

1 SUPERIOR COURT OF NEW JERSEY  
 HUDSON COUNTY  
 2 LAW DIVISION - CRIMINAL PART  
 DOCKET NO. 08-06-1073  
 3 A.D.# A-2828-1072

4 - - - - - :  
 THE STATE OF NEW JERSEY,  
 5 :  
 6 vs. :  
 7 STEPHEN WRIGHT, :  
 8 Defendant. :  
 9 - - - - - :

TRANSCRIPT OF PROCEEDINGS  
 TRIAL  
**FILED**  
**APPELLATE DIVISION**  
 MAY 10 2011

10 Place: Hudson County Courthouse  
 11 595 Newark Avenue  
 Jersey City, NJ 07306  
 12 Date: March 17, 2010

13 B E F O R E:  
 14 HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

15 TRANSCRIPT ORDERED BY:  
 16 HELEN C. GODBY, ESQ.  
 (Office of the Public Defender)

17 A P P E A R A N C E S:  
 18 MATTHEW J. TROIANO, ESQ.  
 19 (Assistant Prosecutor for the County of Hudson  
 Attorney for the State.  
 20 KEITH HIRSCHORN, ESQ.  
 21 (Keith Hirschorn)  
 22 Attorney for the Defendant.

**RECEIVED**  
**APPELLATE DIVISION**  
 MAY 10 2011  
**SUPERIOR COURT**  
**OF NEW JERSEY**

23 Transcriber Dorothy A. Miragliotta  
 A.R.T. Agency, Inc.  
 4 Orchard Drive  
 24 Towaco, New Jersey 07082

25 Recording Operator, N/A  
 Compressed Transcript

**RECEIVED**  
**APPELLATE DIVISION**  
 MAY 10 2011  
**SUPERIOR COURT**  
**OF NEW JERSEY**

1		I N D E X	
2	PRELIMINARY JURY INSTRUCTIONS		Page 3
3	OPENING STATEMENTS		
4	by Mr. Troiano		24
5	by Mr. Hirschorn		36
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

Colloquy 3

1                   THE COURT: Good morning, ladies and  
2 gentlemen. Have a seat. Thanks for coming. Happy  
3 Saint Patrick's Day. Have a seat.

4                   I met you all yesterday. My name is Joseph  
5 Isabella, I'm a Judge of the Superior Court of the  
6 State of New Jersey. You've been brought here today so  
7 that we may select a jury for this case, which is  
8 entitled State of New Jersey versus Stephen Wright.

9                   We are about to begin a process called the  
10 voir dire. The purpose of the voir dire is very simple.  
11 It is to obtain a jury which is able to hear this case  
12 without bias, prejudice or preconceived ideas. Our  
13 goal is to select a fair jury.

14                   We are here to try the matter in dispute  
15 between the State of New Jersey and Stephen Wright.  
16 This is a criminal case and the charges are as follows.

17                   Aggravated sexual assault and burglary.

18                   Jury service may be new to some of you so a  
19 few preliminary remarks may prove to be helpful to you.  
20 The first step in a jury trial is the selection of a  
21 jury. This process is important because both the State  
22 and the defendant are entitled to jurors who are  
23 impartial and agree to keep their minds open until a  
24 verdict is reached.

25                   Jurors must be as free as humanly possible

## Colloquy

4

1 from bias, prejudice or preconceived ideas and sympathy  
2 and must not -- and must not be influenced by  
3 preconceived ideas.

4 Those of you selected as jurors on this case  
5 shall serve as judges of the facts. In other words,  
6 you will listen to testify of witnesses, examine any  
7 physical evidence produced, and thereafter you will  
8 determine what the facts are.

9 I am the Judge of the law. At the conclusion  
10 of this matter, after the evidence has been presented  
11 and counsel have made their closing arguments, I will  
12 tell you what the law is and you must apply that law to  
13 the facts as you find them to be in order to reach a  
14 fair and impartial verdict.

15 Although you may be qualified to serve as a  
16 juror in most cases, there may be something that could  
17 disqualify you in this case or make it embarrassing for  
18 you to serve. In order to learn this, I have to ask  
19 you questions. Please understand the questions I ask  
20 are for a legitimate purpose, and not simply to pry  
21 into your personal affairs.

22 Do not hesitate to speak your mind honestly  
23 and plainly. It's very important that you answer each  
24 question fully and truthfully. There are no right or  
25 wrong answers. Truthful and honest answers are

## Colloquy

5

1 necessary so that a fair and impartial jury can be  
2 selected.

3 As we mature, we all to some extent develop  
4 certain biases, prejudices, fixed opinions and views.  
5 We develop these from our families, those around us,  
6 the media, from our every day life experiences. You're  
7 entitled to be who you are and to feel and think about  
8 things as you do but it's important to recognize any  
9 bias, prejudice, fixed opinions or views you have and  
10 to disclose them to me during the jury selection  
11 process.

12 If, for any reason, my questions do not cover  
13 why you would not be able to listen with an open mind  
14 to the evidence in this case or be unable to reach a  
15 fair and impartial verdict, it is necessary that you  
16 volunteer this information to me when you're  
17 questioned.

18 If at any time during the jury selection  
19 process you wish to discuss anything with me concerning  
20 your ability to serve as a juror, raise your hand. I  
21 will speak with you outside of the presence of the  
22 other jurors but in the presence of the attorneys to my  
23 left here at sidebar.

24 After I've questioned each of you, you may be  
25 excused as a juror by me if in my opinion there's a

## Colloquy

6

1 valid reason why you should not serve.

2 Each attorney may also excuse a limited  
3 number of jurors without giving any reason for doing  
4 so. In the event you're excused, please do not  
5 consider this an insult or take it personally. It's  
6 merely part of the process employed by our Court rules  
7 in selecting a jury.

8 All right, now this case as I indicated to  
9 you the charge is aggravated sexual assault and  
10 burglary. The victim here is a woman by the name of  
11 Liliana Santos. It occurred on or about the 19th day  
12 of November in 2006 in the area of 235 Arlington  
13 Avenue, a basement apartment in Jersey City.

14 Our best estimate is this case will take at  
15 the worse, five days. Today is Wednesday, tomorrow is  
16 Thursday. The two days this week. Next week, Tuesday,  
17 Wednesday and Thursday. You should get this done in  
18 five days. It could carry over to Friday for  
19 deliberations only but the case should be in by  
20 Wednesday. So we think we have, we're concerned over  
21 that estimate.

22 We try to start at nine, we try to get you  
23 out of here by four. And this is a criminal case, so  
24 there are certain principles of law that must be  
25 accepted and followed by jurors.

## Colloquy

7

1 I read to you charges from an indictment.  
2 An indictment is not evidence of defendant's guilt on  
3 the charges. It's simply a step in the procedure to  
4 bring the matter before the Court and jury for the  
5 jury's ultimate determination as to whether defendant  
6 is guilty or not guilty of the charges stated in it.

7 The defendant has pled not guilty to the  
8 charges and is presumed to be innocent. Unless each  
9 and every essential element of the offense charged are  
10 proven beyond a reasonable doubt, the defendant must be  
11 found not guilty of that charge.

12 The burden of proving each element of the  
13 charges beyond a reasonable doubt rests upon the State.  
14 That burden never shifts to the defendant. It is not  
15 the obligation or the duty of a defendant in a criminal  
16 case to prove innocence or offer any proof relating to  
17 his innocence. The prosecution must prove its case by  
18 more than a mere preponderance of the evidence yet not  
19 necessarily to an absolute certainty.

20 The State has the burden of proving defendant  
21 guilty beyond a reasonable doubt. Some of you may have  
22 served as jurors in civil cases where you're told that  
23 it's necessary to prove only that the facts are more  
24 likely true than not true. Well in criminal cases, the  
25 State's proof must be more powerful than that. It must



## Colloquy

8

1 be beyond a reasonable doubt.

2 A reasonable doubt is an honest and  
3 reasonable uncertainty in your mind about guilt of the  
4 defendant after you've given full and impartial  
5 consideration to all the evidence.

6 A reasonable doubt may arise from the  
7 evidence itself or from a lack of evidence. It is a  
8 doubt that a reasonable person hearing the same  
9 evidence would have.

10 Proof beyond a reasonable doubt is proof that  
11 leaves you firmly convinced of the defendant's guilt.  
12 In this world we know very few things with absolute  
13 certainty. In criminal cases, the law does not require  
14 proof that overcomes every possible doubt.

15 If, based on your consideration of the  
16 evidence, you're firmly convinced defendant is guilty  
17 of the crime charged, you must find him guilty.

18 If, on the other hand, you are not firmly  
19 convinced of defendant's guilt, you must give defendant  
20 the benefit of the doubt and find him not guilty.

21 You have to apply the law as I give it to you  
22 regardless of your own personal feelings about it.  
23 This is a criminal case. Any verdict must be  
24 unanimous. That means all 12 deliberating jurors must  
25 agree upon the verdict.

## Colloquy

9

1 At this time I will introduce you to the  
2 attorneys. The State of New Jersey will be represented  
3 throughout these proceedings by Mr. Matthew Troiano.

4 Mr. Troiano, please.

5 MR. TROIANO: Thank you, Judge. Good  
6 morning, ladies and gentlemen, my name is Matthew  
7 Troiano, I'm assistant Prosecutor here in Hudson  
8 County. On behalf of the State, I thank you all for  
9 being here this morning. Look forward to hearing a  
10 little bit more about you as the case goes on.

11 Thank you.

12 THE COURT: Thank you, Mr. Troiano.

13 Okay, Mr. Wright, Stephen Wright is  
14 represented by Mr. Keith Hirschorn.

15 Mr. Hirschorn, please.

16 MR. HIRSCHORN: Thank you, Your Honor.

17 Morning, ladies and gentlemen, as the Judge  
18 said, my name is Keith Hirschorn. This is my client,  
19 Stephen Wright. I'm a local attorney here in Hudson  
20 County. I'll be representing Mr. Wright throughout  
21 these proceedings. I'd like to thank you for your  
22 willingness to serve and like Mr. Troiano said, I look  
23 forward to hearing more about each and every one of  
24 you.

25 Thank you again.

## Colloquy

10

1 THE COURT: Thank you, counsel.

2 Now, in order to be qualified under New  
3 Jersey law to serve on a jury, a person must have  
4 certain qualifying characteristics. A juror must be 18  
5 years old; a citizen of the United States; able to read  
6 and understand the English language; a resident of  
7 Hudson County.

8 A juror must not have been convicted of any  
9 indictable offense in any state or federal Court; must  
10 not have any physical or mental disability which would  
11 prevent that person from properly serving as a juror.  
12 But of course we will provide accommodations consistent  
13 with the American Disabilities Act if we need to.  
14 We're happy to do that.

15 Okay. And I told you, the trial's going to  
16 be two days this week, three next week. That being  
17 said, you know what the trial's about, I told you the  
18 charges, okay, I told you how long it's going to be. I  
19 told you the qualifications you must possess in order  
20 to be a juror in this county.

21 Okay, that being said, now that you have all  
22 that information, who believes they have a reason,  
23 whether it be financial hardship, a planned vacation, a  
24 medical problem. Who believes they are not able to sit  
25 on this jury for those five days which I just mentioned

## Colloquy

11

1 to you. Please raise your hand.

2 Okay, who believes they can, please stand up.  
3 Those that -- that's a very small number, that's very  
4 disappointing.

5 Okay, this is what we're going to do. Those  
6 who are standing, those who are, who can serve, we're  
7 going to hand you a questionnaire and we're going to  
8 ask you to take about a 45 minute break, step outside,  
9 enjoy the fresh air, and I'm going to listen to all  
10 these hardships and decide whether or not they're  
11 legitimate or not.

12 And the rest of you can read my questionnaire  
13 and go over the questions we're going to ask you, and  
14 come back in 45 minutes, okay. This is the quickest  
15 way to do this, believe me, and we do it quite often.

16 Just as you're walking out the door, my  
17 sheriff's officer will hand you a questionnaire, those  
18 who believe they have a reason why they cannot serve  
19 remain and I'll listen to you.

20 Those people who believe you have a hardship,  
21 I want you to talk over here one at a time, and we'll  
22 start with those in the box.

23 (Jury selection not requested for transcription)

24 THE COURT: Okay, we have our jurors.  
25 Everybody knows, we're here tomorrow, off Friday, off

Colloquy

12

1 Monday, and then Tuesday, Wednesday and Thursday.

2 We're good to go?

3 Okay, for right now, this is what we're going

4 to do. I'm going to send you to lunch. It's a

5 beautiful day out, why don't you come back at 2:15.

6 Enjoy your lunch, come back at 2:15, I'll give you a

7 few more minutes of instructions, we'll have our

8 openings and we'll start the case.

9 Thank you very much; see you at 2:15.

10 (Jury leaves the courtroom)

11 (RECESS)

12 THE COURT: Okay, hope you enjoyed the

13 weather. Sit down, please.

14 Okay, first thing we're going to do is we're

15 going to swear you in. Stand up and raise your right

16 hands, please.

17 Swear the jury in.

18 JURY PANEL SWORN

19 THE CLERK: Jury's sworn, Judge.

20 THE COURT: Thank you; have a seat.

21 Okay, ladies and gentlemen, you have been

22 selected as the jury in this case, and as you know,

23 this is a criminal case. And to assist you in better

24 understanding your function and duties, I'm going to

25 tell you how we're going to proceed right now.

Colloquy

13

1 You are the sole judges of the facts. Your

2 determination of the facts. Your determination of the

3 facts will be based solely upon the evidence submitted

4 during the course of the trial.

5 When I use the term evidence, I mean the

6 testimony from witnesses who will testify from the

7 witness stand, and any exhibits which may be marked

8 into evidence and which will be taken into the jury

9 room for your review at the end of the case.

10 First order of business will be the

11 Prosecutor's opening statement. In the opening

12 statement, the Prosecutor will present the State's

13 contentions and will outline what he expects to prove.

14 Following that, defense counsel will make an

15 opening statement. What is said in an opening

16 statement is not evidence. The evidence will come from

17 the witnesses who will testify and from whatever

18 documents or tangible items are received in evidence.

19 During the trial, the attorneys may make

20 objections as evidence is offered by them, or they may

21 address Motions to me. They have a right, and indeed a

22 duty to make objections and Motions when it seems to

23 them to be proper to do so.

24 I have a duty to rule upon any objections and

25 Motions based upon the law. If you hear me say an

Colloquy

14

1 objection is overruled, that means I'm ruling against  
2 the attorney making the objection.

3 If I say the objection is sustained, I'm  
4 ruling in favor of the attorney making the objection.  
5 Anything excluded by me is not evidence and must not be  
6 considered by you in your deliberations.

7 Sometimes these evidence questions or legal  
8 questions will be heard in your presence in open Court.  
9 Other times at sidebar. Or you may be excused to go  
10 into the jury room so we can discuss the issue in open  
11 Court.

12 I realize that being confined in the jury  
13 room for any length of time is not very pleasant, but I  
14 ask your indulgence and patience. I'm sure you realize  
15 that these legal arguments must be heard outside of  
16 your presence.

17 You should not conclude that because I rule  
18 one way or another that I have any feelings about the  
19 outcome of the case; I do not. But even if I did, you  
20 would have to disregard them since you will be the sole  
21 judges of the facts.

22 During the trial from time to time there's  
23 going to be recesses. During any of these recesses you  
24 are not to discuss the case among yourselves, and when  
25 we recess overnight, you must not discuss the case or

Colloquy

15

1 the testimony you heard with any members of your family  
2 or any other friends or people that you may know.

3 The reason of course is that you should not  
4 begin any deliberations until the entire case is  
5 concluded. That is until you've heard all the  
6 witnesses and final arguments of counsel, and my  
7 instructions as to the law.

8 It would be improper for any outside  
9 influence to intrude upon your thinking. If anyone  
10 should attempt to discuss the case with you, you should  
11 report the fact to me or my staff immediately.

12 If you have a cell phone, pager or other  
13 communication device you must turn that device off  
14 while in the courtroom. And you also have to turn it  
15 off while you're in the jury deliberation room. If you  
16 need an emergency number to contact you, I'll give you  
17 a telephone number for my chambers.

18 Otherwise, you can only use your cell phones,  
19 or other devices when you are outside the jury  
20 deliberation room during recesses.

21 Please be mindful of these instructions at  
22 all times.

23 During jury selection you were asked to  
24 respond to a series of questions from the Court and  
25 counsel. If, during the course of the trial, you

## Colloquy

16

1 realize that you may have made a misstatement or an  
2 omission during your responses, do not discuss the  
3 matter with your fellow jurors. Rather just let my  
4 officer know and he'll notify me immediately.

5           During the trial, you are not to speak to or  
6 associate with any of the attorneys, the witnesses or  
7 the defendant, Mr. Wright. Nor are they permitted to  
8 speak or associate with you. This separation should  
9 not be regarded as rudeness, but rather as a proper  
10 precaution to ensure fairness to both sides.

11           If anyone connected with this case or any  
12 other person approaches you or attempts to influence  
13 you in any way, do not discuss it with the other  
14 jurors. Simply tell a sheriff's officer and I will be  
15 notified immediately.

16           Your deliberations should be based on the  
17 testimony in the case without any outside influence or  
18 opinions of relatives and friends. Additionally, I  
19 must instruct you not to read any newspaper articles  
20 pertaining to this case. I do not know if there will  
21 be any newspaper or media coverage, I don't believe  
22 there will be. But if there is, you are instructed to  
23 completely avoid reading or listening to any newspaper  
24 or media accounts, or listening to anyone else discuss  
25 them.

## Colloquy

17

1           I'm sure you can understand why this  
2 instruction is so important. Newspaper and media  
3 accounts are not evidence. They're often based upon  
4 second or third hand information, purely hearsay, not  
5 always accurate and not subject to examination by the  
6 attorneys.

7           I have no way to monitor you in this area,  
8 but must rely upon your good faith and the fact you've  
9 been sworn to comply with the instructions of the Court  
10 so that both sides may receive a fair trial.

11           Because this instruction is so important,  
12 it's my duty to remind you of it at the end of each  
13 day's proceedings.

14           Since you are the sole judges of the facts,  
15 you must pay close attention to the testimony. It's  
16 important you carry with you to the jury room, not only  
17 a clear recollection of what the testimony was, but  
18 also a recollection of the manner in which it was  
19 given. It will be your duty to pay careful attention  
20 to all the testimony. If you are unable to hear any  
21 witness, raise your hand and I'll instruct the witness  
22 to speak loudly and more clearly.

23           As jurors, you'll be required to pass upon  
24 all questions of fact, including the credibility or  
25 believability of the witnesses. You're not permitted

Colloquy

18

1 to visit the scene of the alleged incident, do your own  
2 research or otherwise conduct your own investigation.  
3 Your verdict must be based solely on the evidence  
4 introduced in this courtroom.

5 You're not permitted to take notes. Our  
6 experience has shown that note-taking is distracting.  
7 It is better to rely upon the combined recollections of  
8 all the jurors than upon notes taken by one or more of  
9 them.

10 At the conclusion of the testimony, the  
11 attorneys will speak to you once again in their  
12 summation. At the time, they'll present to you their  
13 final arguments based upon their respective  
14 recollection of the evidence. Again, this is not  
15 evidence but their recollection as to the evidence. It  
16 is your recollection as to the evidence presented that  
17 is controlling.

18 Following summations you'll receive your  
19 final instructions on the law from me. You'll then  
20 retire to consider your verdict. You're not to form or  
21 express an opinion on this case but are to keep an open  
22 mind until you've heard all the testimony, have heard  
23 summations, have had the benefit of my instructions as  
24 to the applicable law, and have been instructed to  
25 begin your deliberations.

Colloquy

19

1 It is your duty to weigh the evidence calmly,  
2 and without bias, passion, prejudice or sympathy, and  
3 to decide the issues based upon the merits. You as  
4 jurors should find your facts from the evidence adduced  
5 during the trial.

6 Evidence may be either direct or  
7 circumstantial. Direct evidence means evidence that  
8 directly proves a fact, without an inference, and which  
9 in itself, if true, conclusively establishes that fact.

10 On the other hand, circumstantial evidence  
11 means evidence that proves a fact from which an  
12 inference of the existence of another fact may be  
13 drawn.

14 That's a very wordy definition. I'll give  
15 you an example to illustrate what that means.

16 An inference is a deduction of fact that may  
17 be logically and reasonably drawn from another fact or  
18 group of facts established by the evidence.

19 It's not necessary that facts be proved by  
20 direct evidence. It may be proved by circumstantial  
21 evidence, or a combination of direct and circumstantial  
22 evidence. Both direct and circumstantial evidence are  
23 acceptable as a means of proof.

24 In many cases, circumstantial evidence may be  
25 more certain, satisfying and persuasive than direct

1 evidence. In any event, both circumstantial and direct  
2 evidence should be scrutinized and evaluated carefully.

3 A conviction may be based on circumstantial  
4 evidence alone, or in combination with direct evidence,  
5 provided of course that it convinces you of defendant's  
6 guilt beyond a reasonable doubt.

7 And conversely, if circumstantial evidence  
8 gives rise to a reasonable doubt in your minds as to  
9 the defendant's guilt, then the defendant must be found  
10 not guilty.

11 Let me give you an example.

12 The problem is to prove that it snowed during  
13 the night. An example of direct evidence would be  
14 testimony from the witness stand by the witness  
15 indicating she observed snow falling during the night.  
16 Direct evidence.

17 An example of circumstantial evidence,  
18 testimony indicating there was no snow on the ground  
19 before the witness went to sleep and that when the  
20 witness arose, woke up in the morning, it still wasn't  
21 snowing, but the ground was snow covered. The first  
22 example goes to prove, goes directly to prove the fact  
23 that snow fell, the witness saw it happen. While the  
24 latter establishes facts, snow on the ground, from  
25 which the inference that it snowed during the night can

1 be drawn.

2 That's the difference.

3 As judges of the facts, you are to determine  
4 the credibility of the witnesses, and in determining  
5 whether a witness is worthy of belief and therefore  
6 credible, you may take the following into  
7 consideration.

8 The appearance and demeanor of the witness;  
9 the manner in which he or she may testify; the witness'  
10 interest in the outcome of the trial, if any; his or  
11 her means of obtaining knowledge of the facts; the  
12 witness' power of discernment, meaning their judgment  
13 and understanding; their ability to reason, observe,  
14 recollect and relate; the possible bias, if any, in  
15 favor of the side for whom the witness testifies; the  
16 extent to which, if at all, each witness is either  
17 corroborated or contradicted, supported or discredited  
18 by other evidence; whether the witness testified with  
19 an intent to deceive you; the reasonableness or  
20 unreasonableness of the testimony the witness has  
21 given; whether the witness has made any inconsistent or  
22 contradictory statements; and any and all other matters  
23 in evidence which serve to support or discredit his or  
24 her testimony to you.

25 During your deliberations you may ask what is

## Colloquy

22

1 more reasonable, the more probable or the more logical  
2 version. Inconsistencies or discrepancies in the  
3 testimony of witnesses or between the testimony of  
4 different witnesses may or may not cause you to  
5 discredit such testimony. Two or more persons  
6 witnessing an incident may see or hear it differently.  
7 An innocent misrecollection like failure of  
8 recollection is not an uncommon experience.

9 In weighing the effect of a discrepancy,  
10 consider whether it pertains to a matter of importance,  
11 or an unimportant detail. And whether the discrepancy  
12 results from innocent error or willful falsehood.

13 Stephen Wright stands before you on an  
14 indictment found by the Grand Jury charging him with  
15 committing the crimes of aggravated sexual assault and  
16 burglary.

17 The indictment is not evidence of the  
18 defendant's guilt. It's simply a step in the procedure  
19 to bring a matter before the Court and jury for the  
20 jury's ultimate determination as to whether he is  
21 guilty or not guilty on the charges stated in it.

22 The defendant has pleaded not guilty to the  
23 charges. The defendant on trial is presumed to be  
24 innocent, and unless each and every essential element  
25 of the offense charged are proven beyond a reasonable

## Colloquy

23

1 doubt, the defendant must be found not guilty of that  
2 charge.

3 The burden of proving each element of the  
4 charges beyond a reasonable doubt rests upon the State.  
5 That burden never shifts to the defendant. It's not  
6 the obligation or the duty of the defendant in a  
7 criminal case to prove his innocence or offer any proof  
8 whatsoever relative to his innocence.

9 The Prosecution must prove its case by more  
10 than a mere preponderance of the evidence. Yet not  
11 necessarily to an absolute certainty. The State has  
12 the burden of proving defendant guilty beyond a  
13 reasonable doubt.

14 Some of you may have served as jurors in  
15 civil cases and there you were told that it is  
16 necessary to prove only that a fact is more likely true  
17 than not true.

18 Well, in criminal cases, the State's proof  
19 must be more powerful than that. It must be beyond a  
20 reasonable doubt. A reasonable doubt is an honest  
21 and reasonable uncertainty in your minds about the  
22 guilt of the defendant, after you've given full and  
23 impartial consideration to all the evidence.

24 A reasonable doubt may arise from the  
25 evidence itself or from a lack of evidence. It's a



## Colloquy

24

1 doubt that a reasonable person hearing the same  
2 evidence would have. Proof beyond a reasonable doubt  
3 is proof that leaves you firmly convinced of the  
4 defendant's guilt.

5 In this world we know very few things with  
6 absolute certainty. In criminal cases, the law does  
7 not require proof that overcomes every possible doubt.

8 If, based on your consideration of the  
9 evidence, you're firmly convinced that the defendant  
10 is guilty of the crime charged, you must find him  
11 guilty.

12 If, on the other hand, you're not firmly  
13 convinced of the defendant's guilt, you must give the  
14 defendant the benefit of the doubt and find him not  
15 guilty.

16 You'll note we have 14 people in the jury  
17 box. the conclusion of all the evidence and my final  
18 instruction, there will be a random selection where two  
19 of you will be chosen to act as alternates. The 12  
20 remaining jurors will then deliberate and return a  
21 verdict.

22 And obviously at this point we don't know who  
23 the alternates will be, and whether or not their  
24 services will be utilized. Thus, I direct all jurors  
25 should pay equal attention to the evidence as it is

## Colloquy

25

1 presented and to the Court's rulings which are  
2 applicable to the case.

3 That being said, we'll move right to  
4 openings. This is what we're going to do today,  
5 folks.

6 We're going to have openings by both  
7 attorneys, and then we're going to break for the day  
8 and we'll put our first witness on nine o'clock  
9 tomorrow morning, okay. That's the plan today. We'll  
10 be out early to enjoy the day.

11 Mr. Troiano.

12 OPENING STATEMENT BY MR. TROIANO:

13 MR. TROIANO: Judge, thank you. Mr.  
14 Hirschorn, ladies and gentlemen, good afternoon.

15 This morning went kind of quick actually in  
16 my experience as a Prosecutor picking juries, it  
17 sometimes takes a little bit longer, sometimes a little  
18 bit shorter. Today was fairly quick.

19 It has nothing to do with the significance of  
20 the case. This is a very, very important matter. You  
21 have a very important role in this case.

22 I would think that during the lunch hour you  
23 found yourself thinking what is this case all about,  
24 why are we here, what are we going to listen to, what  
25 are we going to hear.

## Opening Statements 26

1 You don't know anything about this. You've  
2 heard the charges from the indictment from the Judge,  
3 but other than that, you know nothing.

4 This case is about one very serious and  
5 simple act. An act by this man, Stephen Wright, of  
6 sexually assaulting Liliana Santos. So who is Liliana  
7 Santos? And you'll meet her, she is the victim in this  
8 case. She'll come and testify tomorrow morning.

9 Liliana Santos I want to tell you about now  
10 but I also want to tell you about about three and a  
11 half years ago. I want to tell you about November of  
12 2006. At the time Liliana Santos was 20 years old.  
13 She was living down in the Greenville section of Jersey  
14 City. She was living in a basement apartment at 235  
15 Arlington Avenue.

16 This was her first apartment; she was 20  
17 years old, all right. A basement apartment, not much  
18 in there. But it was hers. She had just moved there,  
19 she had been there for about three months or so.  
20 She'll come in and tell you that the basement apartment  
21 was somewhat small. It was in the shape of a capital E  
22 if you could visualize that.

23 You would walk in and there would be a living  
24 room area, there's a hallway that ran on the left side,  
25 there was a bathroom, a kitchen and towards the rear of

## Opening Statements 27

1 the apartment was a bedroom area.

2 Not many doors to open and close from room to  
3 room; it was a small place.

4 She had virtually no furniture in there, all  
5 right. She was living on an air mattress at the time.  
6 She had a TV, she had her personal belongings that were  
7 there, her clothes, things like that. And she had  
8 small little wine cooler that her mother had given her.

9 But this was her apartment. This was hers.  
10 This was the first apartment that she had, and this was  
11 her home.

12 On November 19th, 2006, that home was broken  
13 into. On November 19th, 2006, Liliana Santos was  
14 raped. Now going back before November 19th, 2006, days  
15 before, Liliana Santos went out with a group of  
16 friends. She went out to a baby shower in downtown  
17 Jersey City. Spent the evening there, went from there  
18 to a place called the Latin Lounge, hung out there for  
19 a little while, then went with her friends to the area  
20 of Communipaw and Halladay, an area down in Jersey  
21 City.

22 At that point she hung out with her friends.  
23 Ultimately she met up with a person by the name of  
24 Anthony Waring. You'll meet Mr. Waring as well.

25 Mr. Waring was a little bit more than a

## Opening Statements

28

1 friend, a little bit less than a boyfriend to Liliana.  
2 But they were close and they decided that at the end of  
3 that night they were going to hang out.

4 So she went to meet Mr. Waring at a place  
5 called Marjay's (phonetic), it's a bar that Mr. Waring  
6 was at. She went to meet him, he picked her up, they  
7 drove up to her house. It wasn't the first time that  
8 Mr. Waring had been there, he had been there before.  
9 They drove up, parked in front of her place.

10 It's a three story brownstone. Pulled up in  
11 front, parked, walked inside. At the time that they  
12 walked inside, neither Mr. Waring nor Liliana Santos  
13 noticed anything suspicious about the house.  
14 Everything was fine. They walked inside, the hung out  
15 for awhile, spent time together, they had sex, she  
16 wound up taking a shower, they hung out for a little  
17 while longer. At some point Mr. Waring decides to  
18 leave. This is probably about four or five o'clock in  
19 the morning.

20 Mr. Waring walks out the front door, gets  
21 into his car, drives home, all right. When Mr. Waring  
22 walks out, walks out of the house and to his car, he  
23 doesn't notice anything at all, all right. Nothing  
24 wrong with the house, nothing wrong with his car,  
25 nobody lurking in the area.

## Opening Statements

29

1 He goes home, Liliana locks the door behind  
2 him, kind of walks around, straightens up her house a  
3 little bit, winds up smoking a cigarette in front of  
4 one of the front windows. After that, decides to go to  
5 bed. Goes to bed with the TV on, all right, much like  
6 we all do.

7 Was that the end of Liliana's night? No,  
8 unfortunately it wasn't, all right. About 6 a.m. or  
9 so, Liliana hears a noise, all right. Doesn't know  
10 what it is, but she is awakened. She's not awakened by  
11 an alarm clock, she's not awakened by a phone, she is  
12 awakened by someone in her house.

13 And let me set the scene for you, ladies and  
14 gentlemen, because it's important. She lives in a  
15 basement apartment. There are a few windows but the  
16 windows are basically on the ground level of the  
17 apartment, maybe two feet or so above from the ground  
18 level. It's six o'clock in the morning and it's dark  
19 outside.

20 Below in the basement apartment it is  
21 virtually pitch black. Can't see anything. The TV  
22 that she had on before has been shut off. So you  
23 cannot see anything.

24 So she hears this noise, doesn't know what it  
25 is.

The State of NJ v. Wright

SHEET 16

Opening Statements 30

1 Eventually someone grabs at her neck. She  
2 was laying in bed, ladies and gentlemen. She was  
3 sleeping in her bed. She will testify that she was  
4 wearing a white kind of spaghetti strap shirt, short  
5 pajama shorts. She was sleeping.

6 Woken up by hands on her neck. And she has  
7 no idea what's going on, okay. Can't see anything, is  
8 confused, is certainly scared. Doesn't know what's  
9 going on.

10 So she begins to fight back, all right.  
11 She's trying to push this person off her. He's  
12 grabbing at her. Back and forth, back and forth for a  
13 little while. At some point she is actually removed  
14 from the bed and kind of tossed along the floor.

15 And let me tell you about the bed. The bed  
16 is an air mattress, all right, just to show the lack of  
17 furniture in this place. The bed is an air mattress  
18 and it is on the floor. She is tossed from the bed.  
19 She kind of rolls over, she rolls over to the area of  
20 her TV that was not on and is not on anymore. A few  
21 feet away from her bed. And she decides let me try to  
22 hit the TV to get some light into the room.

23 She actually hits the TV, turns it on. Her  
24 attacker immediately shuts it off. Her attacker then  
25 picks her up and throws her back on the bed and she is

Opening Statements 31

1 on her stomach. Attacker comes behind her, grabs her  
2 hands, pulls down her pants, his own pants come down.  
3 She will tell you that she thinks she hears what may be  
4 a condom wrapper opening and then she's raped.

5 Now, during the course of this rape, while  
6 she is on her stomach, her attacker must get a phone  
7 call, ladies and gentlemen. A phone call. And he  
8 picks up the phone.

9 So as this assault is taking place, this  
10 person decides to pick up the phone, all right, which  
11 evidences to you what this attacker thought about this  
12 person in front of him that he was going to take a  
13 phone call during this.

14 Now I told you that the apartment is pitch  
15 black and Liliana has no idea who this is. Phone comes  
16 up to the ear and Liliana turns around. She would be  
17 with her back, turns around and the side of the  
18 attacker's face is somewhat illuminated by the phone.  
19 And she thinks to herself, I know this guy. I think I  
20 know this guy.

21 He finishes, he runs out the door. She kind  
22 of gets her bearings together, walks, runs to the front  
23 door actually, looks out the window, sees if she can  
24 find where this person's going. Can't see anything.  
25 Opens up the front door, comes up to the little patio

## Opening Statements

32

1 front area and sees a person running to the left down  
2 the street.

3 She goes back into her house, immediately  
4 calls 911 and says I've been raped. The 911 operator  
5 says to her, don't take a shower, okay. Liliana  
6 despite those instructions takes a shower. Reason why  
7 she takes a shower and she'll tell you is I felt  
8 disgusting, all right. I had just been violated. I  
9 took a shower.

10 She's in the shower maybe two or three  
11 minutes, hears knocking on the door, the EMT's arrive.  
12 Police arrive, Jersey City Police arrive and she tells  
13 them that I've just been raped, it was a black male.

14 At some point when she takes her clothes off  
15 and goes to take a shower she notes that the white  
16 shirt that she was wearing has some stains on it.  
17 Stains weren't from her. She thought that they were  
18 blood, she was not bleeding.

19 So the shirt stays to the side. When the  
20 police come, they recover the shirt. Liliana is taken  
21 to Christ Hospital, where she is evaluated for about an  
22 hour, all right. Immediately from her house, taken to  
23 Christ Hospital. After that hour, she is basically  
24 cleared, and then she has to be examined by a sexual  
25 assault nurse examiner.

## Opening Statements

33

1 That examination takes about another hour. A  
2 rape kit is taken from her. At some point during that,  
3 after those two hours, a detective from the Special  
4 Victims Unit of the Hudson County Prosecutor's Office  
5 comes and brings her down to take a formal statement  
6 under oath.

7 That statement lasts about two hours, all  
8 right. So just time-wise, ladies and gentlemen, this  
9 assault happened, she calls the police, she then has to  
10 go immediately through hospital, to examiner to two  
11 hour statement, all right.

12 She gets done somewhere about 11 o'clock in  
13 the morning. During the course of that statement, she  
14 tells Detective Shonda Rosario (phonetic) of the  
15 Special Victims Unit who will also testify, that her  
16 attacker's name she believes is S.DOT (phonetic). No  
17 first name. No last name. No address. No further  
18 identifying information besides S.DOT. She describes  
19 him as a guy she knows from the neighborhood, she's  
20 seen around. A guy that she had actually seen earlier  
21 on November 19th.

