
21 crack, anything, anything. Do anything and
22 certainly have sex for crack, but you start at the
23 beginning, well, okay, let's assume that she didn't
24 want to say anything about crack, okay, that's fine
25 but she didn't say, never during the course of this

1 thing, did she say oh I -- did she say out of her
2 mouth not somebody else saying for her, oh I didn't
3 want to tell them about the crack thing so that's
4 why I made up the story. Never. Nobody ever heard
5 that. You never heard her say it because she's
6 still sitting him crying and I'm not, you know,
7 she's crying, whatever, I don't know. She's sitting
8 here crying about something happened to her when
9 she's doing something to Mr. Taylor now, and I'm
10 saying doing something to Mr. Taylor, that is, she's
11 perpetuating a lie. Now either it's not like any
12 really deep, you know, we got to figure this out
13 scientifically, get DNA to figure out whether you --
14 you either got in the car because you saw that rock
15 and your eyes got big, or somebody forced you to get
16 in the car, then simple stuff like, okay, remember
17 she made comments to the police officer and I
18 believe it was to the nurse, about where she got in
19 the car. Now you think well that's not important.
20 That doesn't mean she didn't get raped. I'm not
21 suggesting that. What I'm suggesting to you is that
22 throughout this entire time that I'm talking to you
23 is that you cannot depend upon what she said and if
24 you depend upon what she said that means that you're
25 disregarding the fact that you had to scrutinize the

1 testimony to determine whether or not that person is
2 telling the truth and if you think that you can say,
3 well she, who you don't know, but all you do know is
4 that suppose I never said any thing, we know she's a
5 crackhead. You know. You know that from the
6 prosecutor and everybody else that she is telling
7 you one thing and then something else, so then the
8 thing is which one do you believe? So what are you
9 going to do? How are you going to determine what to
10 believe? How are you going to determine whether you
11 believe? You're going to flip a coin? This is a
12 court of law. You've got deputies and the judge and
13 all that kind of thing. You are the judges of the
14 facts. Are you going to say well probably? And I
15 think that we have jury instructions here and none
16 of the jury instructions say probably. None of them
17 say might, could have, maybe. None of them. They
18 say proof beyond a reasonable doubt so don't get it
19 twisted. Don't go back in the jury room and say,
20 well, you know I felt so sorry. You know tears will
21 make me cry. I cry. I'm sort of a punk in some
22 ways because I cry about nostalgic things.
23 Something might get me choked up. I think about
24 some old days and people whatever but crying doesn't
25 make her tell you the truth because you know she

1 didn't tell the truth.

2 Let's say why why do I know she didn't?
3 What's a good reason, a good example, for her not
4 telling the truth? Well, you know, I didn't put on
5 any rubber gloves but you saw the rubber gloves come
6 out and stuff come out of the bag, right? Now you
7 heard her testimony. What did she say the man, Mr.
8 Taylor, ripped, tore off her clothes, didn't she say
9 that? She said that, and so I said, tore your
10 clothes? He tore me -- tore them off me; that's
11 what she said. I'm not a stenographer. I can't
12 tell you the exact words, but you heard it, so then
13 what you're expecting when they pullout those
14 clothes -- everybody in here was looking, I know. I
15 was looking. I want to see. I had not seen the
16 clothes. The clothes were sealed. The police have
17 them. I don't have them. It's not like I looked
18 before well, you know, those are torn, Mr. Taylor,
19 you know that shirt is torn, because it's not. What
20 did I say? I stood right over there and looked at
21 you while I asked him to turn it around, and then I
22 came up here and I said look at the -- are the
23 button. If you tear off my shirt right now, the
24 buttons torn off. I asked that question, everybody
25 knows that I did, and the reason I asked is because

1 the person that they're relying onto remove that
2 boulder of reasonable doubt here told you out of her
3 mouth here, I'm not talking in 1996. We weren't
4 even -- we don't know what happened there, well, you
5 know we know what people say happened, told you that
6 he tore off her clothes. Now did that happen?

7 The next thing is, and I say this because
8 you have to look at how things fit in common
9 sense-wise. How, you know, we were here and the
10 first day is when she testified on Monday. Ms.
11 Davis told you I said, and I don't know the exact
12 words so don't hold me to it but I'm not trying to
13 trick you or whatever. I'm trying to get to where
14 you understand what the deal is that they have not
15 made the burden of proof in this case. I asked her
16 about how big was the parking lot? Somebody
17 remembers it, I don't know who, but when you go back
18 there and when you deliberate listen. Everybody
19 doesn't remember everything but if somebody here
20 remembers, well, I remember this then talk about it
21 and if you're talking about it -- this is the one
22 thing I'll tell you about jury deliberations: If
23 you're talking and you have somebody, no, and
24 somebody over here, no, well that tells you that
25 there's a reason for different people to differ. If

1 they differ that means that what? There's a
2 reasonable doubt about it so you, and then don't go
3 back there because I know, this is Thursday? What
4 is it? Wednesday?

5 MS. DILLON: Wednesday.

6 MR. BROWN: Good thing not to ask me about
7 nothing I say. I know -- get out of here and go to
8 Greektown or go home or go where ever you want to
9 go. You don't want to be here so you say, well, I
10 don't care. I care about it an I guarantee you 150
11 percent, just like 150 yards, Mr. Taylor cares about
12 it because Mr. Taylor sits here clothed with the
13 presumption of innocence and I told you before, what
14 did I say? You can be presumed -- the presumption
15 is really the presumption of not guilty that the
16 prosecutor didn't do enough of what they had to do
17 to change that. They didn't do it.

18 So what I started to talk about was stuff
19 that you, that you think about and say wait a
20 minute. What did Ms. Davis say when she sat on this
21 chair and this witness stand when I asked her, and I
22 asked her before, you know, I asked and I set the
23 stage back in September when I asked her questions
24 or whatever so she couldn't -- I said, wait a
25 minute, you said this. What did she say when I

1 asked her did she crawl? I did say did she limp,
2 hop, sort of walk, do some old what's those little
3 dances? You know what they are. I don't know what
4 they are. I didn't say did she do that? I said did
5 you crawl on your knees, get down on your knees and
6 crawl all the way from, from the loading dock? I
7 got on the floor then because I wanted you to
8 understand. She didn't say I walked and I fell down
9 and when I fell down I bruised my knee or something,
10 she didn't say that. She said she crawled all the
11 way. Now I wanted you to get a picture because I
12 said, you know, sometimes you'll have if it's a
13 quarter mile, X is a quarter mile and you're zoom
14 along at 70 miles an hour it's right there but a
15 football field is what I don't know if it's Taft or
16 Hayse, one of them said 100 to a 150 yards and use
17 your common sense and reason. Now I'm going to tell
18 you this because everybody here, well, I don't know
19 that for sure but I've been to K-Mart. If have not
20 been to K-Mart, been to Meijers or whatever super
21 store, they do have a parking lot. This is what she
22 said, she sat right up in this stand, this chair and
23 said, I said was it at least be I said maybe about,
24 the parking lot big as this room. Get the -- get
25 out of here. That's because you can't believe her.

1 You cannot rely upon what she said. Anybody has
2 been in the K-Mart parking lot you know how big the
3 parking lot is. The parking lot is not like it's,
4 it's I said from the front door down to Gratiot. I
5 don't know the yards or not, but she told you that
6 she crawled, again, I don't know what's coming out
7 of the bag. I didn't unseal. The evidence is
8 sealed. I can't go and open it up and look. I
9 guess I probably could. I could probably could ask
10 to do it if I wanted to do it but I didn't, but I
11 know that you all, because again you know I kept
12 looking and I'm looking at each one. Everybody here
13 knows I looked at you. I looked in your face and
14 looked in your eyes when somebody said something. I
15 said that is total and complete garbage.

16 When the officers, I can't remember which
17 one it was, you know, don't matter, Taft, Hayse,
18 Diffatta, no, not Diffatta, held up the pants, you
19 saw those pants? Everybody saw those pants? And so
20 you're looking for a 150 yards or 100 yards of
21 crawling on your knees. Did anything see anything
22 that would reflect that? Did anybody see anything?
23 Because that's a real thing. If somebody came here
24 to you and we start out remember we said about how
25 the scales work? If you just tip the scale a little

1 bit and then Mr. Taylor is guilty? No. it's got to
2 be proof beyond a reasonable doubt that means you
3 have to tip the scales way over to the Prosecution
4 to do something to show you that after looking at it
5 I can come to no other conclusion, but you can't do
6 that because you can't trust what Ms. Davis said.
7 You don't know what happened, that's the thing.