22 But nothing further.

23 So what happens from there? That's November  
24 19th, 2006. Nothing. Nothing happens. The police  
25 have a name. On a few occasions, one specific

## Opening Statements

34

1 occasion, they go out and try to look for this person,  
2 S.DOT. Liliana calls up to Detective Rosario and says  
3 he's down here or he was down here, gives a  
4 description. Detectives go down, don't find anything.  
5 And then at that point the case kind of stays  
6 dormant. For the better part of about a year or so.  
7 So move forward to November of 2007, about a year  
8 later. It's found out then that the blood on the shirt  
9 that I told you about which does come back to be blood  
10 is that of Stephen Wright.  
11 Now, wouldn't you know, ladies and gentlemen,  
12 what do you think is the name that Stephen Wright goes  
13 by? S.DOT. Blood comes back to him. Mr. Wright is  
14 charged, all right. He's charged with two counts,  
15 aggravated sexual assault and burglary as the Judge  
16 read to you.  
17 And I'll tell you briefly what they're about,  
18 but that is basically within the province of the Judge.  
19 That's the Judge's role.  
20 Aggravated sexual assault means that he  
21 sexually penetrated her without consent during the  
22 course of a burglary.  
23 With regard to that burglary, you probably  
24 are asking yourselves how did this person get into this  
25 house. Interesting. When the police show up that

## Opening Statements

35

1 night, they see that the front window of Liliana's  
2 basement apartment is busted. Window is broken,  
3 shattered There's glass all over.  
4 So this person didn't go through the front  
5 door, person wasn't let in. Through the window.  
6 So Mr. Wright is also charged with burglary.  
7 And burglary is that you enter into somebody's  
8 premises, somebody's house, you don't have their  
9 consent to do it, and you do so with the intent to  
10 commit a crime while inside.  
11 Now, a lot of you may think that you have to  
12 steal something. That's not the case, all right.  
13 That's a misconception about what burglary is. It's  
14 just that you enter into somebody's residence, in this  
15 case Liliana Santos, you don't have permission and you  
16 do so with the intent to commit a crime while you're  
17 inside. The crime here being that he was going to  
18 sexually assault her.  
19 Now, you may ask yourself, did he steal  
20 anything? Yes, on the way out he stole some money, he  
21 stole some pictures, he just grabbed them on the way  
22 out.  
23 So, those are the facts that the State  
24 intends to prove. That is the law that will be before  
25 you.

## Opening Statements

36

1 Now, ladies and gentlemen, are you allowed at  
2 this point right now to raise your hands and say  
3 guilty? You're not, all right. As the Judge said, Mr.  
4 Wright is presumed innocent. Our system presumes him  
5 to be innocent. It is my burden, my obligation as a  
6 representative of the State, to prove these charges  
7 beyond a reasonable doubt. That's not a little bit of  
8 proof, that's not some proof, it's a good amount of  
9 proof. Beyond a reasonable doubt is a high standard.

10 Ladies and gentlemen, I tell you now, with  
11 confidence, that I accept that burden and I fully  
12 intend to satisfy it.

13 When the 12 of you get this case at the end,  
14 you will become the judges of the facts. You're the  
15 judges of the facts now, and you will be the judges of  
16 the facts in the deliberation room. And when you are  
17 analyzing those facts, I'm going to leave something  
18 with you. It is not only what you hear but who you  
19 hear it from. It's not only who tells you things, but  
20 why they tell you things. It is not only who is a  
21 witness, but why they are a witness. And it is not  
22 only what they tell you, but when they tell you.

23 Four things, all right. When you go back  
24 into that deliberation room, remember those four  
25 things. And the State submits to you that using those

## Opening Statements

37

1 four little sentences to analyze the facts in this case  
2 at the conclusion of this case, you will come back with  
3 the only true honest verdict, that Stephen Wright is  
4 guilty as charged.

5 Thank you.

6 THE COURT: Thank you, counsel.

7 Counsel.

8 OPENING STATEMENT BY MR. HIRSCHORN:

9 MR. HIRSCHORN: Thank you, Judge.

10 Mr. Troiano, Stephen, ladies and gentlemen.

11 First of all, like Mr. Troiano, I want to  
12 thank you all. As Mr. Troiano said, when you go  
13 through these trials, jury selection to you all may  
14 have seemed like, you know, we were sitting there for  
15 all morning, took a little bit of time. I promise you,  
16 that was a very short jury selection. And we thank you  
17 all for your candor, your honesty and enabling us to  
18 move it relatively quickly. And obviously thanks to  
19 the Judge for the way that he does this. We're able to  
20 move it relatively quickly to get the 14 of you here,  
21 ready to listen to what we have to say and ready to  
22 move forward.

23 Mr. Troiano stood up here and he told you  
24 quite a poignant story. We all have mothers, sisters,  
25 daughters, friends who are female, whatever it may be.

## Opening Statements

38

1 If this is what happened, I submit to you, ladies and  
2 gentlemen, not only is it awful, but my client should  
3 be found guilty by the 12 of you.

4 But this isn't what happened, ladies and  
5 gentlemen. The story that Mr. Troiano told you is the  
6 evidence that was presented to myself and Mr. Wright  
7 from day one of this case. The Judge indicated to you  
8 that we're here through what's called an indictment.  
9 Mr. Wright was indicted. Indictment is probably the  
10 most misunderstood word in our legal language.

11 The average citizen hears the word  
12 indictment, they think that that means that oh, someone  
13 must be guilty or they have to come to Court to plead  
14 guilty or whatever it may be.

15 As a matter of fact, ladies and gentlemen, an  
16 indictment is just the opposite. This today March  
17 17th, 2010 is the first opportunity that my client and  
18 myself can question what Mr. Troiano just stated to  
19 you. The first opportunity that we have to question  
20 Miss Santos about what may or may not have occurred  
21 that night back in 2006. The first opportunity to  
22 question Mr. Waring as to what this relationship was,  
23 who he was, what his relationship was with Miss Santos.  
24 The first opportunity that we have, in essence, ladies  
25 and gentlemen, to defend Mr. Wright against these

## Opening Statements

39

1 charges.

2 So as you 14 ladies and gentlemen sit here  
3 again, as Mr. Troiano said, even if you believe every  
4 single word that Mr. Troiano told you, and believe that  
5 there's no way that somebody could have fabricated  
6 this, exaggerated this, that this is exactly how it  
7 happened, even if you believe that, if the Judge were  
8 to give you the verdict sheet right now, and asked you  
9 to vote, each and every single one of you has to vote  
10 not guilty.

11 Because what Mr. Troiano told you is not  
12 evidence. What I'm telling you is not evidence.  
13 What's evidence in this case, ladies and gentlemen,  
14 comes from right here, and it starts tomorrow. I  
15 believe that it's going to start with Miss Santos.

16 As I said, it's the first opportunity that  
17 we get to examine her along with the 14 of you. So  
18 again, while this may sound like a horrific crime, I  
19 submit to you that there's a lot more to this than  
20 meets the eye.

21 From what we've received so far and what I  
22 believe is going to take place here, you're going to  
23 hear Miss Santos state as Mr. Troiano said, that she  
24 thought it might be S.DOT.

25 Well, ladies and gentlemen, you delve a



Opening Statements

40

1 little bit deeper into that and when you listen to all  
2 the testimony, not only are you going to hear as Mr.  
3 Troiano said that S.DOT is known as Stephen Wright, but  
4 you're going to hear that Anthony Waring knew that back  
5 in 2006. Did he go to the police and say S.DOT is  
6 Stephen Wright, he lives here, I'm friends with his  
7 brother. No. Never did that.

8 Did he tell his girlfriend, Liliana Santos,  
9 oh, if it's S.DOT, that's Stephen Wright, let's go tell  
10 the police. No. State of S.DOT, never happened.

11 Ladies and gentlemen, you're going to hear  
12 from other witnesses that were not mentioned by Mr.  
13 Troiano that are going to establish here that Liliana  
14 Santos and Stephen Wright knew each other. That  
15 Liliana Santos and Stephen Wright didn't just know each  
16 other but maintained a relationship to some degree.  
17 That's for you, ladies and gentlemen, to decide when  
18 you hear the testimony.

19 But I submit to you that as I said to begin  
20 this, the story is not as simple as it sounds.

21 So I just ask that as you've listened to  
22 myself, you've listened to Mr. Troiano, that you listen  
23 to each of the witnesses. You evaluate their  
24 credibility. You guys decide, are they telling the  
25 truth, are they fabricating something, are they being

Opening Statements

41

1 forthright with us, is there a reason for them to come  
2 here and make something up, or is there a reason for  
3 them to come here and tell the truth?

4 I can't decide that. The Judge can't even  
5 decide that. You guys decide that. You're the judges  
6 of the facts. And as Mr. Troiano stated, I ask you too  
7 to take back those four infamous questions that Mr.  
8 Troiano mentioned because I think they are very  
9 important in this case. And I think they are going to  
10 be very important when you evaluate as I think we would  
11 both agree the key witness here, the alleged victim,  
12 Miss Santos.

13 Evaluate her, evaluate her motivations,  
14 evaluate how she testifies, what she testifies to, her  
15 demeanor here on the stand. And I ask you to evaluate  
16 every witness that way, whether they be police officer,  
17 whether they be witness for the State or whether they  
18 be witness for the defense. They are all to be treated  
19 equally by you, to be looked at the same, to be decided  
20 upon the same way.

21 And I am certain that after you've listened  
22 to all of the evidence, you've heard the closing  
23 arguments of myself and Mr. Troiano, that not only will  
24 you not be convinced beyond a reasonable doubt that Mr.  
25 Wright did anything or committed these two heinous

Opening Statements

42

1 crimes, but you won't even need to get to that level,  
2 ladies and gentlemen. It will be plainly obvious to  
3 you that he's innocent. Not not guilty, innocent.

4 Thank you for your time.

5 THE COURT: Thank you, Mr. Hirschorn.

6 Okay, ladies and gentlemen, that will do it  
7 for the day, okay. Thank you very much for sitting  
8 through the jury selection process. It's sometimes  
9 tedious, we appreciate your efforts there.

10 Thank you for listening to opening  
11 statements. We're done for the day. You can go  
12 home right now. But I got to tell you a couple of  
13 things.

14 One, do not discuss the case at all amongst  
15 yourselves, with family or friends at home. Keep it to  
16 yourselves. Again, avoid any media. I don't think  
17 there is any but avoid that too.

18 Have a pleasant ride home. We'll start  
19 tomorrow at nine o'clock, once all 14 of you are here,  
20 we'll start. So please try to be here on time because  
21 if just one of you is late, we're all going to sit and  
22 wait.

23 Thank you very much. Come directly here,  
24 ninth floor, Judge Isabella, do not go to the fourth  
25 floor, okay. Thank you very much, have a pleasant trip

Colloquy

43

1 home.

2 Nine o'clock tomorrow. And again, we're not  
3 sitting Friday, we're not sitting Monday, okay. Thank  
4 you.

5 \* \* \*

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

The State of NJ v. Wright

SHEET 23

CERTIFICATION

1  
2 I, DOROTHY A. MIRAGLIOTTA, the assigned  
3 transcriber, do hereby certify that the foregoing  
4 transcript of proceedings in the Hudson County Superior  
5 Court, Law Division, Criminal Part, on 3-17-10, Tape  
6 87-10, Index 0032 - 0574; Tape 98-10, Index 5768 -  
7 7150; Tape 99-10, Index 0001 - 1503, is prepared in  
8 full compliance with the current Transcript Format for  
9 Judicial Proceedings and is a true and accurate  
10 compressed transcript of the proceedings as recorded to  
11 the best of my knowledge and ability.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

  
A. R. T. AGENCY, INC.

A.O.C. No. 295

Dated: 5/3/11

1 SUPERIOR COURT OF NEW JERSEY  
 HUDSON COUNTY  
 2 LAW DIVISION - CRIMINAL PART  
 DOCKET NO. 08-06-1073  
 3 A.D.# A-002828-10-T2

4 - - - - - :  
 THE STATE OF NEW JERSEY,  
 5 **FILED:**  
**APPELLATE DIVISION** TRANSCRIPT OF PROCEEDINGS  
 6 :  
 vs.  
 7 **MAY 10 2011**  
 STEPHEN WRIGHT,  
 8 : TRIAL  
 Defendant. *AWB* :  
 9 - - - - - : **CLERK** :

10 Place: Hudson County Courthouse  
 595 Newark Avenue  
 11 Jersey City, NJ 07306

12 Date: March 18, 2010

13 B E F O R E:  
 14 HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

15 TRANSCRIPT ORDERED BY:  
 16 HELEN C. GODBY, ESQ.  
 (Office of the Public Defender)

17 A P P E A R A N C E S:  
 18 MATTHEW J. TROIANO, ESQ.  
 (Assistant Prosecutor for the County of Hudson)  
 19 Attorney for the State.  
 20 KEITH HIRSCHORN, ESQ.  
 (Keith Hirschorn)  
 21 Attorney for the Defendant.

**RECEIVED**  
**APPELLATE DIVISION**  
**MAY 10 2011**

22 Transcribers Donna Weber  
 Dorothy A. Miragliotta  
 23 A.R.T. Agency, Inc.  
 4 Orchard Drive  
 24 Towaco, New Jersey 07082

**SUPERIOR COURT**  
**NEW JERSEY**

25 Recording Operator, Odom  
 Compressed Transcript

		I N D E X			
		DIRECT	CROSS	REDIRECT	RECROSS
1					
2	WITNESSES				
3	For the State:				
4	Liliana Santos	3	51	89	96
5	Anthony Waring	100	119		
6	Shonda Rosario	125	139	145/150	148
7					
8	EXHIBITS				IDENT.
9	S-20A BAG INSIDE S-20				38
10	S-20B SECOND BAG				38
11	S-20C SHIRT				38
12	D-1 MS. SANTOS' STATEMENT				71
13	S-21 NURSE'S FORM FROM HOSPITAL				146
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

Santos - Direct 3

1 THE COURT: Good morning, ladies and  
 2 gentlemen.

3 JURORS: Good morning.

4 MR. TROIANO: Judge, good morning, and this  
 5 time the State will call Liliana Santos.

6 L I L I A N A S A N T O S, STATE'S WITNESS, SWORN

7 COURT OFFICER: State your full name for the  
 8 record and speak loud?

9 THE WITNESS: Liliana Santos.

10 COURT OFFICER: Okay, be seated.

11 MR. TROIANO: Judge, thank you.

12 DIRECT EXAMINATION BY MR. TROIANO:

13 Q Good morning, Liliana.

14 A Good morning.

15 Q I would just like to ask you to speak up a  
 16 little bit. These microphones here should be working.  
 17 Good morning. Would you please state, again, for the  
 18 ladies and gentlemen here what your name is?

19 A Liliana Santos.

20 Q Okay. And how old are you now?

21 A Twenty three.

22 Q And where do you live?

23 A Jersey City.

24 Q Okay. I would like -- strike that -- have  
 25 you been a life long Jersey City resident?

Santos - Direct

4

- 1 A Yes.
- 2 Q I'd like to direct your attention to November  
3 of 2006, about three years ago or so. Do you remember  
4 that time?
- 5 A Yes.
- 6 Q Do you remember where you were living in  
7 November of 2006?
- 8 A Yes.
- 9 Q And where was that?
- 10 A 235 Arlington.
- 11 Q Okay. And do you remember when it was that  
12 you moved in there, how long you had been living there?
- 13 A I moved in September of '06. I was only living  
14 there for two months.
- 15 Q Okay. And if you would, please, describe to  
16 the ladies and gentlemen the layout of 235?
- 17 A When you walk in through the entrance it's the  
18 living room is the first room you walk into. Then if  
19 you keep walking it's like a little hallway with the  
20 bathroom is on the right side, keep walking, the  
21 kitchen is next on the right side, and you keep  
22 walking, there's like a little hallway with steps going  
23 up to the upstairs apartment. And if you keep walking  
24 it's the room, my bedroom was in the back room.
- 25 Q Okay. Was your bedroom separated by a door

Santos - Direct

5

- 1 or was it all an open layout?
- 2 A It was separated by a door.
- 3 Q Okay. So if you were on Arlington Avenue and  
4 you were facing your apartment, what would the building  
5 look like? What did it look like, the building?
- 6 A It was a brownstone building.
- 7 Q Okay. And you were on the lowest level?
- 8 A Yes.
- 9 Q Okay. Any windows to your apartment?
- 10 A Yes.
- 11 Q All right.
- 12 A Two windows.
- 13 Q Okay. Where were they?
- 14 A In the front in the living room.
- 15 Q Okay. And, then, if you were looking and you  
16 see two windows how would you enter into the apartment  
17 building through a door, what was the main entrance?
- 18 A The main entrance was under the steps that lead to  
19 the upstairs apartment. You have to go under.
- 20 Q Okay. Underneath the steps and through your  
21 front door?
- 22 A Correct.
- 23 Q Okay. In November of 2006 would you tell the  
24 ladies and gentlemen here what type of furnishings you  
25 had in your apartment?

Santos - Direct 6

1 A I didn't have anything. I had just moved in.  
2 Q Okay. And what were you sleeping on?  
3 A I'm sorry.  
4 Q That's all right. We'll go -- we'll go a  
5 step at a time. Do you want a cup of water?  
6 A No thank you. I was sleeping on an air bed.  
7 Q Okay. Like an air mattress?  
8 A Um-hum.  
9 Q And did you have any couches in the  
10 apartment?  
11 A No.  
12 Q Were your personal belongings there?  
13 A Yeah.  
14 Q But other than the air mattress not much?  
15 A No.  
16 Q Had you had any apartments before this?  
17 A No, this was my first apartment.  
18 Q And how old were you at the time that you had  
19 been living there?  
20 A I was 20 years old.  
21 Q And when is your birth date?  
22 A September 4th, 1986.  
23 Q Okay. So in November of 2006 would it be  
24 fair to say that you had just turned 20?  
25 A Correct.

Santos - Direct 7

1 Q The -- I'd like to ask you, and first I'd  
2 like to show you what has been marked as S-1 for  
3 identification, do you recognize this picture?  
4 A Yes.  
5 Q Okay. And what is this a picture of?  
6 A The house.  
7 Q Okay. 235?  
8 A Correct.  
9 Q All right. Is this an accurate picture?  
10 A Yes.  
11 Q All right. This is what 235 looks like?  
12 A Yes.  
13 Q All right. And I would just like you to,  
14 with this marker, just circle those windows that you  
15 were referring to, you said there were how many?  
16 A Two of them.  
17 Q Okay. Do you recall these windows, what they  
18 looked like?  
19 A Yes.  
20 Q Do you recall -- can you explain to the  
21 ladies and gentlemen, how they were situated, how they  
22 were set up?  
23 A Well, the window if you're looking -- if you're  
24 standing outside of the apartment the window on the  
25 right side was actually inside of a closet. It was

Santos - Direct

8

- 1 like some sliding doors. They were like covering some  
2 water pipes and stuff. And, then, there was a window  
3 there. And on the left side it was a window, which was  
4 a window that was open. It was like a little ledge  
5 that you sit on right next to the window.  
6 Q And this ledge that you're referring to is it  
7 inside or outside?  
8 A Inside.  
9 Q Okay. So there was -- was there a ledge in  
10 front from the outside?  
11 A No.  
12 Q Okay. Do you recall if the windows were --  
13 had screens?  
14 A Yes.  
15 Q Did you -- do you have a recollection as to  
16 whether or not the windows would lock?  
17 A They were locked.  
18 Q Okay. And how do you know this?  
19 A Because I locked them before I went to sleep.  
20 Q And --  
21 A Well, I locked the one that was open. The other  
22 window that was in the closet was never opened. I  
23 never opened it.  
24 Q Okay. And why was that?  
25 A Because it was inside a closet. I never needed to

Santos - Direct

9

- 1 open it.  
2 Q You indicated that the windows themselves  
3 were locked, is that correct?  
4 A Correct.  
5 Q Were there screens on the windows?  
6 A Yes.  
7 Q And if you know were those screens able to be  
8 locked?  
9 A No. They just come up.  
10 Q All right. With regard to the furnishings or  
11 the stuff that you had inside of your house was there a  
12 TV there?  
13 A Yes.  
14 Q And where was that located?  
15 A In my bedroom.  
16 Q Near your bed?  
17 A Yes, near the door. It was like as soon as you  
18 walk in it was like against the wall on top of a, like,  
19 a plastic bin where I put clothes in. It was on top of  
20 there like against the wall.  
21 Q Okay. And if you could estimate for the  
22 ladies and gentlemen here about how far away from your  
23 bed would the TV have been?  
24 A Maybe two feet, three feet, not far.  
25 Q Okay. All right. Liliana, I would like to



Santos - Direct

10

- 1 direct your attention to Saturday, November 18th, 2006.  
2 Do you remember that day?  
3 A Yes.  
4 Q Okay. Specifically, the -- starting that  
5 day. Do you remember what you did on that day?  
6 A Everything is a little blurry, but I remember some  
7 of what I did. I know I attended a baby shower that  
8 night.  
9 Q Okay. And do you know where the baby shower  
10 was?  
11 A Yes. It was on Erie Street.  
12 Q Okay. And for the ladies and gentlemen here  
13 where is Erie Street?  
14 A In Jersey City.  
15 Q Okay.  
16 A Downtown Jersey City.  
17 Q Okay. And do you recall whose baby shower it  
18 was?  
19 A It was my best friend's sister's baby shower.  
20 Q And if you recall about what time did that  
21 baby shower take place?  
22 A It started like around eight.  
23 Q Okay. In the evening, the night time?  
24 A Um-hum.  
25 Q Okay. And do you recall who you went there

Santos - Direct

11

- 1 with?  
2 A I don't remember.  
3 Q Do you recall if you drove there, took the  
4 bus there?  
5 A I took the bus there.  
6 Q And if you would just describe to the ladies  
7 and gentlemen to the best of your recollection when it  
8 was that you left there, where you may have gone after  
9 that?  
10 A I left like around the baby shower ended like  
11 12/12:30 around there. From there I went to the Latin  
12 Lounge for a little while. And, then, from there I  
13 left with some friends. We all met up on Pine Street.  
14 Q Okay. Let me stop you there. Where is the  
15 Latin Lounge?  
16 A I'm not sure. It's off of Mammoth.  
17 Q Still downtown?  
18 A Yes.  
19 Q And do you recall who it was that you were  
20 with there?  
21 A Yes.  
22 Q And who was that?  
23 A I was with a couple of friends, Jasmine, June, her  
24 cousins P.J. and Macho. It was just us.  
25 Q Okay. And if you recall how long did you

Santos - Direct

12

- 1 stay at the Latin Lounge?  
2 A Not long. I don't remember how long I stood  
3 there, but I don't think I stood till closing.  
4 Q And all the while do you recall how it was  
5 you were getting to these places?  
6 A After -- once I got to the baby shower June, which  
7 is Jasmine's uncle, he -- he was -- we was riding with  
8 him.  
9 Q In his car?  
10 A In his car.  
11 Q And after you had left the Latin Lounge you  
12 indicated that you went somewhere from there?  
13 A Yes.  
14 Q And where was that?  
15 A Pine Street.  
16 Q Okay. And for the ladies and gentlemen,  
17 where is Pine Street?  
18 A Pine Street is in downtown Jer -- well, not  
19 downtown. It's in Jersey City around the Communipaw  
20 area.  
21 Q Okay. And are you familiar with that area?  
22 A Yes.  
23 Q Okay. And what was the purpose of going to  
24 that area?  
25 A There was a couple of people there that's usually

Santos - Direct

13

- 1 like we just go there and meet up. We was just hanging  
2 out for a little while before we went (indiscernible).  
3 Q What was that last part?  
4 A We was just talking, hanging out before I went  
5 home.  
6 Q Okay. And do you recall that evening what  
7 happened after you were at the this Pine Street  
8 location?  
9 A Excuse me?  
10 Q Where did you go after Pine Street?  
11 A After Pine Street everyone was leaving going home,  
12 so I asked June to take me home -- no, actually, I  
13 asked June to use his phone. I called Anthony from his  
14 phone and Anthony told me he was on Halladay Street and  
15 Communipaw at the Bar Marjae's (phonetic).  
16 Q Okay. Let me stop you. You indicated that  
17 you borrowed somebody's phone?  
18 A Correct.  
19 Q And who was that?  
20 A June, Jasmine's uncle.  
21 Q Did you have a phone at the time?  
22 A No.  
23 Q And where is -- you said Marjae's, is that  
24 correct?  
25 A Correct.

Santos - Direct

14

1 Q Where is Marjae's in relationship to Pine  
2 Street?  
3 A It's one, two -- it's three blocks away.  
4 Q Okay. Same neighborhood?  
5 A Correct.  
6 Q And you indicated that you spoke with  
7 somebody on the phone, who was that?  
8 A Anthony.  
9 Q And for the ladies and gentlemen here who is  
10 Anthony?  
11 A Anthony was my boyfriend at the time.  
12 Q And where was he?  
13 A He was inside the bar on Halladay Street and  
14 Communipaw, Marjae's.  
15 Q What's the name of it?  
16 A Marjae's?  
17 Q Okay. Did you have occasion to meet up with  
18 Anthony?  
19 A Yes.  
20 Q All right. And did you at any point go into  
21 Marjae's?  
22 A No.  
23 Q And so describe to the ladies and gentlemen  
24 how it was that you met up with him, where it was?  
25 A I pulled up like across the street, yeah, like

Santos - Direct

15

1 across the street from the bar, I pulled up there, I  
2 got out the car, Anthony was already standing outside  
3 the bar. He -- once he saw me he started walking to  
4 his car. I started walking to his car and we just got  
5 in the car and he took me home.  
6 Q Did you go home after that point?  
7 A Yes.  
8 Q And did Anthony drop you off or did he stay  
9 with you?  
10 A He came in with me.  
11 Q Okay. Was that the first time -- or strike  
12 that -- had Anthony ever been to your house before?  
13 A Yes.  
14 Q Now, in the few months that you had been  
15 living there had many people been inside your -- the  
16 new apartment that you had?  
17 A No, just family.  
18 Q Okay. And Anthony?  
19 A Yes.  
20 Q And do you recall what the reason was that  
21 family would have been over, that you would have had  
22 people over your house?  
23 A They wanted to come and see the apartment, or they  
24 would come visit me and make sure I'm okay. It was my  
25 first apartment. I was young. They were just checking

Santos - Direct

16

1 up on me.  
2 Q Okay. So you went back to your apartment  
3 after you met up with Anthony?  
4 A Yes.  
5 Q If you could approximate what time was that?  
6 A Like around 1:30/2:00 between there.  
7 Q Okay. And at the time you had indicated that  
8 Anthony was your boyfriend. That night how was your  
9 relationship, were you on good terms, were you on bad  
10 terms?  
11 A We were on good terms.  
12 Q When you arrived to your house did you drive  
13 in Anthony's car?  
14 A No.  
15 Q How did you get there?  
16 A He drove.  
17 Q Okay. You drove with him?  
18 A Yes.  
19 Q And do you recall where it was that he  
20 parked?  
21 A I'm not absolutely positive. He didn't park too  
22 far from my house.  
23 Q Okay. And, then, what happened from there?  
24 A He came in, I got comfortable, I took my boots  
25 off, jumped in the shower. I think I smoked a

Santos - Direct

17

1 cigarette by the window. I went into the room, I laid  
2 down. We watched TV for a little while. And, then, we  
3 had sex.  
4 Q Okay. Let me stop you there. When you said  
5 that you and him first went into the apartment, where  
6 was it that you -- how did you enter into the  
7 apartment?  
8 A Through the front door.  
9 Q Okay. And that was the door that's  
10 underneath those steps?  
11 A Correct.  
12 Q Okay. And when you had walked -- first when  
13 you had gotten out of the car did you notice anything  
14 about the area, anything out of the ordinary?  
15 A No.  
16 Q Okay. When you had begun to enter into your  
17 apartment did you notice anything then?  
18 A No.  
19 Q You indicated that you and Anthony went  
20 inside, you hung around for a little while. At some  
21 point did Anthony stay over or did he leave?  
22 A He left at like around five o'clock in the  
23 morning, around there.  
24 Q Okay. And were you awake at that point?  
25 Describe to the ladies and gentlemen what happened?

Santos - Direct

18

- 1 A I'm not -- I don't remember if I was awake or if  
2 he woke me up and let me know that he was leaving. But  
3 I know at that point I woke up and I locked the door  
4 behind him. I sat down. I smoked another cigarette by  
5 the window. I closed the window, I locked the window.  
6 Then I went to sleep from what I remember.
- 7 Q Okay. When you say that you were -- you  
8 smoked a cigarette both before and after he left, where  
9 did this take place?
- 10 A By the window in the living room.
- 11 Q Okay. All right. And which window is that?
- 12 A The window with the little ledge that you sit on.
- 13 Q I'm going to show you what has been marked as  
14 S-2 and S-4 for identification. First S-2, do you  
15 recognize this picture?
- 16 A Yes.
- 17 Q Okay. And what is this?
- 18 A A picture of the front.
- 19 Q Okay. It would be fair to say that this is  
20 basically a little closer of a view from the one I  
21 showed you before, is that correct?
- 22 A Yes.
- 23 Q Okay. And if you would just mark on here  
24 where it was that you would smoke the cigarette or did  
25 smoke the cigarette, I should say?

Santos - Direct

19

- 1 A At this point.
- 2 Q Okay. And just put in there, let's put cig,  
3 C-I-G, all right? And this picture here, which is S-4,  
4 do you recognize this picture, although it's a little  
5 dark?
- 6 A Yes.
- 7 Q Okay. And what is that?
- 8 A This is the picture of the window inside.
- 9 Q Okay. And when you say the window, which  
10 window are you referring to?
- 11 A The window on the left.
- 12 Q Okay. Is that the window that you would  
13 smoke near?
- 14 A Yes.
- 15 Q All right. I'd like you to circle that, put  
16 the same thing. All right. Now, it's fair to say that  
17 his picture, S-4, is a picture from inside your  
18 apartment, would you agree with me?
- 19 A Yes.
- 20 Q All right. Is there another window in that  
21 general area?
- 22 A Yes.
- 23 Q And where is that?
- 24 A To the left inside this closet right here.
- 25 Q Okay. And if you could, I know that it's not

Santos - Direct

20

1 shown there, but if you could put an X, you know, in  
2 the direction that it was at. And this is -- it's  
3 showing like a little ledge there?

4 A Yes.

5 Q All right. So you have your cigarette, you  
6 indicated that you locked the door, is that correct?

7 A Yes.

8 Q When Anthony left. When Anthony left was  
9 there -- was there any issue between you and him?

10 A No.

11 Q Once you got back into the apartment and you  
12 finished smoking your cigarette, what did you do from  
13 there?

14 A In between me laying down and going to sleep  
15 everything is like a blur. I don't really remember.  
16 It was so long ago.

17 Q Okay. But at some point you went to sleep?

18 A Yes.

19 Q Okay. And where did you sleep?

20 A On the air mattress in my room.

21 Q And we talked about it a little bit before,  
22 but this air mattress, could you describe to the ladies  
23 and gentlemen, where it was in your apartment?

24 A It was on the floor to the right corner.

25 Q In the front or rear of the apartment?

Santos - Direct

21

1 A In the rear of the apartment.

2 Q Okay. And you went to sleep, you recall at  
3 the point that you went to sleep what the -- what the  
4 conditions were in your apartment?

5 A What do you mean the conditions?

6 Q Was it dark, was it light? Were you able to  
7 see?

8 A I think I left the bathroom door -- the bathroom  
9 light on. Everything else was off. The TV was on.  
10 And that was it.

11 Q Okay. Why do you -- why do you say now that  
12 the TV was on? Is it normal for you to have the TV on?

13 A Yes, I can't sleep without the TV on.

14 Q So you fall asleep. Do you recall what it  
15 was that you were wearing that night?

16 A I was wearing some light blue checker board  
17 pajamas with a white cami shirt, spaghetti string shirt  
18 to go to sleep.

19 Q Okay. Were the pants that you were wearing  
20 were they long pants, short pants?

21 A They were long pants.

22 Q You fall asleep what happens next?

23 A I woke up and someone was choking me. And the TV  
24 was off, everything was dark.

25 Q Did you shut the TV off at any point?

1 A No. No.  
2 Q And describe to the ladies and gentlemen, you  
3 say it was dark, were you able to -- were you able to  
4 see anything?  
5 A I couldn't see anything.  
6 Q All right. So I realize it's difficult, but  
7 describe what happened?  
8 A He was choking me. I don't remember everything  
9 exactly what happened because I tried so hard to block  
10 everything out. It happened so long ago.  
11 Q As best as you can.  
12 A He was choking me. He was telling me to shut the  
13 F up. And I was fight -- I was trying to fight him  
14 back. At one point we rolled off the bed, off the air  
15 mattress. And I reached my arm up and I turned the TV  
16 on and he turned my face, he squished my face against  
17 the floor, and he turned the TV back off. Then he  
18 threw me on -- back onto the air mattress. And that's  
19 when he raped me. He pulled my pants down. He told me  
20 if I keep moving he was going to kill me.  
21 Q Okay. Were you able to see -- in the  
22 beginning from what you just described were you able to  
23 see who this person was?  
24 A No.  
25 Q Was there anything that was identifiable

1 about the person?  
2 A I was trying to feel his face. I was scratching  
3 his face. I was trying to feel his hair. He had like  
4 waves. I felt the waves in his hair. And he smelled  
5 like alcohol. He smelled like he had been drinking a  
6 lot. All I smelled was the alcohol.  
7 Q And when you say he, fair to say that it was  
8 a male?  
9 A Correct.  
10 Q When you say that you tried to fight back  
11 what were you trying to do to fight back?  
12 A I was trying to push him off of me. I was kicking  
13 him, trying to kick him off of me. Like he was on top  
14 of me choking me and I was like -- I was trying to pick  
15 my legs up and kick him off of me. But he was too  
16 strong. He was too tall. He was like tall and strong.  
17 I couldn't fight him back.  
18 Q And if you recall, Liliana, where on your  
19 body was he grabbing you or touching you?  
20 A He was grabbing -- he choked me first and, then,  
21 he just started trying to like pull all my clothes off.  
22 Q And by doing that he grabbed your shirt?  
23 A Correct.  
24 Q Once -- you said that you got off the bed,  
25 you rolled off the bed and, then, you were put back on

Santos - Direct

24

1 the bed, all right? In what -- how were you positioned  
2 on the bed, if you remember?

3 A He -- when he threw me on the bed he threw me on  
4 my stomach, so I was laying face down on the bed. And  
5 he was holding me down. I think he was on his knees. I  
6 don't know I couldn't look back. He was just holding  
7 me. I guess he had his hand or something on my back,  
8 and that was it.

9 Q Okay. And what happened from there?

10 A At one point I heard a condom wrapper unwrapping  
11 and he -- that's when he inserted his penis inside of  
12 me, he on top of me. And he got a phone call, he  
13 answered his phone. And when I looked back I saw his  
14 face.

15 Q Okay. You were on your stomach, I'll give  
16 you a second?

17 A Correct.

18 Q And this person was behind you, is that  
19 correct?

20 A Yes.

21 Q All right. How do you know that the person  
22 got a phone call?

23 A I heard the phone ringing.

24 Q And what, if you call, happened once he got  
25 this phone call?

Santos - Direct

25

1 A He answered the phone.

2 Q Okay. And just describe to the ladies and  
3 gentlemen what -- what you heard or what you saw from  
4 there?

5 A He just said hello. I don't remember exactly what  
6 the conversation was. But I remember he opened his  
7 phone and I was in front of him and when I looked back  
8 I saw his face, the light was shining on his face and I  
9 saw his face.

10 Q Okay. And when you saw this person's face,  
11 did you recognize him?

12 A Yes.

13 Q All right. And describe to the ladies and  
14 gentlemen who that person was?

15 A The defendant.

16 Q At the -- on the night that this happened, or  
17 the morning, rather, did you know this person by a  
18 name?

19 A I just knew him by S.DOT (phonetic). That's what  
20 I knew him by. I didn't know his real name.

21 Q And when the light from the phone, you know,  
22 illuminated the side of his face was there any other  
23 light in the apartment at all?

24 A No.

25 Q Once he got this phone call what happened



1 from there?  
2 A I don't remember. I don't remember if he got the  
3 phone call before he raped me or after he raped me.  
4 But I know he got the phone call and after he got the  
5 phone call he got up and he left.  
6 Q And if you recall what way did he leave?  
7 A He left -- he left through the front door.  
8 Q Which would be the door going out to  
9 Arlington Avenue?  
10 A Yes.  
11 Q Liliana, I know that it's difficult. You  
12 indicated you used the word rape a couple of times.  
13 The person their penis went into your vagina, would  
14 that be fair to say?  
15 A Yes.  
16 Q All right. And you didn't give consent for  
17 this, is that fair to say?  
18 A No.  
19 Q Okay. When this person got up to leave what  
20 did you do from there?  
21 A I got up -- once I heard the door close I got up,  
22 I ran to the door, I opened the door -- no, actually, I  
23 looked out the window first and I saw the gate was  
24 open. I opened the door, I ran out, I looked to the  
25 right, I looked to the left and I saw someone running

1 down the street. Someone was running. Then I ran back  
2 inside. I was just crying hysterical. I didn't know  
3 what to do. I was confused. I was looking for a  
4 phone, 'cause I didn't have no phone. I couldn't call  
5 911 or anything, but I knew I had a phone around that  
6 didn't work that wasn't connected, but I knew I could  
7 call 911 from it. So I searched for it. When I  
8 finally found it I called 911. They told me they would  
9 be there as soon as possible. I jumped -- I took a  
10 shower and before I can even get out the shower they  
11 were already there.  
12 Q And --  
13 A The ambulance.  
14 Q -- you say they were there, who was there?  
15 A The ambulance was already there.  
16 Q And how did you know that they had arrived?  
17 A They rang the bell.  
18 Q You indicated that you went to a window to  
19 look out the window, is that correct?  
20 A Um-hum.  
21 Q And which window is that?  
22 A The window on the right with the little ledge.  
23 Q The same window you were smoking from?  
24 A Yes.  
25 Q Okay. And, then, you indicated that you went

Santos - Direct

28

1 outside and you saw somebody running away, is that  
2 correct?  
3 A Yes.  
4 Q All right. Is there -- can you describe the  
5 person at all, anything that he was wearing while  
6 inside the apartment?  
7 A While inside the apartment? I know he had a  
8 leather jacket on.  
9 Q And what makes you say that?  
10 A Because I felt it when he was on top of me and we  
11 were wrestling I felt the leather jacket.  
12 Q And I know you said it was dark, but do you  
13 know what color or could you --  
14 A No.  
15 Q -- tell what color it was?  
16 A I couldn't even tell you what color it was.  
17 Q Okay. And when you went outside and you saw  
18 this person running away which direction were they  
19 going?  
20 A They was running to the left.  
21 Q Okay.  
22 A I know the jacket he had on was a dark jacket  
23 'cause it looked almost black. When he was running  
24 down the street it looked like the person that was  
25 ruining was wearing black.

Santos - Direct

29

1 Q Okay.  
2 A But it was nighttime, so I couldn't tell you the  
3 specific color.  
4 Q When you went outside it was still dark out?  
5 A Yes.  
6 Q When you called the police, how did you go  
7 about doing that? What number did you call?  
8 A I called 911.  
9 Q Okay. And what did you tell them when you  
10 called 911?  
11 A I told them someone broke into my house and raped  
12 me.  
13 Q When you say -- are you all right?  
14 A Um-hum.  
15 Q All right. When you say that somebody broke  
16 into your house, what makes you -- what makes you say  
17 that?  
18 A Because I know the doors was locked. I know  
19 everything was locked. I'm not from around that area.  
20 That was my first apartment. I know I locked the door  
21 and I know I locked the windows.  
22 Q Okay. Did you notice anything out of the  
23 ordinary about your apartment when you came back after  
24 running outside?  
25 A Yes.

Santos - Direct

30

- 1 Q And what was that?  
2 A The window was broken.  
3 Q All right. And which window are you  
4 referring to?  
5 A The window on the right side.  
6 Q I'm going to show you, again, the same  
7 picture, S-2, you earlier circled this window where you  
8 had smoked a cigarette, is that correct?  
9 A Yes.  
10 Q All right. The window that was broken is  
11 that depicted in this picture? Is that shown in this  
12 picture?  
13 A No.  
14 Q All right.  
15 A This is the window that was broken.  
16 Q Okay. And I would like you to circle that  
17 and just put broken. Okay. And where did this -- what  
18 was behind this window?  
19 A Some sliding doors, like a little closet.  
20 Q Okay. Does this picture here accurately  
21 reflect what your apartment looked like on November  
22 19th -- strike that -- on November 18th, 2006?  
23 A Nope.  
24 Q Okay. Is there anything different about it?  
25 A Yes.

Santos - Direct

31

- 1 Q What is that?  
2 A The garbage can was moved.  
3 Q Okay. And where is the -- the ladies and  
4 gentlemen here haven't seen this picture. But describe  
5 what this picture shows here?  
6 A The picture shows the garbage can between the two  
7 windows. The garbage can was in front of the right  
8 hand window. It was directly in front of it.  
9 Q Okay. So you're saying that this picture  
10 shows that it's in the middle, is that correct?  
11 A Yes.  
12 Q But before this night it would be fair to say  
13 that it was right below the window that was broken, is  
14 that correct?  
15 A Yes.  
16 Q All right. I'd like you to just put a little  
17 circle where that garbage can usually was, and put on  
18 there garbage. Liliana, if you recall, were you given  
19 any instructions -- strike that -- you noticed that a  
20 window was broken. Did you break a window?  
21 A No.  
22 Q Earlier in the evening either hours before on  
23 the 19th or on the 18th, any time before that did you  
24 ever notice that that window was broken?  
25 A That window was not broken.

Santos - Direct

32

- 1 Q Can you say that with certainty here?
- 2 A Yes.
- 3 Q When you spoke with the 911 operator, whoever
- 4 it was that you spoke to, were you given any
- 5 instructions on what you should or should not do?
- 6 A Yes.
- 7 Q And what was that?
- 8 A She, specifically told me not to take a shower.
- 9 She specifically told me not to take a shower.
- 10 Q And despite -- despite that what did you do?
- 11 A I took a shower.
- 12 Q Okay. And tell the ladies and gentlemen why
- 13 it was that you did that?
- 14 A I wasn't thinking straight. I just was so nervous
- 15 and so scared. I didn't know what to do. I felt so
- 16 disgusting.
- 17 Q You took the shower and eventually somebody
- 18 arrived, is that correct?
- 19 A Yes.
- 20 Q And do you recall who arrived first?
- 21 A The ambulance arrived first.
- 22 Q Okay.
- 23 A I think they arrived at the same time, the
- 24 ambulance and the police officers.
- 25 Q Okay. Would that have been Jersey City

Santos - Direct

33

- 1 Police?
- 2 A Yes.
- 3 Q I would like to show you a couple of more
- 4 pictures. All right. First, I'm going to show you
- 5 what has been marked as S-7 for identification. What
- 6 does that picture show?
- 7 A This is the picture of the air mattress on the bed
- 8 -- on the floor.
- 9 Q Okay. And is this an accurate reflection of
- 10 what your air mattress looked like that night?
- 11 A Yes.
- 12 Q Now, this wall that's behind where your
- 13 pillows are in this picture, all right, what is behind
- 14 that wall?
- 15 A A backyard.
- 16 Q Okay. I would, also, like to show you S -- I
- 17 think it's S-19, all right. I'm going to show you this
- 18 diagram, which has been marked as S-19. You've seen
- 19 this picture before, is that correct?
- 20 A Yes.
- 21 Q Okay. You didn't draw this?
- 22 A No.
- 23 Q All right. What is -- what does this drawing
- 24 show or this diagram show?
- 25 A It's a diagram of the apartment.

Santos - Direct

34

- 1 Q Okay. Now, do you think or would you say  
2 here that this is accurate -- an accurate reflection of  
3 what your apartment looks like, how it's structured?  
4 A Not completely accurate.  
5 Q Okay. And what's different about it?  
6 A The living room they made it like real long. And  
7 the bedroom, also, they made it like real long. The  
8 bed actually was against the wall in the corner like  
9 that.  
10 Q Okay. So you would say that it's just -- the  
11 rooms themselves are a little bit smaller --  
12 A Yes.  
13 Q -- would that be fair to say?  
14 A Yes.  
15 Q Okay. I would like you to, if you could, I'm  
16 going to have you mark this thing, all right, just I  
17 would like first for you to show exactly how it was  
18 that your bed was situated in this room here? You  
19 indicated before that it was against the wall?  
20 A Yes.  
21 Q All right. Just --  
22 A It was on this corner here.  
23 Q Okay. So it was directly against this  
24 corner?  
25 A Yes.

Santos - Direct

35

- 1 Q All right. So would it be fair if I just put  
2 a line here that would have been your walk?  
3 A Yes.  
4 Q Okay. Now, where in this bedroom would your  
5 TV have been?  
6 A See this is too long, because the bed wasn't too  
7 far from the door. The bedroom was like about this  
8 short. The bed was right here.  
9 Q Okay.  
10 A There was a closet right here.  
11 Q Okay.  
12 A And the TV was like right here against the wall.  
13 But the entrance was like where the TV was at. The TV  
14 was like right in front of the doorway.  
15 Q Okay. Did you leave your door open or shut?  
16 A Open.  
17 Q Okay. So just mark here what that square is  
18 that you put. Okay. And mark here what this -- it's  
19 kind of a square, rectangle. All right. And you said  
20 that this is what? All right. So it would be fair to  
21 say that it's just condensed a little bit more?  
22 A Yes.  
23 Q Okay. And you indicated that you had been  
24 sleeping here on this bed, correct?  
25 A Yes.

Santos - Direct

36

1 Q All right. Now, did you sleep kind of which  
2 way was your body positioned?  
3 A This way.  
4 Q Okay. And that's how you were sleeping on  
5 the morning of the 19th?  
6 A Yes, on the left side.  
7 Q Now, with regard to this area here they show,  
8 agree with me if you will, this is the living room,  
9 correct? And would it be fair to say that those are  
10 the two windows?  
11 A Yes, but it's like a little closer.  
12 Q Okay. Everything is more condensed?  
13 A Yes.  
14 Q Okay. But they are side by side, is that  
15 correct?  
16 A Yes.  
17 Q All right. And you indicated before that one  
18 of the windows was broken, correct?  
19 A Yes.  
20 Q Does this diagram accurately show which of  
21 those two windows was broken?  
22 A Yes.  
23 Q Let me take this. Thank you. I'm sorry.  
24 Liliana, if you remember, what happened with the  
25 clothes that you were wearing when you were assaulted?

Santos - Direct

37

1 A I left them in the bathroom when I took a shower.  
2 Q Anything out of the ordinary about those  
3 clothes?  
4 A There was blood on my shirt.  
5 Q And, again, describe to the ladies and  
6 gentlemen what that shirt looked like?  
7 A It was a white -- a white spaghetti string shirt,  
8 a cami.  
9 Q And you indicated that there was blood on it?  
10 A Yes.  
11 Q All right. At what point during the evening  
12 did you realize that your shirt had blood on it?  
13 A When I was about to take a shower.  
14 Q Okay. And this was after the assault?  
15 A Yes.  
16 Q Okay. Did your blood have -- excuse me --  
17 did your shirt have blood on it earlier in the night?  
18 A No.  
19 Q And what did you do -- excuse me -- what did  
20 you do once you saw this blood on it?  
21 A I took the shirt off and jumped in the shower.  
22 Q Okay.  
23 MR. TROIANO: Judge, one second please.  
24 THE COURT: Of course.  
25 BY MR. TROIANO:

Santos - Direct

38

1 Q I'm going to show you what has been marked,  
2 the outside bag is S-20.  
3 MR. TROIANO: I assume that we should mark  
4 the rest. There's a bag inside that we should have  
5 marked as S-20A. And there's another bag. That would  
6 be S-20B. A couple of minutes, Judge. I apologize.  
7 THE COURT: All right.  
8 BY MR. TROIANO:  
9 Q All right. Liliana, I'm going to show you  
10 what's been marked as S-20C for identification. Do you  
11 remember this, shirt?  
12 A Yes.  
13 Q Okay. Is this the shirt that you were  
14 wearing that night?  
15 A Yes.  
16 Q Okay. I'm going to put it right here. Now,  
17 there's a hole in this shirt, all right, did you put  
18 that hole there?  
19 A No.  
20 Q Okay. When you last saw this shirt was there  
21 a hole in the shirt?  
22 A No.  
23 Q Okay. What was in the area where the hole  
24 was?  
25 A The blood.

Santos - Direct

39

1 Q And, again, were you at any point bleeding?  
2 A No.  
3 Q You had no cuts on you?  
4 A No.  
5 Q And what did you do with this shirt, you  
6 indicated that you took it off when you took a shower,  
7 what did you do with it after you took a shower?  
8 A I think I put it on the sink.  
9 Q Was it taken to your knowledge?  
10 A Yeah, the detective took it.  
11 Q Okay. I'm going to show you what has been  
12 marked as S-9 for identification, do you recognize this  
13 picture?  
14 A A picture of the shirt with blood on it.  
15 Q Okay. Does that picture show a hole in it?  
16 A No.  
17 Q If you would just circle the spot on this  
18 picture where the blood was. And would it be fair to  
19 say that that's where the hole is now?  
20 A Yes.  
21 Q Okay. And this picture accurately reflects  
22 what your shirt looked like that day?  
23 A Yes.  
24 Q Okay. Liliana, so the police show up -- when  
25 the police arrive did you speak with them?

Santos - Direct

40

- 1 A No. They put me in the ambulance.  
2 Q Did you tell either the police or the people  
3 in the ambulance the identity of the person who  
4 assaulted you?  
5 A No.  
6 Q Did you ever say S.DOT?  
7 A No.  
8 Q When you went in the ambulance where did you  
9 go from there?  
10 A Christ --  
11 Q Where did they take you to?  
12 A -- Christ Hospital.  
13 Q And if you know Christ Hospital is where?  
14 A On Palisades Avenue in Jersey City.  
15 Q And when you arrived at Christ Hospital  
16 explain to the ladies and gentlemen what it was that  
17 you did when you were there?  
18 A I was examined by a nurse. She did a rape kit.  
19 They gave me the morning after pill.  
20 Q Did you meet with this nurse first, or did  
21 you meet with anybody else before that?  
22 A I don't remember it was so long ago.  
23 Q But you remember meeting with her?  
24 A Yes.  
25 Q And do you remember how long, could you guess

Santos - Direct

41

- 1 about how long the examination took?  
2 A I was there for a long time. I was there for like  
3 two hours.  
4 Q Okay. And was it only the nurse, as you  
5 said, or were there other -- were there other people  
6 with you?  
7 A After I spoke to the nurse I spoke to Shanda  
8 Rosario. She came to Christ Hospital.  
9 Q Okay. And Shanda Rosario, if you know, is a  
10 detective or was a detective at the time --  
11 A Yes.  
12 Q -- correct? With the Prosecutor's Office?  
13 A Yes.  
14 Q The examination that was done by the nurse if  
15 you could briefly describe to the ladies and gentlemen  
16 what that entailed?  
17 A She -- she used swabs. They swabbed me down  
18 there. She took -- she took swabs under my nails. I  
19 think she took swabs of my mouth, because I told her  
20 that he kissed me. That's all I remember.  
21 Q Okay. Did you have occasion to tell the  
22 nurse what had happened to you? Did you at any point  
23 have to give her --  
24 A I don't remember.  
25 Q Okay. Had you ever met this nurse before?



1 A No.  
2 Q She wasn't your doctor?  
3 A No.  
4 Q Had you ever met Detective Rosario before?  
5 A No.  
6 Q Strangers?  
7 A Yes.  
8 Q You indicated that this examination took a  
9 couple of hours, is that correct?  
10 A Yes.  
11 Q Okay. And did you -- were you able to go home  
12 after that?  
13 A No.  
14 Q Okay. Where did you go from there?  
15 A I went on Duncan Avenue in Jersey City.  
16 Q So you went from your house on Arlington up  
17 to Palisades you said?  
18 A Yes.  
19 Q And, then, down to Duncan Avenue?  
20 A Yes.  
21 Q And what was the purpose of going to Duncan  
22 Avenue?  
23 A She wanted me to give a statement.  
24 Q And who is she?  
25 A Shanda Rosario.

1 Q You went there to give a statement?  
2 A Yes.  
3 Q Do you recall doing that?  
4 A Yes.  
5 Q And throughout the course of these events  
6 going to the hospital, going -- eventually going down  
7 to Duncan Avenue were you accompanied by anybody?  
8 A No.  
9 Q You were alone?  
10 A Yes.  
11 Q You went down to Duncan Avenue and explain to  
12 the ladies and gentlemen how it was that you went about  
13 giving this statement?  
14 A When we got there Anthony was there waiting. And  
15 we went upstairs. They made me sit in the waiting room  
16 with Anthony for, I think it was like, 20 minutes to 30  
17 minutes. And I was so scared I wasn't going to tell  
18 who it was. But Anthony told me to tell her who it  
19 was. So I gave a statement. I told her who I knew him  
20 as. I only knew him by S.DOT. I didn't know his real  
21 name, and that was it.  
22 Q You said that Anthony met you down there. If  
23 you know how did he know to come down there?  
24 A I called him.  
25 Q And do you know where you called him from?

Santos - Direct

44

- 1 A I called from Christ Hospital.  
2 Q Okay. And did you speak with him while you  
3 were at Christ Hospital if you recall?  
4 A Yes.  
5 Q Okay. And do you recall what you told him?  
6 A Yes.  
7 Q And what was that?  
8 A I told him that someone broke into my house, and  
9 raped me, and that I knew who it was. And he asked me  
10 who it was, and I told him it was S.DOT.  
11 Q Okay. So up until the point that you speak  
12 with Shanda and you give her this statement, Liliana,  
13 would it be fair to say that you never told anybody  
14 else in an authority position --  
15 A No.  
16 Q -- the identity of this person?  
17 A No.  
18 Q Okay. And the reason for that was?  
19 A I was scared. I was confused. I didn't know what  
20 to do.  
21 Q During -- do you remember giving a statement  
22 Shanda, Detective Rosario?  
23 A I remember bits and pieces of it. I don't  
24 remember everything.  
25 Q Okay. But you recall you gave the name --

Santos - Direct

45

- 1 A Yes.  
2 Q -- of S.DOT, is that correct?  
3 A Yes.  
4 Q Do you recall if you gave a first name?  
5 A No, I just said S.DOT.  
6 Q Okay. Did you give a last name?  
7 A No.  
8 Q Did you give an address?  
9 A No.  
10 Q Okay. At the time that this happened did you  
11 know S.DOT's first name?  
12 A No.  
13 Q Did you know his last name?  
14 A No.  
15 Q Did you know his address?  
16 A No.  
17 Q Had you seen this person -- person S.DOT  
18 before?  
19 A Yes.  
20 Q Okay. And describe for the ladies and  
21 gentlemen when that was?  
22 A I saw him that same night that I went to the baby  
23 shower. He was out there on Communipaw Avenue. He  
24 said, what's up to me. And I said, what's up. And I  
25 kept -- I kept going. I didn't stop and talk to him or

1 anything.  
2 Q Okay. You said that night of the baby  
3 shower, was it before or after the baby shower?  
4 A Before the baby shower.  
5 Q Okay. Before the baby shower you were where  
6 that this took place?  
7 A On Communipaw Avenue.  
8 Q Okay. And what was the reason, if you  
9 recall, that you were down on Communipaw Avenue?  
10 A I was just down on VanHorne Street and Bramhall  
11 Avenue, 'cause that's where my mom used to be at, my  
12 brothers, my friends, family. So I would go down  
13 there, see them and, then, I'll go home.  
14 Q Okay. And on the day of the 18th would that  
15 be fair to say, okay, you saw S.DOT in that area, is  
16 that correct?  
17 A Yes.  
18 Q But the extent of your conversation was  
19 nothing more than what's up?  
20 A That was it.  
21 Q Okay. Do you recall how you got home from  
22 Duncan Avenue?  
23 A Anthony drove me.  
24 Q And he drove his car down to pick you up?  
25 A Yes.

1 Q All right. Now, Liliana, this was in  
2 November of 2006. If you recall did you have contact  
3 with Detective Rosario after this incident took place?  
4 A Yes.  
5 Q And under what circumstances were that?  
6 Could you describe it for the ladies and gentlemen?  
7 A Whenever I would see him I would call her and tell  
8 her where he was at, so she could try to get him. But  
9 he would always run, so they couldn't catch him.  
10 Q And it was your understanding that when you  
11 had called them, that he was never caught, he was never  
12 found or arrested, is that correct?  
13 A No.  
14 Q Okay. If you could guess how many times do  
15 you think it was that you had conversations with  
16 Detective Rosario after you gave a statement at Duncan  
17 Avenue?  
18 A How many times did I call her?  
19 Q Yes.  
20 A A lot. Like ten times.  
21 Q And what was the reason for -- what was the  
22 reason for you calling her?  
23 A A couple of times I called her to let her know  
24 where he was at to see if they could try to get him. A  
25 couple of times I call her just finding -- trying to

Santos - Direct

48

1 find out what was going on. The last time I called her  
2 I called her to let her know that he -- I heard he had  
3 turned himself in --

4 Q Let me stop you there for a second. I'll go  
5 back and ask you again. It's your understanding that  
6 every time that Detective Rosario went out no arrest  
7 was made, is that correct?

8 A Correct.

9 Q Okay. In fact, would it be fair to say that  
10 a long period of time went by that you didn't hear from  
11 anybody with the Prosecutor's Office?

12 A Yes.

13 Q Do you recall about how long it was till you  
14 heard from the Prosecutor's Office again?

15 A A year later.

16 Q And if you recall, Liliana --

17 MR. TROIANO: Judge, one second please.

18 BY MR. TROIANO:

19 Q -- if you recall when you spoke to them again  
20 you were asked if you wanted to continue to proceed  
21 with this case, is that correct?

22 A Yes.

23 Q And what was your answer to that?

24 A I said, yes.

25 Q And do you recall if you were asked to

Santos - Direct

49

1 testify at the grand jury?

2 A Yes.

3 Q And did you do that?

4 A Yes.

5 Q And if you could approximate how many times  
6 do you think that you met with me?

7 A About four, five times.

8 Q And it would be fair to say that you've  
9 indicated that you want to continue with this  
10 throughout --

11 A Yes.

12 Q -- correct? After this happened in November  
13 of 2006 did you -- or strike that -- do you still live  
14 in 235 Arlington Avenue?

15 A No.

16 Q All right. Did you live there again?

17 A Never went back.

18 Q What happened to the rest of the stuff that  
19 was there?

20 A The owner of the house he told me he was going to  
21 pack everything up and put it in a different apartment  
22 for me, move me into a different apartment, but I never  
23 received the things. All the stuff stood there. I  
24 mean it wasn't much, but it was a couple of things that  
25 he stood with.

Santos - Direct 50

1 Q Okay. So you don't go back there, you don't  
2 live there again?  
3 A No.  
4 Q In fact, it would be fair to say that there  
5 was and is a dispute between you and that landlord, is  
6 that correct?  
7 A Correct.  
8 Q All right. And what's the reason for that?  
9 MR. HIRSCHORN: Objection, Judge, relevance.  
10 MR. TROIANO: That's fine.  
11 THE COURT: Sustained.  
12 BY MR. TROIANO:  
13 Q Do you see this person sitting here today?  
14 A Yes.  
15 Q Do you recognize that person?  
16 A Yes.  
17 Q Who is that?  
18 A He's the person who broke into my house and raped  
19 me.  
20 Q And you know him as what name?  
21 A S.DOT.  
22 Q Did you allow him to enter your home the  
23 night or the morning of November 19th, 2006?  
24 A No.  
25 Q All right. Did you allow him to have sex

Santos - Cross 51

1 with you on that night?  
2 A No.  
3 MR. TROIANO: No further questions.  
4 THE COURT: You need a restroom break or  
5 anything?  
6 MR. HIRSCHORN: Yes.  
7 THE COURT: Okay. All right. Let's take a  
8 couple of minutes. Knock on the door when you're ready  
9 about five, ten minutes. You can all go. Do not  
10 discuss the case whatsoever, okay? Thank you.  
11 (TAPE OFF - TAPE ON)  
12 CROSS EXAMINATION BY MR. HIRSCHORN:  
13 Q Good morning, Ms. Santos.  
14 A Good morning  
15 Q I'm just going to ask you a couple of  
16 questions -- a few questions. Try to get to some of  
17 the issues that Mr. Troiano raised and maybe some other  
18 issues, okay? Ms. Santos you stated that on the night  
19 of November the 18th you went to a baby shower, that's  
20 correct?  
21 A Yes.  
22 Q Where was the baby shower?  
23 A On Erie Street in downtown Jersey City.  
24 Q In downtown Jersey City. And did you -- you  
25 said you didn't remember who you went there with,

1 correct?  
2 A Yes.  
3 Q At the baby shower were there a lot of your  
4 friends and family there?  
5 A Yes. Well, not my family, friends.  
6 Q Not family, but friends. Was the -- is the  
7 baby shower -- it's like a party, right?  
8 A Yes.  
9 Q Was there alcohol at the party?  
10 A Yes.  
11 Q Were you drinking?  
12 A I had a cup.  
13 Q A cup of?  
14 A Of I think it was that Mist, Arbor Mist.  
15 Q Okay. Is that an alcoholic drink?  
16 A Yes.  
17 Q And you said that you stayed at the baby  
18 shower for a couple of hours, correct?  
19 A Yes.  
20 Q Okay. And, then, you went to the Latin  
21 Lounge?  
22 A Correct.  
23 Q That's a bar too?  
24 A Yes.  
25 Q Did you go there with friends?

1 A Yes.  
2 Q Who did you go to the Latin Lounge with?  
3 A I went with Jasmine, June, her cousin Macho and  
4 P.J.  
5 Q Okay. And you said you stayed there for, I  
6 guess, about an hour and a half, is that right, or  
7 less?  
8 A I'm not sure I don't remember.  
9 Q You're not sure. But you were there for some  
10 time?  
11 A Yes.  
12 Q Okay. Did you drink any alcohol while you  
13 were at the Latin Lounge?  
14 A No.  
15 Q Okay. And, then, eventually you left the  
16 Latin Lounge, correct?  
17 A Yes.  
18 Q And you said you went to hang out in a car by  
19 Pine Street?  
20 A No.  
21 Q No.  
22 A We were in the car, but we --  
23 Q Okay.  
24 A -- weren't hanging out in the car.  
25 Q Okay. But you eventually made your way to

1 Pine Street here in Jersey City, correct?  
2 A Correct.  
3 Q And Pine Street where you went you were  
4 outside of one of your friend's houses, correct?  
5 A Correct.  
6 Q Now, Pine Street in Jersey City is only about  
7 two or three blocks away from Halladay and Communipaw,  
8 right, where the bar was where Anthony was located?  
9 A Yes.  
10 Q Okay. What did you do when you were at Pine  
11 Street?  
12 A I was sitting in the car with Jasmine, her cousin  
13 and her uncle. And there was some people outside of  
14 the car. Everybody was just talking.  
15 Q So it's normal, a commonplace on a Saturday  
16 night in that area to be hanging out outside?  
17 A Yes.  
18 Q Okay. So you went down there to speak with  
19 some friends or just hang out, whatever it may be?  
20 A Yes.  
21 Q Okay. Were you drinking any alcohol while  
22 you were at Pine Street?  
23 A No.  
24 Q Okay. After you were at Pine Street you said  
25 you went and you met up with Anthony?

1 A Correct.  
2 Q How did you know where Anthony was?  
3 A I called him from June's phone, Jasmine's uncle.  
4 Q And when Mr. Troiano was asking you questions  
5 you said you recall speaking with, this is much later  
6 on you said you recall speaking with Detective Rosario  
7 from their office, correct?  
8 A From their office?  
9 Q The Prosecutor's Office, later, the next day  
10 you ended up speaking with Detective Rosario. You  
11 indicated you had spoken with her a number of times  
12 since --  
13 A Not in the Prosecutor's Office though.  
14 Q Detective Rosario?  
15 A It was on Duncan Avenue. She met me in Christ  
16 Hospital and from Christ Hospital I left with her to  
17 Duncan Avenue.  
18 Q I'm not asking you where you spoke with her.  
19 You know that she's a member of the Hudson County  
20 Prosecutor's Office?  
21 A Oh, I thought she was a Sheriff's Officer.  
22 Q Oh, okay. You didn't know, that's fair. But  
23 you spoke with her at some point later and you provided  
24 her a statement, correct?  
25 A Yes.

Santos - Cross

56

- 1 Q Do you recall telling her that you had been  
2 in constant contact with Anthony all night?  
3 A Yes, I remember telling her that.  
4 Q Okay. Were you using your own phone to  
5 contact him?  
6 A No.  
7 Q What were you doing to contact him?  
8 A I would ask Jasmine to use her phone. I'll borrow  
9 someone's phone.  
10 Q So at no point in time around November 18th  
11 of 2006 did you have a working cell phone?  
12 A Yeah, I had a working cell phone, but it didn't  
13 have minutes at the time.  
14 Q Okay. So that night you did not have a  
15 working cell phone is what you're testifying to?  
16 A Yes.  
17 Q Okay. When you met up with Anthony was he  
18 still in the bar?  
19 A No, he was waiting -- when I got there?  
20 Q Yes.  
21 A He was already outside the bar.  
22 Q Okay. Was he out there with other people?  
23 A Yes.  
24 Q Were there a lot of people outside?  
25 A Yes.

Santos - Cross

57

- 1 Q That's another -- where's the bar located  
2 again?  
3 A It's on Halladay Street and Communipaw Avenue.  
4 Q And that's another corner location where a  
5 lot of people hang out on a Saturday night, correct?  
6 A It's a bar, yes.  
7 Q And they hang out inside and outside?  
8 A No, not outside. The bar was closing so everyone  
9 was on their way out.  
10 Q So everyone was leaving the bar?  
11 A Yes.  
12 Q And you met up with Anthony?  
13 A Yes.  
14 Q Okay. And after meeting up with Anthony, I  
15 think you said, you walked home or you drove home?  
16 A I got in his car.  
17 Q Where was his car?  
18 A Parked on the corner of Halladay Street and  
19 Communipaw Avenue.  
20 Q Okay. About how far is it from Communipaw  
21 and Halladay to where you lived at 235 Arlington?  
22 A Like five minutes away.  
23 Q So a couple of minutes. It's not right there  
24 in the area --  
25 A No.



1 Q -- it's a little bit away?  
2 A Yeah.  
3 Q Okay. And he drove?  
4 A Yes.  
5 Q Had he been drinking that night?  
6 A I'm not sure, I didn't ask him.  
7 Q Okay. Did you smell alcohol on his breath?  
8 A No.  
9 Q Okay. About what time do you arrive at your  
10 apartment?  
11 A About 1:20 to 2:00 around there.  
12 Q 1:30/2:00? And, then, you gave some things  
13 that you did while Anthony was there, correct?  
14 A Yes.  
15 Q You said you smoked a cigarette, you took a  
16 shower and got out --  
17 A Yes.  
18 Q -- out of your boots. And, then, you said  
19 that you and Anthony had sex, correct?  
20 A Yes.  
21 Q Approximately, if you recall, what time was  
22 that?  
23 A Don't remember.  
24 Q Did you have sex that night on one occasion,  
25 two occasions?

1 A Just with Anthony.  
2 MR. TROIANO: Objection, Judge. With  
3 regard --  
4 BY MR. HIRSCHORN:  
5 Q With Anthony? With Anthony, excuse me.  
6 A With Anthony?  
7 Q I'm talking about with Anthony?  
8 A With Anthony, just that one time that night.  
9 Q Okay.  
10 A That was --  
11 Q Did Anthony use protection?  
12 A Yes, he did.  
13 Q Have you and Anthony engaged in sex previous  
14 to that?  
15 A Yes.  
16 Q Do you know what kind of protection he used?  
17 A Magnums.  
18 Q Okay.  
19 A Sometimes he used Magnum, sometimes he used, I  
20 really didn't pay attention to his condoms.  
21 Q Okay. Do you recall what he used that  
22 evening?  
23 A A Magnum.  
24 Q And, then, you said after that I believe you  
25 went and you took another shower, correct?

1 A After, yeah.  
2 Q Okay. And at some point in time Anthony left  
3 that evening?  
4 A Yes.  
5 Q What time was that?  
6 A Like around five o'clock.  
7 Q And you indicated that when he left around  
8 five o'clock you did what?  
9 A I -- I think he woke me up. I'm not sure if I was  
10 up already or he woke me up. I walked him to the door.  
11 I locked -- I locked the door behind him. I sat down,  
12 I smoked another cigarette. After I finished I closed  
13 the window, I locked the window. And I'm not sure what  
14 I did after that, but I know not long after that I went  
15 to sleep.  
16 Q Okay. So you went to sleep you say somewhere  
17 between five and six o'clock in the morning?  
18 A Correct.  
19 Q Okay. Now, Mr. Troiano showed you what was  
20 marked S-2 and you testified that those were the two  
21 windows in the front of your apartment, correct?  
22 A Yes.  
23 Q Are there any other windows in your  
24 apartment?  
25 A Yes.

1 Q Okay. Where is that located?  
2 A There was one window in the back in my bedroom.  
3 Q Okay. And that led to where?  
4 A The backyard.  
5 Q Okay. Was that window locked as well?  
6 A Yes.  
7 Q Now, you indicated that the window that you  
8 smoked a cigarette in that's located in what you would  
9 call the living room?  
10 A Correct.  
11 Q And this window that you circled and wrote  
12 broken on that's located inside of a closet?  
13 A Yes.  
14 Q Do you recall before you went to bed if the  
15 closet doors were open or closed?  
16 A They were closed. I never open them.  
17 Q You never open them?  
18 A No.  
19 Q You never stored anything in that closet?  
20 A No.  
21 Q Okay. Do you recall that when the police  
22 arrived later on that morning were the closet doors  
23 open or closed?  
24 A They were open.  
25 Q They were open?

1 A Yes.  
2 Q Okay. Had you at any point in time that  
3 night or previous opened or closed that window in the  
4 closet?  
5 A The broken one, no.  
6 Q Had you at any time before or after this  
7 incident opened or closed -- strike that -- do you see  
8 something on the outside of that window when you look  
9 at that picture?  
10 A Yes.  
11 Q What is that?  
12 A A shade.  
13 Q On the outside?  
14 A The outside of the window?  
15 Q Yes. Do you know what that is?  
16 A I can't see.  
17 Q Does it look like a screen?  
18 A Yes.  
19 Q Okay. Was that screen on that window on that  
20 night?  
21 A Yes.  
22 Q Had you ever opened or closed that screen?  
23 A No.  
24 Q I'm going to show you what's been marked S-14  
25 for identification, is that a picture of the same

1 window?  
2 A Yes.  
3 Q A bigger shot of the window, correct?  
4 A Yes.  
5 Q Closer up?  
6 A Yes.  
7 Q And you can see that the window is broken,  
8 correct?  
9 A It is.  
10 Q Can you, also, see in that picture that the  
11 screen is closed?  
12 A Um, no, I can't tell. It's kind of dark.  
13 Q Okay. Now, you stated that Anthony left  
14 about five o'clock in the morning, correct?  
15 A Yes.  
16 Q You fell asleep?  
17 A Yes.  
18 Q You were awoken by what?  
19 A Someone choking me.  
20 Q Was it light in your room?  
21 A No.  
22 Q Was it dark in your room?  
23 A Yes.  
24 Q The television was off?  
25 A Yes.

1 Q Was the individual saying anything to you?  
2 A He was telling me to shut the F up.  
3 Q Okay. And he had his hands around your  
4 throat?  
5 A Correct.  
6 Q Did it hurt?  
7 A He was choking me.  
8 Q Were his hands tight around your throat?  
9 A Yes.  
10 Q Tight enough that from your experience it  
11 would have caused a bruise?  
12 MR. TROIANO: Objection, Judge.  
13 A No.  
14 THE COURT: Overruled.  
15 BY MR. HIRSCHORN:  
16 Q No?  
17 A No.  
18 Q Tight enough that what?  
19 A I was fighting him back, so at one point he let me  
20 go.  
21 Q And you said that you scratched his face,  
22 correct?  
23 A Yes.  
24 Q Did you, that you recall, draw blood?  
25 A Excuse me?

1 Q Did you draw blood when you scratched him?  
2 A I don't -- I don't know.  
3 Q Did you scratch enough that you felt his skin  
4 under your fingernails?  
5 A I don't know.  
6 Q You don't know?  
7 A I don't know. It was so long ago. I don't  
8 remember.  
9 Q Do you -- so you -- as you sit here today  
10 your recollection of this incident, as you said before,  
11 you've tried to block it out of your mind. So you  
12 would agree with me that your recollection of the  
13 events of that evening were much clearer back then in  
14 2006, correct?  
15 A Um, yeah and no. Because I didn't know who Shanda  
16 Rosario was. I didn't know who any of those people  
17 were. I didn't want to speak to anybody. I just  
18 wanted to go home.  
19 Q Okay. But you did, in fact, speak to  
20 someone, correct?  
21 A Yes.  
22 Q Do you remember ever telling them that you  
23 scratched the individual on the face --  
24 A I don't --  
25 Q -- anyone the nurse, Shana Rosario?