8 If you have, sometimes you can say, well,
9 it could have but I really -- you have to know and
10 who has to tell you? Who has to prove it to you?
11 The prosecutor. It can't be anything like I feel
12 sorry because anybody, any, any decent human being
13 that has any kind human tee in them would not want a
14 woman to be raped. Anybody. Anybody who has got a
15 mother, sister or daughter doesn't want to deal with
16 that. Anybody. You can't get caught up in your
17 emotions. You can't get caught up because you're, I
18 feel sorry for that -- no. what you have to do is
19 you have to see whether or not that person is
20 telling you the truth; that's really what this is
21 about whether or not you believe beyond a reasonable
22 doubt that person is telling you the truth. That's
23 not the case.

24 Again, I didn't see holes in the knees. I
25 saw there was a big tear on the side of the thing.

1 Everybody probably saw it and you probably looked
2 down and saw it. No holes. Then I'm talking about
3 I said -- I didn't -- I question people and you
4 might think I'm being sarcastic. I'm not trying to
5 be sarcastic and I said I'm not trying to be
6 sarcastic. I'm just trying to ask you a question
7 because I want to get an understanding. I asked
8 those officers and I got to say this because I
9 forget because I forget stuff: It's very
10 interesting to me when people have a like a
11 automatic thing. I was married for about 40 years
12 or something like that, you know, husbands always, I
13 shouldn't make that -- you won't like it because I'm
14 a bad husband but, any way, you have an automatic
15 response like, I don't remember. You know you
16 remember. You know something. It's like an
17 automatic response, I don't remember, but here's the
18 deal. It's like, I don't remember, is like when you
19 ask a question and I pressed. I do press. I
20 pressed the witness and say, wait a minute, you said
21 this. You know it's a simple thing. Sometimes you
22 say yes, no, I don't know but now you say, I don't
23 recall; that's just garbage. And there's one thing
24 to have garbage coming from a lay witness like Ms.
25 Davis who is here lying about something for whatever

1 her reasons are. Maybe you know some people like
2 spotlight. They like to perform, the drama queens
3 or whatever. It's another thing for police
4 officers. When I say this I have no -- I'm not one
5 of those people that I don't like the police. I'm a
6 defense lawyer through and through but I respect
7 somebody if something happen to my house I'm not
8 calling -- I'm calling the police so I respect them
9 but I also respect our system, that's what I
10 respect, because our system is setup so that the
11 innocent go free; that's what it is. And I said
12 innocent, so the not guilty go free. Nobody is to
13 saying I'm not innocent. Nobody is innocent.

14 But the officer said over and over again,
15 "I don't recall". I'm like get out of here. You
16 know say I don't know. Either you know or you don't
17 know. You have a report and all of that garbage
18 looking at the report saying, well indirectly it
19 said, that's garbage. You know exactly. We all --
20 I don't speak spanish. I speak a little Korean. I
21 was there. I speak a little like Ola but I don't
22 speak any other languages so I'm speaking english in
23 here and I'm not the grammarian. I'm not the person
24 that you say that you say that person speaks, oh he
25 speaks so well because his words are just -- no, but

1 I'm talking like you understand what I'm talking
2 about. You do. So when I asked questions you all
3 listened. I didn't ask questions like I didn't ask
4 any complicated convoluted and, if I did, thank the
5 lord, Judge -- I was going to say Worthy. I
6 apologize. No, don't get angry. Judge Lillard she
7 restated my question in a more, you know,
8 understandable form so ultimately the question I was
9 asking I didn't ask any way over here questions. I
10 didn't ask any questions well you know you say what
11 is he talking about. You knew what I was talking
12 about. If you didn't know, she cleared it up, and I
13 appreciate it. I'm not saying that you -- I'm not
14 saying this like Judge Lillard had any particular
15 viewpoint this way or that way but there were a
16 couple times during the course that I said, and I
17 said Thank you because she made the question clear,
18 but the officer would sit here and go through a
19 bunch of psycho babble stuff that you'd say answer
20 the question. Just answer the question. If you
21 don't know none of these officers happened at Outer
22 Drive, none of them. I don't care what they
23 testified or how they testified, what they think or
24 thought, you know, there was -- oh no. Speaking of
25 not knowing, somebody asked a question here about

1 where did they find the bat? You know because we
2 don't know. What we know is we know that Ms. Davis,
3 Ms. Davis said, and this is what I want you to
4 understand about deception about how people, you
5 know, carry on ruses, about how people carry on
6 dishonest presentations. What she said -- what the
7 officer said, Officer Diffatta, the off-duty officer
8 who was going down the street and heard the lady
9 screaming or whatever and whipped around, swung
10 around and did the Michigan left, he said he heard a
11 woman screaming. Officer, I don't know if it's Taft
12 or Hayse but one of them said she was incoherent,
13 you know, whatever. Now that means that she's,
14 don't get me wrong, if you get raped you might be
15 incoherent. You might not know what's going on
16 because you know it's like you don't know what
17 somebody how they violated you and you're like this
18 just can't be but she had the presence of mind she
19 said, I held the bat by the top, of the bat so she's
20 telling you so she's doing that to preserve
21 fingerprints because the things about liars, they're
22 cunning. Liars have some little thing that they're
23 trying to work it this way. You think that they're
24 doing something like oh the lady I just felt so
25 sorry for her. I don't know. No. that lady knows

1 exactly what she's doing.

2 And then, you know, we're talking about,
3 you know, why do we go down to the K-Mart any way?
4 Why do would go to the loading docks at K-Mart any
5 way? Because, this is important. I want you to
6 think about this: You might remember the terms of a
7 better world, somebody said Better World is an
8 apartment building in Ecorse. It was a smoke house.
9 Tommie's, Tommie's where somebody else father died,
10 Tommie took over. It was a smoke house. That's
11 where people go and what they do is they go to those
12 houses to smoke, get the stem, but the crack and
13 smoke that crack; that's what they do, so if you
14 want to smoke crack there's some place for you to
15 go. I think Ms. Dillon said it's illegal. You're
16 not going to go it right on the streets, you know,
17 okay, so where do you go? You go to the smoke house
18 or you go right around the corner in the alley and
19 smoke that rock but what do you go to K-Mart and the
20 loading dock for? What do two people go there for?
21 What did, again, I apologize. Use your memory
22 because it's better than mine, all of you together,
23 much better. One of the officers said they go back
24 there because they're having -- he used a big word
25 for me, twist. That's where people go back to have

1 sex, that's what they do. They go back there, if
2 they're not -- if Mr. Taylor and Rachael Davis
3 wanted to go have sex you can go to -- you could
4 actually go to the smoke house and go to a room, you
5 can, but there are a whole lot of places. You don't
6 have to drive any where, you know, whatever, but
7 people go back there, according to the police,
8 because they want to have private time to smoke
9 marijuana, cocaine, crack and have sex, so I submit
10 to you that you've got to use your common sense.
11 See sometimes you can take things off and say, well,
12 I can't imagine. Maybe they went there to discuss
13 that new document tear. I don't think so. That's
14 not what the deal is. And then, you know, put
15 things in context. We're not talking about you know
16 sometimes you can have people who you think --

17 THE COURT: You have 13 minutes.

18 MR. BROWN: Thank you, Judge. I might
19 just use that. You think have some like maybe they
20 slipped off. A crackhead is a crackhead is a
21 crackhead and the first thing in the morning when
22 they get up is to get a rock. It's not don't get,
23 you know, you're thinking tomorrow I got to go do
24 this, I go to go out -- no. They're how do I get a
25 rock and once they get that rock and get high and

1 right in the head because there are, what are they
2 called? Contusions, abrasions, avulsions, I think
3 is the word she was talking about, like a divot she
4 said, I think is the word she said. I don't know.
5 Those things they show, they reflect what happen to
6 a person's body. They show that so, you know, and
7 like -- I'm sorry. Forgive me for stutter and
8 stuff. The officer who sat here interesting just if
9 you don't know just say you don't know. I don't
10 know. I'll tell you I don't know. How you look at
11 her back? Remember that? Somebody remember that
12 exchange I had with the officer here about, you
13 know, oh she had abrasions on her back. Did you --
14 how did you see that? Did she turn around? I don't
15 recall. I don't recall.

16 Any way, so the report was, I think it was
17 exhibit 11, Nurse Taylor, her name is Taylor,
18 Valerie Taylor who was Valerie Johnson at the time,
19 in her report there's a picture. There's a picture
20 that shows the places of injury, and you can take
21 this as an exhibit. You can take it back and look
22 at it. It shows that there's an injury on her knee,
23 her right knee, an injury on her, actually I think
24 that A goes down to the buttocks that's what that
25 is, and there's injury on the shoulders, on the back

1 part of the shoulders, which would be consistent
2 with having sex on the ground, I mean, the knee part
3 maybe not but the back, but the thing about it is
4 not what is not there, I mean, not what's there but
5 what's not there because what she said when she
6 talked to the nurse she didn't say anything about he
7 hit me with a bat, I don't think. Let me make sure,
8 which I didn't again bring my glasses, but she said
9 he pushed me to the ground. Before we go any
10 further though, remember the push she described it?
11 I described like pushing like this and I'm moving
12 both my palms open pushing down where the bat?
13 There's no pushing -- there's no. I don't know.
14 How can you trust Ms. Davis? Any way.