1 A -- I don't remember saying anything.  
2 Q You don't remember? Do you -- so --  
3 A All I remember was crying the whole time I was  
4 there. That's all I remember.  
5 Q Okay. Do you remember giving the statement  
6 itself?  
7 A It's kind of blurry, but, yeah.  
8 Q Do you remember being placed under oath?  
9 A Yes.  
10 Q Do you remember her telling you that what you  
11 said was going to be recorded?  
12 A Yes.  
13 Q And, then, you provided a statement as to the  
14 incident --  
15 A Yes.  
16 Q -- that took place, correct?  
17 A Yes.  
18 Q When you told her that statement did you tell  
19 the truth?  
20 A Yes.  
21 Q Did you tell her everything that you  
22 remembered to the best of your recollection at that  
23 time?  
24 A Yes.  
25 Q So if you didn't tell her that you scratched

1 the individual is that because you didn't remember it  
2 then, or because it didn't happen?  
3 A Um, I don't even remember if I told her that he  
4 scratched me. I don't -- I don't remember.  
5 Q Wait a minute, did he scratch you or did you  
6 scratch him?  
7 A I -- I was fighting him. I remember scratching  
8 him, kicking him, punching him. I remember fighting  
9 him back.  
10 Q Okay. And you said that when you were at the  
11 hospital you spoke with Ms. Rosario and you spoke with  
12 a nurse as well, correct?  
13 A Correct.  
14 Q And the nurse, you said, did a rape kit?  
15 A Yes.  
16 Q And did she ask you any questions about --  
17 A I don't remember.  
18 Q You don't remember? You don't remember  
19 speaking with the nurse?  
20 A I don't even remember what she looks like.  
21 Q Do you remember speaking with the nurse?  
22 A Yes, I remember speaking with a nurse.  
23 Q Now, how long -- you said you had lived in  
24 this apartment for approximately two months --  
25 A Yeah.

Santos - Cross

68

- 1 Q -- correct? How far, and you can estimate by  
2 the courtroom, is it from where the front windows are  
3 to where you slept?  
4 A From here to that door back there.  
5 Q So about the length of the courtroom?  
6 A Yes.  
7 Q And you slept there, presumably, every night  
8 for the two months, correct?  
9 A No, not every night.  
10 Q All right. Well, you had slept there more  
11 than on one or two nights --  
12 A Yes.  
13 Q -- you slept there a decent amount of times?  
14 A Yes.  
15 Q Is Arlington Avenue a fairly busy street in  
16 Jersey City?  
17 A I mean it seemed quiet to me. It seemed like a  
18 good neighborhood.  
19 Q Do cars go back and forth on that street  
20 during the course of the night?  
21 A I wouldn't -- I'm not up during the night so I  
22 wouldn't even be able to tell you that.  
23 Q Let me just ask you, if I can, when you're in  
24 your bedroom --  
25 A Yes.

Santos - Cross

69

- 1 Q -- if people are talking out in front of your  
2 apartment, if cars are going by you can hear them,  
3 right?  
4 A No.  
5 Q You can't hear anything?  
6 A Nope.  
7 Q Okay.  
8 A Not with my TV on, no.  
9 Q What about if the TV's off?  
10 A Yeah, if the TV's off I'll probably be able to  
11 hear something. But not in my sleep.  
12 Q Now, obviously, as you've testified to this  
13 you didn't hear the window break?  
14 A No.  
15 Q You didn't hear the closet doors open?  
16 A Nope.  
17 Q You didn't hear the television get shut off?  
18 A No.  
19 Q What happened to the bathroom light?  
20 A I have no idea.  
21 Q Well, you testified earlier that it was on?  
22 A Yeah, I left it one when I went to sleep.  
23 Q Okay.  
24 A He must -- he must have turned it off.  
25 Q He must have turned it off?

1 A Yeah.  
2 Q Where was the bathroom in relation to where  
3 you were sleeping?  
4 A The bathroom?  
5 Q Um-hum.  
6 A The bathroom was located right before the kitchen.  
7 Q So it's a separate room from the bedroom?  
8 A Yes.  
9 Q So someone would have had to have walked in  
10 there physically turned off that light --  
11 A Yes.  
12 Q -- and continued on?  
13 A Yes.  
14 Q Was there anything on the floor in that  
15 apartment other than your mattress and your television?  
16 A Not that I remember.  
17 Q Now, when you were woken up do you recall  
18 telling the investigators who you first thought this  
19 was?  
20 A Yes.  
21 Q Who?  
22 A Anthony.  
23 Q Why did you tell the investigators that you  
24 thought that this was Anthony?  
25 A Because he told me he was Anthony.

1 Q Okay. Did you tell anybody that he told you  
2 that it was Anthony?  
3 A Yes.  
4 Q You did?  
5 A Yes.  
6 Q Who did you tell that to?  
7 A I told Shanda Rosario.  
8 MR. HIRSCHORN: Judge, can I have Ms.  
9 Santos's statement marked as D-1 for identification?  
10 Thank you.  
11 THE CLERK: D-1 for identification.  
12 BY MR. HIRSCHORN:  
13 Q Ms. Santos, I'm going to show you what's been  
14 marked Defense Exhibit 1 for identification. Do you  
15 recognize that document?  
16 A Yes, I do.  
17 Q And what is it?  
18 A This is my statement.  
19 Q Okay. That's the statement we've been  
20 discussing here that you provided to Detective Rosario?  
21 A Correct.  
22 Q And have you had an opportunity to review  
23 that statement prior to coming to court today?  
24 A Yes, I have.  
25 Q Actually before we get to the question about

1 the statement, how many times did you say you met with  
2 Mr. Troiano?  
3 A Like five times.  
4 Q Okay. And how many times did you meet with  
5 other members of the Prosecutor's Office?  
6 A I met with Ms. Maloney about two or three times.  
7 Q Okay. And you met with the detectives as  
8 well, or just those two people?  
9 A Yeah, I met with the detectives.  
10 Q On separate occasions or the same seven times  
11 that you went to the Prosecutor's?  
12 A What you mean on separate occasions?  
13 Q Did you meet with detectives on other times  
14 -- did you go other times to just meet with detectives?  
15 Or did you meet with the detectives on the same seven  
16 times that you spoke with either Mr. Troiano or Ms.  
17 Maloney?  
18 A Yes. Just -- I met -- when I met -- when I went  
19 to speak to him that's the only time I spoke to the  
20 detectives.  
21 Q So on each of those occasions you had the  
22 opportunity with whether it would be Ms. Maloney, who  
23 is an Assistant Prosecutor as well, correct?  
24 A Yes.  
25 Q Or Mr. Troiano to review either your

1 testimony or what took place or discuss this case,  
2 correct?  
3 A Yes.  
4 Q I'm going to ask you to review that statement  
5 to yourself. And after you've had an opportunity to  
6 review that I want you to answer for me if you told  
7 Detective Rosario that you believed that your attacker  
8 was Anthony because he told you his name was Anthony or  
9 because he was your boyfriend?  
10 A No.  
11 Q You never told Detective Rosario that?  
12 A No, I told her that I called him Anthony because I  
13 thought it was Anthony.  
14 Q So is that an accurate reflection of what  
15 took place?  
16 A Yes.  
17 Q So he never, in fact, told you that he was  
18 Anthony?  
19 A After I called him Anthony, yeah, he said, yes.  
20 Q He said, yes?  
21 A Yeah, he said that he's Anthony.  
22 Q Okay.  
23 A I kept asking him who are you? Like everything  
24 is --  
25 Q Did you tell the Detectives that --



1 A -- a blur.  
2 Q -- you kept asking him who he was?  
3 A No, I didn't tell her that.  
4 Q Now, obviously when you spoke with the  
5 detectives they asked you if you can identify this  
6 individual, correct?  
7 A Yes.  
8 Q Isn't it true that you indicated to them  
9 about the phone call that you believed that you -- he  
10 opened the phone and took a phone call, correct?  
11 A Yes.  
12 Q Isn't it true that you told the officers that  
13 you got a glance but you didn't get a real good look?  
14 A At first I was afraid to tell her who it was.  
15 Q You were afraid to tell her who it was?  
16 A Yes.  
17 Q So as you sit here today you are sure that  
18 the person was the person you referred to as S.DOT?  
19 A I'm positive.  
20 Q So you had seen S.DOT previously?  
21 A Yes.  
22 Q In the area?  
23 A Yes.  
24 Q Now, you said that after the incident took  
25 place at some point you made your way to Christ

1 Hospital, correct?  
2 A The ambulance took me to Christ Hospital, yes,  
3 correct.  
4 Q And Anthony was presently at Christ Hospital  
5 or he comes later?  
6 A No, he came later.  
7 Q Okay. When you spoke with Anthony on the  
8 phone did you tell him that it was S.DOT?  
9 A Yes.  
10 Q Did Anthony -- but you say at that time you  
11 didn't know who S.DOT was, you just knew the name  
12 S.DOT?  
13 A I mean I knew him by face. I knew him from being  
14 around the area. I knew his name was S.DOT. I knew  
15 that's what they called him.  
16 Q Did you mention that name to Anthony, as I  
17 said?  
18 A Yes.  
19 Q Did Anthony tell you he knew who it was?  
20 MR. TROIANO: Objection.  
21 THE COURT: Sustained.  
22 BY MR. HIRSCHORN:  
23 Q On that day, night into day, so we're talking  
24 about November 18th/November 19th, at some point in  
25 time did you come to know that S.DOT was Steven Wright?

1 A Yes.  
2 Q Did you tell the police?  
3 A Yes.  
4 Q You did?  
5 A When I found out that it was S. -- that his name  
6 was Steven?  
7 Q Yes.  
8 A The detective told me his name was Steven --  
9 Steven Wright.  
10 Q Which detective?  
11 A Shanda, Shanda Rosario.  
12 Q So on November 19th, 2006 Shanda Rosario told  
13 you that S.DOT was Steven Wright?  
14 A She said that she made a phone call and that they  
15 -- that the police -- someone knows -- the only person  
16 that they know by the name of S.DOT is someone that  
17 goes by his real name is Steven Wri -- Steven Wright,  
18 whatever his name is.  
19 Q Okay. And you're sure that you were told  
20 that by Detective Rosario that day?  
21 A Yes.  
22 Q Did there -- there came a time that you saw  
23 this individual after November 19th, correct?  
24 A Correct.  
25 Q And you said you contacted the Prosecutor's

1 Office to tell them that he was in the area?  
2 A Um-hum.  
3 Q Who did you contact?  
4 A Shanda Rosario.  
5 Q And you said you did that on at least ten  
6 occasions?  
7 A Like four or five occasions.  
8 Q Four or five occasions?  
9 A Yeah. I called her like ten times all together.  
10 Q Okay. But four or five times you spoke with  
11 Detective Rosario and said Steven Wright is in this  
12 area or S.DOT is in this area, or the person who  
13 attacked me in this -- was in this area, what did you  
14 say?  
15 A I told her -- I told her that S.DOT was on the  
16 corner of Communipaw and VanHorne Street.  
17 Q Okay. When was the last time that you saw  
18 him, if you recall, on the corner of Communipaw and  
19 VanHorne?  
20 A I don't remember.  
21 Q Was it --  
22 A After this happened he was out there every night.  
23 Q Okay. Did you speak with him?  
24 A No.  
25 Q Did you ever contact the Jersey City Police

1 or just Ms. Rosario?  
2 A No, just Ms. Rosario.  
3 Q Now, back in 2006 was your family still  
4 residing in Jersey City?  
5 A Yes.  
6 Q Was your mother residing in Jersey City?  
7 A Yes.  
8 Q Did your mother reside on Seidler Avenue?  
9 A Correct.  
10 Q Where on Seidler Avenue was her home located?  
11 A What do you mean the address?  
12 Q No. Just give me cross streets?  
13 A Between Bramhall Avenue and between, I'm not sure,  
14 I think that's Clerk -- Clerk (sic) Street.  
15 Q Clinton Street?  
16 A Clinton Street.  
17 Q Isn't it true, Ms. Santos that prior to this  
18 incident you and Mr. Wright were at your mother's home  
19 on Seidler Avenue?  
20 A No, that's not true.  
21 Q Isn't it true that prior to this incident you  
22 and Mr. Wright had hung out on numerous occasions on  
23 the corner of Communipaw and VanHorne Street?  
24 A Nope, that's not true.  
25 Q Isn't it true, Ms. Santos, that prior to this

1 incident you and Mr. Wright used to pal around the  
2 neighborhood?  
3 A Not true.  
4 Q Do you know an individual by the name if Mia  
5 Jones?  
6 A Mia? No.  
7 Q Do you know an individual by the name of  
8 Lamia (phonetic) Jones?  
9 A No.  
10 Q Do you know an individual by the name of  
11 Davone Parsons (phonetic)?  
12 A Yes, I've seen -- yeah.  
13 Q You do?  
14 A Yes.  
15 Q Where do you know Mr. Parsons from?  
16 A I see him around all the time.  
17 Q Where do you see Mr. -- around all the time,  
18 give me an area?  
19 A Around Jersey City.  
20 Q Does he hang out in a specific area?  
21 A Not that I know of.  
22 Q Are you friendly with Mr. Parsons?  
23 A No.  
24 Q But you know him?  
25 A I've seen him around.

1 Q You've seen him. Would he know you?  
2 A Personally, no.  
3 Q Would he know who you were?  
4 A He knows what I look like.  
5 Q Now, you -- what was your relationship at the  
6 time with Mr. Weiring (phonetic), Anthony Weiring?  
7 A We had just started going out.  
8 Q Just started going out?  
9 A Um-hum.  
10 Q Had you and Mr. Weiring engaged in any type  
11 of physical confrontation?  
12 A Never.  
13 Q Had Mr. Weiring ever attacked you?  
14 A Never.  
15 Q But, yet, your first inclination on that  
16 night was to think that the person doing this was  
17 Anthony Weiring?  
18 A Yes.  
19 Q And when this took place, we've already  
20 established your apartment was completely dark,  
21 correct?  
22 A Yes.  
23 Q And, obviously, from your testimony here you  
24 were obviously scared, correct?  
25 A Yes.

1 Q After the incident took place what was the  
2 first thing that you did, if you recall?  
3 A After I heard the door close I ran to the window,  
4 looked out the window. I saw that the gate was open.  
5 I didn't see anybody in the gate. I ran out the door.  
6 I looked to the right, I looked to the left. I saw  
7 someone running down the street. Then I went back  
8 inside. I remember just walking back and forth  
9 confused not knowing what to do.  
10 Q So after this took place the first thing that  
11 you did, by your testimony, was you went after your  
12 attacker?  
13 A No, I wanted to see which way he was going.  
14 Q And you recall telling the police at that  
15 time that you couldn't identify the individual,  
16 correct?  
17 A Yes -- no, I didn't speak to no police officer.  
18 Q To Ms. Rosario, I apologize. She is a police  
19 officer. She just works for the Prosecutor's Office.  
20 A Okay.  
21 Q To Ms. Rosario, Detective Rosario, do you  
22 remember telling her that you couldn't identify  
23 anybody, correct?  
24 A Yes, I remember saying that.  
25 Q And you remember telling her that the only

Santos - Cross

82

1 thing that you could identify is you thought that your  
2 attacker was a black male because you felt his hair,  
3 correct?  
4 A No, I don't remember saying that.  
5 MR. HIRSCHORN: Judge, can I show the witness  
6 D-1?  
7 THE COURT: Yes.  
8 BY MR. HIRSCHORN:  
9 Q If you could review your statement one more  
10 time, Ms. Santos, and when you're done let me know, and  
11 I'll ask you a question again.  
12 A I can't even find it.  
13 Q Maybe I can point you in the right direction,  
14 if you can just hand that back to me. Thanks. If you  
15 can read Page 12 about midway down to yourself please.  
16 A Excuse me, but this doesn't say anything about a  
17 black male.  
18 Q Okay. So you never told the police that you  
19 recognized the individual by the texture of their hair?  
20 A What I said was that I called him Anthony. I  
21 thought it was Anthony because I was feeling his hair  
22 and Anthony had waves like that.  
23 Q Okay. Is Anthony a black male?  
24 A Yes. That didn't come up though, but okay.  
25 Q Now, when you were speaking to Mr. Troiano

Santos - Cross

83

1 about the incident itself you indicated that your  
2 attacker pulled off your pants, correct?  
3 A Yes.  
4 Q Did you show the police the pajama pants?  
5 Were they pants or shorts, by the way?  
6 A They were pants.  
7 Q Did you show the police those pants?  
8 A I don't remember showing them. I just remember  
9 them as soon as they came in they put me in the  
10 ambulance and I went straight to the --  
11 Q Do you still have the pants?  
12 A I'm not sure.  
13 Q Did you look at the pants after the incident?  
14 A No.  
15 Q Did you notice if there was blood on the  
16 pants?  
17 A I didn't look. I thought they took them. They  
18 had the shirt. I thought they took the pants.  
19 Q Okay. So it was your understanding that the  
20 police took everything that they thought might be  
21 relevant to this case?  
22 A Yes.  
23 Q Okay. Now, your shirt that Mr. Troiano  
24 showed you there's -- there's a couple of specs of  
25 blood on that shirt, correct?

1 A Yes.  
2 Q And you indicated that you were not bleeding,  
3 is that correct?  
4 A Yes.  
5 Q Now, your belief is that the individual that  
6 entered your apartment entered through that window,  
7 correct?  
8 A Yes.  
9 Q Did you see the individual bleeding from  
10 anywhere?  
11 A No.  
12 Q Did you have blood on any other part of your  
13 body that you recall?  
14 A No.  
15 Q Now, as you stated that you were being held  
16 down on the bed, correct?  
17 A Yes.  
18 Q How were you being held down?  
19 A I think he had his hand on my back of something.  
20 Q Okay. And, then, I believe you said that you  
21 were tussling, correct?  
22 A Yes.  
23 Q So you were fighting back?  
24 A Yes.  
25 Q You were punching?

1 A Yes.  
2 Q You were kicking?  
3 A Yes.  
4 Q Was he doing the same to you?  
5 A He was choking me, he was pulling my hair.  
6 Q At some point in time you indicated that you  
7 heard a condom wrapper, correct?  
8 A Yes.  
9 Q Is he still choking you, holding you?  
10 A No, at this point he has me on the bed and that  
11 was after he told me not to move or he will kill me.  
12 Q Okay. Did he show you a knife?  
13 A No.  
14 Q Did you feel a gun?  
15 A No.  
16 Q Okay. So it was the threat that kept you  
17 there?  
18 A Yes. The threat and the fact that he was choking  
19 me and about to rape me, yeah.  
20 Q Okay. So he was being pretty violent with  
21 you, correct?  
22 A Yes.  
23 Q Okay. Now, you stated that after -- by the  
24 way about what time was this, if you recall?  
25 A This had to happen like around six o'clock.

1 Q In the morning?  
2 A Five something -- between five and six.  
3 Q Okay. Do you recall what time you called the  
4 police?  
5 A No.  
6 Q You had testified earlier that the police  
7 arrived pretty quickly after you called them, correct?  
8 A Yes.  
9 Q So if they arrived -- if I told you they  
10 arrived at your house shortly before 6:30 what time  
11 would you tell me that you made the call?  
12 A Like around 6:20. Between 6:20, around there.  
13 Q Okay. At any point in time through the  
14 course of this attack did you take anything from your  
15 attacker?  
16 A No.  
17 Q Did you ever hold his cell phone?  
18 A No.  
19 Q Did you ever take off his jacket?  
20 A No.  
21 Q Did you ever speak to him?  
22 A At -- I called him Anthony and he said what?  
23 Q Okay. After this took place you spoke with  
24 the various individual you spoke with on November the  
25 19th, when was the next time you spoke with somebody

1 from the Prosecutor's Office, Ms. Rosario, I guess?  
2 A When I called her and let her know where he was  
3 at.  
4 Q Okay.  
5 A That was -- that's the only time I remember  
6 calling her.  
7 Q Okay. And, again, as we've established  
8 earlier, you told Detective Rosario that S.DOT was  
9 Steven Wright?  
10 A No.  
11 Q That's what you testified to earlier. I  
12 asked you --  
13 A You asked me and I told you that she told me that  
14 his name was Steven --  
15 Q I apologize.  
16 A Okay.  
17 Q But that was on November the 19th or shortly,  
18 thereafter?  
19 A Excuse me?  
20 Q You found out from Detective Rosario either  
21 on the 19th or a couple of days or a week or two weeks  
22 later, but around November 19th, 2006 that S.DOT, the  
23 person that you said attacked you, was Steven Wright?  
24 A Yes.  
25 Q And you saw him in that area everyday?

1 A Yes.  
2 Q And you called the Prosecutor's Office --  
3 A Not everyday.  
4 Q But you saw him there --  
5 A Whenever --  
6 Q -- a lot?  
7 A -- whenever I went outside he was out -- he was  
8 around there.  
9 Q So you saw him quite a bit?  
10 A Yes. I saw him like two or three times.  
11 Q Well, how often were you out there?  
12 A I had to go out there because my mom was out there  
13 and she usually had my son.  
14 Q But it's fair to say that you saw him on a  
15 couple -- at least a couple of occasions?  
16 A Yes.  
17 Q And, again, you knew then that his name was  
18 Steven Wright, because you had been told, correct?  
19 A Not only by Detective Rosario. After this  
20 happened a lot of people were coming up to me and  
21 telling me that it was him.  
22 Q Okay. So it was pretty clear back in 2006  
23 that S.DOT was Steven Wright?  
24 A Yes.  
25 MR. HIRSCHORN: Judge, I have no further

1 questions. Thank you.  
2 THE COURT: Redirect?  
3 REDIRECT EXAMINATION BY MR. TROIANO:  
4 Q Liliana, you -- would it be fair to say that  
5 you put trust in the Detective Rosario --  
6 A Of course.  
7 Q -- with regard to this case?  
8 A Yes.  
9 Q And would it be fair to say that it would be  
10 difficult for you to go to the area of Communipaw and  
11 Halladay and make an arrest?  
12 MR. HIRSCHORN: Objection.  
13 A For me to do it?  
14 THE COURT: Sustained. Don't answer the  
15 question. Next question?  
16 BY MR. TROIANO:  
17 Q You said that you saw S.DOT outside, where  
18 did you mean by that, outside?  
19 A On the corner.  
20 Q Which corner?  
21 A Of Communipaw and VanHorne Street.  
22 Q Okay. Different section from where you live  
23 on Arlington or where you live, is that correct?  
24 A Yes.  
25 Q Okay. The night that this happened how long



Santos - Redirect

90

1 after S.DOT left your house did you call the police?  
2 A Immediately after. I came in -- when I looked  
3 outside then I saw him running down, I went inside my  
4 apartment and I started searching for a phone.  
5 Q Okay. And he was running down to the left,  
6 that's correct, right?  
7 A Yes.  
8 Q Mr. Hirschorn asked you if -- strike that --  
9 when this attack was taking place did you feel  
10 threatened?  
11 A Of course.  
12 Q And why was it that you felt threatened?  
13 A He -- there was nothing I can do. As much as I  
14 tried fighting -- fighting him back he was just too  
15 strong. There was nothing I could do. I had no choice  
16 but to just lay there and let him rape me.  
17 Q And you went over that statement that's in  
18 front of you, right, Liliana?  
19 A Yes.  
20 Q All right. In fact, you and I went over that  
21 before, is that correct?  
22 A Yes.  
23 Q And it would be fair to say that the first  
24 time you actually saw that statement was probably with  
25 me?

Santos - Redirect

91

1 A Correct.  
2 Q Would you agree that that statement is 22  
3 pages?  
4 A Yes.  
5 Q And that was a question and answer of you and  
6 Detective Rosario?  
7 A Yes.  
8 Q And would it be fair to say that you gave the  
9 name S.DOT throughout the course of that statement?  
10 A Yes.  
11 Q How you thought you knew him, what  
12 neighborhood and when you saw him, correct?  
13 A Yes.  
14 Q Now, with regard to your apartment, and we  
15 went through it on that diagram, if you were to -- and  
16 you know this apartment, you know the layout, is that  
17 correct?  
18 A Yes.  
19 Q Okay. Let's say that the light in the  
20 bathroom is on, light from the TV is on that night,  
21 correct, no other light?  
22 A No.  
23 Q Okay. If you were to come from the front of  
24 the apartment, let's say by the area of the closet, and  
25 you were to have to get to your bedroom would it be

Santos - Redirect

92

1 fair to say that your bed is at the furthest point away  
2 from that closet? Let me see. Let me -- let me  
3 explain better. You would agree that the closet is  
4 here, correct?  
5 A Yes.  
6 Q All right. And where is your bed?  
7 A All the way on the other side.  
8 Q Okay. Would it be fair to say that if you  
9 were to start here the furthest point away is your bed?  
10 A Correct.  
11 Q Okay. And you, also, indicated that there is  
12 some sort of door here, is that correct?  
13 A Yes.  
14 Q Okay. And you didn't hear anything that  
15 night, correct?  
16 A No.  
17 Q Now, if you were to start at the closet, walk  
18 towards your bedroom, you would pass by, first, the  
19 bathroom, is that correct?  
20 A Coming from the front door?  
21 Q Yes.  
22 A Yes.  
23 Q Okay. And, then, you would pass by your TV,  
24 correct?  
25 A The kitchen.

Santos - Redirect

93

1 Q Okay. Kitchen?  
2 A Yeah.  
3 Q Okay. And, then, you would keep on walking,  
4 ultimately, you would enter into your bedroom and you  
5 would pass by the TV, is that correct?  
6 A TV, yeah, the TV was right there.  
7 Q So starting from the closet or from the front  
8 of the apartment the -- your bed is the actual last  
9 thing that you would get to?  
10 A Yes.  
11 Q All right. You'd pass the bathroom, pass the  
12 TV, is that correct?  
13 A Yes.  
14 Q And you indicated that when you fell asleep  
15 light from the TV is on, light from the bathroom is on,  
16 correct?  
17 A Correct.  
18 Q Both shut off at the point that you woke up?  
19 A When I opened my eyes it was pitch black.  
20 Q And you never shut them off?  
21 A No.  
22 Q In fact, you indicated on cross examination  
23 that you didn't even ever open those doors to that  
24 closet, is that correct?  
25 A No, never.

1 Q And why didn't you?  
2 A Because when I went to inspect the apartment, when  
3 I went to look at it before I rented it out I looked in  
4 there one time, I saw that there was nothing in there,  
5 but like water pipes and stuff and, then, after that  
6 when I moved in I just felt there was no need for me to  
7 look in that closet. I already knew what was in there.  
8 Q Okay. So you didn't -- you didn't store  
9 anything there?  
10 A No.  
11 Q You didn't hang anything there?  
12 A No.  
13 Q You didn't go over there to smoke cigarettes?  
14 A No.  
15 Q All right. You didn't open those windows,  
16 shut those windows?  
17 A No.  
18 Q They stayed in the same position down?  
19 A Yes.  
20 Q Screen down on the outside, glass down on the  
21 inside, is that correct?  
22 A Correct.  
23 Q Mr. Hirschorn asked you and I'm going to ask  
24 you again did you and Anthony ever get into any  
25 physical altercation --

1 A Never.  
2 Q -- fight?  
3 A Never.  
4 Q What was the reason, tell the ladies and  
5 gentlemen here, that at the point that you began to get  
6 attacked you thought the name Anthony?  
7 A His hair. Him and Anthony had the same hair.  
8 Q And you couldn't see anything?  
9 A I couldn't see anything.  
10 Q You grabbed up?  
11 A I was grabbing his face. I was trying to feel and  
12 see if I knew who it was or something. When I said  
13 Anth -- when I said -- I didn't even call him Anthony.  
14 I called him Scoop. When I said Scoop, he said what?  
15 But after -- after -- even when he said what, like he  
16 was disguising his voice. He was like whispering, I  
17 knew it wasn't him.  
18 Q Okay. And as you sit here today you could  
19 say to these ladies and gentlemen that it was not  
20 Anthony or Scoop that was attacking you?  
21 A No.  
22 Q You have never thought that -- you have never  
23 thought that?  
24 A No.  
25 MR. TROIANO: Nothing further, Judge.

1 THE COURT: Recross?  
2 MR. HIRSCHORN: Thank you, yes. Judge, if  
3 you can just give me one minute please?  
4 THE COURT: Sure.  
5 (TAPE OFF - TAPE ON)  
6 RECROSS EXAMINATION BY MR. HIRSCHORN:  
7 Q Ms. Santos, Mr. Troiano asked you about the  
8 22 page statement you gave to the Prosecutor's Office,  
9 right?  
10 A Yes.  
11 Q And it was a question and answer, right? The  
12 Detective asked you questions and you provided answers?  
13 A Yes.  
14 Q You had spoken to her or someone else before  
15 that to provide them with your story so they would be  
16 able to ask you the right questions, correct?  
17 A Excuse me?  
18 Q Before you provided the statement that you  
19 had an opportunity to review today and you had an  
20 opportunity to review with Mr. Troiano, you explained  
21 what happened that night to someone, whether it be  
22 Detective Rosario, the nurse, both, the police, right?  
23 A I think I -- I think I told the nurse what  
24 happened.  
25 Q Okay. And Detective Rosario was there as

1 well?  
2 A I'm not -- I don't remember.  
3 Q Okay.  
4 A I think she got there after I got examined.  
5 Q The lawsuit. Basically, what I'm asking you  
6 is you had an opportunity -- or Detective Rosario had  
7 an opportunity to hear what had happened to you, so she  
8 would know how to ask you the questions so you could  
9 answer, correct?  
10 A Yes.  
11 Q Okay. So the statement that you provided  
12 wasn't the first time that you had talked about what  
13 took place a couple of hours earlier?  
14 A No, it wasn't.  
15 Q Okay. Do you remember how many times you had  
16 spoken about it before you provided the statement?  
17 A I think I just spoke to the nurse about it and,  
18 then, that was it.  
19 Q Okay. Did -- had Mr. Wright ever been over  
20 to your apartment before?  
21 A Never.  
22 Q Okay. Now, you said that the person that  
23 attacked you was disguising their voice, correct?  
24 A Yes.  
25 Q Do you recall telling the police originally

1 that you recognized the person to be S.DOT because of  
2 his voice?  
3 A I don't remember saying that.  
4 Q You don't remember saying that. Okay. Now,  
5 you testified on redirect here that you never went in  
6 that closet, correct?  
7 A No, not while I was living there.  
8 Q Not while you were living there. You only  
9 went in the one time when you were buying the apartment  
10 or renting the apartment, excuse me, to see what was  
11 back there?  
12 A Yeah.  
13 Q And you realize that you weren't going to be  
14 able to use it?  
15 A Yeah.  
16 Q Okay. So it's fair to say you never opened  
17 that window?  
18 A Yeah, I never opened that window.  
19 Q It's fair to say you never opened that  
20 screen?  
21 A Never opened the screen.  
22 Q Then can you explain to me how the window was  
23 broken --  
24 MR. TROIANO: Objection.  
25 Q -- but the screen was down?

1 THE COURT: Overruled.  
2 A He must have put it down.  
3 Q Did you hear it get put down?  
4 A Excuse me?  
5 Q Did you hear the screen go down?  
6 A No.  
7 Q Did you hear the closet doors open?  
8 A I didn't hear anything.  
9 Q You didn't hear anything.  
10 MR. HIRSCHORN: Nothing further, Judge, thank  
11 you. Thank you, Ms. Santos.  
12 THE WITNESS: You're welcome.  
13 MR. TROIANO: Nothing further.  
14 THE COURT: Okay. You're excused, Ms.  
15 Santos. Thank you very much.  
16 THE WITNESS: Thank you.  
17 MR. TROIANO: Sidebar, Judge?  
18 THE COURT: Sure.  
19 (On the record discussion at sidebar)  
20 MR. TROIANO: Take lunch?  
21 MR. HIRSCHORN: That's fine.  
22 THE COURT: All right. I'll make it 1:15.  
23 (Sidebar discussion ended)  
24 THE COURT: All right, folks, we're going to  
25 take lunch now rather than put a witness on and break

Santos - Recross 100

1 the witness up. We'll take lunch now, okay. It's  
2 12:10. I'll tell you what, why don't you come back,  
3 it's nice out, come back about 1:15, all right. Do not  
4 discuss the case among yourselves, enjoy your lunch.  
5 Once you roll back we will resume, about 1:15, 1:20,  
6 okay.

7 Thank you very much.

8 (RECESS)

9 THE COURT: Okay, folks, sorry for the delay.  
10 Notice all the equipment's gone that was here before.  
11 The trial that started last week just finished. We do  
12 two things at once sometimes, okay, so now we're going  
13 to solely focus on your trial and we're ready to  
14 continue.

15 Mr. Troiano.

16 MR. TROIANO: Judge, thank you. At this time  
17 the State will call Anthony Waring.

18 A N T H O N Y W A R I N G, STATE'S WITNESS, SWORN  
19 COURT OFFICER: State your full name for the  
20 record.

21 THE WITNESS: Anthony Waring.

22 COURT OFFICER: Have a seat.

23 MR. TROIANO: Thank you, Judge.

24 DIRECT EXAMINATION BY MR. TROIANO:  
25 Q. Mr. Waring, Anthony, I'd just ask you to

Waring - Direct 101

1 speak into that microphone so the ladies and gentlemen  
2 here could what you're saying, all right?

3 A. All right.

4 Q. Your name again for the record?

5 A. Anthony Waring.

6 Q. Okay. And Anthony, I have asked you to come  
7 here as a witness for the State, is that correct?

8 A. Yes.

9 Q. And you and I have met on a couple of  
10 different occasions, is that correct?

11 A. Yes.

12 Q. And would it be fair to say that you were  
13 brought here because a couple of years ago you were in  
14 some sort of a relationship with Liliana Santos, is  
15 that correct?

16 A. Yes.

17 Q. Okay. Before I get to that, you yourself,  
18 Anthony, have been in some trouble in the past, is that  
19 correct?

20 A. Yes.

21 Q. Okay. And in fact, you've been to Court,  
22 you've been convicted, you've even gone down to State  
23 Prison, is that correct?

24 A. Yes.

25 Q. Okay. I'm going to ask you about those

Waring - Direct

102

1 briefly and I'm going to start with 2001. In 2001  
2 specifically September 21st, 2001, you were convicted  
3 of possession of a controlled dangerous substance as  
4 well as possession of a con -- of a -- excuse me,  
5 controlled dangerous substance with intent to  
6 distribute within 1000 feet of school property, is that  
7 correct?

8 A. Yes.

9 Q. And if your recollection serves you, you  
10 received a sentence of probation for five years, is  
11 that correct?

12 A. Yes.

13 Q. Okay. Moving on a couple, a couple of years  
14 later. You were actually, it was -- this one  
15 predates. On January 21st, 2003 you were convicted of  
16 possession of a controlled dangerous substance within  
17 1000 feet of school property, two counts of that in  
18 which you were sentenced to three years in New Jersey  
19 State Prison with nine months of parole ineligibility,  
20 is that correct?

21 A. Yes.

22 Q. All right. Also in 2003 specifically May  
23 1st, 2003, you were convicted of possession of a  
24 controlled dangerous substance with intent to  
25 distribute within 1000 feet of school property and you

Waring - Direct

103

1 were sentenced to three years in New Jersey State  
2 Prison with 18 months of parole ineligibility, is that  
3 correct?

4 A. Yes.

5 Q. Okay. And finally, Anthony, on May 22nd,  
6 2008, you were convicted of possession of a controlled  
7 dangerous substance in which you received probation for  
8 a period of three years. Is that correct?

9 A. Yes.

10 Q. In fact, you are still on probation, correct?

11 A. Yes.

12 Q. You doing good?

13 A. Yes.

14 Q. All right. Now, despite that, I'm going to  
15 ask you some questions, all right. And I'm going to  
16 take you back to 2006, the fall, November time, 2006.  
17 Do you recall that time?

18 A. Yes.

19 Q. Okay. And it's fair to say you and I have  
20 talked about this, you know what I'm referring to,  
21 correct?

22 A. Yes.

23 Q. Okay. And at that time you were in a  
24 relationship again with Liliana Santos, is that  
25 correct?

1 A. Yes.  
2 Q. Okay. And where were you living at the time?  
3 A. 182 Woodward Street.  
4 Q. Okay. And just so the ladies and gentlemen  
5 here know that area of 182 Woodward is in the general  
6 area of Communipaw and Halladay, is that correct?  
7 A. Yes.  
8 Q. Not too far, a couple of blocks here and  
9 there, is that correct?  
10 A. Yes.  
11 Q. Okay. At the time, November 2006, you know  
12 where Liliana was living?  
13 A. I think she was staying with her moms.  
14 Q. At some point do you know if she moved to her  
15 own apartment?  
16 A. Yes.  
17 Q. Okay. And where was that?  
18 A. Arlington.  
19 Q. Okay. If I were to say 235 Arlington, would  
20 you agree with me?  
21 A. Yes.  
22 Q. And do you recall where in the apartment that  
23 was, top floor, bottom floor?  
24 A. I think the basement apartment.  
25 Q. Okay. Had you been there before?

1 A. Yes.  
2 Q. Okay. With Liliana?  
3 A. Yes.  
4 Q. Had you been there more than once?  
5 A. Yes.  
6 Q. Okay. I want to direct your attention to  
7 Saturday night, November 18th, 2006, or let me do it  
8 this way. Next day, November 19th, 2006, you got a  
9 call from Liliana in the morning, is that correct?  
10 A. Yes.  
11 Q. Okay. And do you recall where she was  
12 calling from?  
13 A. She was at the detective's office.  
14 Q. And do you recall how she was acting on the  
15 phone?  
16 A. She was upset I would say, slightly nervous.  
17 Q. And what do you mean by that? And if you  
18 could just speak up a little bit.  
19 A. Upset, crying, you know, saying something happened  
20 to her.  
21 Q. Okay. And do you recall what she said  
22 happened to her?  
23 A. She said she had got raped.  
24 Q. Okay. Did she identify somebody as the  
25 person that had raped her?



1 A. Yes.  
2 Q. Okay. And who was that?  
3 A. She just said S.DOT.  
4 Q. Okay. And I'll go into it a little bit  
5 more but at the point that she says S.DOT, do you have  
6 an idea of who that person may be?  
7 A. Yes.  
8 Q. Okay. All right, now I want to go back the  
9 night before this happened. Did you at any point meet  
10 up with Liliana?  
11 A. Yes, after the bar we met up and left and went to  
12 her house.  
13 Q. Okay. And what -- what bar was that?  
14 A. Marjay's (phonetic) on Communipaw.  
15 Q. All right, down on Communipaw?  
16 A. Yes.  
17 Q. Okay. You were at that bar?  
18 A. Yes.  
19 Q. Okay, were you with Liliana while you were at  
20 that bar?  
21 A. No.  
22 Q. And how was it if you recall that you two met  
23 up?  
24 A. Well there was a lot of people outside, she was in  
25 the neighborhood, I was in the neighborhood at the bar,

1 and from there we met up after that, after the bar.  
2 Q. And if you recall, where'd you go from there?  
3 A. We went to her house.  
4 Q. Her house?  
5 A. Yes.  
6 Q. And that's the basement apartment, 235?  
7 A. Yes.  
8 Q. Okay. And do you recall how it was that you  
9 got there?  
10 A. I drove.  
11 Q. And what kind of car were you driving at the  
12 time?  
13 A. A gold Acura.  
14 Q. Okay. Had you been to this bar, Marjay's,  
15 earlier in the evening?  
16 A. I got there kind of late, it was like before it  
17 closed. I got there like, probably like two, three  
18 hours before it closed.  
19 Q. Okay. And you -- you were there for a little  
20 while?  
21 A. Yes.  
22 Q. Do you have a recollection as to whether or  
23 not S.DOT, the person you know as S.DOT, was either at  
24 Marjay's or in that area that evening?  
25 A. He wasn't in the bar. I seen him in the

Waring - Direct 108

1 neighborhood though. Everybody was outside so he was  
2 in the neighborhood.

3 Q. Okay, so your recollection is that he was not  
4 in the bar, Marjay's, where you were, but that he was  
5 in the neighborhood hanging out that night?

6 A. Yes.

7 Q. Okay. Do you see in Court here today the  
8 individual you know as S.DOT?

9 A. Yes.

10 Q. Okay. And could you please identify him for  
11 us?

12 A. Right there.

13 Q. And you're pointing at the gentleman with the  
14 white shirt on?

15 A. Yes.

16 MR. TROIANO: Judge.  
17 THE COURT: Defendant for the record.  
18 MR. TROIANO: Okay.

19 BY MR. TROIANO:

20 Q. How do you know this gentleman?

21 A. From the same neighborhood. I don't know too --  
22 like I told you, being that I just came home from State  
23 Prison, like I know of him from the same neighborhood.

24 Q. Okay. How old are you?

25 A. I'm 28.

Waring - Direct 109

1 Q. Okay. Do you know him to be younger or older  
2 than you?

3 A. Younger.

4 Q. If you know?

5 A. Younger.

6 Q. Okay. You indicated that you know him by the  
7 name S.DOT. Do you know what his real name is?

8 A. No. Now I do.

9 Q. Okay. Let me ask, back in 2006 did you know  
10 what his real name was?

11 A. No.

12 Q. Okay. First name or last name?

13 A. No.

14 Q. Okay. But it would be fair to say that you  
15 know him by sight?

16 A. Yes.

17 Q. All right. Did you know any of his family  
18 members?

19 A. Only his brother.

20 Q. And for the record, what's his brother's  
21 name?

22 A. Ant.

23 Q. You call him Ant?

24 A. Yeah.

25 Q. Okay. Do you know if his brother is younger

1 or older than you?  
2 A. Younger.  
3 Q. Okay. And how do you know his brother?  
4 A. From the neighborhood.  
5 Q. Okay. Had you guys hung out, spent time  
6 together?  
7 A. They cool, play the game.  
8 Q. And what does that mean?  
9 A. Like playing Play Station game.  
10 Q. Okay. But you knew him, the brother?  
11 A. Yes.  
12 Q. Didn't know S.DOT.  
13 A. Yes.  
14 Q. All right, going back to that night, you  
15 leave Marjay's, you pick up Liliana, you go back to her  
16 house. Could you describe if you recall what happened  
17 when you got there?  
18 A. We went in, went in the house, kicked it, did what  
19 we did, and I left.  
20 Q. Okay. Just so the ladies and gentlemen here  
21 understand what you mean you guys by kicked it you mean  
22 you hung out?  
23 A. Yeah, we hung out.  
24 Q. Okay. You did what you did, probably meaning  
25 that you had sex?

1 A. Yes.  
2 Q. Okay. We're all adults, we can say it.  
3 When you arrived at Liliana's house, do you  
4 recall where it was that you parked?  
5 A. In front, in front of her house.  
6 Q. Okay. Right side, left side do you remember?  
7 A. Right side.  
8 Q. Okay. So if you were parked then your  
9 driver's side would have been in the street side?  
10 A. Yeah, driver's side.  
11 Q. And upon walking to her apartment, did you  
12 notice anything out of the ordinary?  
13 A. No.  
14 Q. It would be fair to say that at this point  
15 now, three years later, you know that a window was  
16 broken at that apartment, is that correct?  
17 A. Yes.  
18 Q. All right. If you recall, when you walked  
19 into the apartment, did you see a broken window?  
20 A. No.  
21 Q. All right. Do you believe that you would  
22 have seen it if it had been broken?  
23 A. Yes.  
24 Q. And why do you say that?  
25 A. There's only two windows and it's a basement

Waring - Direct

112

- 1 apartment. There's two windows right here in the front,  
2 so it's real noticeable.
- 3 Q. And is the area where you walk in, the  
4 outside area where you walk in in front of the windows,  
5 is that a big area?
- 6 A. It's kind of small, kind of like a -- like a  
7 driveway.
- 8 Q. Okay. So you go in, you guys hang out, did  
9 you spend the night?
- 10 A. No.
- 11 Q. Okay. At some point you left?
- 12 A. Yes.
- 13 Q. Could you approximate what time that would  
14 have happened?
- 15 A. Probably like around -- probably like around like  
16 six in the morning.
- 17 Q. Okay. And did you leave for any specific  
18 reason?
- 19 A. No, I just went home.
- 20 Q. And what'd you do when you got home?
- 21 A. Shower and went to sleep.
- 22 Q. You had been out the entire night beforehand,  
23 is that correct?
- 24 A. Yes, I was out all day.
- 25 Q. Okay. When you left Liliana's apartment, was

Waring - Direct

113

- 1 there a problem between the two of you?
- 2 A. No.
- 3 Q. Was there an issue as to whether or not you  
4 should leave or not?
- 5 A. No.
- 6 Q. Did she get mad at you that you left?
- 7 A. No.
- 8 Q. In your prior relationship with Liliana, did  
9 you guys ever get into a physical fight or anything  
10 like that?
- 11 A. No.
- 12 Q. You had a good relationship?
- 13 A. Yes.
- 14 Q. When you left the apartment, do you recall  
15 what she was doing at the point that you left?
- 16 A. She took a shower, I waited for her to take a  
17 shower, and when she got out the shower, she walked me  
18 to the door and then I left.
- 19 Q. And upon leaving, walking to your car which  
20 was out front, did you notice anything suspicious?
- 21 A. No.
- 22 Q. Do you think that you would have noticed  
23 anything suspicious?
- 24 A. Yes.
- 25 MR. HIRSCHORN: Objection, Judge.

1 THE COURT: Sustained.  
2 BY MR. TROIANO:  
3 Q. Didn't notice anything suspicious?  
4 A. No.  
5 Q. Did you look around?  
6 A. Yes.  
7 Q. Why'd you do that?  
8 A. It's not my neighborhood, it was kind of dark, so  
9 walking to my car I looked both ways before I get in my  
10 car.  
11 Q. Okay. Didn't notice anything?  
12 A. No.  
13 Q. And at the point that you walked out, did you  
14 notice whether or not a window was broken?  
15 A. No, no window wasn't broken.  
16 Q. Okay. You drive home, down to Woodward?  
17 A. Yes.  
18 Q. Okay. You said you take a shower, you go to  
19 sleep. Did you hear from Liliana again later that  
20 day?  
21 A. In the morning like around like seven, eight  
22 o'clock when I got all the phone calls.  
23 Q. Okay. And -- and explain to the ladies and  
24 gentlemen what -- what happened with these phone calls?  
25 A. She called me from the detective's office and said

1 that --  
2 MR. HIRSCHORN: Objection.  
3 THE COURT: Sustained.  
4 THE WITNESS: She called me and said that had  
5 got --  
6 MR. HIRSCHORN: Objection.  
7 BY MR. TROIANO:  
8 Q. Okay, just -- I'll rephrase.  
9 Did you get a phone call from her?  
10 A. Yes.  
11 Q. Okay. Do you recall how many phone calls you  
12 got from her?  
13 A. A whole lot.  
14 Q. Okay. And if you could estimate what a whole  
15 lot means, what do you mean by that?  
16 A. Ten, 20.  
17 Q. And what was your reaction before speaking  
18 with Liliana when you were getting these phone calls?  
19 A. Actually I didn't answer my phone, I was in my bed  
20 sleeping. I didn't think nobody was, I didn't know who  
21 would be calling me this time in the morning. Then  
22 when I did answer, when I did call the number back  
23 that's when I spoke to her.  
24 Q. Okay. And your recollection is that she was  
25 where at the time that you spoke to her?

1 A. Excuse me?  
2 Q. Your recollection now is that she was where  
3 when you spoke to her?  
4 A. At the detective's office.  
5 Q. Okay. And do you know where that is?  
6 A. Duncan Avenue.  
7 Q. We already talked about it, she indicated to  
8 you that she had been raped, is that correct?  
9 A. Yes.  
10 Q. Where'd you go from there?  
11 A. Before I went there?  
12 Q. Yeah, okay.  
13 A. Well I -- well after, when she told me everything,  
14 I rode past to see if she was serious. I thought she  
15 was kind of playing at first until I seen all the cops  
16 and stuff around like her apartment and everything.  
17 Then I went down to the detective's office.  
18 Q. Okay. So from Woodward you drove past  
19 Arlington first?  
20 A. Yes.  
21 Q. Okay. And what was in that area?  
22 A. Yellow tape, lot of cops.  
23 Q. And at that point you said?  
24 A. Serious.  
25 Q. Okay. You went where after that?

1 A. To the detective's office.  
2 Q. And when you arrived and -- strike that.  
3 Did you see Liliana when you arrived?  
4 A. Yes.  
5 Q. And could you describe for the ladies and  
6 gentlemen what she looked like, how she was acting?  
7 A. She was scared, crying, she had like a few  
8 bruises.  
9 Q. And when you mean bruises, what do you mean  
10 by that?  
11 A. Like scratches, real red.  
12 Q. You say that she was crying. Did you see her  
13 crying?  
14 A. Yes.  
15 Q. And this condition that she was in, was she  
16 in that condition when you left her a few hours prior?  
17 A. No.  
18 Q. You had -- you were under the belief, correct  
19 me if I'm wrong, or you had the name of S.DOT at that  
20 point, is that correct?  
21 A. That's what she said.  
22 Q. Okay. Do you know of any, or did you ever  
23 see any relationship or Liliana speaking with S.DOT  
24 ever in the past?  
25 A. I don't know if they ever spoke, I don't know

1 about no relationship.  
2 Q. You never saw anything with your own eyes?  
3 A. No.  
4 Q. Okay. Did you speak with the detectives when  
5 you went down to Duncan Avenue?  
6 A. Yes.  
7 Q. Okay. Did they ask you to do anything?  
8 A. Cotton swab.  
9 Q. Okay. And then ultimately how was it that  
10 you left there? Did you leave alone?  
11 A. No, I took Liliana home.  
12 Q. Okay. You brought her back to her house?  
13 A. Yes.  
14 MR. TROIANO: One second, Judge.  
15 BY MR. TROIANO:  
16 Q. After you had gotten home and in the days  
17 thereafter, did you see, did you personally see S.DOT  
18 again?  
19 A. In the neighborhood.  
20 Q. Did you your self ever have a confrontation  
21 with S.DOT about this incident?  
22 A. No.  
23 Q. Okay. And if you would, tell the ladies and  
24 gentlemen why that was?  
25 A. Why I didn't have a confrontation with him?

1 Q. Yes.  
2 A. It's not my place.  
3 Q. And what do you mean by that?  
4 A. It's not my job, that's the police job.  
5 Q. Okay. And was it your understanding that the  
6 police were involved in this?  
7 A. Yes.  
8 MR. TROIANO: Nothing further.  
9 CROSS EXAMINATION BY MR. HIRSCHORN:  
10 Q. Good afternoon, Mr. Waring.  
11 When did you come home from doing that three  
12 with an 18 in 2003?  
13 A. October 29th, 2004.  
14 Q. Okay. When did you meet Liliana?  
15 A. I'd say probably summer '05, close towards the  
16 winter, fall of '05.  
17 Q. Of '05?  
18 A. Yes.  
19 Q. So you knew her for a little bit of time  
20 prior to November 2006?  
21 A. Yes.  
22 Q. Okay. On the night of November 18th, you  
23 stated that you were hanging out at, was it Marjay's?  
24 A. Yes.  
25 Q. Okay. Were you in there by yourself?

1 A. Everybody from the neighborhood was in there.  
2 Q. Okay. So everybody from the neighborhood  
3 hangs out in there?  
4 A. Yes.  
5 Q. You said you know my client's brother?  
6 A. Yes.  
7 Q. Was he in there?  
8 A. No.  
9 Q. No. You just know him from other days or  
10 from --  
11 A. From the neighborhood.  
12 Q. And you play video games with him?  
13 A. Yeah.  
14 Q. And you said you knew -- do you know his real  
15 name?  
16 A. No.  
17 Q. You just know him as Ant?  
18 A. Yeah, just street name.  
19 Q. Okay. Now when you were at Marjay's, were  
20 you drinking?  
21 A. No.  
22 Q. You weren't drinking at all? You don't  
23 drink?  
24 A. I drink.  
25 Q. But you weren't that night?

1 A. I didn't drink.  
2 Q. Okay. Now how did you know that Liliana was  
3 coming back there?  
4 A. Coming back where?  
5 Q. To Marjay's?  
6 A. She didn't come to Marjay's.  
7 Q. Oh, she came outside of Marjay's, right?  
8 A. Yeah, she was outside when I met up with her.  
9 Q. Oh, she was hanging out outside?  
10 A. Yeah.  
11 Q. Okay. Had you spoken to her earlier that  
12 day?  
13 A. Probably like a text or two.  
14 Q. Text or two? Did she call you?  
15 A. Yeah, I spoke to her, you could say that.  
16 Q. She spoke to you? So she would call you from  
17 her phone, right? Yeah? And you would know that it  
18 was her phone because you recognized the phone number,  
19 right? That's how you knew it was her?  
20 A. It wasn't -- it wasn't her phone she called me  
21 from.  
22 Q. Oh, she called you from somebody else's  
23 phone? Okay. How did you know it was her?  
24 A. I know her voice.  
25 Q. You know her voice? But so you didn't



Waring - Cross

122

1 recognize the number, you just picked up? Okay.  
2 THE COURT: You have to speak, say yes. You  
3 shook your head yes right?  
4 BY MR. HIRSCHORN:  
5 Q. Now, have -- you said you've talked to Mr.  
6 Troiano a couple of times about this case, correct?  
7 A. Yes.  
8 Q. Have you talked to Liliana about the case?  
9 A. Yes, I spoke to her.  
10 Q. You've spoken to her since November about  
11 what took place?  
12 A. Yes.  
13 Q. What you took, what each of you talked to the  
14 police about, things like that?  
15 A. No, I never said what I said to him.  
16 Q. Did she ever tell you?  
17 A. No, I just know what was going -- she was telling  
18 me about the Court date, soon as she go to Court.  
19 Q. Okay. But she never talked after that day  
20 back in November of 2006, she never, you and her never  
21 talked about what took place?  
22 A. Only Court dates. No, we never talked about what  
23 took place.  
24 Q. Okay. Now back in November, you were  
25 involved in some type of relationship with Liliana,

Waring - Cross

123

1 correct?  
2 A. Yes.  
3 Q. Okay. So you hung out with her after that  
4 day I assume, right, after November 19th?  
5 A. Yes.  
6 Q. Did she ever tell you that she found out that  
7 S.DOT's name was Stephen Wright?  
8 A. No.  
9 Q. She never told you that?  
10 A. No, she never mentioned his name.  
11 Q. She never told you that the detective in the  
12 Prosecutor's office told her that S.DOT was Stephen  
13 Wright?  
14 A. Well she probably found out his name, but she  
15 never mentioned his name.  
16 Q. She never mentioned it to you?  
17 A. No.  
18 Q. Okay. Now do you remember about a little  
19 over, I guess a little over a year ago now, you went  
20 into the Prosecutor's office and you spoke with one of  
21 their detectives? Detective Racquel (phonetic) Kraus,  
22 do you remember talking to her?  
23 A. I spoke to her before.  
24 Q. You spoke to her before. Do you remember  
25 talking to her about what happened back in 2006?

1 A. They questioned me, yes.  
2 Q. They questioned you?  
3 A. Yeah, asked me questions.  
4 Q. Okay. And you said as you said here today  
5 that early in the morning after you went home, your  
6 phone started to vibrate, right?  
7 A. Yes.  
8 Q. And it started to vibrate a lot?  
9 A. Yes.  
10 Q. And you were asleep, right?  
11 A. Yes.  
12 Q. Eventually you woke up because the phone  
13 wouldn't stop vibrating I assume, right?  
14 A. Yes.  
15 Q. And do you remember telling them that you  
16 picked up because you knew it was Liliana?  
17 A. No, I didn't know the number at first, but then I  
18 called the number back.  
19 Q. Okay. So you never told the detectives that  
20 you saw that it was Liliana so you picked up the phone?  
21 A. No, I said it was -- the last call I had on my  
22 phone was her number, then it was her number and a  
23 whole bunch of other numbers. But the other numbers I  
24 didn't know, that turned out to be the detective's  
25 number.

1 Q. Okay. But one of them was her number, right?  
2 A. Yes.  
3 Q. So you recognized that. Okay.  
4 MR. HIRSCHORN: Judge, I have no further  
5 questions, thank you very much.  
6 MR. TROIANO: Nothing, Judge.  
7 THE COURT: All right, you're excused, sir.  
8 Thank you very much for coming.  
9 Okay, folks, we're going to take a short  
10 break, waiting for the next witness to show up. Do not  
11 discuss the case at all. Just step in the jury room.  
12 As soon as the witness comes --  
13 (Off the record/on the record)  
14 MR. TROIANO: Judge, at this time the State  
15 will call Sergeant Shonda Rosario.  
16 S H O N D A R O S A R I O, STATE'S WITNESS, SWORN  
17 COURT OFFICER: For the record, state your  
18 name.  
19 THE WITNESS: Shonda Rosario.  
20 MR. TROIANO: Thank you, Judge.  
21 DIRECT EXAMINATION BY MR. TROIANO:  
22 Q. You are a sergeant with the Hudson County  
23 Prosecutor's Office, is that correct?  
24 A. That's correct.  
25 Q. Can I call you Sergeant Rosario?

1 A. You may.  
2 Q. All right. Just speak into the microphone so  
3 the ladies and gentlemen here could, can hear what  
4 you're saying.  
5 How long have you been employed by the Hudson  
6 County Prosecutor's Office?  
7 A. I've been employed since June of 1992.  
8 Q. Okay. And you are now of the designation of  
9 sergeant, correct?  
10 A. Correct.  
11 Q. How long has that been?  
12 A. Since December of 2006.  
13 Q. Okay. And before that?  
14 A. I was promoted to detective in January of 1995.  
15 Q. Okay, so detective from '95 up until the  
16 point that you became sergeant, is that correct?  
17 A. That's correct.  
18 Q. Okay. And you are currently with the Special  
19 Victims Unit, is that correct?  
20 A. Correct, I've been with the Special Victims since  
21 May of 1998.  
22 Q. Okay. And just so the ladies and gentlemen  
23 here know, the Special Victims Unit handles generally  
24 what type of crimes, allegations?  
25 A. We handle all sexual assault cases involving

1 penetration of both adults and children. And then we  
2 handle contact cases of children 12 and under. And  
3 then we handle physical abuse major physical abuse  
4 cases of children.  
5 Q. Okay. Now, just so the -- the ladies and  
6 gentlemen here understand, if there is an allegation  
7 generally of one of these crimes, why would it be that  
8 the municipality, for instance Jersey City, does not,  
9 is not the primary investigator?  
10 A. That was a decision made before my time.  
11 Q. Okay. But -- but--  
12 A. In cooperation --  
13 Q. -- at this point now, if there are those  
14 allegations made, the investigation will be done by the  
15 Hudson County Prosecutor's Office, correct?  
16 A. That is correct.  
17 Q. Okay. I'd like to direct your attention to  
18 November, specifically November 19th, 2006. Do you  
19 recall that date?  
20 A. Yes.  
21 Q. Okay. And at that time, were you working  
22 with the Special Victims Unit?  
23 A. Correct.  
24 Q. And you were a detective at that point?  
25 A. That's correct.

Rosario - Direct

128

1 Q. Okay. Do you recall receiving a call with  
2 regard to an alleged sexual assault down at 235  
3 Arlington Avenue?

4 A. That is correct. I was the on-call detective for  
5 that day.

6 Q. Okay. And what does that mean so the ladies  
7 and gentlemen understand?

8 A. We -- we run shifts, we work, we have staff Monday  
9 through Friday, 8 a.m. to midnight. We have two  
10 shifts, 8 a.m. to 4 p.m. and then 4 p.m. to midnight.  
11 From midnight to 8 a.m. Monday through Friday, there's  
12 a detective that goes on call. And if something  
13 happens then they are, at that time we were, we had  
14 pagers and they would beep us and then we would respond  
15 in the middle of the night if need be.

16 And then we also were on call for either Saturday  
17 and Sunday also.

18 Q. Okay. With regard to this case, do you  
19 recall how it was that you became involved?

20 A. I was the on-call detective for that day.

21 Q. Okay and do you recall whether or not it was  
22 a weekday or weekend?

23 A. It was a weekend.

24 Q. So as the on-call detective at that point,  
25 what if anything did you do?

Rosario - Direct

129

1 A. I received the page from the sheriff's office, and  
2 -- to contact Jersey City, which I did. I contacted a  
3 police officer from Jersey City and he advised me of  
4 allegations. And at that point I got ready and  
5 responded to Christ Hospital.

6 Q. Okay. And is there a reason why you  
7 responded to Christ Hospital?

8 A. If there's a -- an alleged victim of sexual  
9 assault, and it occurred within the last five days,  
10 then any, at that time whoever is the victim and it  
11 happened within the last five days is taken to Christ  
12 Hospital for a sexual assault examination, evidence  
13 collection kit is basically done.

14 Q. Okay. So with regard to this case on the  
15 19th of November, you responded directly to Christ  
16 Hospital?

17 A. That is correct.

18 Q. Okay. And upon arriving there, what if  
19 anything do you recall happening? Who'd you meet with?

20 A. Well at that point I met with the nurse that was  
21 on call. That was Nurse Richardson. She had -- she  
22 had already been at the hospital. She was just getting  
23 off so, and to the best of my recollection the victim  
24 was extremely upset, so it was decided that they would  
25 go ahead and do -- and I'm just going to call it the

1 rape kit.

2 Q. Okay, that's fine.

3 A. It's actually the sexual assault evidence  
4 collection kit, but I'll call it rape kit for short.  
5 That we would just do the rape kit first and then when  
6 I got there which is about, I would say maybe 45  
7 minutes later, maybe an hour, then we conducted a joint  
8 interview with the victim.

9 Q. Okay. So upon arriving at Christ Hospital,  
10 an examination, a physical examination of this victim  
11 had begun, is that correct?

12 A. That's correct.

13 Q. Okay. And the victim, Liliana Santos, you  
14 recall meeting her?

15 A. Yes.

16 Q. Okay. Did you meet her during the course if  
17 you recall of the examination or once it was completed?

18 A. It was -- it would have been when she, it was  
19 completed. I -- I'll be honest with you, I don't  
20 recall, but I don't -- we don't normally practice going  
21 into the examination room once it starts.

22 Q. Okay. And the examination room is just the  
23 nurse and the alleged victim, correct?

24 A. Correct, and it's an advocate if the victim  
25 chooses to have the advocate in there.

1 Q. Okay. Once the physical examination was over  
2 with and you had occasion to meet with Liliana, did you  
3 speak with her?

4 A. Yes.

5 Q. Okay. And do you recall where that took  
6 place?

7 A. The initial -- when we spoke with the nurse --  
8 after her examination, the nurse and I did speak with  
9 her and it was at Christ Hospital.

10 Q. Okay. And is there a reason for both you and  
11 the nurse to speak with her there? Is that documented  
12 anywhere or recorded anywhere?

13 A. No, it's not a formal interview, it's just a -- a  
14 -- usually -- the purpose for it is that we usually  
15 talk to them and get a sense of what happened, and  
16 that --

17 MR. HIRSCHORN: Objection, Judge.

18 THE COURT: No, that's overruled. It's her  
19 procedure, that's all.

20 THE WITNESS: So the purpose of that  
21 interview is an informal interview, and it's to kind of  
22 get an idea of what happened. And that gives the nurse  
23 an idea of what she needs to do as far as the evidence  
24 collection kit goes. And then it might also help the  
25 detective know, maybe there's some things that that

1 person can do while the exam is going on.  
2 BY MR. TROIANO:  
3 Q. Okay. Upon meeting Miss Santos, could you  
4 describe for the ladies and gentlemen how she presented  
5 to you?  
6 A. She appeared visibly upset, shaken, you know. She  
7 had, you know, it looked like she may have been crying.  
8 She appeared visibly upset.  
9 Q. And at the conclusion of the physical  
10 examination and then your speaking with her, what if  
11 anything happened from there?  
12 A. Then I transported her down to our office and  
13 conducted a formal interview of Liliana.  
14 Q. Sergeant Rosario, at the time of the hospital  
15 first, do you know or can you tell the jury what the  
16 allegations were at that point?  
17 A. Do you want the scenario or just stick with the  
18 allegations?  
19 Q. No, just generally.  
20 A. Was that she had been sexually assaulted.  
21 Q. And at the hospital specifically, was a name  
22 of an alleged, her alleged attacker given to you?  
23 A. Not, no. No, not at that time.  
24 Q. Okay. So you leave there, you go down and --  
25 and where is it that you go after that?

1 A. We went to our office which is located at 555  
2 Duncan Avenue in Jersey City.  
3 Q. And what's at that address?  
4 A. It's -- it's offices of the Prosecutor's Office,  
5 the Special Victims Unit. At that time we were called  
6 S.A.V.A. -- Sexual Assault Victims Assistance. We  
7 changed the name since then. But it was a S.A.V.A.  
8 unit and we were on the second floor of that, we have  
9 the whole second floor of that.  
10 Q. Okay. And if you recall, who went with you  
11 from Christ Hospital to Duncan? Was it just Liliana or  
12 were other people with you?  
13 A. I -- it was just Liliana, or it was definitely  
14 Liliana. I -- I know that she had a friend at the  
15 hospital, because that's one of the reasons why she  
16 didn't want an advocate. But I don't know if the  
17 friend came with us down to S.A.V.A.  
18 Q. Okay. So you arrived down to the base as you  
19 call it and what takes place from that point?  
20 A. At that point I conduct a formal interview of  
21 Liliana and at that point I place her under oath,  
22 swear to tell the truth, the whole truth and nothing  
23 but the truth so help you God. And -- and that is  
24 recorded. At that time I believe we were doing audio  
25 recordings so it was on an audio tape recording, that

1 interview.

2 Q. And did she in fact speak with you?

3 A. Yes, she did.

4 Q. During the course of this statement, if you  
5 recall, how was Liliana's demeanor, how was she acting?

6 A. Well she -- I -- I be -- she was still visibly  
7 upset.

8 Q. Okay. And during the course of this  
9 interview, did she at any time give you a name of a  
10 potential suspect?

11 A. She -- she said to me that it looked like a guy  
12 she knew from the neighborhood by the name of S.DOT.

13 Q. And at this point she -- did she give you any  
14 additional information with regard to his name,  
15 address, anything like that?

16 A. No, no, she didn't have a name other than the  
17 nickname S.DOT and she had no address. I believe she  
18 did give a physical description.

19 Q. And upon -- strike that.

20 If you recall, how long was Liliana down at  
21 the base for?

22 A. I don't recall exactly but probably for maybe a  
23 couple hours, an hour or, you know, between an hour and  
24 two hours.

25 Q. Okay. And during the time that she was

1 there, during the course of those couple of hours, did  
2 anybody come down to see her?

3 A. I -- I don't know.

4 Q. After -- after Liliana left, what if anything  
5 did you do with regard to this investigation?

6 A. Well I had the name S.DOT which was a nickname, so  
7 I contacted Jersey City P.D. and asked them to check  
8 their nickname I guess data base or talk to some people  
9 that are familiar with people in the area with  
10 nicknames. And, you know, they weren't familiar with  
11 that one. And then I also contacted some of our people  
12 from Hudson County Prosecutor's Office and ran that  
13 nickname by them also. And they were unfamiliar with  
14 it.

15 Q. Okay. So upon following that lead with  
16 regard to the name it'd be fair to say that you -- you  
17 had no name. You never discovered the name, is that  
18 correct?

19 A. Never discovered or not at that point?

20 Q. Not immediate, yes.

21 A. Not at that immediate time did I discover a name,  
22 no.

23 Q. Okay. After November 19th, 2006, did you  
24 have any subsequent conversations with Miss Santos?

25 A. Yes.

Rosario - Direct

136

1 Q. Okay. And could you tell the ladies and  
2 gentlemen how those took place, when?

3 A. Well subsequently afterwards, I mean I know that  
4 she had contacted the office a few times. Sometimes I  
5 was there, sometimes I wasn't, you know. I'd always  
6 try to return her call if she did call.

7 There was one -- one evening in specific, I work  
8 the four to midnight shift so I was -- during that time  
9 I was on the four to midnight shift. So one evening  
10 specifically she called the office and said that she  
11 saw S.DOT on the corner, and I believe it was  
12 Communipaw and VanHorn, around Communipaw, VanHorn,  
13 Halladay, had seen S.DOT, and she said he was wearing a  
14 black leather jacket.

15 So we went down there, I and some other detectives  
16 from the S.A.V.A. unit went down there but by the time  
17 we got there, there wasn't anybody there that fit that  
18 black leather jacket description.

19 Q. Okay.

20 A. And I called her back and told her, so, again she  
21 was, I mean she was -- she was pretty upset.

22 Q. The -- the time that you spoke to her again  
23 she was upset?

24 A. Right, when I told her that we didn't, we weren't  
25 able to locate him.

Rosario - Direct

137

1 Q. Okay. To your knowledge, were there any  
2 other investigative leads with regard to this case?

3 A. Other than the -- the results from the rape kit,  
4 or would you consider a that --

5 Q. And to your knowledge, was -- was there  
6 evidence recovered from the scene of 235 Arlington  
7 Avenue?

8 A. I don't know about the scene. I believe the  
9 evidence we did recover was on the shirt she had been  
10 wearing which we recovered at the hospital.

11 Q. Okay. And this shirt that had been  
12 retrieved, what was the significance of that, if any?

13 A. The shirt had blood on it, and Liliana was adamant  
14 that it wasn't her blood. And from checking her at the  
15 hospital, she didn't appear to be bleeding from  
16 anywhere.

17 Q. And it's -- it would be fair to say that  
18 about a year later or so, towards the end of 2007, you  
19 had received information at the Hudson County  
20 Prosecutor's Office that the blood found on that shirt  
21 was that of Stephen Wright, is that correct?

22 A. That is correct.

23 Q. Okay. Upon receiving that information --  
24 strike that.

25 Before receiving that information, about a



1 year later, within that year timeframe, did you ever  
2 have the name Stephen Wright?  
3 A. No, no, I did not.  
4 Q. It'd be fair to say that the only name you  
5 had was S.DOT?  
6 A. That is correct.  
7 Q. And upon receiving the information with  
8 regard to the blood, was Liliana notified?  
9 A. Yes, she was.  
10 Q. Okay. And before that, had you ever notified  
11 her that, of a name, a specific name for this person?  
12 A. No, because prior to that, I didn't have the name.  
13 Q. Okay. After receiving this information with  
14 regard to the blood, is it your recollection that --  
15 that Mr. Wright was charged with various offenses from  
16 that night?  
17 A. Yes, that is correct.  
18 Q. And be fair to say that that was over a year  
19 after the incident, correct?  
20 A. That is correct.  
21 MR. TROIANO: Nothing further.  
22 THE COURT: All right, ladies and gentlemen,  
23 the parties stipulate to the following. On or about  
24 November 19, 2006, various items were recovered. Two of  
25 said items were subsequently sent to the New Jersey

1 State Police Lab for analysis and testing. The parties  
2 stipulate to the following results. The shirt of  
3 Liliana Santos, the parties hereby stipulate that the  
4 blood found on Liliana Santos's shirt was that of  
5 Stephen Wright.  
6 Now, the parties have agreed to certain facts.  
7 The jury should treat these facts as undisputed. That  
8 means the parties agree that the facts are true. But  
9 as with all evidence, undisputed facts can be accepted  
10 or rejected by the jury in reaching a verdict.  
11 Okay, thank you.  
12 Cross examination, please.  
13 MR. HIRSCHORN: Thank you, judge.  
14 CROSS EXAMINATION BY MR. HIRSCHORN:  
15 Q. Good afternoon, Sergeant Rosario.  
16 A. Good afternoon.  
17 Q. Sergeant Rosario, I believe you testified on  
18 direct, the first time that you learned that S.DOT  
19 which was the name, the only name that you had back in  
20 November of 2006, correct?  
21 A. Correct.  
22 Q. The first time that you learned that S.DOT  
23 was also known as Stephen Wright, or Stephen Wright was  
24 also known as S.DOT, was approximately a year later in  
25 November of 2007, correct?

1 A. That is correct.  
2 Q. So there was never an occasion back in  
3 November 2006, specifically on the 19th, the 20th or  
4 shortly thereafter that up contacted Liliana Santos and  
5 told her that S.DOT was Stephen Wright?  
6 A. No, I didn't.  
7 Q. Because you didn't know?  
8 A. No, I didn't know.  
9 Q. Okay. And that's because you checked as you  
10 said earlier, all of your sources and your sources at  
11 that time didn't have any link to that nickname?  
12 A. That is correct.  
13 Q. Okay. So it would be fair to say that if  
14 Liliana knew that name, it came from a source other  
15 than you or your office?  
16 MR. TROIANO: Objection, Judge. Speculative.  
17 THE COURT: What's the question again?  
18 MR. HIRSCHORN: Judge, I'm asking her if  
19 Liliana knew the name, it came from someone other than  
20 her or someone in her office.  
21 MR. TROIANO: Objection.  
22 THE COURT: That's sustained.  
23 MR. HIRSCHORN: Sustained? Okay.  
24 BY MR. HIRSCHORN:  
25 Q. Were you -- on November the 19th, you said

1 you arrived at Christ Hospital about seven o'clock in  
2 the morning?  
3 A. No, I think I was called about seven o'clock in  
4 the morning, and I arrived probably around 8:30-ish.  
5 Q. Okay, but still shortly after the incident  
6 allegedly took place, correct?  
7 A. Correct, yes.  
8 Q. Were you able to -- I think you testified,  
9 and correct me if I'm wrong, that you did not go in  
10 during the physical examination of Liliana, is that  
11 correct?  
12 A. That is correct.  
13 Q. But shortly after that physical examination,  
14 she was -- she came with you over to Duncan Avenue and  
15 you talked, you -- you and the nurse talked to her  
16 together, correct?  
17 A. No, not at Duncan Avenue.  
18 Q. At the hospital?  
19 A. At the hospital and the nurse --  
20 Q. I put it out of sequence, I apologize.  
21 A. Okay.  
22 Q. You and the nurse talked with her at the  
23 hospital, then you took her to Duncan Avenue and I  
24 believe you said you spent an hour, maybe two hours at  
25 Duncan Avenue.