15 And the bat? Was the bat before the sex,
16 after the sex? All that is garbage. Okay. She
17 said he pushed me on the ground, the concrete. I
18 fell on my right knee and tumbled facing him. He
19 said, bitch unbuckle your pants and bring them to
20 your knees". Now remember she said he tore off my
21 shirt? Tore it. He tore it and he pulled my pants
22 down? This is what she told the nurse not -- this
23 is the what I'm reading right here. She said he
24 said, lay down. Hurry up lay down. Hurry up. I
25 had to do what he said because he had a baseball bat

1 in his hands". Now she says he had a baseball bat
2 in his hands. "I laid down on my back and I pulled
3 my pants down", now again you know how people say
4 you heard them say he pulled off my pants so either,
5 you know, I'm saying what people say, well, that's
6 no big deal. The pant got -- no. It is a big
7 difference because that's what you said in 1996 to
8 the nurse, "I pulled down my pants and" -- I don't
9 want to use those nasty words, "he sat the bat on
10 the ground and I said, please don't hit me with the
11 baseball bat. I will do anything you want. After
12 he jumped up, pulled his pants up, got in the car
13 and drove off. We were on the passenger side of the
14 car". Now I'm telling you this, you remember the
15 Officer Tuski, Detective Tuski said that he
16 didn't -- he didn't tell her what she said before
17 and I asked these questions because it it would make
18 sense to ask a question. It's like if somebody said
19 to you, we were in courtroom 503, and then you say
20 wait a minute. That trial is in courtroom 502.
21 Well was the Judge there or what did the judge look
22 like? He was a tall guy. That doesn't make sense.
23 That's not what happened, you know, so if that's not
24 what happened and you tell me that's what happened
25 then I'm like I don't believe anything you said

1 because you told me some garbage, that's what you
2 told me so what she said.

3 And then the other things there's a
4 document that's not in evidence. Some things can't
5 be -- some things, this is the way the rules work.
6 Sometimes you have to go by the rules not the way
7 you want it to be. You know how you say I want to
8 see all the papers, because don't come back out here
9 saying, you can do what you want to do, but if you
10 come back out here saying I want to see the paper
11 that said that you're probably not going to see it
12 because it wasn't admitted at that piece of
13 evidence. There's a officer that testified that
14 said something about he was waving, somebody
15 remember this, somebody remember, he was waving the
16 bat around in the air. Again, the only reason I say
17 this to you because in 1996 she didn't say she
18 wasn't saying she was beaten with the bat and that's
19 when if you think about it somebody is being raped
20 and they say they were beaten with the bat, no,
21 that's not what she said. What she said after this
22 crack sex deal went back, whatever way it went bad,
23 she's saying whatever she thinks will get Mr. Dexter
24 Taylor in trouble. She's saying what she thinks
25 will make somebody believe like the garbage about,

1 you know, in and out of the car I bring that up
2 again because why do you have to say that you know?
3 She didn't have to say that she was smoking crack.
4 She said I got in a car with a guy I know. I
5 recognized the guy. She smoked with him before.
6 She knew him before. She said that in her statement
7 to Tuski and she tried to act like well I didn't
8 really, you know, I seen him. They smoked before.
9 It's not like -- it's like I know you. Don't act
10 like you don't know me. You know me now so you got
11 in the car because you know me because you're
12 getting ready to get some crack.

13 So any way, pay attention. Please look at
14 exhibit number 11 or any other exhibit that you want
15 to look at.

16 THE COURT: Five minutes.

17 MR. BROWN: Thanks, Judge. And in think
18 you should. There are, there's a, this is a photo
19 show up, it's like a line up and the purpose of that
20 is just to see whether she knows. Now I'll tell you
21 something else about lying: Now she, Ms. Davis,
22 didn't recognize Mr. Taylor's picture. That doesn't
23 mean Mr. Taylor is not the person who had sex with
24 her back in 1996 on July 25th, but then she came in
25 here yesterday or whatever, Monday, and said, yeah,

1 right here. I asked her at the preliminary exam I
2 asked before. I asked her did she see him, she
3 didn't; I don't know if that's -- she doesn't know
4 who it is, so I'm just telling you this it's like at
5 any given moment what comes out if she's, if her
6 lips are moving she's telling you a lie because you
7 don't know, and I'm saying she's telling you a lie,
8 some of it might not be a lie but the question is
9 whether you have some way, like, if words came out
10 in colors and the blue words were true and she was
11 talking up here on the stand you saw a blue word,
12 blue word, blue word. You saw a red, well, oh she
13 lied about that, you could say that, but you can't.
14 You cannot. You don't know what she said was the
15 truth. You don't know what she said was a lie. All
16 you know is that she said some things that you know
17 she said different things and, you know, the
18 different things are not, you know it's a thing
19 about whether it was on Outer Drive, was it on Dix,
20 was it a K-Mart, was it a Meijers? Okay. You can
21 believe some kind of discrepancies or something like
22 that, no, no, no. did you forcibly taken out of the
23 street and put in a car and threatened in the back
24 with a bat while you're driving in the car? Either
25 that happened or didn't happen so that means if I

1 tell you that then you're going to take, you know,
2 how what is it fool me once, shame on you. Fool me
3 twice, shame on me. She already fooled somebody.
4 She already said something to somebody that was not
5 the truth. Don't get fooled again. Don't you get
6 fooled. Don't you fall for that garbage, I keep
7 changing my word, that garbage that she told you
8 about what happened.

9 What I'm saying to you is -- I'm going to
10 sit down because I got to see down in three minutes
11 and one second. Any way, is that I want you to go
12 back in that jury room and use your common sense and
13 reason and then, oh, I'm going to say this too.
14 That's the detective, that's the prosecutor, there's
15 a defendant's attorney, there's the judge. None of
16 you are or supposed to be detectives. None of you
17 are supposed to be. Like whatever police work was
18 done that's it's in the can. You can't go back and
19 say well they probably or they could have or
20 whatever, no. you know I said something and
21 somebody probably said what am I talking about the
22 feces on the tissue. It's a different time but, you
23 know, we could get that feces and see if it's Ms.
24 Davis' feces to support what she said or, you know,
25 you can do that in today with DNA, you could do it,

1 but you can't do it because they can't even pick it
2 up, and you can't do, you know, somebody asked
3 something about the bat. The officer said she said
4 she picked up the bat, I don't know if she picked it
5 up and then dropped it. She didn't say picked it up
6 and dropped it. There's no question from the
7 prosecutor that she dropped it. What the officer
8 said that and nobody else talked about her having a
9 bat right there at Outer Drive, but the officer said
10 the bat was in the back, you know, the bat that the
11 police officers don't even have that there's no
12 fingerprints on the bat any way and she said it's an
13 aluminum bat but it a wooden bat; that's not a big
14 deal? Everything is a big deal and everything is a
15 big deal because Mr. Dexter Taylor is sitting in
16 this chair with that presumption and you have to
17 make a decision not based on what you feel like, not
18 based on what could have been, not based on what,
19 well, I think -- no. It's got to be based on that
20 big boulder -- one minute and 13 seconds. That big
21 boulder of reasonable doubt has been shipped away,
22 shipped. Everything so there's no doubt. Not like
23 maybe she could have done this. Maybe he waived the
24 bat, maybe he didn't, whatever, no. All reasonable
25 doubts have been shipped. You can't even have like

1 the crumbs. You got to sweep them all away so
2 there's nothing there. There's nothing. If there's
3 anything there, and there's a lot there, the boulder
4 hasn't been broken down. You have to find Mr.
5 Taylor not guilty. I usually don't say. I usually
6 say you find him whatever you think is appropriate,
7 no. I'm telling you you got to find him not guilty
8 because you don't know. You know some things like
9 if you go back and say, I know this happened, I
10 don't know how you can know because you don't know
11 what's the truth of Ms. Davis is telling you. The
12 officers you don't know. You don't know. They
13 don't know because they're just reporting what she
14 said. You don't know. If you don't know your
15 verdict has to be not guilty.

16 Now this is the last thing in my seconds,
17 ten seconds. Don't go back -- I said I was a punk
18 about crying about stuff. Don't go back there an
19 turn into a punk. That means don't you go back
20 there and say oh well since it's seven of you I'm
21 going to change my vote. What you do is don't be a
22 person that's hardheaded like not listen to what
23 everybody says but don't just change your vote just
24 so you can get a verdict. The verdict has to be
25 unanimous. That means everybody has to agree. If

1 you can't agree in this case if you're in reality --
2 zero seconds. Thank you very much. I appreciate
3 you listening to me. The prosecutor is going to
4 come back and talk. I'm -- she going to talk about
5 me sometimes. I'm not on trial so it's not what the
6 defense lawyer said or did. The boulder is the
7 deal.

8 THE COURT: Thank you, Mr. Brown.

9 MR. BROWN: Thank you, Judge.

10 THE COURT: Ms. Dillon.

11 MS. DILLON: Thank you, your Honor.

12 THE COURT: You have 12 minutes and 41
13 seconds.

14 MS. DILLON: Thank you. I am not going to
15 talk about defense counsel, Mr. Brown, however --

16 THE COURT: I'm sorry. You all need a
17 break? All right.

18 COURT OFFICER: All rise for the jury.

19 THE COURT: Leave your notebooks in your
20 chairs.

21 (At 11:34 a.m. off the record)

22 (At 11:43 a.m. back on the record)

23 COURT OFFICER: You maybe seated.

24 THE COURT: Welcome back, members of the
25 jury. Ms. Dillon, you may.

1 MS. DILLON: Thank you, your Honor. So as
2 I said, I'm not going to talk about Mr. Brown but I
3 do want to address a few of the things that Mr.
4 Brown said when he was giving you his version of the
5 case. So Mr. Brown would like you all to believe
6 that we are here in 2016 because Rachael Davis is a
7 drama queen and that she's been carrying on a rues
8 or 20 years. What could possibly be in it for
9 Rachael Davis to come back to court now 20 years
10 later to testify about the sexual assault that
11 happened to her in 1996 and to come back and lie
12 about it? What would be the point? What would have
13 been the point of her answering the door when
14 Detective Tuski came to her? What does she have to
15 gain to sit up here and tell you about this horrific
16 event that she went through? She wasn't Mr.
17 Taylor's girlfriend. He had only seen him around.
18 She saw him smoking crack in the areas where she
19 smoked crack so it's not like they had a long
20 standing relationship, there were no children in
21 commons, nothing like that to where she wanted to
22 some how extract some sort of revenge on Mr. Taylor
23 and over the last 20 years has just been waiting for
24 this opportunity to come in and being the drama
25 queen that he is get that revenge on Mr. Taylor.

1 I'm sorry, but that's not reasonable and that's not
2 logical and, as the Judge has told you, that you
3 apply reason and logic to what you heard and what
4 you heard does not suggest that this was a case
5 where this was an exchange of sex for drugs. Not
6 one person that testified told you that this was an
7 exchange of sex for drugs, but the one person told
8 you this was about doing drugs. It was not about
9 sex for drugs, and Ms. Davis told defense counsel
10 that when he asked her and asked her about that and
11 she said no, no, no, that wasn't this case and there
12 has been no evidence, nothing put into evidence to
13 suggest that it was.

14 The other thing that Mr. Brown indicated
15 to you, and we've all indicated to you that the
16 Judge is going to give you law and we want you to
17 follow that law and one of the things that defense
18 counsel said that you have to be anonymous,
19 anonymous, unanimous in your verdict and that's
20 true, you do. You do have to be unanimous in your
21 verdict whether it's guilty or not guilty but in
22 this case the defendant is charged with criminal
23 sexual conduct in the first degree multiple
24 variables to how you achieve your unanimous verdict
25 you have options and you're going to get an

1 instruction from Judge Lillard to tell you what
2 those options are because we know a lot of different
3 things occurred in this case. We know there was a
4 sexual assault. We know there was a weapon. We
5 know there was injuries so you got options and you
6 all do not have to agree on which option you choose
7 when you reach you unanimous verdict.

8 So your options, there a two things that
9 you definitely all have to find. First you have to
10 find that the defendant engaged in a sexual act that
11 involved entry into Rachael Davis' genital opening
12 by the defendant's penis. We know that occurred.
13 We know she was sexual assaulted, that DNA was left
14 and we know that it was Mr. Taylor's and it was from
15 her vaginal swab.

16 Second, that the sexual penetration
17 occurred under any one or all of the following
18 circumstances, so this is where your options come
19 in. Your first option is that the alleged sexual
20 assault occurred under circumstances that also
21 involved a felonious assault and then there's the
22 elements of felonious assault that the defendant
23 either attempted to commit a battery on Rachael
24 Davis or did act, or did an act that would cause a
25 reasonable person to fear or apprehend an immediate

1 battery, and a battery is a forceful for violent
2 touching of the person or somebody closely connected
3 to the person so that you would reasonably fear or
4 apprehend an immediate battery. Whether he waved
5 that bat at her, hit her with that bat, we know that
6 that fear existed.

7 Second, that the defendant intended either
8 to injure Rachael Davis or to make Rachael Davis
9 reasonably fear an immediate battery. We know that
10 happened.

11 Third, at the time the defendant had the
12 ability to commit a battery, appeared to have the
13 ability or thought he had the ability. We know
14 there was a baseball bat. Now we know in this case,
15 this bat, maybe a souvenir bat but it was a two foot
16 long bat and that created fear in Rachael Davis.

17 The fourth element of felonious assault is
18 that the defendant committed assault with a baseball
19 bat and we know that that happened, so that's your
20 first option that during this sexual assault it
21 occurred under circumstances of a felonious assault.

22 Your second option, and again you get to
23 choose individually which option you want to go
24 with, that at the time of the sexual assault the
25 defendant was armed with an object capable of

1 causing physical injury that the defendant used as a
2 weapon, so that's the bat, that the defendant had
3 the bat, so that's option two.

4 And your third option, again these are and
5 or options. Individually the third option is that
6 the defendant caused personal injury to Rachael
7 Davis and personal injury means bodily injury, and
8 that the defendant used force or coercion to commit
9 the sexual act. We know she was injured. We know
10 she was forced down on the ground. We know her knee
11 got scraped, her back got scraped, her butt got
12 scraped. We know she was injured, so when you come
13 to the point where you're going to reach your
14 unanimous verdict and, again, guilty or not guilty
15 you have the options because this is charged as
16 criminal sexual conduct in the first degree with
17 multiple variables because a lot of things happened
18 in this case, and --

19 THE COURT: You have five minutes.

20 MS. DILLON: So you do not have to be
21 unanimous in the option that you choose but you do
22 have to be unanimous in your verdict. And in
23 regards to that boulder of reasonable doubt, I think
24 over the last couple of days you have heard a lot of
25 testimony and as far as Rachael Davis goes you can

1 question her memory on certain elements but there's
2 been nothing to question her credibility and there's
3 been nothing presented that contradicts the fact
4 that she was assaulted. Behind the old K-Mart she
5 was sexual assaulted and during that sexual assault
6 there was a felonious assault. She was hit with a
7 baseball bat or if you want to believe Mr. Brown,
8 the defendant was waving that bat; that's still the
9 threat of an assault, okay, so that threat of a
10 battery that's a felonious assault. That's your
11 option one. Your option two is he had a weapon. We
12 know he had a baseball bat. The bat was recovered.
13 It went for testing and it came back to Melvindale.
14 We know the bat was there.

15 And your third option is the personal
16 injury. Look at the nurse's report. Read it.
17 You'll see the injury. You'll see what's noted.
18 Given all of that and given the information that you
19 received in the last couple days and knowing the law
20 that you need to follow I ask that you find this
21 defendant guilty of criminal sexual conduct in the
22 first degree beyond a reasonable doubt. Thank you.

23 THE COURT: Members of the jury, the
24 evidence and arguments in the case are finished and
25 I will instruct you on the law that applies to this

1 case, that is, I will explain the law that applies
2 to the case. Remember that you have taken an oath
3 to return a true and just verdict based only on the
4 evidence and my instructions on the law. You must
5 not let sympathy or prejudice influence your
6 decision. As jurors, you must decide what the facts
7 of this case are. This is your job and no one
8 else's. You must think about all the evidence and
9 then decide what each piece of evidence means and
10 how important you think it is. This includes
11 whether you believe what each of the witnesses said.
12 What you decide about any fact in this case is
13 final.

14 It is my duty to instruct you on the law.
15 You must take the law as I give it to you. If a
16 lawyer says something different about the law,
17 follow what I say. At various times, I have already
18 given you some instructions about the law. You must
19 take all my instructions together as the law you are
20 to follow. You should not pay attention to some
21 instructions and ignore others. To sum up, it is
22 your job to decide what the facts of the case are,
23 to apply the law as I give it to you and, in that
24 way, decide the case.

25 A person accused of a crime is presumed to

1 be innocent. This means that you must start with
2 the presumption that the defendant is innocent.
3 This presumption continues throughout the trial and
4 entitles the defendant to a verdict of not guilty
5 unless you are satisfied beyond a reasonable doubt
6 that he is guilty.

7 Every crime is made up of parts called
8 elements. The prosecutor must prove each element of
9 the crime beyond a reasonable doubt. The defendant
10 is not required to prove his innocence or to do
11 anything. If you find that the prosecutor has not
12 proven every element beyond a reasonable doubt then
13 you must find the defendant not guilty.

14 A reasonable doubt is a fair honest doubt
15 growing out of the evidence or lack of evidence. It
16 is not merely an imaginary or possible doubt but a
17 doubt based on reason and common sense. A
18 reasonable doubt is just that; a doubt that is
19 reasonable after a careful and considered
20 examination of the facts and circumstances of this
21 case.