1 So I guess my question is you spent some  
2 length of time with Liliana that morning, correct?  
3 A. Correct.  
4 Q. Okay. And you would agree with me that you  
5 didn't notice any physical injury to Liliana, correct?  
6 A. No.  
7 Q. No?  
8 A. No.  
9 Q. Okay. You said she was visibly upset?  
10 A. Right.  
11 Q. Okay. Did -- when you conducted the  
12 interview with the nurse, did you conduct the  
13 interview, or the nurse, or was it kind of a joint  
14 thing?  
15 A. It's a joint.  
16 Q. So you've worked with Nurse -- I believe in  
17 this case it's Richardson. You've worked with her  
18 previously?  
19 A. Yes, I have.  
20 Q. Would you consider her to be pretty thorough  
21 in her ways of doing things?  
22 A. Yes, I would.  
23 Q. Okay. Now, when you -- when she -- strike  
24 that.  
25 When Liliana called you as you testified

1 earlier, you said she called a couple of times, do you  
2 recall how many times you actually spoke with her? Was  
3 it just the one occasion that you referenced on direct?  
4 A. No, I probably spoke with her, I know it was more  
5 than once. It was definitely that one occasion and I  
6 be -- I believe I probably talked to her at least maybe  
7 I'll say two, three, four times after that.  
8 Q. Okay. Was -- were those conversations all  
9 surrounding her seeing this person, S.DOT on the  
10 street, or just that one particular conversation?  
11 A. No, just that one particular conversation was her  
12 seeing him.  
13 Q. And upon that you said you followed up and  
14 were unable to locate anybody matching the description,  
15 correct?  
16 A. That's correct.  
17 Q. Did you -- you proceeded down to the scene  
18 with the intention of if you saw that individual, you  
19 were going to at least bring them in for some  
20 questioning, correct?  
21 A. That is correct.  
22 Q. And what was the area that you said you went  
23 to to look for the individual?  
24 A. I believe it was Communipaw and VanHorn and  
25 Halladay.

1 Q. In that general area?  
2 A. In that general area.  
3 Q. But on Communipaw Avenue?  
4 A. Yes.  
5 Q. Now, I believe you testified on direct that  
6 when you arrived at Christ Hospital, that Miss Santos  
7 had a friend there with her?  
8 A. The -- according -- when I reviewed the -- the  
9 nurse's I don't know what you call it, the nurse filled  
10 out this 15 page form and one of the questions is who  
11 was with the victim. And there was the name of the  
12 friend. Again, I don't, I don't remember that  
13 specifically --  
14 Q. But you remember that there was a friend  
15 there?  
16 A. Yeah, that at least on, it was documented that  
17 there was a friend there.  
18 Q. Now you also testified earlier and then the  
19 stipulation was read into evidence about a shirt?  
20 A. Correct.  
21 Q. You stated that you recovered that shirt at  
22 the hospital?  
23 A. Again, that's what I -- I -- I stated.  
24 Q. Is that your recollection?  
25 A. That's, I know there's a shirt and I know, I

1 believe it's like a -- a camisole type shirt maybe with  
2 thin spaghetti straps.  
3 Q. Sorry to interrupt you, Sergeant, but my  
4 question is more about not what the shirt was, more  
5 about where you got the shirt?  
6 A. I'm sorry, well that's why I -- I was thinking she  
7 had it on but I -- I -- I thought that it was on her.  
8 Q. So your recollection is that the shirt was on  
9 her at the hospital and you recovered it there?  
10 A. Correct.  
11 MR. HIRSCHORN: Judge, I have no further  
12 questions. Thank you.  
13 Thank you, Sergeant.  
14 REDIRECT EXAMINATION BY MR. TROIANO:  
15 Q. Sergeant, the other conversations that you  
16 had with Miss Santos, you indicated that the one was  
17 with regard to S.DOT being by Communipaw and VanHorn.  
18 The other ones if you recall, what were they about?  
19 A. Just the status on the investigation, you know,  
20 what was going on with it. You know, I would let her  
21 know that everything went down to the lab, you know,  
22 told her that it would take awhile for the lab results  
23 to come back. Things of that nature.  
24 Q. Okay. So would it be or you tell me, were  
25 you calling her to give her an update or was she

1 calling you to get an update?  
2 A. She was calling me.  
3 Q. Okay. And she would call you and you would  
4 provide her with that information, is that correct?  
5 A. That's correct.  
6 Q. Okay. Now, you indicated and I'm going to  
7 have this marked for identification.  
8 THE CLERK: S-21 for identification.  
9 THE COURT: Twenty-one?  
10 MR. TROIANO: Twenty-one, Judge.  
11 BY MR. TROIANO:  
12 Q. I'm showing you what's been marked as S-21  
13 for identification. Do you recognize this document?  
14 A. Yes, I do.  
15 Q. Okay. It'd be fair to say it's the 15 page  
16 document you were looking at before, talking about  
17 before?  
18 A. Correct.  
19 Q. What -- what's contained within that -- that  
20 stack of papers?  
21 A. It has all the patient information, name, address,  
22 telephone number, other contact information. And the  
23 examination information. It goes -- it gives a brief  
24 history and that would be the interview that we did  
25 together. And then it asks specific questions about,

1 you know, was there contact made between the suspect  
2 penis and the victim's genitals and --  
3 Q. A whole report that's done?  
4 A. A whole report, yeah.  
5 Q. On -- on cross examination you were asked by  
6 Mr. Hirschorn about this friend, okay. And you  
7 indicated that from reading the document there, you  
8 believe that there was a friend there, is that correct?  
9 A. That's correct.  
10 Q. All right. I'll direct you to page one  
11 there, is that what you were referring to?  
12 A. Correct.  
13 Q. Okay. And what does that say?  
14 A. It says other contact information.  
15 Q. When you were there on the 19th of November,  
16 do you specifically recall meeting this other contact  
17 person?  
18 A. No, I don't.  
19 Q. So when you say that there was somebody else  
20 there, it only came from this?  
21 A. That's correct.  
22 Q. Okay. And correct me if I'm wrong, Sergeant,  
23 but this does not indicate whether or not this person's  
24 there or not?  
25 A. That's correct, it doesn't indicate that.

Rosario - Redirect 148

1 Q. Okay. Sergeant, generally speaking, how  
2 many cases do you investigate a year? Or strike that.  
3 As a detective, how many cases did you on  
4 average investigate a year?  
5 A. I was running about, in the last, from 2006 I'd  
6 say between 2004 and 2006, 2005, I was running about 75  
7 cases a year.  
8 Q. Okay. And you indicated that at some point  
9 you were elevated to the rank of sergeant, correct?  
10 A. That's correct.  
11 Q. At that point are, is your primary function  
12 one of investigations or in a supervisory role?  
13 A. I'm in a supervisory role. I have 20 detect--  
14 excuse me, I wish I had 20 detectives under me. I  
15 have five detectives under me and I monitor and --  
16 their investigations now.  
17 Q. Okay, and when was it again that you were  
18 elevated to the rank of Sergeant?  
19 A. In December of 2006 and sworn in in January 3rd of  
20 2007.  
21 Q. A month to two months after this?  
22 A. Correct.  
23 MR. TROIANO: No further questions.  
24 RECROSS EXAMINATION BY MR. HIRSCHORN:  
25 Q. Sergeant, you're familiar with S-21 as Mr.

Rosario - Recross 149

1 Troiano pointed out to you?  
2 A. Yes.  
3 Q. Now contained within S-21 is the statement as  
4 you referenced that was provided to you and Nurse  
5 Richardson?  
6 A. Yes.  
7 Q. Also contained with in there is the  
8 reference, I'm speaking to the physical examination and  
9 collection of specimens, and then the skin surface  
10 assessment basically pages eight and nine. Are you  
11 familiar with those pages of the report?  
12 A. Yes.  
13 Q. My question is had Miss Santos told you that  
14 she believed that she scratched her assailant on --  
15 MR. TROIANO: Objection, Judge. I believe  
16 that the testimony before was that she was not present  
17 during the physical examination.  
18 MR. HIRSCHORN: She said she reviewed the  
19 document.  
20 THE COURT: She can answer whether the  
21 document reflects that.  
22 BY MR. HIRSCHORN:  
23 Q. Does the document reflect anywhere that --  
24 let me take a step back.  
25 If a -- an alleged victim of a crime

1 indicates that they may have scratched an assailant --  
2 MR. TROIANO: Objection, Judge.  
3 THE COURT: Go ahead.  
4 BY MR. HIRSCHORN:  
5 Q. Would it be referenced in that report?  
6 A. On these specific pages? You mean if she --  
7 Q. Or in the report itself, if she claimed that  
8 she had scratched her assailant --  
9 A. She scratched him.  
10 Q. Scratched him. Would it be referenced in  
11 that report?  
12 A. If the nurse asked her I guess because there is  
13 fingernail swabs.  
14 Q. Okay. So then I guess my question is from  
15 your experience if someone does a fingernail swab,  
16 that's to check to see if there's the skin of the  
17 possible assailant there for DNA matching, correct?  
18 A. Correct.  
19 MR. HIRSCHORN: Judge, I have no further  
20 questions. Thank you.  
21 THE COURT: Any redirect?  
22 REDIRECT EXAMINATION BY MR. TROIANO:  
23 Q. Sergeant, your recollection is that there  
24 were no fingernail samplings with regard to this case?  
25 Nothing tested, nothing that you're aware of?

1 A. Nothing that I'm aware of. No.  
2 Q. The only thing that you are aware of was the  
3 testing done on the shirt, is that correct?  
4 A. That's correct.  
5 Q. And your recollection is that that came back  
6 as Stephen Wright's blood, is that correct?  
7 A. That's correct.  
8 MR. TROIANO: No further questions.  
9 MR. HIRSCHORN: Nothing, Judge.  
10 THE COURT: You're excused, thank you very  
11 much.  
12 THE WITNESS: Thank you.  
13 THE COURT: Okay, ladies and gentlemen, we  
14 are done for the day. We ran out of witnesses, okay.  
15 So you are excused until Tuesday morning at nine  
16 o'clock.  
17 You do not have to go to the fourth floor,  
18 you can come directly here, ninth floor, Judge  
19 Isabella's courtroom, ninth floor, Tuesday morning,  
20 nine o'clock.  
21 Do not discuss the case amongst yourselves or  
22 with any of your friends at home at all. I don't  
23 believe there's any media coverage. If there was, you  
24 have to disregard that yourself or anyone else  
25 discussing it. And I trust you'll do that.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Thank you very much, we'll see you Tuesday morning, nine o'clock. Once you're all here, we'll start.  
Thank you very much. And you'll be our sole focus until the trial's over so we shouldn't have any delays, okay. Thank you.

\* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATION

We, DONNA WEBER and DOROTHY A. MIRAGLIOTTA, the assigned transcribers, do hereby certify that the foregoing transcript of proceedings in the Hudson County Superior Court, Law Division, Criminal Part, on 3-18-10, Tape 101-10, Index 0001 - 7367 and Tape No. 101-10, Index 0001 - 5960, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded to the best of our knowledge and ability.

*Donna Weber*  
DONNA WEBER *ejb* A.O.C. #390

*Dorothy A. Miragliotta*  
DOROTHY A. MIRAGLIOTTA *ejb* A.O.C. #295

DATED: 5/3/11



1 SUPERIOR COURT OF NEW JERSEY  
2 HUDSON COUNTY  
3 LAW DIVISION - CRIMINAL PART  
4 DOCKET NO. 08-06-1073  
5 A.D.# A-002828-10-T2

6 - - - - - :  
7 THE STATE OF NEW JERSEY, :  
8 :  
9 TRANSCRIPT OF PROCEEDINGS

10 vs. **FILED**  
11 **APPELLATE DIVISION**  
12 STEPHEN WRIGHT, **MAY 10 2011** TRIAL  
13 Defendant.

14 *[Handwritten Signature]*  
15 ~~Place~~ Hudson County Courthouse  
16 595 Newark Avenue  
17 Jersey City, NJ 07306

18 Date: March 23, 2010

19 B E F O R E:

20 HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

21 TRANSCRIPT ORDERED BY:

22 HELEN C. GODBY, ESQ.  
23 (Office of the Public Defender)

**RECEIVED**  
**APPELLATE DIVISION**  
**MAY 10 2011**

24 A P P E A R A N C E S:

25 MATTHEW J. TROIANO, ESQ.  
(Assistant Prosecutor for the County of Hudson)  
Attorney for the State.

**SUPERIOR COURT**  
**OF NEW JERSEY**

KEITH HIRSCHORN, ESQ.  
(Keith Hirschorn)  
Attorney for the Defendant.

Transcribers Donna Weber  
Dorothy A. Miragliotta  
A.R.T. Agency, Inc.  
4 Orchard Drive  
Towaco, New Jersey 07082

Recording Operator, Odom  
Compressed Transcript

The State of NJ v. Wright

SHEET 2

1					2
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	FOR THE STATE				
4	MATTHEW STAMBULI	3	28	44	46
5	LINDA RICHARDSON	47	77	87/89	88
6					
7	FOR THE DEFENDANT				
8	STEVEN WRIGHT	98	126	151	
9	ANTWAN WRIGHT	153	164	174/175	174
10					
11	EXHIBITS			IDENT.	
12	S-26 DET. STAMBULI'S REPORT			25	
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

Colloquy 3

1 THE COURT: Okay, good morning, ladies and  
2 gentlemen.

3 JURORS: Good morning.

4 THE COURT: I apologize for the delay. I had  
5 to run downstairs to take care of something for another  
6 judge who was out today. I took care of that. That's  
7 why we're late today. So I apologize to you. We're  
8 ready to begin.

9 Mr. Troiano please?

10 MR. TROIANO: Judge, thank you, good morning.  
11 At this time the State would call Detective Matthew  
12 Stambuli.

13 M A T T H E W S T A M B U L I, STATE'S WITNESS, SWORN

14 COURT OFFICER: State your full name for the  
15 record.

16 THE WITNESS: Detective Matthew Stambuli.

17 COURT OFFICER: Okay, you can have a seat.

18 MR. TROIANO: Thank you, Judge.

19 DIRECT EXAMINATION BY MR. TROIANO:

20 Q Good morning, Detective.

21 A Good morning.

22 Q I want to just ask you to speak into the  
23 microphone please. Would you please tell the ladies  
24 and gentlemen of the jury with whom are you employed?

25 A I'm a Detective with the Hudson County

1 Prosecutor's Office.

2 Q And how long have you been employed with the  
3 Hudson County Prosecutor's Office?

4 A Five years.

5 Q And before -- in what capacity do you work  
6 currently with the Prosecutor's Office?

7 A I'm currently a detective in the Prosecutor's  
8 Office assigned to the Homicide -- Homicide Unit as a  
9 crime scene investigator as well as the In Court Unit  
10 as a general detective.

11 Q Okay. And before your time at the  
12 Prosecutor's Office where did you work as a law  
13 enforcement officer?

14 A I was a police officer in the Township of West  
15 Caldwell for five years.

16 Q You indicated that you work in Crime Scene  
17 with Homicide, how long have you done that?

18 A I just recently transferred to the In Court Unit,  
19 however, I was a Homicide detective for almost five  
20 years. And I have been doing Crime Scene for four  
21 years.

22 Q Okay. And, specifically, with regard to the  
23 Crime Scene would you explain to the ladies and  
24 gentlemen, what exactly that would entail, your  
25 background and any training that you have?

1 A Okay. Crime Scene Investigation includes,  
2 basically, photographing the scene, collecting  
3 evidence, processing evidence for fingerprints, for  
4 trace evidence. Basically, anything where you can take  
5 evidence and have it analyzed for additional tests. I  
6 was trained by the New Jersey State Police Crime Scene  
7 Investigation School for six weeks. And I attended  
8 that school as well as many other supplemental programs  
9 which were one of the programs.

10 Q Okay. And when you refer to something like  
11 trace evidence, what do you mean by that?

12 A Trace evidence could be blood, hairs, small --  
13 smaller items of evidence, thus, the name trace.

14 Q And now, Detective, are you yourself  
15 responsible for the analysis of this evidence or just  
16 the retrieval of it?

17 A We're not trained as laboratory chemists.  
18 Laboratory chemists are the ones that conduct the  
19 analysis such as DNA, blood typing, whatever else needs  
20 to be done. We just basically do the technical aspect  
21 of it, the collection aspect of it.

22 Q Okay. I would like to draw your attention to  
23 November 19th, 2006. First on that day were you  
24 working with the Hudson County Prosecutor's Office?

25 A Yes, I was.

1 Q And at the time were you working as a Crime  
2 Scene investigator?

3 A Yes, I was.

4 Q Specifically, do you recall being called to  
5 the address of 235 Arlington Avenue in Jersey City?

6 A Yes, I do.

7 Q And what was your understanding as to why you  
8 were being called there?

9 A I was called to assist another detective,  
10 Detective Andrew Winter, with processing the crime  
11 scene of a sexual assault.

12 Q Do you recall, Detective -- strike that --  
13 with regard to Detective Winter, is it your  
14 understanding or where is your understanding that he  
15 works currently?

16 A Currently he's employed by the Middlesex County  
17 Prosecutor's Office as a Crime Scene Investigator.

18 Q Okay. But on that day, November 19th, 2006,  
19 you were working with him in tandem, is that correct?

20 A That's correct, yes.

21 Q Do you recall your specific role in that  
22 investigation?

23 A Yes, to assist Detective Winter in processing the  
24 crime scene. My primary duty that day was to  
25 photograph the scene and, again, assist him with

1 anything else that needed to be done.

2 Q Okay. Upon arriving to that location could  
3 you describe to the ladies and gentlemen, what it is  
4 that you saw? Who was there, the type of scene that it  
5 was?

6 A Okay. Upon arrival at the scene I met with  
7 Detective Winter and two uniform Jersey City Police  
8 officers, a Sergeant and a Patrolman. We got to the  
9 residence. It was a three story brownstone on  
10 Arlington Avenue. And the victim's apartment was  
11 located on the ground floor of the building.

12 Q Okay. And you indicated that there were two  
13 Jersey City Police Officers there, is that correct?

14 A That's correct.

15 Q At the time, if you recall, was the alleged  
16 victim still present at the scene?

17 A No. The victim had been transported to the  
18 hospital for basically examination by a nurse that's  
19 certified in sexual assaults.

20 Q At the time that you arrived to the scene  
21 what, if anything, took place specifically with regard  
22 to your investigation?

23 A Okay.

24 Q When we arrived at the scene we met with the  
25 uniform Jersey City Police officers. The uniform

Stambuli - Direct

8

1 police officers were on scene. Once they get a crime  
2 scene they secure the scene. They make sure it's  
3 maintained that nobody else is able to access, in this  
4 case, the inside of the apartment and preserve anything  
5 that was left in tact during the crime.

6 Q Okay. And what is the purpose of them  
7 securing the scene?

8 A It's for the preservation of evidence to ensure  
9 that -- basically, that the evidence is as it was left  
10 and it's not -- nothing else is added to the scene.

11 Q Now, if you would please, explain to the  
12 ladies and gentlemen your specific function once you  
13 entered the apartment or got to the grounds?

14 A Okay. When Detective Winter and I began scene  
15 processing what we first do is we conduct a  
16 walk-through of the scene. And that entails just  
17 looking at the points of entry, points of exits in the  
18 apartment, looking at windows, looking at doors,  
19 looking all over the floor, the ceiling, anything for  
20 potential items of evidence. Okay?

21 The next step is we, then, photograph the scene.  
22 Okay? We conduct a systematic walk-through  
23 photographing every room, every item of evidence that  
24 we noticed during the walk-through. And, then, after  
25 the photography is done we, then, collect the items of

Stambuli - Direct

9

1 evidence and secure it in evidence bags.

2 Then when that's finished we, then, draw a sketch  
3 of the apartment, basically, to memorialize the layout  
4 of the apartment. The pictures give you one  
5 prospective. But a sketch gives you another  
6 prospective. It gives you, basically, a flat  
7 prospective of how each room is related to the other  
8 rooms in the layout of the house.

9 Q Okay. You started by saying that there were  
10 photographs taken, did you take photographs or did  
11 Detective Winter take photographs?

12 A I did.

13 Q Do you recall doing that in this case?

14 A Yes, I do.

15 Q Okay. And if you recall what were the  
16 photographs taken of?

17 A Okay. So when we take photographs of a scene, we  
18 take overall photographs, which is photographs of every  
19 room and, then, we'll take medium range photographs of  
20 specific items, any items of evidence that we, again,  
21 we spot during our walk-through. We'll take  
22 photographs of them from like a medium range, which is  
23 a distance of, you know, say five feet or so. And,  
24 then, after that we'll take closeup photographs of  
25 those items of evidence.

Stambuli - Direct

10

1 Q Thank you, Detective. Detective, with regard  
2 to this scene in particular what, to your recollection,  
3 did you photograph of any potential evidential value?

4 A Yes. We photographed a window that was on the  
5 ground floor of the apartment that was broken. We  
6 photographed a T-shirt -- actually it was a white  
7 shirt, a woman's shirt with an apparent blood stain on  
8 it. And we photographed several items -- several  
9 additional items that we found, again, during that  
10 walk-through.

11 MR. TROIANO: Okay. Judge, if I may approach  
12 with a series of photographs. Judge, if I may  
13 approach?

14 THE COURT: You may.

15 BY MR. TROIANO:

16 Q Detective, I'm going to show you a series of  
17 photographs and ask you questions about them,  
18 specifically. First S-25, which has been marked for  
19 identification -- excuse me -- do you recognize this  
20 photograph?

21 A Yes, I do.

22 Q And what is this of?

23 A Okay. This is the photograph from inside the  
24 apartment, basically, a living room area of the  
25 apartment looking into a utility room with folding

Stambuli - Direct

11

1 doors. And it's, again, looking at the prospective  
2 from inside the apartment to the window which was  
3 broken.

4 Q Okay. Pictures were taken of that broken  
5 window?

6 A Yes.

7 Q And the -- this picture that I'm referring to  
8 S-25 is that a picture from the inside or the outside?

9 A That's a picture, again, from the inside looking  
10 outside through the window.

11 Q Okay. With regard to that window do you  
12 recall where it was physically with regard to the  
13 building?

14 A Okay. If you're standing in front of the house  
15 it's on the ground floor and it's a window on the right  
16 side of the first floor, the ground floor.

17 Q And do you recall, Detective, how many  
18 windows there were on that ground floor?

19 A There were two.

20 Q I'm going to show you what has been marked as  
21 S-2 for identification, do you recognize this picture?

22 A Yes, I do.

23 Q Okay. And what does that depict?

24 A This depicts the ground floor of the three story  
25 brownstone. And these two windows are accessible to

Stambuli - Direct

12

1 the victim's apartment.

2 Q Okay. The picture S-2 the windows that are  
3 captured there are one of the broken windows from S-25  
4 captured in that picture?

5 A Yes.

6 Q And which one is that?

7 A It would be the window on the right side.

8 Q Okay. Do you recall seeing that -- that  
9 window in person there that day?

10 A Yes.

11 Q Would you describe to the ladies and  
12 gentlemen how it was that that window was set up?

13 A Okay. It's a double hung window, meaning that --  
14 that there's, basically, two windows on a track. Okay?  
15 The top windows stay stationary and you can lift up the  
16 bottom window vertically. The window is locked by  
17 thumb locks, which are on the upper part of the --  
18 upper window, which secure the bottom window from going  
19 up and down.

20 Q Okay. Is there a screen? Is it just glass?

21 A Yeah. On this particular window there was a  
22 screen on the outside of the window. However, there  
23 was no lock on this screen. It could move freely up  
24 and down.

25 Q And upon arriving to the scene do you recall

Stambuli - Direct

13

1 the condition or the position, rather, of that screen?

2 A Yes. Upon arrival the screen was down.

3 Q Okay. I'm going to show you what's been  
4 marked as S-3 for identification. Do you recognize  
5 this picture?

6 A Yes, I do.

7 Q Okay. And which win -- or what does that  
8 show first?

9 A That's a closer photograph of the window that was  
10 broken.

11 Q Okay. If you would just write on there  
12 broken window and of the two windows was it on the  
13 right or the left, again?

14 A Again, it's on the right.

15 Q All right. And if you would put that. Now,  
16 Detective, I've asked you about a few of these pictures  
17 already. These are pictures that you took, is that  
18 correct?

19 A That's correct.

20 Q All right. And for the pictures so far they  
21 accurately depict what was there on that day, is that  
22 correct?

23 A That's correct.

24 Q All right. I'm going to show you what has  
25 been marked as S-11 for identification, do you

Stambuli - Direct

14

1 recognize this picture? Let me take these out of the  
2 way.  
3 A Yes. This is a view of that same window from the  
4 outside, depicting broken glass on the exterior sill of  
5 the window. And, also, depicting broken glass still in  
6 tact on the window.  
7 Q Upon your arrival, Detective, would it be  
8 fair to say that there was glass outside of the window?  
9 A Yes, that's correct.  
10 Q Okay. And this picture depicts that, is that  
11 correct?  
12 A Yes, it does.  
13 Q If you would please circle those pieces of  
14 glass? And I'm going to show you what's been marked as  
15 S-10, again, if you would describe for the ladies and  
16 gentlemen what is depicted in that picture?  
17 A Okay. This is a photograph taken from the outside  
18 on a paver patio, front patio beneath those double hung  
19 windows depicting broken glass on the -- on the surface  
20 of the paver patio.  
21 Q Okay. So the glass depicted there is  
22 outside, is that correct?  
23 A That's correct.  
24 Q And, again, Detective, if you would if you  
25 would circle the pieces of glass that are shown on that

Stambuli - Direct

15

1 picture? Detective, you had begun to speak about the  
2 locking mechanism on the window. If you would describe  
3 to the ladies and gentlemen what your recollection is  
4 with regard to that locking mechanism?  
5 A Yes. They are thumb activated or finger activated  
6 locks that sit on top of the -- the double hung window,  
7 the bottom portion of it. And to lock or unlock the  
8 window you slide with your fingers, actually, more  
9 conveniently with your thumbs, the locks that prevent  
10 the window from going up and down. And there are two  
11 locks on the bottom portion of the window.  
12 Q Okay. And now this is with regard to the  
13 glass window, is that correct?  
14 A That's correct, yes.  
15 Q You had indicated that there's no locking  
16 mechanism on the screen, correct?  
17 A That's correct, yes.  
18 Q Now, this picture, what has been marked as  
19 S-15, albeit, a little blurry shows the locking  
20 mechanism, is that correct?  
21 A That's correct, yes.  
22 Q Did you take this picture?  
23 A Yes, I did.  
24 Q All right. And does this picture accurately  
25 reflect what that locking mechanism looked like on that



1 day?  
2 A Yes, it does.  
3 Q Detective, you indicated that there was glass  
4 on the outside of the building on the patio, I believe,  
5 as you said, do you recall if there was glass  
6 elsewhere?  
7 A Yes. There was, also, glass inside.  
8 Q And where do you recall was that located?  
9 A It was adjacent to the window.  
10 Q I'm going to show you a closeup or a closer  
11 picture of what you looked at before, this is S-14, do  
12 you recognize this picture?  
13 A Yes, I do.  
14 Q Okay. And could you describe for the ladies  
15 and gentlemen what that is?  
16 A Yes. That's a closer picture of looking in --  
17 from her -- looking from the apartment to the outside  
18 to the window that's broken, okay, basically through  
19 the window. And it's depicting the broken glass that's  
20 still in tact in the lower window portion of the double  
21 hung window. And, also, some broken glass on the sill,  
22 interior sill of the window.  
23 Q Detective, to your knowledge were any of the  
24 other windows at that location, 235 Arlington Avenue,  
25 broken?

1 A No, they were nt.  
2 Q Besides the window was there anything else of  
3 evidential value that was either recovered,  
4 photographed?  
5 A Yes.  
6 Q And what was that?  
7 A During the walk-through of the scene we located an  
8 apparent used condom on the sidewalk, basically, next  
9 to the property of 235 Arlington Avenue. And, again,  
10 we recovered that shirt with apparent blood stains on  
11 it.  
12 Q Okay. Let me start with the shirt. If you  
13 recall, Detective, where was that shirt recovered by  
14 either you or Detective Winter?  
15 A The shirt was recovered in a plastic grocery bag  
16 on a cooler, like a wine cooler in the kitchen of the  
17 residence.  
18 Q Okay. And what was the purpose of retrieving  
19 that shirt from your prospective?  
20 A Okay. Prior to arriving on the scene we were told  
21 that the victim placed a shirt that had apparent blood  
22 on it in a plastic bag and left it on the cooler, and  
23 it was believed to be the actor's blood. So upon  
24 arriving on the scene we located that bag still on top  
25 of the cooler in the grocery bag. Opened up the

Stambuli - Direct

18

1 grocery bag, examined the shirt, and looked at the  
2 white shirt, and there was apparent blood on the shirt.  
3 Q Did you have occasion to take pictures of  
4 that shirt?  
5 A Yes, I did.  
6 Q I'm going to show you, Detective, what's been  
7 marked as AS-8 and S-9 for identification, do you  
8 recognize these pictures?  
9 A Yes, I do.  
10 Q And what do they show?  
11 A They depict the -- that white shirt taken from the  
12 bag, laid out on top of the grocery bag and, again,  
13 there's a closeup photo of the shirt with the apparent  
14 blood stain on it.  
15 Q Okay. And, again, Detective, you took these  
16 two pictures?  
17 A Yes.  
18 Q Okay. Was the -- what happened to the shirt,  
19 if you know?  
20 A The shirt was submitted to the New Jersey State  
21 Police Forensic Laboratory for analysis. And, again,  
22 we don't do any of the laboratory analysis of items.  
23 Therefore, the State Police is in charge of examining  
24 the shirt for trace evidence, also, they can determine  
25 whether, in fact, that is blood or not blood on the

Stambuli - Direct

19

1 shirt. I don't know until we submit it to the lab  
2 whether it's blood or not but, again, from seeing  
3 hundreds of crime scenes I know what blood looks like.  
4 So, again, we submitted that --  
5 MR. HIRSCHORN: Objection, Judge.  
6 THE COURT: Overruled.  
7 A (Continued) -- again, we submit that to the  
8 laboratory for them to tell -- confirm that it's blood  
9 or not. And to, also, conduct DNA analysis on it.  
10 BY MR. TROIANO:  
11 Q Now, Detective, with respect, specifically,  
12 to this case do you recall who would have retrieved  
13 this shirt from the crime scene?  
14 A Yes. That would be both myself and Detective  
15 Winter.  
16 Q Okay. Not done by Jersey City Police?  
17 A No.  
18 Q Okay. And if you recall where did it go  
19 after leaving 235 Arlington Avenue?  
20 A It gets taken down to the Hudson County  
21 Prosecutor's Office, Special Victims Unit, Evidence  
22 Vault. It's secured there until it's submitted to the  
23 laboratory.  
24 Q Okay. And that's what happened in this case?  
25 A Yes, it is.

Stambuli - Direct

20

1 Q Detective, you referenced a condom that was  
2 found outside of 235 Arlington Avenue, is that correct?  
3 A That's correct, yes.  
4 Q And if you would, please, tell the ladies and  
5 gentlemen where that was found with relation to 235?  
6 A Yes. If you're standing in the street on  
7 Arlington Avenue looking at 235 Arlington Avenue, which  
8 is, again, the residence, it was on the sidewalk to the  
9 right of the residence. So, basically, about a hundred  
10 feet away from the residence.  
11 Q Okay. Now, just so we're clear if you were  
12 -- if you were looking at the residence from the  
13 street, it would have been on your right hand side?  
14 A That's correct.  
15 Q Okay. So if you were walking out, just turn  
16 that around, if you were walking out of the residence  
17 it would have been on your left hand side?  
18 A That's correct, yes.  
19 Q And what, if anything, happened with regard  
20 to this condom?  
21 A The condom was collected -- photographed,  
22 collected, and, then, sent to the New Jersey State  
23 Police Forensic Laboratory for analysis. And the  
24 results came back, basically, inconclusive. They could  
25 not -- they did not have a strong enough sample to

Stambuli - Direct

21

1 analyze it for DNA.  
2 Q Okay. And, Detective, what was the reason  
3 for you, specifically, to retrieve this piece of  
4 potential evidence?  
5 A The condom appeared that it was recently placed on  
6 the ground or thrown on the ground and -- because it  
7 was November 19th. It was a little chilly that day  
8 that there was still a little -- a moist liquid  
9 substance in that condom. So we thought best to  
10 collect it, send it to the laboratory to see if they  
11 can detect anything in there.  
12 Q Okay. But it would be fair to say that  
13 nobody pointed you in that direction. It was just done  
14 as part of the general investigation, correct?  
15 A Correct.  
16 Q Okay. And, Detective, was a picture of that  
17 condom taken?  
18 A Yes.  
19 Q And that was by you?  
20 A Yes.  
21 Q Okay. I'm going to show you what has been  
22 marked as S-18 for identification, do you recognize it?  
23 A Yes, I do.  
24 Q Okay. And what does that picture show?  
25 A That depicts the condom laying on the sidewalk

Stambuli - Direct

22

1 with a ruler next to it.

2 Q Okay. You took this picture?

3 A Yes.

4 Q Detective, you spoke about the condom, you  
5 spoke about the shirt and the glass window, was there  
6 anything else of evidential value, either recovered or  
7 found at the scene?

8 A Yes. We -- typically, again, for a crime scene we  
9 dust for fingerprints if we don't know who the actor  
10 is. If the actor isn't in custody we dust for  
11 fingerprints to see if we could find any fingerprints  
12 that either don't belong in the house, meaning that  
13 it's not the victim's fingerprints. And, then, we lift  
14 those fingerprints and send them for additional  
15 analysis if need be and, basically, if the prints are  
16 readable fingerprints.

17 Q Okay. Was that done in this case?

18 A The fingerprints were -- initially the latent  
19 prints were initially not sent out because they didn't  
20 have enough detail. I'm, also, trained in latent  
21 fingerprint identification. And upon lifting the  
22 prints we noticed that there wasn't sufficient detail  
23 in the finger -- in the actual latent print. You need  
24 -- if you look at your fingers you have what are called  
25 ridges on them, friction ridges. And that's what

Stambuli - Direct

23

1 leaves the -- your fingerprint on a surface. And once  
2 fingerprint dust is applied to that surface it brings  
3 those ridge details out. And in this case there wasn't  
4 sufficient ridge detail to compare for fingerprints.

5 Q You had mentioned, Detective, the word  
6 lifting fingerprints. Would you describe for the  
7 ladies and gentlemen, how that was done in this case?

8 A Okay. Essentially what we do is we apply a  
9 contrasting fingerprint powder. Basically, it's  
10 fingerprint dust. We apply it to a surface, and we  
11 attempt to develop a fingerprint on that surface. We,  
12 then, take a transparent adhesive, it's a tape  
13 essentially, and we apply it over the surface over the  
14 print and attempt to lift the print off the surface and  
15 apply it to a contrasting background, so the print can  
16 be compared to either a fingerprint database or another  
17 set of latent prints. And in this case every time we  
18 touch a surface we may leave basically a readable  
19 fingerprint or a non readable fingerprint. And in this  
20 case we lifted non readable fingerprints. And that is  
21 just, again, the contact to the surface, 'cause  
22 contacting a surface is not always regular. It's not  
23 always perfect, you know, it might be too hard, too  
24 soft, so that's the variation.

25 Q If you recall, Detective, where were the

Stambuli - Direct

24

1 fingerprints located or lifted from?

2 A They were lifted from -- they were lifted from the  
3 top of the wine cooler, 'cause we received information  
4 from one of the detectives that was with the victim  
5 during the time that the actor may have touched the  
6 cooler in the kitchen.

7 Q Okay. And, Detective, did you have occasion  
8 to take pictures of those dusted prints?

9 A Yes, I did.

10 Q I'm going to show you what has been marked as  
11 S-23, S-24, and S-22, do you recognize these three  
12 pictures?

13 A Yes, I do.

14 Q Okay. You took these pictures?

15 A Yes, I did.

16 Q And what do these pictures show?

17 A They show pictures of the latent fingerprints on  
18 the -- that were developed on the cooler, again, which  
19 weren't suitable for comparison.

20 Q Now, is it something, Detective, that you  
21 would have to send out, again, to tell if they were  
22 suitable for comparison?

23 A They can -- the more eyes you have looking at  
24 fingerprints the better. But general -- I knew when I  
25 -- when I saw them I knew they were unsuitable for

Stambuli - Direct

25

1 comparison. That's -- they were just, again, not  
2 enough friction ridge detail to compare. But, again,  
3 to send them to another agency, specifically, a State  
4 Police, you know, is not uncommon just to have them  
5 take a look at them as well.

6 Q Detective, to your knowledge was there  
7 anything else of evidential value taken from or  
8 recovered from the scene?

9 A We recovered sheets from the victim's bed. That's  
10 basically what I recall now.

11 Q Okay. Is there anything that would refresh  
12 your recollection?

13 A Yeah, if I can take a look at my report.

14 MR. TROIANO: If I can have this marked,  
15 Judge?

16 MR. HIRSCHORN: What number are you up to  
17 Matt?

18 MR. TROIANO: 26.

19 MR. HIRSCHORN: 26?

20 THE CLERK: S-26 for identification.

21 MR. TROIANO: Thank you.

22 THE CLERK: You're welcome.

23 BY MR. TROIANO:

24 Q Detective, I'm showing you a three page  
25 document, which has been marked as S-26 for

Stambuli - Direct

26

1 identification, do you recognize this document?  
2 A Yes, I do.  
3 Q And what is this?  
4 A This is a Crime Scene Investigation report. It  
5 was, again, completed after processing the crime scene.  
6 Q And who was it that completed this report?  
7 A Detective Andrew Winter completed the report and I  
8 read it after he completed it.  
9 Q Okay. Is there a list of items found or  
10 recovered from the crime scene?  
11 A Yes, it -- yes, there is.  
12 Q I had asked you if there was anything in  
13 addition recovered from the crime scene -- crime scene,  
14 excuse me, after reading that, does that refresh your  
15 recollection?  
16 A Yes, it does.  
17 Q And what was, if anything else, what was  
18 recovered?  
19 A There was a condom wrapper located in the victim's  
20 bedroom that was recovered. There was, also, a bath  
21 towel located in the victim's bedroom.  
22 Q With regard to the condom wrapper, would  
23 pictures of that been taken?  
24 A Yes.  
25 Q Okay. I'm going to show you what's been

Stambuli - Direct

27

1 marked as S-17 for identification. Do you recognize  
2 this picture?  
3 A Yes, I do.  
4 Q Okay. And what does that picture show?  
5 A That's a picture of a gold colored condom wrapper  
6 that was apparently torn open.  
7 Q Okay. After taking this picture would that  
8 condom wrapper had been taken?  
9 A Yes.  
10 Q And all of these items were, would it be fair  
11 to say, placed into evidence?  
12 A Yes, it was. Yes, they were.  
13 MR. TROIANO: Nothing further, Judge.  
14 MR. HIRSCHORN: Judge, sidebar?  
15 (THE FOLLOWING TAKES PLACE AT SIDEBAR)  
16 MR. HIRSCHORN: Judge, just that's my witness  
17 that just walked in. So I don't know if you want him  
18 sitting in here while the testimony is --  
19 THE COURT: -- right?  
20 MR. HIRSCHORN: Yes. And, also, about the  
21 stipulation, do you want it during him?  
22 THE COURT: Yes, what do you want to do about  
23 the stipulation? Because --  
24 MR. HIRSCHORN: About all the other stuff  
25 that --

Stambuli - Cross

28

1 THE COURT: -- recovered and --  
2 MR. HIRSCHORN: -- no DNA.  
3 THE COURT: I'll read it now.  
4 MR. HIRSCHORN: Yes, that's fine.  
5 (THE FOLLOWING TAKES PLACE IN OPEN COURT)  
6 THE COURT: Okay, ladies and gentlemen,  
7 another stipulation by the parties.  
8 On or about November 19th, 2006 various  
9 items were recovered in relative to this matter. Two  
10 items were sent to the State Police Lab for analysis  
11 and testing. One was the shirt, we told you about that  
12 already. The other thing was the condom. And the  
13 parties, hereby, stipulate that the condom was examined  
14 and was determined to be unsuitable for further  
15 testing. Okay? Thank you.  
16 Cross please?  
17 MR. HIRSCHORN: Judge, did you want to take a  
18 moment, or if you would like me to begin now?  
19 THE COURT: You can begin now. There is an  
20 order of sequestration though. So any parties who are  
21 witnesses in this trial have to leave the room now  
22 please. Thank you.  
23 MR. HIRSCHORN: Thank you, Judge.  
24 CROSS EXAMINATION BY MR. HIRSCHORN:  
25 Q Good morning, Detective Stambuli.

Stambuli - Cross

29

1 A Good morning.  
2 Q You were involved in this crime scene  
3 investigation with Detective Winter from the very  
4 beginning, correct?  
5 A That's correct, yes.  
6 Q And the two of you arrived at approximately  
7 the same time?  
8 A That's correct.  
9 Q Okay. And you conducted the investigation  
10 together?  
11 A That's correct, yes.  
12 Q Did you compile the report or did Detective  
13 Winter?  
14 A Detective Winter did.  
15 Q Okay. Did you have an opportunity to review  
16 that report before it was submitted?  
17 A Yes, I did.  
18 Q Do you would agree with everything that's  
19 written in that report, that was both of your findings  
20 at the location, correct?  
21 A Yes, that's correct.  
22 Q Okay. Now, Mr. Troiano was discussing with  
23 you about these windows, and I'm going to show you  
24 what's been marked, I think that's S-25 for  
25 identification. That's a picture of the broken window,

1 correct?  
2 A That's correct.  
3 Q And we've already established that the screen  
4 -- the window was broken, correct?  
5 A That's correct.  
6 Q You found glass on the inside as well as on  
7 the outside, correct?  
8 A That's correct.  
9 Q You found the screen to be in the down  
10 position?  
11 A That's correct.  
12 Q But as you indicated earlier there's no lock  
13 on that screen, correct?  
14 A That's correct.  
15 Q You, also, found that the window was located  
16 in a storage closet?  
17 A That's correct.  
18 Q Were those doors open or closed when you  
19 arrived?  
20 A They were found as is. As is in the picture, they  
21 were open.  
22 Q So those doors were open in the picture. You  
23 didn't move anything around in the crime scene, or if  
24 you had you would have taken a picture of it in its  
25 original state and, then, if you had to open that to

1 take a picture of the window you would have noted that  
2 somewhere in your report, correct?  
3 A Correct.  
4 Q Okay. You, also, indicated that the window  
5 was locked on your arrival, correct?  
6 A Can I refresh my recall --  
7 Q Sure.  
8 A -- recollection with the report?  
9 Q Is there something that would refresh your  
10 recollection?  
11 A Yeah, the report.  
12 Q Your report?  
13 A Yeah.  
14 Q I'm going to show you what's been marked  
15 S-26, you've already had a chance to look at it once.  
16 If you could review it to yourself and let me know if  
17 it refreshes your recollection as to those windows,  
18 or that particular window. If I may, just for the  
19 purposes of time I believe it's on the top of the  
20 second page?  
21 A Yes, yes. The --  
22 Q It indicates in your report, correct, as to  
23 the status of that window?  
24 A Yes.  
25 Q And what was it?



Stambuli - Cross

32

- 1 A It was locked.
- 2 Q Okay. And, also, if I show you S-14 that  
3 would be memorialized a little bit better in that  
4 picture 'cause it's closer up. Because we all know in  
5 common knowledge of window mechanisms like that if they  
6 were open or unlocked the latch would be facing out in  
7 that picture, rather than flat with the window. That's  
8 in the locked position, correct?
- 9 A That's correct, yes.
- 10 Q Okay. So, then, you would agree with me that  
11 that was -- strike that -- we'll get to that. When you  
12 arrived were there any other windows that you looked at  
13 in that apartment?
- 14 A Yes.
- 15 Q Okay. There was a third window, correct?
- 16 A That's correct.
- 17 Q And that was located in the bedroom?
- 18 A That's correct.
- 19 Q And you found that window to be in the  
20 unlocked position, correct?
- 21 A That's correct, yes.
- 22 Q Was that window a similar window to those  
23 two, if you recall?
- 24 A Yes, it was a double hung. I don't recall similar  
25 in size, I don't recall. But I believe it was similar

Stambuli - Cross

33

- 1 in the mechanism
- 2 Q Okay. And I believe -- I believe you  
3 examined the front door as well, correct?
- 4 A That's correct, yes.
- 5 Q And that door didn't look like that had been  
6 disturbed in any way, correct?
- 7 A Correct.
- 8 Q It had a dead bolt as well as a regular lock?
- 9 A That's correct, yes.
- 10 Q And they were still in tact?
- 11 A Correct.
- 12 Q So from your experience as an investigator  
13 you wouldn't consider that front door point of entry  
14 into that apartment, correct?
- 15 A Correct.
- 16 Q As a matter of fact what you considered to  
17 be, based upon your investigation the only possible  
18 point of entry is that window?
- 19 A That's correct.
- 20 Q Correct?
- 21 A Yes.
- 22 Q Now, you would agree with me, then, that for  
23 an individual to have entered that window it would have  
24 had to have happened one of two ways, they would have  
25 either have lifted up that screen, broken the window,

Stambuli - Cross

34

1 unlocked it, lifted it, climbed through, put it back  
2 down, both things back down, re-lock the window and,  
3 then, proceeded into the apartment, that's one way,  
4 correct?  
5 A Yes, that's correct, that's a possibility.  
6 Q Or the other way is they would have had to  
7 have lifted up the screen, broken the window and, then,  
8 climbed through there, correct?  
9 A They -- they weren't going to fit through that  
10 window.  
11 Q Okay. So really there was only one way this  
12 could have happened?  
13 A Yes.  
14 Q In your opinion?  
15 A Yes. Probably one plausible way, yes.  
16 Q On plausible way --  
17 A Yes.  
18 Q -- it could have happened?  
19 A Um-hum.  
20 Q And I would agree with you that the one  
21 plausible way that this could have happened is the way  
22 that I stated it earlier. So the individual that  
23 entered this apartment would have had to have after  
24 entry shut the window, shut the screen and locked the  
25 window?

Stambuli - Cross

35

1 A The screen would have just fell down by itself.  
2 Q Okay. What about the window?  
3 A The window itself, yes, you would have to re-lock  
4 it.  
5 Q So that person would have had to take the  
6 affirmative action of pushing that mechanism closed on  
7 both sides? There's two of them, correct?  
8 A Correct.  
9 Q And they would have had to taken that  
10 affirmative step, right to lock them?  
11 A Correct.  
12 Q Now, presumably someone entering the  
13 apartment would have done that with their hand,  
14 correct?  
15 A Correct.  
16 MR. TROIANO: Objection, Judge.  
17 THE COURT: Overruled.  
18 BY MR. HIRSCHORN:  
19 Q Did you dust that for prints?  
20 A Yes.  
21 Q And nothing came up?  
22 A Nothing.  
23 Q Did you dust the screen for prints?  
24 A The sides of the screen, yes, not the actual --  
25 not the screen.

1 Q No, I mean the metal part around the  
2 screen --  
3 A Yes.  
4 Q -- I apologize. You dusted that for prints  
5 as well?  
6 A Yes.  
7 Q And nothing came up on that?  
8 A Nothing.  
9 Q Okay. Now, Mr. Troiano discussed with you a  
10 condom that was found outside that apartment, correct?  
11 A Correct.  
12 Q And you, also, found a wrapper inside the  
13 apartment, correct?  
14 A Correct.  
15 Q Do you recall the brand of the wrapper inside  
16 the apartment?  
17 A Yes. I believe Trojan Magnum.  
18 Q Okay. Were you able to determine what the  
19 brand was of the condom on the outside of that  
20 apartment?  
21 A No.  
22 Q There's no way to determine that, correct?  
23 A Not to my knowledge, no.  
24 Q But you sent both of those items for the lab  
25 to be tested, correct?

1 A The condom was sent, yes.  
2 Q The condom was sent, was the wrapper sent as  
3 well?  
4 A The wrapper was printed by us.  
5 Q Was printed. Were any prints on that  
6 wrapper?  
7 A No.  
8 Q Okay. The condom was sent to the lab,  
9 correct?  
10 A Correct.  
11 Q And the reason you sent it to the lab is, as  
12 you indicated earlier, that there was a substance that  
13 you believe could have contained DNA, is that correct,  
14 contained within the condom?  
15 A Correct.  
16 Q For lack of more graphic terms. It was sent  
17 to the lab, right?  
18 A Correct.  
19 Q And nothing came back, it was untestable?  
20 A Correct.  
21 Q So you're not even sure, it would be fair to  
22 say, whether that condom had anything to do with this  
23 crime?  
24 A Correct.  
25 Q Okay. It was just something that you found

1 upon your walk-through or -- of the outside of the  
2 apartment as you indicated earlier, that you found and  
3 you thought might be --  
4 A Correct.  
5 Q -- doing police work, but it turned out to be  
6 nothing?  
7 A Yes.  
8 Q Okay. Now, the blood stained shirt that you  
9 found, that was sent to the lab for evaluation as well,  
10 correct?  
11 A Correct.  
12 Q And that did come back?  
13 A Yes.  
14 Q Correct? And that came back to a specific  
15 individual, correct?  
16 A That's correct, yes.  
17 Q Okay. That is to your knowledge the only  
18 item of all of these items that we discussed that was  
19 sent out for prints, for possible DNA, for any other  
20 type of forensic evidence that came back as a match to  
21 any one individual?  
22 A Correct.  
23 Q Okay. Now, you indicated that that shirt was  
24 found on a wine cooler or chiller, is that what you  
25 said?

1 A Yes.  
2 Q And you indicated that that shirt was placed  
3 in a plastic bag, is that accurate?  
4 A That's correct, yes.  
5 Q Did you take the plastic bag into evidence by  
6 any chance?  
7 A No, we did not.  
8 Q You did not. But it's your understanding  
9 from speaking with the Jersey City detectives that that  
10 shirt was placed there by the victim?  
11 A I -- I was told by Detective Rosario, who was with  
12 the victim at the time. Okay? She was -- as the  
13 victim was being examined by the sexual assault nurse  
14 examiner Detective Rosario was finding out information  
15 and relaying it to us. And that was told to us by  
16 Detective Rosario.  
17 Q Okay. But you're certain that shirt was  
18 found in a plastic bag on the wine chiller?  
19 A Yes.  
20 Q It wasn't found in the bathroom floor?  
21 A No.  
22 Q Okay. Was -- I believe Mr. Troiano asked you  
23 about the bed sheets and a towel, those two things  
24 were, also, taken into evidence, correct?  
25 A That's correct.

1 Q And presumably they were sent out for  
2 evaluation as well for examination or look for DNA,  
3 possible DNA evidence, is that correct?

4 A Yes.

5 Q And those sheets were on the bed, correct?

6 A Correct.

7 Q Okay. Are you familiar with the facts of  
8 this case at all, or are you just familiar with your  
9 part of the investigation?

10 A No, just with my part of the investigation.

11 Q Okay. But those sheets were sent out for  
12 forensic examination, correct?

13 A To my -- I would have to see the lab submission  
14 report just to confirm that.

15 Q Sure. I think it's noted in your report. Do  
16 you have your report? If you could review that and see  
17 -- you took that into evidence, correct?

18 A It -- yes, I did, but it would actually be in the  
19 State Police Laboratory Submission report.

20 MR. HIRSCHORN: Judge, if I could just have  
21 one minute.

22 THE COURT: Sure.

23 BY MR. HIRSCHORN:

24 Q So if it's not contained within the  
25 laboratory report that means it was taken into evidence

1 and never sent to the lab, correct?

2 A Yes, it was -- it was not sent because we had that  
3 other item of evidence with the apparent blood on it.

4 Q Okay. But you would agree with me that it  
5 could be important considering that this was an alleged  
6 sexual assault that took place on those sheets that  
7 there could have been, whether it be blood or semen or  
8 some other type of DNA evidence that could have been  
9 pulled from those sheets, correct?

10 A The State Police cannot examine every single item  
11 that's submitted.

12 Q Why not?

13 A Because they would just be overwhelmed. So,  
14 again, we're confident that it was blood located on  
15 that shirt, so we submitted that shirt for analysis and  
16 it came back to the defendant.

17 Q Okay. Detective, but you would agree with me  
18 that it would be pretty important if you sent those  
19 sheets to be examined, and those sheets came back as  
20 positive for DNA and it was somebody else's DNA that  
21 would be important, wouldn't it?

22 A But, again, we have an actor identified by the  
23 white shirt with the apparent blood on it. So it  
24 potentially could be, but, again, we had that one item  
25 which was positive for the blood on it.

1 Q Okay. I understand that. But if you could  
2 answer my question. You would agree with me that if  
3 there was DNA in that crime scene, in evidence that you  
4 took doing your job and it was sent to the lab and it  
5 came back as another individual that would be important  
6 to this case, wouldn't you agree with that?  
7 A It could be, yes.  
8 Q Could be?  
9 A Could be.  
10 Q It could have shown another actor, correct?  
11 A Possibly.  
12 Q It could have shown a different way that this  
13 situation took place, correct?  
14 A We -- possibly but, again, we had this information  
15 with the actor, then we had this item with the apparent  
16 blood on it.  
17 Q Okay.  
18 A So there was no need to send these sheets out.  
19 Q All right. Well, then, let me ask you this,  
20 you in your opinion thought it was more important to  
21 send out a used condom a hundred feet away on the road,  
22 then the sheets where the alleged incident took place?  
23 A Yes. We -- well, we had information that the  
24 actor had fled in that direction.  
25 Q Okay.

1 A Therefore, the condom was there and it was pretty  
2 close to the house, so we could associate that condom  
3 with the incident that took place.  
4 Q Are you familiar with that area of Jersey  
5 City?  
6 A Yes.  
7 Q Do you think that the actor --  
8 MR. TROIANO: Objection, Judge, him thinking.  
9 THE COURT: I need a question.  
10 MR. HIRSCHORN: Excuse me, Judge.  
11 THE COURT: I need a question first.  
12 BY MR. HIRSCHORN:  
13 Q Do you believe that that condom could have  
14 come from anywhere in that area, correct?  
15 MR. TROIANO: Objection, Judge.  
16 THE COURT: Overruled.  
17 A Potentially, yes.  
18 BY MR. HIRSCHORN:  
19 Q So, basically, at some point in time, whether  
20 yourself or someone else in the Prosecutor's Office,  
21 made the decision that it was not important, or not  
22 relevant to send those sheets, for examination?  
23 A Correct, somebody made that decision, yes.  
24 Q Did you?  
25 A No.

1 Q Somebody other than you, correct?  
2 A Yes.  
3 Q Okay. As I said earlier you took the sheets  
4 because you thought they may be important?  
5 A Correct.  
6 Q You took the towel because you thought it may  
7 be important?  
8 A Correct.  
9 Q Along with everything else?  
10 A Correct.  
11 Q And aside from the State Police's time  
12 problems, in your opinion those sheets could be  
13 important?  
14 A Correct.  
15 MR. HIRSCHORN: Judge, I have no further  
16 questions. Thank you very much.  
17 THE COURT: Redirect?  
18 REDIRECT EXAMINATION BY MR. TROIANO:  
19 Q Detective, were there any apparent stains on  
20 the sheets that were recovered?  
21 A Nothing that we -- nothing that we noticed and,  
22 again, nothing that was -- that appeared to be apparent  
23 biological stain  
24 Q And with regard to the -- I believe you said  
25 it was a towel?

1 A Correct.  
2 Q No stains with regard to the towel?  
3 A Nothing that appeared to be biological stain. You  
4 can see biological stains for the most part with a  
5 naked eye. Again, not to get too graphic, but, you  
6 know, from your personal experiences you know what a  
7 biological stain looks like on fabric.  
8 Q Okay. On the other hand with regard to the  
9 shirt?  
10 A With the shirt, again, based on my experience and  
11 Detective Winter's experience we were pretty convinced  
12 that it was blood on there.  
13 Q I'm going to show you, again, what's been  
14 marked as S-2 for identification, you've already  
15 identified this. Two windows here, is that correct?  
16 A That's correct, yes.  
17 Q Okay. Is it the window on the right or the  
18 left that had the -- that was broken?  
19 A On the right.  
20 Q Okay. This picture when it was taken, is the  
21 screen up or down at this point?  
22 A It's down.  
23 Q And from your vantage point when you look at  
24 this or when you looked at it that day with the screen  
25 being down, are you able to notice right then and there

1 that the window is broken?  
2 A Yes, from -- from a distance not as much. When  
3 you get a little closer you have to actually be looking  
4 for it, but you could see the window is broken.  
5 Q Okay. But from a distance with the screen  
6 down you can't see that it's broken, is that correct?  
7 A That's correct.  
8 MR. TROIANO: No further questions.  
9 MR. HIRSCHORN: Just briefly.  
10 RE CROSS EXAMINATION BY MR. HIRSCHORN:  
11 Q You just testified on redirect about your  
12 examination of the sheets. Did you see any blood on  
13 the sheets?  
14 A No.  
15 Q Did you see any blood on the wall in that  
16 room, in the bedroom?  
17 A No.  
18 Q Any blood on the floor?  
19 A No.  
20 Q Any blood anywhere else in that apartment?  
21 A No.  
22 Q Any blood on the window?  
23 A No.  
24 Q The screen?  
25 A No.

1 MR. HIRSCHORN: No further questions, Judge.  
2 thank you.  
3 MR. TROIANO: Nothing, Judge. Thank you.  
4 THE COURT: You're excused, sir, thank you  
5 very much.  
6 THE COURT: All right, ladies and gentlemen,  
7 just take two minutes in the jury room.  
8 (Off the record/on the record)  
9 THE COURT: Okay, Mr. Troiano.  
10 MR. TROIANO: Judge, thank you. At this time  
11 the State calls Linda Richardson.  
12 L I N D A R I C H A R D S O N, STATE'S WITNESS,  
13 SWORN  
14 COURT OFFICER: State your full name for the  
15 record.  
16 THE WITNESS: Linda Richardson.  
17 COURT OFFICER: Thank you; you may be seated.  
18 THE COURT: Okay.  
19 MR. TROIANO: Thank you, Judge.  
20 DIRECT EXAMINATION BY MR. TROIANO:  
21 Q. Good morning.  
22 A. Good morning.  
23 Q. Miss Richardson, would you mind if I called  
24 you Nurse Richardson?  
25 A. Not at all.



Richardson - Direct

48

1 Q. Okay. I would just ask you to speak into  
2 this microphone here so the ladies and gentlemen can  
3 hear you.  
4 A. Okay.  
5 Q. Have you ever testified before?  
6 A. Never.  
7 Q. A little nervous?  
8 A. Very nervous.  
9 Q. All right. I'm going to ask you a few  
10 questions. With whom are you employed?  
11 A. Christ Hospital in Jersey City.  
12 Q. Okay. And what do you do for Christ  
13 Hospital?  
14 A. I'm a registered nurse. I work in the emergency  
15 room.  
16 Q. And how long have you been doing that?  
17 A. I've been with Christ Hospital about six and a  
18 half years.  
19 Q. Okay. And is that your only time as a nurse?  
20 A. No, I've been a nurse for over 30 years.  
21 Q. Okay. And before working at Christ, where  
22 did you work before that?  
23 A. I worked at Saint Barnabas Hospital in Livingston,  
24 New Jersey.  
25 Q. But here in Jersey City for the past six

Richardson - Direct

49

1 years or so?  
2 A. Yes.  
3 Q. You also have occasion to work somewhat with  
4 the Hudson County Prosecutor's Office, is that correct?  
5 A. I do. I have a part time job, a per diem job with  
6 the Hudson County Prosecutor's Office as a sexual  
7 assault nurse examiner.  
8 Q. Okay. And if you would describe to the  
9 ladies and gentlemen here what exactly that is?  
10 A. I am on a call basis, I take call every weekend,  
11 and if any patients come into Christ Hospital or any  
12 hospital in Jersey City, I'm responsible to do the  
13 report and examination that is required by the  
14 Prosecutor's Office.  
15 Q. Now, if you would, describe to the ladies and  
16 gentlemen what the difference, if any, is between being  
17 a regular nurse, registered nurse, and being a sexual  
18 assault nurse examiner?  
19 A. Well, I had to go to school and actually be  
20 prepared. I went to Monmouth College for six month  
21 course. It's a separate licensure and it's a special  
22 certification to do examinations and reports on sexual  
23 assault cases.  
24 Q. And Nurse Richardson, what would be the  
25 primary role or function for you as a sexual assault

1 nurse examiner?

2 A. I meet the patient in the emergency room. They go  
3 to the emergency room. They are medically cleared by  
4 the doctors and nurses in the E.R. When that's  
5 finished, I meet them as the SAY (phonetic) nurse. I  
6 take a report from them, a written report and we do a  
7 physical examination and I make a written and a  
8 physical report of the occurrence.

9 Q. Okay. And what is the reason for making the  
10 report and doing the examination?

11 A. That is box that we prepare to be turned over to  
12 the detective who is also there at the time who takes  
13 that for use in any future --

14 Q. You indicated that you would meet with an  
15 alleged victim or patient, however you refer to them  
16 after they are seen by other doctors, is that correct?

17 A. First the patient is medically cleared by the  
18 emergency room doctor. That is to make sure she  
19 doesn't have any acute physical injuries, any bleeding  
20 or fractures, any -- any medical problem that prevents  
21 her to go on further with another exam. First they  
22 deal with the emergent problems. If there are none,  
23 she's cleared and she can come to me.

24 Q. Okay. And now you -- you've used the pronoun  
25 she. I think it's a pronoun. It could be a male as

1 well?

2 A. It could be a male, yes. We have males.

3 Q. Now does somebody have to complain of a  
4 certain type of incident, certain type of injury to be  
5 seen by a sexual assault nurse examiner?

6 A. Well, she makes a claim of a sexual assault.  
7 That's when we are called in when she claims sexual  
8 assault.

9 Q. Okay. I would like to direct your attention  
10 to November 19th, 2006. Do you recall that morning  
11 specifically?

12 A. I didn't recall it but after I read the notes I  
13 recall it. Yes, I do.

14 Q. Okay. And the notes that you're referring to  
15 is a report that you generated, is that correct?

16 A. The report that I make, yes.

17 Q. Okay. Have you -- let me ask this. Have you  
18 been a SA nurse since that time, November 19th, 2006?

19 A. Oh, yes, I've been --

20 Q. You're presently one now?

21 A. Yes.

22 Q. Okay. But I contacted you and let you know  
23 about this trial, correct?

24 A. Yes.

25 Q. Now I want to draw your attention to that

Richardson - Direct

52

1 day. You met with a young woman by the name of Liliana  
2 Santos, is that correct?

3 A. Right.

4 Q. Okay. And could you describe for the ladies  
5 and gentlemen how it was that she or you met with her?

6 A. I was already working in the emergency room  
7 because I work 7 p.m. to 7:30 a.m. and when she arrived  
8 I was there already. So I went in, introduced myself,  
9 and I took over the sexual assault part of it when I  
10 left my shift from the emergency room.

11 So I -- we have a special area that we keep these  
12 patients so they have the privacy and, you know, not a  
13 lot of people walking in and out. So we stayed there  
14 until she was medically cleared, and then I, we have a  
15 separate room in Christ Hospital which is on a whole  
16 separate floor, different area that we go to to start  
17 the actual report and -- and what I have to do as a SA  
18 nurse. And that starts in a different area from the  
19 E.R.

20 Q. Do you recall meeting with Miss Santos?

21 A. Yes.

22 Q. And at the time that you met with her, and  
23 began this examination, was there anyone else present?

24 A. There was no one else present, no.

25 Q. Okay. Nobody with her?

Richardson - Direct

53

1 A. Nobody was with her.

2 Q. Throughout the course of the examination, did  
3 anybody else arrive?

4 A. I believe the detective did arrive after I started  
5 my written report.

6 Q. And by detective, a detective with the Hudson  
7 County Prosecutor's Office?

8 A. Yes.

9 Q. Now, would it be fair to say that you are  
10 working in conjunction with the Hudson County  
11 Prosecutor's Office?

12 A. Oh, yes, absolutely.

13 Q. Would you describe to the ladies and  
14 gentlemen how it was that Miss Santos presented to you?

15 A. She came by ambulance to our emergency room from  
16 her apartment and she was very, still very upset, even  
17 when I met her, which was probably an hour after she  
18 arrived.

19 Q. Okay, and when you say upset, what do you  
20 mean by that?

21 A. She was -- she was scared, because --

22 MR. HIRSCHORN: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: She was very nervous and scared  
25 because she felt that he may return. She said that --

1 MR. HIRSCHORN: Objection.  
2 THE COURT: Overruled. It's not for the  
3 truth of the matter asserted.  
4 Go ahead.  
5 BY MR. TROIANO:  
6 Q. Go ahead.  
7 A. She was -- she was really scared. She didn't know  
8 how someone had entered her apartment at that time. She  
9 didn't have, you know, she just knew somebody was there  
10 and she was very upset, very emotional, and nervous.  
11 Q. Okay. Despite that emotion and nervousness,  
12 were you able to complete an examination?  
13 A. Yes, sometimes it takes us a long time to get  
14 through because the patient is very emotional. But  
15 it's my job to take as long as I have to to complete  
16 the entire report.  
17 Q. Okay. You indicated that your, this  
18 examination is somewhat in two parts, physical and then  
19 you speak with them, is that correct?  
20 A. We speak with them first and then we do the --  
21 Q. You speak with them first.  
22 A. Yeah.  
23 Q. And what is the reason for speaking to them  
24 first?  
25 A. Primarily because we want to get the information

1 from them as quickly and immediately so they can  
2 remember as much as they can, give us whatever facts  
3 and whatever they remember quickly. So we can write it  
4 down and have it, you know, right there. We -- we try  
5 to take the written part quickly and accurately so the  
6 facts are right there in their mind.  
7 Q. Okay. Is the written portion of this  
8 memorialized? Is it taken down anywhere?  
9 A. It's taken exactly as they say it on my report. I  
10 have a report that I write, it's word for word as the  
11 patient says it, and it's as much and as many things as  
12 she can remember about what happened.  
13 Q. Okay. Was that done in this case?  
14 A. Yes.  
15 Q. And in this case specifically, Miss Santos  
16 was first, and correct me if I'm wrong, she was first  
17 seen by a, the emergency room physicians and nurses,  
18 correct?  
19 A. Yes, she was.  
20 Q. And then immediately brought over to you?  
21 A. Yes, but the emergency room does not go through  
22 the entire story. They only accept the report that she  
23 was sexually assaulted. They don't make her repeat or  
24 go through the story. They don't get any of those  
25 facts. The first one that hears it is the detective

1 and myself.  
2 Q. Okay. And you indicated that you did  
3 memorialize her statement to you in your report, is  
4 that correct?  
5 A. Yes.  
6 Q. Okay. Is a -- and I keep referring to this  
7 report, are reports done in this, in these cases?  
8 A. Yes.  
9 Q. Okay. And what is contained within those  
10 reports?  
11 A. It begins with her personal information, her  
12 height and weight, address, anything having to do with  
13 her, the patient herself. And then it is a description  
14 of the assailant and the area where she was assaulted.  
15 And then it goes into a written report of the exact  
16 occurrence.  
17 Q. Okay. Had you ever met Miss Santos before?  
18 A. No.  
19 Q. You were never her treating physician,  
20 anything like that?  
21 A. No.  
22 Q. Okay. I'm going to show you what's been  
23 marked as S-21.  
24 MR. TROIANO: Judge, may I approach?  
25 THE COURT: You may.

1 BY MR. TROIANO:  
2 Q. Do you recognize this document?  
3 A. Yes.  
4 Q. Okay. And what is this document?  
5 A. This is the written report that I make with every  
6 case that I do.  
7 Q. Okay. Specifically with regard to this case,  
8 what information is contained in this report? Whose  
9 information I should say?  
10 A. This is Lillian Santos, this is her personal  
11 information like I said. The first page tells her  
12 address, phone number, the date where we did the case,  
13 the name of the detective and we assign every case a  
14 number.  
15 Q. Okay. I'm going to direct your attention to  
16 page three. Do you recognize what page three is?  
17 A. Uh-huh, this is the --  
18 Q. Okay, go ahead.  
19 A. -- the history.  
20 Q. Okay. And describe to the ladies and  
21 gentlemen what -- what is taken down in this portion of  
22 the report.  
23 A. Okay, we start with the date and if they can give  
24 us an exact time where it took place. This says the  
25 patient's bedroom in her basement apartment. And if

Richardson - Direct

58

1 there's any, you know, sometimes it's the second floor  
2 or the back of the building, wherever the exact  
3 location is and then the exact description of the  
4 event.

5 Q. Okay. And that's contained, the exact  
6 description as you say in the patient's description of  
7 the incident, is that correct?

8 A. This is the patient's words.

9 Q. Okay. Now you wrote that down, is that  
10 correct?

11 A. Uh-huh.

12 Q. And it was written down from what she told  
13 you exactly, is that correct?

14 A. Exactly.

15 Q. Okay. I'm going to ask you to read that  
16 portion to the ladies and gentlemen.

17 MR. HIRSCHORN: Objection.

18 THE COURT: Let's go to sidebar.

19 (On the record discussion at sidebar)

20 THE COURT: All right, where is this going?

21 MR. TROIANO: Prior consistent statement.

22 She's been subject to cross examination and there's  
23 been an allegation that she's fabricated this.

24 MR. HIRSCHORN: Not at this point. I mean  
25 that's an allegation in every trial is that she

Richardson - Direct

59

1 fabricated it. It's -- she can come back and testify  
2 to what she told the nurse but the nurse can't read  
3 what she told her.

4 MR. TROIANO: It's a --

5 THE COURT: She can't repeat the description  
6 to the nurse, no.

7 MR. TROIANO: It's -- it's in the rule.

8 THE COURT: I don't have the rule here.

9 Prior consistent statement to --

10 MR. HIRSCHORN: But what has been raised at  
11 this point --

12 (Off the record/on the record)

13 MR. TROIANO: I think it's 803C.

14 THE COURT: I think that's it, a prior  
15 consistent -- okay but -- but -- that's not, you know,  
16 you're offering to rebut on the prior charge of  
17 fabrication. But there's been no allegation of  
18 fabrication.

19 MR. TROIANO: The whole defense is predicated  
20 on --

21 THE COURT: But we don't know that yet  
22 though.

23 MR. TROIANO: That was what happened during  
24 her cross examination. His opening and cross  
25 examination. And he's already crossed her.

Richardson - Direct

60

1 Can we put the jury in the box --  
2 THE COURT: Ladies and gentlemen, I need two  
3 minutes --  
4 (Off the record/on the record)  
5 (Sidebar discussion ended)  
6 THE COURT: Now just for the record --  
7 MR. TROIANO: Judge, should we have the  
8 witness step out?  
9 THE COURT: Yeah, she can step out. Yeah.  
10 Yeah, she can step out. We'll need about two minutes,  
11 okay?  
12 THE WITNESS: Okay.  
13 THE COURT: Now, Mr. Troiano wants the nurse,  
14 Nurse Richardson to testify as to exactly what the  
15 victim told her. She's trained to take down exactly  
16 what she says including a description of what happened,  
17 okay. And he -- he's -- he's proffering it, and his  
18 proffer is 803A2. It's consistent with a witness'  
19 testimony and it's also to rebut an express and implied  
20 charge against a witness of recent fabrication or  
21 improper influence of motive.  
22 Now, so what he has to show is he has to  
23 rebut an express or implied charge of recent  
24 fabrication. And I'm going through my notes of the  
25 cross examination. Most of it went to identification.

Richardson - Direct

61

1 None of it -- I don't think he ever touched upon -- he  
2 never touched upon the topic of consent at all.  
3 MR. TROIANO: With all due respect, Judge,  
4 it's my recollection that Mr. -- we marked this for  
5 identification, Mr. Hirschorn confronted her with this  
6 on various portions of what her statement was. And  
7 forgive me for not remembering specifically, but what  
8 his description was, what she may or may not have told,  
9 whether or not it was the boyfriends's stuff, whether  
10 or not she said it was the boyfriend, was it Anthony,  
11 was it, did he say I'm Anthony. And he confronted her.  
12 She looked at this. She also looked at -- at her  
13 statement but she was confronted with this. That was  
14 the reason that we marked it.  
15 There would have been, up until this point  
16 there would have been no other reason why this document  
17 was marked into evidence because there'd be no witness  
18 to -- to offer it.  
19 MR. HIRSCHORN: But it's marked as S-21,  
20 right?  
21 THE COURT: But I think the -- the thrust of  
22 the cross examination was why she didn't tell them the  
23 name of her assailant if she knew it.  
24 Now, is that in and of itself an attempt to  
25 rebut --

Richardson - Direct

62

1 MR. TROIANO: An implied charge.

2 THE COURT: -- an implied charge of  
3 fabrication.

4 MR. TROIANO: The fabrication here being that  
5 this was not consensual, which is, you know, with all  
6 due respect, defense's whole theory. That this was in  
7 fact consensual.