22 Every defendant has the absolute right not
23 to testify. When you decide the case, you must not
24 consider the fact that he did not testify. It must
25 not affect your verdict in any way.

1 When you discuss the case and decide on
2 your verdict, you may only consider the evidence
3 that has been properly admitted in this case.
4 Therefore, it is important for you to understand
5 what is evidence and what is not evidence. Evidence
6 includes only the sworn testimony of witnesses, the
7 exhibits admitted into evidence and anything else I
8 told you to consider as evidence. Many things are
9 not evidence and you must be careful not to consider
10 them as such. I will now describe some of the
11 things that are not evidence. The fact that the
12 defendant is charged with a crime and is on trial is
13 not evidence. The lawyer's statements, and
14 arguments, and any commentary are not evidence.
15 They are only meant to help you understand the
16 evidence and each side's legal theories. You should
17 only accept things the lawyers say that are
18 supported by the evidence or by your own common
19 sense and general knowledge. The lawyer's questions
20 to the witnesses, your questions to the witnesses
21 and my questions to the witnesses are also not
22 evidence. You should consider these questions only
23 as they give meaning to the witnesses answers.

24 My comments, rulings, questions and
25 instructions are also not evidence. It is my duty

1 to see that the trial is conducted according to the
2 law and to tell you the law that applies to this
3 case, however, when I make a comment or give an
4 instruction I am not trying to influence your vote
5 or express a personal opinion about the case. If
6 you believe that I have an opinion about how you
7 should decide this case you must pay no attention to
8 that opinion. You are the only judges of the facts
9 and you should decide this case from the evidence.

10 At times during the trial, I have excluded
11 evidence that was offered or stricken testimony that
12 was heard. Do not consider those things in deciding
13 the case. Make your decision those things in
14 deciding the case. Make your decision only on the
15 evidence that I let in and nothing else. Your
16 decision should be based on all the evidence
17 regardless of which party produced it. You should
18 use your own common sense and general knowledge in
19 weighing and judging the evidence, but you should
20 not use any personal knowledge you have about a
21 place, person or event. To repeat once more, you
22 must decide this case based only on the evidence
23 admitted during this trial.

24 Some of you as members of the jury have
25 submitted questions that were not asked, that is

1 because I determined under the law that the
2 questions should not be asked. Do not speculate
3 about why the question was not asked, in other
4 words, you should draw no conclusions or inferences
5 about the facts of the case nor should you speculate
6 about what the answer might have been. Also in
7 considering evidence, you should not give greater
8 weight to testimony merely because it was given in
9 answer to questions submitted by members of the
10 jury.

11 As I said before, it is your job to decide
12 what the facts of this case are. You must decide
13 which witnesses you believe and how important you
14 think their testimony is. You do not have to accept
15 or reject everything a witness said. You are free
16 to believe all, none, or part of any person's
17 testimony. In deciding which testimony you believe,
18 you should rely on your own common sense and
19 everyday experience, however, in deciding whether
20 you believe a witness' testimony you must set aside
21 any bias or prejudice you may have based on the
22 race, gender or national origin of the witness.

23 There is no fixed set of rules for judging
24 credibility, for judging whether you believe a
25 witness but it may help to you think about these

1 questions: Was the witness able to see or hear
2 clearly? How long was the witness watching or
3 listening? Was anything else going on that might
4 have distracted the witness? Did the witness have a
5 good memory? How did the witness look and act while
6 testifying? Did the witness seem to be making an
7 honest effort to tell the truth or did the witness
8 seem to argue with the lawyers or evade the
9 questions? Does the witness' age and maturity
10 affect how you judge his or her testimony? Does the
11 witness have any bias, prejudice or personal
12 interest in how this case is decided? Have there
13 been any promises, threats, suggestions or other
14 influences that affected how the witness testified?
15 In general, does the witness have any special reason
16 to tell the truth or any special reason to lie? All
17 and all, how reasonable does the witness' testimony
18 seem when you think about all the other evidence in
19 the case?

20 Sometimes the testimony of different
21 witnesses will not agree and you must decide which
22 testimony you accept. You should think about
23 whether the disagreement involved something
24 important or not and whether you think someone is
25 lying or is simply mistaken. People see and hear

1 things differently and witnesses may testify
2 honestly but simply be wrong about what they thought
3 they saw or remembered. It is also a good idea to
4 think about which testimony agrees best with the
5 other evidence in this case, however, you may
6 conclude that a witness deliberately lied about
7 something that is important to how you decide the
8 case, if so, you may choose not to accept anything
9 that witness said. On the other hand, if you think
10 the witness lied about some things and told the
11 truth about others, you may simply accept the part
12 you think is true and ignore the rest.

13 The Prosecution has introduced evidence a
14 statement that it claims the defendant made. Before
15 you may consider such an out of court statement
16 against the defendant you must first find that the
17 defendant made the statement as given to you. If
18 you find that the defendant did make the statement
19 you may give the statement whatever weight you think
20 it deserves. In deciding this case you should think
21 about how and when the statement was made and about
22 all the other evidence in the case. You may
23 consider the statement in deciding the facts of this
24 case.

25 Facts can be proved by direct evidence

1 from a witness or an exhibit. Direct evidence is
2 evidence about what we actually see or hear. For
3 example, if you look outside and see rain falling
4 that is direct evidence that it is raining. Facts
5 can also be proved by indirect or circumstantial
6 evidence. Circumstantial evidence is evidence that
7 normally or reasonably leads to other facts so, for
8 example, if you see a person come in from outside
9 wearing a raincoat covered with small drops of water
10 that would be circumstantial evidence that it is
11 raining. You may consider circumstantial evidence.
12 Circumstantial evidence by itself or a combination
13 of circumstantial evidence and direct evidence can
14 be used to prove the elements of a crime. In other
15 words, you should consider all the evidence that you
16 believe. If you believe that a witness previously
17 made a statement inconsistent with his or her
18 testimony at this trial the only purpose for which
19 that earlier statement can be considered by you is
20 in deciding whether the witness testified truthfully
21 in court. The earlier statement is not evidence
22 that what the witness said earlier is true.

23 When the lawyers agree on a statement of
24 facts these are called stipulated facts. You may
25 regard such stipulated fact as true but you are not

1 required to do so.

2 You should not decide this case based on
3 which side presented more witnesses. Instead, you
4 should think about each witness and each piece of
5 evidence and whether you believe them then you must
6 decide whether the testimony and evidence you
7 believe proves beyond a reasonable doubt that the
8 defendant is guilty.

9 You have heard testimony from witnesses,
10 Valerie Taylor, who has given you her opinion as an
11 expert in the field of forensic sexual assault
12 examinations. Heather Vitta who has given you her
13 opinion as an expert in the field of forensic
14 biology in DNA analysis and Benedict Arrey who has
15 also given you his expert opinion in the field of
16 DNA analysis. Experts are allowed to give opinions
17 in court about matters that are experts on, however,
18 you do not have to believe an expert's opinion.
19 Instead you should decide whether you believe it and
20 how important you think it is. When you decide
21 whether you believe an expert's opinion think
22 carefully about the reason and facts he or she gave
23 for her opinion and whether those facts are true.
24 You should also think about the expert's
25 qualifications and whether his opinion makes sense,

1 or her opinion, makes sense when you think about all
2 the other evidence in the case.

3 You have heard testimony from witnesses
4 who are police officers. That testimony is to be
5 judged by the same standards you used to evaluate
6 the testimony of any other witness.

7 The defendant is charged with the crime of
8 first degree criminal sexual conduct. To prove this
9 charge the prosecutor must prove each of the
10 following elements beyond a reasonable doubt, and
11 you don't have to write this down. You're going to
12 get a copy of these instructions but if you want to
13 write it down, you can. It's up to you. First,
14 that the defendant engaged in a sexual act that
15 involved entry into Rachael Davis' genital opening
16 by the defendant's penis. Any entry, no matter how
17 slight, is enough. It is not -- it does not matter
18 whether the sexual act was completed or whether
19 semen was ejaculated.

20 Second, that the alleged sexual assault
21 occurred under circumstances that involved either --

22 MR. BROWN: Excuse me, Judge. Can we
23 approach? May we?

24 THE COURT: Yes.

25 (At 12:04 p.m. sidebar discussion held off the record)

1 (At 12:04 p.m. sidebar discussion concluded)

2 THE COURT: Again, it does not matter
3 whether the sexual act was completed or whether
4 semen was ejaculated.

5 Second, that the alleged sexual act
6 occurred under circumstances that also involved
7 either felonious assault. To prove felonious
8 assault the prosecutor must prove each of the
9 following elements beyond a reasonable doubt:
10 First, that the defendant either attempted to commit
11 a battery on Rachael Davis or did an act that would
12 cause a reasonable person to fear or apprehend an
13 immediate battery. A battery is a forceful of
14 violent touching of the person or something closely
15 connected with the person.

16 Second, that the defendant intended either
17 to injure Rachael Davis or to make Rachael Davis
18 reasonably fear an immediate battery.

19 Third, that at the time the defendant had
20 the ability to commit a battery, appear to have the
21 ability or thought he had the ability.

22 Fourth, that the defendant committed the
23 assault with a baseball bat or that the defendant
24 was armed with a weapon, or any object used or
25 fashioned in a manner to lead Rachael Davis to

1 reasonably believe that it was a weapon, or that the
2 defendant caused personal injury to Rachael Davis
3 and used force or coercion to commit the sexual act.

4 Personal injury means bodily injury,
5 disfigurement, chronic pain, pregnancy, disease,
6 lost or impairment of a sexual or reproductive organ
7 or mental anguish. Mental anguish means extreme
8 pain, extreme distress, or extreme suffering either
9 at the time of the event or later as a result of it.
10 Force or coercion means that the defendant either
11 used physical force or did something to make Rachael
12 Davis reasonably fear -- reasonable afraid of
13 present or future danger. It is enough force if the
14 defendant overcame Rachael Davis by physical force.
15 It is enough force if the defendant threatened to
16 use physical force on Rachael Davis and Rachael
17 Davis believed that the defendant had the ability to
18 carry out those threats. It is enough force if the
19 defendant used force to induce the victim to submit
20 to the sexual act or to seize control of the victim
21 in a manner facilitating commission of the act
22 without regard to the victim's wishes.

23 To prove this charge it is not necessary
24 that there be evidence other than the testimony of
25 Rachael Davis if that testimony proves guilt beyond

1 a reasonable doubt. To prove this charge the
2 prosecutor does not have to show that Rachael Davis
3 resisted the defendant.

4 The defendant is charged with criminal
5 sexual conduct in the first degree. The prosecutor
6 claims that the alleged sexual act was accompanied
7 by one or more aggravating circumstances as
8 explained earlier in my instructions. If you all
9 agree that the defendant committed the sexual act
10 alleged it is not necessary that all agree on which
11 of these aggravated circumstances accompanied the
12 act as long as you all agree that the prosecutor has
13 proved at least one of the circumstances beyond a
14 reasonable doubt.

15 The prosecutor must also prove beyond a
16 reasonable doubt that the crime occurred within
17 Wayne County, however, time is not an element of the
18 crime of criminal sexual conduct. The prosecutor
19 does not have to prove the date or time of the
20 offense beyond a reasonable doubt.

21 When you go to the jury room you will be
22 provided with a written copy of mt final
23 instructions. You should first choose a foreperson.
24 The foreperson should see to it that your
25 discussions are carried on in a businesslike way and

1 that everyone has a fair chance to be heard.

2 A verdict in a criminal trial must be
3 unanimous. In order to return a verdict it is
4 necessary that each of you agrees on that verdict.
5 In the jury room you will discuss the case among
6 yourselves but ultimately each of you will have to
7 makeup your own mind. Any verdict must represent
8 the individual considered judgment of each juror.
9 It is your duty as jurors to talk to each other and
10 make every reasonable effort to reach agreement.
11 Express your opinions and the reasons for them but
12 keep an open mind as you listen to your fellow
13 jurors. Rethink your opinions and do not hesitate
14 to change your mind if you decide you were wrong.
15 Try your best to work out your differences, however,
16 although you should try to reach agreement, none of
17 you should give up your honest opinion about the
18 case just because other jurors disagree with you or
19 just for the sake of reaching a verdict. In the end
20 your vote must be your own, and you must vote
21 honestly and in good conscious.

22 If you have any questions about the jury
23 instructions before you began deliberations please
24 let me know. If any questions arise during your
25 deliberations please write a note, knock on the door

1 and hand it to the deputy.

2 Possible penalty should not influence your
3 decision. It is the duty of the Judge to fix the
4 penalty within the limits provided by law. Again,
5 if you want to communicate with me while you are in
6 the jury room please have your foreperson write a
7 note, knock on the door and when the deputy answers
8 the door, hand that note to the deputy. Do not come
9 out. We might not answer the door right away but
10 we're here. We're listening and we'll get to you as
11 soon as we can. It is not proper for you to talk
12 directly with the Judge, lawyers or other people
13 involved in this case. As you discuss the case you
14 must not let anyone, even me, know how your voting
15 stands. Therefore until you return with a unanimous
16 verdict do not reveal this to anyone outside the
17 courtroom.

18 When you go to the jury room to deliberate
19 you may take your full notes and instructions and
20 you will also be given all of the exhibits. You
21 don't have to ask for them. All of exhibits will
22 come in automatically for your use during your
23 deliberations.

24 When you go to the jury room again you
25 will given a written copy of my instructions you

1 have just heard. As you discuss the case you are to
2 think about all of my instructions together as the
3 law you are to follow. You may return a verdict of
4 guilty of the alleged crime or not guilty and I have
5 prepared a possible verdict form that explains just
6 that. There's only one count here: First degree
7 criminal sexual conduct. Your choices are either
8 not guilty or guilty. Once you have reached a
9 unanimous decision you should check only one box
10 that corresponds to your unanimous decision. Your
11 foreperson should sign the form and date it, write a
12 note that says, we have reached a verdict, a
13 separate note. Knock on the door and hand that note
14 only to the deputy.

15 Now we will -- any objection to my reading
16 of the jury instructions?

17 MR. BROWN: Only as stated when I
18 approached the bench and we can do it outside the
19 presence.

20 THE COURT: No, but I re-read the
21 instruction and I read the correct word so with
22 that, do you have an objection to my reading of the
23 jury instructions?

24 MR. BROWN: Yes. And I will make that --

25 THE COURT: All right. That's fine.

1 MR. BROWN: Thank you.

2 THE COURT: We have to excuse two people
3 who will act as alternates.

4 THE CLERK: Juror in seat number seven and
5 seat number eight.

6 THE COURT: All right. Jurors in seat
7 number seven and number eight, do you have anything
8 that you need to get out of the jury room? Okay.
9 Leave your notebooks in your chairs and grab your
10 items. If you could please swear the deputies, Ms.
11 Brown.

12 THE CLERK: Do you solemnly swear or
13 affirm that you will keep this jury in the manner
14 and form as described by law?

15 COURT OFFICER: I do.

16 COURT OFFICER: I do.

17 (At 12:12 p.m. deputies sworn)

18 THE COURT: All right. Members of the
19 jury, you can return to the jury room and begin your
20 deliberations.

21 COURT OFFICER: All rise for the jury.

22 THE COURT: You can take your notebooks
23 with you. Could the two of you please look at the
24 exhibits and make sure that all of the exhibits are
25 there and together collectively so that they can be

1 sent into jury please?

2 (At 12:12 p.m. jury deliberations began)

3 COURT OFFICER: You may be seated.

4 THE COURT: Mr. Brown, the alternate
5 jurors have been excused from the courtroom and the
6 other jurors are in the jury room beginning their
7 deliberations. You may now place your objection to
8 my reading of the jury instructions on the record.
9 You know I accidentally pressed pause when you all
10 approach or it would have already been on the record
11 because even when you approach what we're saying is
12 still captured on the record although it's not
13 amplified but I hit the wrong button. If hit the
14 pause button so the recording stopped when you all
15 approached and I believe when you approached your
16 objection was that in reading the instruction I said
17 on the elements of criminal sexual conduct in the
18 first at some point when I said, I said, sexual
19 assault as opposed to sexual act, and when you
20 brought it to my attention I re-read the instruction
21 and said the word act as opposed to assault but you
22 may.

23 MR. BROWN: That's correct. You stated it
24 correctly, Judge, and I believe it's in jury
25 instruction number 20.5 you said the sexual assault

1 instead of act so that's my objection. I object to
2 that and I understand that you read the correct --
3 read it the correct way but my objection as been
4 placed on the record. Thank you.

5 THE COURT: All right. Well I don't --
6 all right. Whatever. Your objection is duly note
7 for the record. One moment. We'll follow our
8 normal schedule. The jury will be sent to lunch at
9 12:30. They'll return at 1:30 and, you know,
10 they'll go till about 3:45 and then we'll send them
11 home.

12 MR. BROWN: Okay. Judge, I have to go to
13 Novi. I'm just telling you I have to go to Novi. I
14 have to go downstairs. I have another matter I have
15 to do down here but I'll be back in, you know,
16 whatever time takes me back.

17 THE COURT: All right. Well what if the
18 jury has a question that requires your attendance
19 have you secured someone to stand in on your behalf?

20 MR. BROWN: No, but I will. I'll get
21 somebody.

22 THE COURT: All right. If it's a simple
23 question I'll just answer it in writing and I'll
24 make the answer available to you all and I'll make a
25 record of what the question was and what the answer

1 is given but if it's something that I think requires
2 your attention we'll call you.

3 MR. BROWN: Thank you.

4 THE COURT: And I'll still let you know,
5 if we can reach you by phone, I'll still let you
6 know what the question is and what the issue is so
7 you can make stand-in counsel aware of your
8 position.

9 MR. BROWN: Thank you, Judge.

10 THE COURT: All right.

11 MR. BROWN: I'll let you know who it is
12 and Ms. Brown has been telephone number.

13 THE COURT: All right. That concludes
14 this matter.

15 MR. BROWN: Thank you.

16

17 (At 12:17 p.m. off the record)

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C E R T I F I C A T E

STATE OF MICHIGAN)

)ss

COUNTY OF WAYNE)

I, Bromeaica McBride, certify that this transcript consisting of 93 pages is a complete, true and correct transcript of the proceedings and testimony taken in this case on December 14, 2016.

1-30-18

_____[BROMEAIKA] [MCBRIDE]_____

Date

BROMEAIKA MCBRIDE, CSR 7279
Lincoln Hall of Justice
1025 East Forest, Room 105
Detroit, Michigan 48207
(313) 833-0787

95b

Sentencing Transcript 6-27-17

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE
OF MICHIGAN

Plaintiff,

vs

Case No. 16-007780-01

DEXTER TAYLOR

Defendant.

_____ /

SENTENCING

BEFORE THE HONORABLE QIANA LILLARD, CIRCUIT JUDGE

Detroit, Michigan - Tuesday, June 27, 2017

APPEARANCES:

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Transcribed by: Bromeaica McBride, CSR 7279

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TABLE OF CONTENTS

WITNESSES

PAGE

None.

E X H I B I T S

Offered

Received

None.

1 Detroit, Michigan
2 Tuesday, June 27, 2017
3 At approximately 3:46 p.m.

4 - - -

5 THE CLERK: Calling case number 16-007780.
6 The People of the State of Michigan versus Dexter
7 Burrell Taylor. Mr. Taylor is before the Court
8 today for sentencing.

9 THE COURT: Appearances for the record
10 please.

11 MS. HOUHANISIN: Good afternoon, your
12 Honor Maro Houhanisin standing in for the attorney
13 of record, Susan Dillon, on behalf of the People.

14 THE COURT: Good afternoon.

15 MR. BROWN: Good afternoon, your Honor.
16 May it please the Court, Mark Brown appearing on
17 behalf Mr. Dexter Taylor who stands to my right.

18 THE COURT: Good afternoon, Mr. Brown, and
19 good afternoon to you, Mr. Taylor.

20 DEFENDANT TAYLOR: Good afternoon.

21 THE COURT: Today is the date and time set
22 for sentencing. Mr. Taylor wrote some letters and I
23 have a copy for each of you. He wrote one letter
24 for his sentencing. I didn't read it before today
25 because that would be inappropriate but I have

1 provided both of you copies. Have you had an
2 opportunity -- have you looked over the pre with
3 your client?

4 MR. BROWN: I have.

5 THE COURT: Are there any additions,
6 corrections or deletions that need to be need to be
7 plead to the body of the report?

8 MR. BROWN: One is that there is something
9 about his health. It's my understanding he's been
10 diagnosed with pancreatic cancer; is that correct?

11 DEFENDANT TAYLOR: Yes.

12 THE COURT: Since he's been in custody?

13 MR. BROWN: That is correct.

14 THE COURT: Oh I'm sorry to hear that.

15 MR. BROWN: So.

16 THE COURT: And I know he has sustained a
17 serious injury to his hand and that's part of why
18 his sentencing was delayed because he was
19 hospitalized for that for quite sometime as well.
20 All right. Well I will make sure that that gets
21 noted, the pancreatic cancer. That's really
22 terrible.

23 MR. BROWN: Oh are you still scheduled to
24 do a procedure on Friday?

25 DEFENDANT TAYLOR: Yeah.

1 THE COURT: To have the pins out?

2 MR. BROWN: Pardon me?

3 THE COURT: To have the pins out of his
4 hand?

5 MR. BROWN: No.

6 DEFENDANT TAYLOR: And also to have --

7 MR. BROWN: Some scan or something. Is it
8 possible that he could not be written out before
9 Friday? Is there any way they can do that?

10 THE COURT: I don't know. I don't really
11 have control over that.

12 COURT OFFICER: If we do a commitment
13 they're going to ship him out.

14 MR. BROWN: Right.

15 COURT OFFICER: They don't want to hold
16 him. They prefer to ship them out that day. Heel
17 definitely be out of here probably --

18 MR. BROWN: And he has a scheduled medical
19 procedure on Friday it's my understanding, so I
20 don't know if there's any way possible that we can
21 do this so that that happens?

22 THE COURT: Yeah. Okay. Well I'll see
23 what I can do but I, you know, want make any
24 promises. I don't really control that but if he has
25 medical needs that they're aware of --

1 MR. BROWN: I'm chuckling. It's not a
2 funny matter.

3 THE COURT: No. They have to see to
4 him --

5 MR. BROWN: Yes.

6 THE COURT: -- Getting his care unless
7 their liable if anything happens to him.

8 MR. BROWN: Okay.

9 THE COURT: So I mean that's unfortunate
10 and I will do what I can. Now I understand that
11 you're just standing in for Ms. Dillon who had a
12 family emergency that prevents her from being here
13 today. She alerted us last week that this was
14 possible but do you know of anything that needs to
15 be corrected in the report?

16 MS. HOUGHANISIN: Judge, I would just note
17 that in the body of the presentence investigation on
18 I guess it's page one where it says the "Defendant's
19 sentencing guidelines range", it is different than
20 their scoring on the worksheet that I have. The
21 worksheet has their guidelines at 180 to 360 or
22 life and in the body of the report it says 72 to 180
23 months so there is a discrepancy between the
24 presentence report report and the scoring guidelines
25 sheet.

1 THE COURT: They have here 180 to 360 on
2 page one. Where do you see 72?

3 MS. HOUHANISIN: On the copy I have it
4 says the defendant's sentencing guideline range is
5 72 to 180 months.

6 THE COURT: Yeah, I have it says 180 to
7 360 on the one I have.

8 MS. HOUHANISIN: Okay. I don't --

9 MR. BROWN: That's, that's I don't see it
10 but I know I saw that before.

11 THE COURT: It's on second page one just
12 in the last paragraph above agents description of
13 events.

14 MS. HOUHANISIN: Then I have an old copy
15 because mine says 72 to 180.

16 THE COURT: I don't know where you got
17 that copy from. It should all be the same. I don't
18 know what to tell you. All right. Well we'll go
19 over the guidelines. That's fine. Do you believe
20 that the guidelines are accurately scored at 180 to
21 360?

22 MR. BROWN: I believe that's correct,
23 Judge.

24 MS. HOUHANISIN: The People do not, Judge.

25 THE COURT: Okay.

1 MS. HOUHANISIN: Ms. Dillon had scored 15
2 points for OV-1. OV-1 on the old guidelines reads
3 as follows --

4 THE COURT: Oh, yeah, because we have to
5 took at the guidelines from the time of the offense.

6 MS. HOUHANISIN: Correct. The offense was
7 from 1996 so the old guidelines apply. Fifteen
8 points or OV-1 read as follows: A firearm pointed
9 toward victim or touching with another weapon. I
10 believe the testimony at trial, per Ms. Dillon's
11 notes, was that she was beat with a bat.

12 THE COURT: Hit with a bat.

13 MS. HOUHANISIN: Which would be a touching
14 by another weapon.

15 THE COURT: Mr. Brown.

16 MR. BROWN: I object without argument.

17 THE COURT: All right. Offense variable
18 one will be scored at 15 points. What else?

19 MS. HOUHANISIN: That's all I have.

20 THE COURT: All right. Well with that
21 additional 15 points it makes the guidelines, the
22 OVs, 50 instead of -- no. sixty instead of 45.

23 MS. HOUHANISIN: Correct. And that would
24 change the range to a four.

25 THE COURT: Which changes it to what?

1 MS. HOUGHANISIN: Which charges his months
2 to 240 to 480 or life.

3 THE COURT: All right. Is there anything
4 else you'd like to say on behalf of the People
5 before I impose sentence?

6 MS. HOUGHANISIN: Judge, I do have a letter
7 from the victim if I could read it?

8 THE COURT: If you could read that for me
9 please.

10 MS. HOUGHANISIN: It says, "to whom it may
11 concern, I would like to take this time to thank the
12 Wayne County Prosecutor's Office for the attention
13 they gave my case against Mr. Taylor. So much time
14 has passed and I thought this matter would never be
15 heard in court. Thanks to DNA testing the matter
16 has finally been brought to the attention of the
17 Wayne County Prosecutor's Office. Although this
18 matter took me back to a dark place in my life I am
19 glad to have some type of closure now in this matter
20 finally. Since this matter has resurfaced I have
21 been having nightmares reliving my sexual assault by
22 Mr. Taylor. I hope that Mr. Taylor will be given
23 the maximum sentence for his assault on my person.
24 Respectfully Rachael Davis".

25 THE COURT: All right. Is there anything

1 else you'd like to say on behalf of the People
2 before I impose sentence?

3 MS. HOUHANISIN: No. Thank you, your
4 Honor.

5 THE COURT: All right. Mr. Brown, is
6 there anything you'd like to say on your client's
7 behalf before I impose sentence?

8 MR. BROWN: No, ma'am.

9 THE COURT: Okay. I just would like to
10 finish reading Mr. Taylor's letter before he speaks.
11 All right. Mr. Taylor, is there anything you'd like
12 to say, sir, before I impose sentence?

13 DEFENDANT TAYLOR: Yes, your Honor. Your
14 Honor, I want to apologize for my actions and take
15 responsibility for my actions, your Honor, and first
16 of all, your Honor, I'd like to say I'm not a bad
17 person. I don't think I'm a bad person. I think
18 I've made some really bad decisions in my life and
19 one of them being the most detrimental is being that
20 I started smoking crack cocaine. I'm not a violent
21 person. I never did anything or any harm to anyone
22 in my life. Unfortunately this situation occurred.
23 I just ask the Court that, you know, consider a few
24 things that before sentencing me. First of all,
25 your Honor, I'd like to apologize to Ms. Rachael

1 Johnson causing her family pain and suffering that I
2 caused them. In light of all what happened, your
3 Honor, I don't think I'm a bad person. Like I say
4 I've made some bad decisions and one of them was the
5 detrimental decision I made was to start smoking
6 crack cocaine because I think if I hadn't did that,
7 started doing that, I wouldn't be standing here
8 before you today. It's caused me 30 year tail spin
9 in my life and right now I stand here today with a
10 illness and dealing with a lot of health issues
11 because of me smoking cocaine, 30 years time smoking
12 crack cocaine. I've been in denial. I just didn't
13 accept the fact, the reality that I had an addition,
14 I had a problem, you know, but in order to deal with
15 a problem you must first admit you got a problem and
16 even though it took me 30 years I'm standing before
17 you today to let you know that I do have a problem,
18 a substance abuse problem, and even I hadn't had
19 this problem there's no doubt in my mind that I
20 wouldn't be standing before you today fighting for
21 my life and I'm asking you to have mercy on me and
22 the Court to show leniency to me. Thank you for
23 allowing me this opportunity to speak to the Court.

24 THE COURT: All right. Well I thank you
25 for expressing that, Mr. Taylor, and to be honest

1 with you I have never had someone at a time of
2 sentencing in a case like this accept full
3 responsibility for what they've done and for me I
4 appreciate the fact that in your letter that you
5 wrote to me you acknowledge what you did to Erica
6 Doak, the other act witness, as well as what you did
7 to Ms. Davis, the victim, the primary victim in this
8 case and that it was wrong and that your behavior
9 was, in part, driven by your addiction to drugs, and
10 I also appreciate that in there, in your letter you
11 say, "I'm not faulting anyone except myself because
12 I made the decision to start smoking crack", and you
13 made the decision to do the things that you did so
14 what I appreciate is that you accept responsibility
15 and you don't attempt to make an excuse for what you
16 did but you offer an explanation for what it was
17 that brought you to a dark place in your life and
18 caused you to do these things and so for me, I'm
19 optimistic that because you have accepted
20 responsibility and fully owned the things that you
21 did that there is some hope for rehabilitate for
22 you. I only hope that it's not too late because now
23 that you've been diagnosed with such a serious
24 disease as pancreatic cancer I just hope that it's
25 not too late.

1 I'm also struck by the fact in your
2 letter, although you didn't mention it today, but in
3 your letter to me you talked about being the father
4 of two five years old twins, five years old twins
5 and you know that a father is very important to the
6 lives of any child but especially little girls, and
7 you having been convicted, sir, of this very serious
8 crime that involved sexual assaulted really two
9 women that were at some point somebody's little girl
10 and so, as a father, I hope that you recognize now,
11 now that you have two little girls, what it would be
12 like to have like with Erica Doak where she said she
13 was pregnant and just walking down the street when
14 you accosted her and did this to her. Now I don't
15 know if that's true. I don't know if perhaps Erica
16 Doak like Rachael Davis had been involved in some
17 sort of sex trade kind of thing and that's what
18 brought this all together but even people who are
19 prostitutes, even women who decide to sell their
20 body to support their drug habit or raise their kids
21 or whatever they do it for, they're still human
22 beings and they still have a right to say no and
23 they still have a right to be respected, and so I
24 want you to know that although I think the crime
25 that you have committed is very serious that I do

1 appreciate the fact that you wrote this letter where
2 you fully apologized and acknowledged what you did
3 and I hope that at some point Ms. Dillon, who isn't
4 here today because of a serious illness with I think
5 it's her father or something like that, I hope that
6 at some point Ms. Dillon or someone from the
7 Prosecutor's Office will share with Ms. Davis and
8 Ms. Doak that you fully acknowledged what you did
9 and that you expressed remorse for the pain and the
10 harm that you caused them and the harm that you
11 caused to their families, because people rarely do
12 it. They rarely do it. You'd be surprised. No
13 matter the evidence, DNA, it doesn't matter.
14 Sometimes people just refuse to accept
15 responsibility for what they've done and for what
16 it's worth I appreciate the fact that you did that
17 today.

18 I'm sorry to hear about your diagnosis
19 with pancreatic cancer. I'm also sorry to hear
20 about the serious injury that you sustained to your
21 hand while you were in the Wayne County Jail. I
22 don't even know what the circumstance were behind
23 that but -- and I don't know if it was your
24 hospitalization for your hand that caused them to
25 discover your pancreatic cancer, I don't know, but

1 you've come to a point in your life where you, at 50
2 years old, you know, you probably have more years
3 behind you than you do ahead of you and that's not
4 just because of the illness but that's just because
5 50 years old is like mid-life, right? Like now how
6 many people live to be a hundred? How many people
7 live to be 85 so I hope that with wisdom and
8 maturity it comes to a place where you can try to
9 put this stuff behind you and try to focus on
10 having -- because pancreatic cancer is rough, you
11 know, and I don't know what your diagnosis is with
12 that but I hope that you can find peace with where
13 you are and that -- because your mental strength is
14 going to be important for your physical healing, but
15 with all of that said, sir, it's still the egregious
16 nature of the crime that you've committed and I have
17 to look at that and although you have accepted
18 responsibility it doesn't change the fact that what
19 you were convicted of doing in this case is very
20 serious and so it will be the sentence of this
21 Court -- it will be the sentence of this Court that
22 you will be remanded to the Michigan Department of
23 Corrections for no less than 37 years, no more than
24 80 years. You have for one count of criminal sexual
25 conduct in the first degree you have 292 days credit

1 from the time of your arrest until the time of
2 your -- that's not right. You need a whole extra 33
3 days, yeah. You need another 33 days. 325 days
4 credit. I was an English major. You know my math
5 is bad. You have 325 days credit from the time of
6 your arrest until the time of your conviction today.

7 You must pay \$68 in state costs, crime
8 victim's assessment in the amount of \$130, court
9 costs in the amount of \$1,300, and attorneys fees in
10 the amount of \$400. I think it's important that you
11 have your scan that you're supposed to have on
12 Friday and if there's anything that I can do to
13 facilitate you getting that done I will. I don't
14 know if they'll listen to me but I can try to see
15 what they can do about maybe transporting you out
16 over the weekend so you can get your scan done but I
17 don't know if I'll be able to do that. I don't
18 know.

19 MR. BROWN: Can you schedule here for a
20 matter here on Friday and then cancel it on Thursday
21 so that he won't be gone?

22 THE COURT: I guess we could do that.

23 COURT OFFICER: That's what I was saying.
24 Don't send the commitment over then just put him
25 down.

1 THE COURT: All right. So that's what
2 we'll do and we'll send the commitment over on
3 Thursday and then that way you should be able to go
4 to your doctor's appointment on Friday. Sir, you
5 were convicted by a jury and that means you are
6 entitled to automatic appellate review of this
7 conviction and sentence by a higher Court. If
8 you've need an attorney to assist you with that you
9 would have to let us know in writing within 42 days
10 of today's date. You have been handed notice of
11 your appellate rights. Once you have read it and
12 understood it, you should sign them. If there's
13 nothing further that concludes this matter.

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15 (At 4:04 p.m. proceedings concluded)

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C E R T I F I C A T E

STATE OF MICHIGAN)

)ss

COUNTY OF WAYNE)

I, Bromeaica McBride, certify that this transcript consisting of 18 pages is a complete, true and correct transcript of the proceedings and testimony taken in this case on June 27, 2017.

1-30-18

_____[BROMEAIKA] [MCBRIDE]_____

Date

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