8 THE COURT: Mr. Hirschorn.

9 MR. HIRSCHORN: Judge, my recollection of why  
10 it was marked had to do with whether or not she told  
11 the nurse that my client was either known as S.DOT or  
12 Stephen Wright.

13 MR. TROIANO: No, she never mentions, she  
14 never mentions the name in here.

15 MR. HIRSCHORN: That's my point. Right,  
16 that's the point. So if anything, and I would also, I  
17 don't know that this is necessarily a prior consistent  
18 statement. There are certain, I mean if you want to  
19 try to get it in under another -- there's certainly  
20 inconsistencies throughout here with what she's  
21 testified to, with what other things that have been  
22 marked for identification.

23 THE COURT: You can't get it in for that  
24 reason.

25 MR. TROIANO: I can't get it in, I realize

Richardson - Direct

63

1 that I cannot, I wouldn't proffer that it is an  
2 inconsistent statement and I wouldn't proffer that it's  
3 -- that it's -- that it's under a medical exception.  
4 But I would say that this squarely fits under here.  
5 The whole, defense's whole theory is that this is a  
6 consensual relationship. She gives a consistent  
7 statement with what her testimony is now that happened  
8 an hour after this incident and that should come in.

9 MR. HIRSCHORN: Judge, if Your Honor is  
10 inclined to -- to allow it under that exception, I  
11 would submit to the Court that it isn't consistent but  
12 there are certainly inconsistencies throughout the  
13 statement that she provided here, provides here, excuse  
14 me, with the testimony she gave here in Court.

15 MR. TROIANO: I would submit that there's,  
16 besides maybe little small details, there is not one  
17 inconsistency. It is the exact story that she has said  
18 from day one.

19 THE COURT: Well let me ask you this. Before  
20 I rule, is the issue really moot because when you cross  
21 examine her, you're going to cross examine extensively  
22 about that document and its lack of the name S.DOT?  
23 That's pretty -- that's coming down the road, isn't it?

24 MR. HIRSCHORN: Yes, Judge.

25 THE COURT: During this examination, not on



Richardson - Direct

64

1 your case, during the State portion of the case.

2 MR. HIRSCHORN: If you allow this in, Judge,  
3 I'm going to cross examine her not only extensively on  
4 the S.DOT but on the various other things in that  
5 report.

6 THE COURT: Well, well in light of the fact,  
7 I mean I think it's a very close call, but we can make  
8 an argument that there's an implied charge of  
9 fabrication. And I'm on the fence now, but in light of  
10 the fact, I believe you're going to cross examine  
11 extensively in any event about the lack of the name  
12 S.DOT in the report, it would seem logical to let her  
13 testify to it now.

14 MR. HIRSCHORN: As I said, Judge, if you  
15 allow the report in, I'm not only going to -- I'm not  
16 going to stop at that, I'm going to cross examine  
17 her --

18 THE COURT: We could do it this way. You  
19 know what, I could sustain the objection, okay, and  
20 then on cross he's going to go over the report ad  
21 nauseam and then that in fact it would be admissible  
22 pursuant to 803A2.

23 So in other words, if I don't let you do it  
24 now, I can let you do it after his assuming he does  
25 what I think he's going to do on cross, it will clearly

Richardson - Direct

65

1 be allowed then, done then. Do you understand what I'm  
2 saying?

3 MR. HIRSCHORN: I completely understand.

4 THE COURT: Understand?

5 MR. TROIANO: I mean I understand what you're  
6 saying with all due respect I disagree. But, you know,  
7 if we're getting to that point, ultimately we're just  
8 going to keep this witness here a whole lot longer.

9 THE COURT: Uh-huh.

10 MR. HIRSCHORN: Judge, at this point I will  
11 withdraw my objection, allow him to get it in now and  
12 we'll just do it that way. It's going to come out  
13 anyway, so --

14 THE COURT: I agree. Okay, bring the jury  
15 in please and ask the witness to come back in.

16 Thank you, gentlemen.

17 MR. TROIANO: Thank you.

18 (Jury enters the courtroom)

19 THE COURT: Okay, folks, ready to begin  
20 again. Mr. Hirschorn withdrew his objection and we're  
21 going to continue.

22 Go ahead, Mr. Troiano.

23 MR. TROIANO: Thank you, Judge.

24 BY MR. TROIANO:

25 Q. Nurse Richardson, as we were about to begin,

1 I --  
2 THE COURT: I'm sorry, I'm sorry, I missed  
3 one.  
4 MR. TROIANO: Oh, I apologize.  
5 JUROR: I was in the men's room.  
6 THE COURT: That's perfectly okay, sir, my  
7 fault. I indicated that the objection was withdrawn  
8 and we're continuing. Have a seat, sir.  
9 Thank you, and forgive me for not noticing  
10 you not coming out.  
11 Let's continue.  
12 MR. TROIANO: Thanks, Judge.  
13 BY MR. TROIANO:  
14 Q. Nurse Richardson, S-21 again, you began by or  
15 you were about to begin reading the patient's  
16 description of the incident. And I would ask you to  
17 read that to the ladies and gentlemen if you now  
18 wouldn't mind.  
19 A. This is a little broken up because I try to write  
20 it exactly as she says it. We went to Latin Lounge  
21 with friends around 12:30 a.m., had one drink. Called  
22 my boyfriend to pick me up. June, P.J. and me went  
23 with boyfriend to Pine Street to hang out. Then we  
24 went with Marjay's and met with boyfriend again. We  
25 went to my apartment about 1:30 a.m. We hung out. We

1 did have consensual sex in my apartment. We did use a  
2 condom. He left at 3:30 a.m. I took a shower and went  
3 to sleep. I woke up about 6 a.m. Lights and TV were  
4 off. A black man was on top of me. I felt like I knew  
5 him and he knew me. He said he was my boyfriend but he  
6 was not. I heard him say my name. I looked up. He  
7 grabbed my neck with one hand. He was choking me. He  
8 told me to shut up. He took off my PJ pants, he kissed  
9 my neck, left side, and my mouth. Then he started  
10 playing with his thing. He got on top of me. I heard  
11 a condom wrapper, I think he put a condom on. He put  
12 his thing, his penis, into my vagina and he raped me.  
13 I don't know if he ejaculated.  
14 Q. And that continues on another page, is that  
15 correct?  
16 A. Yes. This is continuation.  
17 Q. Okay.  
18 A. He got up, he told me he would come back. He said  
19 I should leave the door open and he said I should stay  
20 in bed. He left. I got up, I ran to the window and  
21 looked out. I ran to the door, looked out to the left  
22 and I saw someone running. His back was toward me.  
23 Went back into the apartment and called 911. I took a  
24 shower. Ambulance came, I came to the hospital.  
25 Q. And that's the conclusion of that?

1 A. Yes.  
2 Q. Okay. Thank you. Now that's -- that's  
3 basically a narrative that she gives you, is that  
4 correct?  
5 A. Yes.  
6 Q. Now, Miss Santos also allowed you to conduct  
7 a physical examination, is that correct?  
8 A. Yes.  
9 Q. And I'm going to ask you some questions about  
10 that. First of all, is the, is Miss Santos asked  
11 whether or not she will agree to have an examination?  
12 A. Yes, there's a consent form, maybe the second  
13 page, that she has to sign which gives us the  
14 permission to make a report, conduct a physical exam  
15 and maybe take photos. We usually take their panties  
16 and maybe other clothing or personal items. And she  
17 signs and initials the consent.  
18 Q. Okay. And where -- strike that.  
19 On page four, there is a question or I guess  
20 a sub-heading that is entitled Description of  
21 Offenders, is that correct?  
22 A. Yes.  
23 Q. Okay. Would you read what that shows? Or  
24 what's written there?  
25 A. Number of offenders, one, male, black, over six

1 feet tall, skinny, dark colored jacket. That's what  
2 she remembered.  
3 Q. Okay. And to your knowledge, do you recall  
4 if Liliana ever gave you a specific name while she was  
5 being examined or while you were talking to her?  
6 A. No, if she gave me a specific name, it would be in  
7 my report.  
8 Q. Just for -- to make this easier, I'm going to  
9 ask you to keep that. I'm going to look at a copy that  
10 I have. She's asked if there's any physical contact  
11 between the offender and the patient, is that correct?  
12 A. Yes.  
13 Q. And do you recall her answer to that?  
14 A. It says was, was she physically restrained in any  
15 way and she said yes, he held my hands with his hand.  
16 Q. Okay. On the next page, on page five, you  
17 asked her if there was any contact between the genitals  
18 of the two people, is that correct?  
19 A. Yes.  
20 Q. Okay. And are there -- did she answer yes to  
21 any of these questions?  
22 A. Yes, we have to ask every single question, make  
23 sure they understand the question. She answered yes to  
24 did the offender's penis contact patient's genitals?  
25 Yes. Did offender's penis enter patient's vagina?

1 Yes.  
2 Q. And at the bottom of that page, she is asked  
3 if the offender ejaculated and do you recall her answer  
4 to that?  
5 A. Unsure.  
6 Q. Unsure. On the next page, page six, you  
7 asked about the patient's activities since the  
8 incident. What is the reason for asking these  
9 questions?  
10 A. Well we ask the patient did they shower, did they  
11 change their clothes, did they urinate. All of this  
12 affects the evidence that we're able to collect.  
13 Q. How so?  
14 A. For instance if the patient urinates and wipes  
15 herself, she can wipe evidence away. If she showers  
16 she pretty much wipes everything away. And in this  
17 case she did shower, so --  
18 Q. Okay and the significance of that again would  
19 be what?  
20 A. Well for instance he kissed her on the neck. In  
21 a, in any other case I would take a swab and a smear of  
22 that area trying to collect his DNA from her missing  
23 her on the neck. But she showered so that was not even  
24 a possibility.  
25 Q. One second.

1 On page eight, if you would go to page eight,  
2 at the top of that page it's entitled physical  
3 examination and collection of specimens. Do you see  
4 that?  
5 A. Yes.  
6 Q. Okay. The first question that's asked there  
7 is describe the general appearance and demeanor of the  
8 patient, okay. You have, you've seen this document  
9 again since you, since you took it three years ago, is  
10 that correct?  
11 A. Yes.  
12 Q. Okay. Describe to the ladies and gentlemen  
13 what's contained here.  
14 A. Okay. This says describe the general appearance.  
15 I wrote here could not see his face, only slightly from  
16 the light when he used his cell phone. This should be  
17 the demeanor of the patient, but I don't really recall  
18 if I asked her, you know, maybe, I don't know what  
19 question I asked her but this is what I wrote. She  
20 couldn't see his face, only from the cell phone.  
21 Q. Would it be fair to say, Nurse Richardson,  
22 that this is basically a mistake?  
23 A. It is a mistake, because it doesn't answer the  
24 question that's asked.  
25 Q. Okay. The specific question that's asked is

1 describe the general appearance and demeanor of the  
2 patient. If you would, would you describe how she was  
3 from your recollection?

4 MR. HIRSCHORN: Objection, Judged, asked and  
5 answered.

6 THE COURT: Overruled.

7 Go ahead, answer.

8 THE WITNESS: She was -- she was very  
9 emotional. She was very nervous and I just keep saying  
10 scared because she really was afraid of what had just  
11 happened and if it could possibly happen again.

12 BY MR. TROIANO:

13 Q. Now, going down further, I would like to  
14 direct your attention to page nine, and I'd like to ask  
15 you about some of the, some of the physical examination  
16 that was done. It's entitled dried secretions. Could  
17 you describe to the ladies and gentlemen what takes  
18 place with regard to finding any dried secretions?

19 A. Well dried secretions --

20 MR. HIRSCHORN: Judge, could I be heard?

21 THE COURT: Yes.

22 (On the record discussion at sidebar)

23 MR. HIRSCHORN: Judge, why not just submit  
24 the document into evidence? I mean he's reading line  
25 by line of the paper.

1 THE COURT: You're going a little overboard  
2 on reading the document. You are. You ask her why she  
3 does things and why -- why she does certain -- that's  
4 not so bad because it's why do you do it.

5 MR. TROIANO: You want to admit this whole  
6 document?

7 MR. HIRSCHORN: No.

8 THE COURT: No, we can't do that.

9 MR. HIRSCHORN: But that's basically what  
10 you're doing by reading it.

11 MR. TROIANO: This is exactly what she went  
12 through, every step of the way.

13 MR. HIRSCHORN: You can ask her what she did,  
14 not how it's read on the document and what she checked.

15 MR. TROIANO: Okay, so I'll rephrase but I'm  
16 still going through it.

17 THE COURT: All right.

18 (Sidebar discussion ended)

19 BY MR. TROIANO:

20 Q. Nurse Richardson if you would, what type of  
21 examinations did you do with regard to Liliana Santos?

22 A. Well Liliana, I was limited because she took a  
23 shower. And she said that he used a condom, so there  
24 was, you know, some limitations that I had. But I  
25 still tried to, you know, investigate every possible

1 source.

2 I didn't take dried secretions because she took a  
3 shower, they would be gone. But then we take -- so  
4 this first page I didn't really find necessary because  
5 there wouldn't be -- I still did head, hair combing,  
6 because if she didn't wash her hair there still could  
7 possibly be something from his head to her head. So I  
8 do -- I did that.

9 Q. Go on to anything else.

10 A. The next -- the next part is page 13. So the  
11 first thing we do is external genital specimen where  
12 we --

13 MR. HIRSCHORN: Judge, could we testify  
14 instead of read the report please?

15 THE COURT: Yes. Nurse Richardson, just tell  
16 us, don't tell us what the form says, tell us what you  
17 did.

18 THE WITNESS: I'm sorry?

19 THE COURT: Don't tell us what the form says,  
20 tell us what you did.

21 THE WITNESS: Okay.

22 The next thing I did is --

23 BY MR. TROIANO:

24 Q. Tell us what an external genital specimen is?

25 A. -- examine the external genitalia. That is look

1 for any marks, any bruising, any evidence, any body  
2 fluid. We do swabbing of the entire external area?

3 Q. Of her vaginal region?

4 A. Of the vaginal area.

5 Q. Any other tests done, specifically on  
6 Liliana?

7 A. After the external area, then we use a vaginal  
8 speculum and a colposcope which is a special light that  
9 we use to see properly into the -- once the speculum is  
10 inserted, and we swab the vaginal walls and the  
11 cervical area and around the cervical area for any body  
12 fluid.

13 Q. Okay. And this was done with regard to Miss  
14 Santos?

15 A. Yes.

16 Q. Okay, so at first the speculum is used and  
17 then a colposcope is for what?

18 A. It's a light source that we use in conjunction  
19 with the speculum to show any injury, fluid, anything  
20 inside the vagina.

21 Q. And were these tests permitted by Liliana?

22 A. Yes.

23 Q. Did -- if you recall, did Miss Santos,  
24 Liliana, complain of any pain, injuries, anything of  
25 the sort?

Richardson - Direct

76

1 A. I don't recall her complaining of any pain.  
2 Q. At the -- you indicated early, early on on  
3 the direct examination that at some point a detective  
4 arrived, is that correct?  
5 A. Right.  
6 Q. Okay. And do you recall with regard to this  
7 case at what point that was?  
8 A. I believe it was during the exam, so then she  
9 would wait outside of the examination room and then we  
10 would join her when we're finished.  
11 Q. Okay. And at the conclusion of this  
12 examination, what would have happened with regard to  
13 Miss Santos, to your knowledge?  
14 A. At the conclusion of the examination, I-- Miss  
15 Santos would go with the detective and I prepare a box  
16 which contains all the evidence, anything else, if we  
17 have clothing or whatever. Whatever is appropriate. I  
18 prepare it, label, sign it and we call it the chain of  
19 custody. I turn it including the written report and  
20 the physical report, I turn it over to the detective.  
21 And usually the patient and the evidence and the  
22 detective leave together.  
23 Q. Okay and then that box that you refer to in  
24 laymen's terms, do you know what that's referred to as?  
25 A. We call it the evidence box.

Richardson - Direct

77

1 Q. Okay. I'll leave it there.  
2 A. I don't know.  
3 Q. How long did this examination take?  
4 A. I think this took about an hour. It usually takes  
5 about an hour, hour and a half.  
6 Q. Okay. Thank you very much, Nurse Richardson,  
7 no further questions.  
8 THE COURT: All right, go ahead.  
9 MR. HIRSCHORN: Thank you, Judge.  
10 CROSS EXAMINATION BY MR. HIRSCHORN:  
11 Q. Good morning.  
12 A. Hi.  
13 Q. Nurse, just to take you back to that day back  
14 in November of 2006, you said that up until reviewing  
15 this report, both on your own and with Mr. Troiano,  
16 you don't have any independent recollection of Miss  
17 Santos or that day?  
18 A. I really didn't remember that case, no.  
19 Q. That's fine. Now you had indicated that when  
20 in these particular cases, when an individual comes in  
21 complaining of an alleged sexual assault they're first  
22 looked at by the E.R. doctor?  
23 A. Yes.  
24 Q. Are you present for that?  
25 A. Not usually. If I'm working in the E.R. at the

1 time I could be present as an emergency room nurse.

2 Q. Do you recall that day if you were present  
3 for the exam in the E.R.?

4 A. I don't really recall but I don't think I was  
5 present.

6 Q. Okay. Are you provided with when the  
7 individual comes to you for your report and everything  
8 else, are you provided with the report of the  
9 emergency room physician?

10 A. Only that she's medically cleared and ready to go  
11 on with an examination by the sexual assault nurse.

12 Q. Okay. So if there was, if she had sustained  
13 some type of injury that they deemed needed medical  
14 treatment, she would have been kept in the emergency  
15 room

16 and treated prior to going to you?

17 A. That's right.

18 Q. Okay. Do you recall in this case and I think  
19 you may have answered this, but do you recall in this  
20 case if you did review the release note from the  
21 emergency room physician?

22 A. I don't recall reviewing the release note.

23 Q. Do you recall as you sit here today that  
24 Liliana had no bruises at that time?

25 A. That's correct.

1 Q. Okay. During the exam, the physical exam  
2 that you discussed at the end of your direct  
3 examination, she had no injury to her genitalia,  
4 correct?

5 A. Correct.

6 Q. She had no injury at all?

7 A. She had no visible injury at all.

8 Q. No visible injury at all, correct?

9 A. Uh-huh.

10 Q. Okay. Now the information that's provided to  
11 you on that report that you referenced, you know, over  
12 and over again on direct examination, that's provided  
13 to you completely by Miss Santos, correct?

14 A. That's right.

15 Q. Okay. If you could, could you look at the  
16 first page of that report.

17 A. Uh-huh.

18 Q. Now that provides her biographical  
19 information, correct?

20 A. That's right.

21 Q. And it provided you with her name, her  
22 address, rate, date of birth, social security number,  
23 things like that, correct?

24 A. Yes.

25 Q. Also on there there's a space that asks you



1 for a phone number, isn't that accurate?  
2 A. Yes.  
3 Q. And she provided you with a telephone number,  
4 correct?  
5 A. Yes.  
6 Q. And you listed that under home phone number,  
7 right?  
8 A. Uh-huh.  
9 Q. And then you asked her if she had a cell  
10 phone, isn't that correct?  
11 A. Uh-huh.  
12 Q. What did she indicate to you as far as the  
13 cellular telephone?  
14 A. Same.  
15 Q. So that meant to you that the number that she  
16 provided to you as the home number was a cell phone,  
17 correct?  
18 A. I don't know if that's correct. Some time people  
19 say their cell is their home and their home is their  
20 cell. Sometimes people just have one cell phone and  
21 they --  
22 Q. Well certainly she provided you with that  
23 telephone number.  
24 A. She gave me this information.  
25 Q. And that's the only telephone number that she

1 provided you with, is that correct?  
2 A. That's right.  
3 Q. She also provided you with a, an individual  
4 that she considered her to be her contact information,  
5 correct?  
6 A. Right.  
7 Q. And a second phone number for that person?  
8 A. Right.  
9 Q. And that number is different, right?  
10 A. That's right.  
11 Q. Okay. Now, when Miss Santos came in, Mr.  
12 Troiano asked you, at no point in time during your  
13 entire conversation with you did she provide you the  
14 name of her attacker?  
15 A. No.  
16 Q. Did she provide you the nickname of an  
17 attacker?  
18 A. Not me.  
19 Q. At no time and you conducted --  
20 A. If she did say a name I would write it in my  
21 report.  
22 Q. And we reviewed that extensively and you  
23 didn't, correct?  
24 A. That's right.  
25 Q. Okay. So it's safe to say from the way that

1 you prepared these and your thoroughness that that was  
2 never provided to you?

3 A. Not to me, no.

4 Q. Okay. Now, you indicated about the problems  
5 if someone, the questions about did you urinate, did  
6 you shower, and you -- you said that if someone  
7 showers, that creates a problem, correct?

8 A. Well it --

9 Q. For specimen collection.

10 A. That's right, it destroys the evidence.

11 Q. And you also indicated that if someone uses a  
12 condom, that could limit the amount of evidence,  
13 correct.

14 A. Absolutely.

15 Q. Okay. Do you recall what Miss Santos told  
16 you as far as whether or not she thought someone used a  
17 condom?

18 A. I think she said she thought she heard a condom  
19 wrapper opening.

20 Q. And is it, would it refresh your recollection  
21 if I told you that she said she thought a condom was  
22 used?

23 A. That's right, I wrote unsure.

24 Q. But she was unsure. Unsure. So wouldn't it  
25 be safe then, Nurse, at that time to do that part of

1 the examination just to make sure in case a condom  
2 wasn't used?

3 A. And I did that part.

4 Q. I didn't say you didn't do anything, I'm just  
5 asking a question.

6 A. Okay, right. That's the swabbing.

7 Q. So you did do that exam anyway just in case?

8 A. Oh, yeah.

9 Q. And again, that came up as no physical injury  
10 based upon your examination?

11 A. That's right.

12 Q. Now, after that evidence that you discussed  
13 and you said it's labeled evidence and sent to the  
14 Prosecutor's Office, do you ever have any dealings with  
15 the results of those tests?

16 A. No.

17 Q. So you would have no knowledge as to whether  
18 or not any DNA was found based upon what you had done,  
19 right?

20 A. No, usually I don't hear of it again.

21 Q. Okay. You're -- basically you end at the  
22 exam?

23 A. This is actually the first time that I'm coming  
24 back for any case that I've done.

25 Q. And you're doing very well, so hang in there.

1 I'm almost done, I promise.  
2 Based upon your narrative that you took from  
3 Liliana, I don't know if you recall reading it. If you  
4 need to refresh your recollection just let me know.  
5 But did she ever indicate to you that she scratched her  
6 attacker?  
7 A. No. If she did I --  
8 Q. That would have been important, correct?  
9 A. Yes.  
10 Q. Because despite the shower and other factors  
11 that may have happened, you would have gotten a little  
12 bit further with the fingernail samples to make sure?  
13 A. If she said that, I still would do fingernail  
14 samples, but when a patient showers especially if they  
15 wash their hair, the fingernails are cleaned.  
16 Q. Okay. But you don't recall and as we read  
17 earlier, she never told you that, or you would have  
18 again --  
19 A. That she scratched --  
20 Q. That she scratched the attacker?  
21 A. No.  
22 Q. Because that would have been an important  
23 piece of information.  
24 A. It would have been in my report.  
25 Q. Now when you take this narrative, do you just

1 allow the individual to speak or do you stop them and  
2 ask them questions or how does that take place?  
3 A. I usually allow them to speak if it's following  
4 the right, you know, chain of events and she's giving  
5 me the information I need. If they're really going  
6 off, you know, crying and why, you know, then I stop my  
7 writing and let them vent and cry and once they're  
8 collected, I'll continue.  
9 And if -- if you look at the writing, in this case  
10 she says he put his thing, I have to stop her and say,  
11 you have to give me the exact word for what you mean by  
12 that.  
13 Q. Right, so this is -- I'm sorry. Things like  
14 where you, where it says consensual sex, you probably  
15 asked her was it consensual or not. That's basically  
16 what I'm getting at.  
17 A. Well in another area we ask them have you had  
18 consensual sex in the past five days with anyone.  
19 Q. Okay.  
20 A. And that's probably where that word came into her  
21 mind.  
22 Q. Okay, so it may have, that may have been a  
23 narrative --  
24 A. When she did say she had consensual sex with her  
25 boyfriend.

1 Q. So that may have been contained within a  
2 narrative. Now Mr. Troiano asked you a couple of times  
3 about any type of description that was contained  
4 throughout your taking of this statement from her. And  
5 basically the description that she provided to you was  
6 black, over six feet tall, skinny, dark colored jacket,  
7 correct?  
8 A. Yeah.  
9 Q. That was as extensive as she got with the  
10 description?  
11 A. Yeah, she said she didn't really see the man, only  
12 a flash from his cell phone.  
13 Q. Right, she said that she -- she -- she heard,  
14 she saw a flash of his face through the light of the  
15 cell phone, correct?  
16 A. Cell phone.  
17 Q. And that was all that she provided to you as  
18 far as a description?  
19 A. Right, and his voice.  
20 Q. And his voice. And what exactly did she --  
21 she said she may have recognized his voice?  
22 A. She said she felt like she knew him and he knew  
23 her name, but she didn't give me a name.  
24 Q. Did she ever indicate to you that she thought  
25 it might have been her boyfriend Anthony? Did that

1 name ever come up?  
2 A. No. And she -- no, she did not indicate and she  
3 would have said if it was her boyfriend.  
4 Q. No, I'm not asking if you said that the --  
5 that she thought it might have been her boyfriend was  
6 the question. She never mentioned that to you, correct?  
7 A. No.  
8 Q. Okay.  
9 MR. HIRSCHORN: Judge, I have no further  
10 questions. Thank you.  
11 MR. TROIANO: Just a couple, Judge.  
12 REDIRECT EXAMINATION BY MR. TROIANO:  
13 Q. Nurse Richardson, you -- when you checked or  
14 examined Liliana's genital area, you concluded that  
15 there were no injuries?  
16 A. Right.  
17 Q. Is that fair to say?  
18 A. That's right.  
19 Q. She also told you that she had consensual sex  
20 earlier in the evening with her boyfriend, is that  
21 correct?  
22 A. That's right.  
23 Q. Did she ask you if -- did you ask her, excuse  
24 me, if she had consensual sex at any other time  
25 predating that?

1 A. Yes, the question is have you had consensual sex  
2 in the last five days.

3 Q. Okay.

4 A. No, the question is have you had any sex with  
5 anyone in the last five days.

6 Q. Okay. And with regard to, specifically with  
7 regard to injuries, what would be the significance of  
8 asking that question?

9 A. For me to ask her does she have any injuries?

10 Q. What would be the reason for you asking about  
11 the consensual sex prior?

12 A. Well, because if a person is sexually active, they  
13 don't always have injuries from sex. I mean usually  
14 they do not have injuries from sex.

15 Q. And in this case, Liliana indicated that she  
16 was --

17 A. She was sexually active.

18 Q. -- sexually active.

19 MR. TROIANO: No further questions.

20 RECROSS EXAMINATION BY MR. HIRSCHORN:

21 Q. Nurse, if someone comes in complaining of  
22 being sexually assaulted, you examine them for an  
23 injury, correct?

24 A. Uh-huh.

25 Q. And despite the fact that they're sexually

1 active, if that sex caused injury, you would see it,  
2 correct?

3 A. Yes.

4 Q. In your exam?

5 A. Yes.

6 Q. Okay. And about how many of these exams have  
7 you conducted?

8 A. About 100.

9 Q. And you're pretty certain that had there been  
10 injury in this case you would have seen it and you  
11 would have noted it?

12 A. Yes, if there was bruising or bleeding or anything  
13 that I can see, I absolutely would note it.

14 Q. Thank you very much.

15 MR. TROIANO: One more, Judge.

16 REDIRECT EXAMINATION BY MR. TROIANO:

17 Q. Is someone having sex, intercourse, would  
18 that automatically be indicative of injuries?

19 A. Not at all.

20 MR. TROIANO: Nothing further.

21 THE COURT: Okay. You're excused, thank you  
22 very much.

23 THE WITNESS: Thank you.

24 THE COURT: Mr. Troiano.

25 MR. TROIANO: Judge, at this time

Colloquy

90

1 notwithstanding moving evidence in and anything  
2 possibly on rebuttal, State rests.

3 THE COURT: Okay. That's a good time to go  
4 to lunch then. It's 12:15, I would like the jury to  
5 come back at 1:25. I'll give you an hour and ten  
6 minutes. The elevators aren't working. All right? So  
7 1:25, do not discuss the case among yourselves, enjoy  
8 your lunch, see you at 1:25. We're right on course  
9 with my schedule.

10 (Jury leaves the courtroom)

11 (Off the record/on the record)

12 THE COURT: Mr. Wright. The State's rested,  
13 and now is the time when the defense can choose to  
14 present a case if they want to. They're not required  
15 to.

16 Who's that person? She's not a juror is she?

17 COURT OFFICER: No, no.

18 THE COURT: Oh, okay.

19 In the -- it's your absolute right to  
20 testify if you want to, and that's a decision you and  
21 your attorney will have to make after --

22 MR. HIRSCHORN: Judge, I think we can  
23 discuss that now. Just before he makes his decision  
24 which, Judge, to be candid with the Court and I've  
25 already informed Mr. Troiano what the decision is, and

Colloquy

91

1 I will voir dire Mr. Wright to this effect, that he  
2 does plan on testifying here. The defense does plan on  
3 calling the two other witnesses that were listed on the  
4 witness list after Mr. Wright.

5 The question I guess at this point so he is  
6 aware before he takes the stand is as far as his prior  
7 convictions. He does have two, Judge. One is a third  
8 degree aggravated assault --

9 MR. TROIANO: No, I believe it's --

10 MR. HIRSCHORN: It's probation, had to be --

11 MR. TROIANO: I believe it's a possession of a weapon.

12 MR. HIRSCHORN: Possession of a weapon, I'm  
13 sorry. You're right, third degree possession of a  
14 weapon, unlawful possession of a weapon and the other  
15 sentence, Judge, is the one he is presently serving  
16 which is an armed robbery, first degree.

17 THE COURT: Okay. A couple things and then  
18 let's talk about that. I think I'm supposed to give  
19 him this instruction. If you choose not to be a  
20 witness, I can read the following to the jury. The  
21 defendant in this case chose not to be a witness. It  
22 is the constitutional right of a defendant to remain  
23 silent. I charge you that you are not to consider for  
24 any purpose in any manner in arriving at your verdict  
25 the fact that the defendant did not testify nor should

1 that fact enter into your deliberations in any manner  
2 at any time. The defendant is entitled to have a jury  
3 consider all the evidence and he is entitled to the  
4 presumption of innocence even if he does not testify as  
5 a witness.

6 If you don't testify, I can read that if you  
7 wanted me to. I'm just letting you know. I'm not  
8 telling you what to do, I'll letting you know.

9 Your -- but even knowing that instruction is  
10 available, you plan on testifying. How do you plan on  
11 sanitizing these?

12 MR. TROIANO: I don't. If these were with  
13 regard to prior domestic cases, sex cases, I would  
14 acknowledge that I would have to. But I don't -- I  
15 don't see that I have to under SANS BRUNSON.

16 MR. HIRSCHORN: Judge, I -- I -- I would tend  
17 to disagree. I think that armed robbery at the very  
18 least is a crime of --

19 THE COURT: The weapon itself would not be --

20 MR. HIRSCHORN: Not the weapon, no, clearly.

21 THE COURT: It -- well it's either all or  
22 none.

23 MR. HIRSCHORN: Right, I understand that,  
24 Judge, but I would make the argument as to sanitizing  
25 them as to the armed robbery case, Judge. That this is

1 alleged to have been a violent act. That's alleged to  
2 have been a violent act.

3 THE COURT: Armed robbery is a violent act,  
4 that will be sanitized. I mean but obviously you can  
5 go through the sentence, the degree --

6 MR. TROIANO: That's the other issue I have,  
7 just it's probably your issue but I'll bring it up.  
8 He was sentenced a year ago, 13 months ago, to a ten  
9 with 85. There's the obvious implication that he's  
10 serving that sentence right now. Yet, it's whether or  
11 not we take out when he was convicted, we need to  
12 address that.

13 THE COURT: When was he convicted?

14 MR. TROIANO: When?

15 MR. HIRSCHORN: A year ago.

16 MR. TROIANO: He was --

17 MR. HIRSCHORN: A year ago -- or 13 months --  
18 or he pled guilty --

19 MR. TROIANO: -- sentenced on January 9th,  
20 2009.

21 MR. HIRSCHORN: So 13 months ago.

22 THE COURT: But this occurred in 2006,  
23 correct? Am I right?

24 MR. TROIANO: This incident, yeah. The --  
25 the armed robbery which he's serving the time for

1 occurred after this incident.  
2 MR. HIRSCHORN: So that wouldn't --  
3 THE COURT: So why -- why address the issue  
4 then of the -- the date?  
5 MR. TROIANO: Because they're going to know  
6 he's in State Prison. Well, all right.  
7 MR. HIRSCHORN: No, I don't think there's  
8 any way to get around that.  
9 THE COURT: To avoid that. No way to avoid  
10 that I don't believe.  
11 MR. HIRSCHORN: I don't think there's any way  
12 to avoid that. And I mean I don't actually have much  
13 of a problem with that coming out. I mean I think it's  
14 going to be pretty obvious. He's a young guy, he's got  
15 ten with 85, I don't think it really matters what the  
16 conviction is.  
17 MR. TROIANO: No, I'm just saying, I'm trying  
18 to make a record.  
19 MR. HIRSCHORN: No, I understand what you're  
20 saying.  
21 MR. TROIANO: So then the, and I assume  
22 you'll do this on direct, first degree conviction,  
23 serving ten with 85?  
24 MR. HIRSCHORN: Sentenced on such and such.  
25 MR. TROIANO: Probably better off having you

1 say armed robbery.  
2 MR. HIRSCHORN: That may be, which I may  
3 decide. I may be -- I think it has to be sanitized at  
4 our option but I'm not certain --  
5 THE COURT: Absolutely certain.  
6 MR. HIRSCHORN: -- whether or not -- if I  
7 bring it out, obviously that opens the door. I will  
8 make that decision when --  
9 THE COURT: That's a strategic decision you  
10 have to make because the jury --  
11 MR. HIRSCHORN: Without a doubt. I mean the  
12 law tells us we have to sanitize. The other thing,  
13 Judge, if you want me, so we can get right to it when  
14 we get back, Mr. Wright, you and I've discussed your  
15 right to testify here, correct?  
16 THE DEFENDANT: Yes.  
17 MR. HIRSCHORN: And as a matter of fact,  
18 we've gone over at length what you would testify to,  
19 isn't that correct?  
20 THE DEFENDANT: Yes.  
21 MR. HIRSCHORN: And I discussed with you  
22 that although in my opinion based upon the defense that  
23 you have brought to me and I have raised here in Court  
24 that you would have a very difficult time having the  
25 jury acquit you without testimony, that ultimately it



1 was your decision, isn't that correct?  
2 THE DEFENDANT: Yes.  
3 MR. HIRSCHORN: And after I told you that you  
4 had the right to testify or not to testify, nobody  
5 could force you. And then you heard what the Judge  
6 read, he could read that to the jury if you chose not  
7 to testify.  
8 THE DEFENDANT: Yes.  
9 MR. HIRSCHORN: Basically what you've  
10 indicated to me is that this was a consensual act,  
11 correct?  
12 THE DEFENDANT: Yes, it was.  
13 MR. HIRSCHORN: And I told you that legally  
14 the only way we're going to be able to raise that based  
15 upon something called the Rape Shield and other law  
16 considerations is if you were to get up there and tell  
17 your side of the story.  
18 THE DEFENDANT: Yes.  
19 MR. HIRSCHORN: Are you under the influence  
20 of any drugs, alcohol or medication today?  
21 THE DEFENDANT: No.  
22 MR. HIRSCHORN: Do you want to testify or not  
23 testify?  
24 THE DEFENDANT: Yes, I do.  
25 MR. HIRSCHORN: Am I forcing you or is

1 anybody else forcing you to take that stand and  
2 testify?  
3 THE DEFENDANT: No.  
4 MR. HIRSCHORN: You want to do it?  
5 THE DEFENDANT: Yes, I do.  
6 MR. HIRSCHORN: And you understand you have  
7 the absolute right not to testify?  
8 THE DEFENDANT: Yes.  
9 MR. HIRSCHORN: And you're ready to testify  
10 here this afternoon?  
11 THE DEFENDANT: Yes, I am.  
12 MR. HIRSCHORN: And you understand that what  
13 was just stated is that your two past criminal  
14 convictions are going to come out in one way, shape or  
15 form. They're either going to come out what's called  
16 sanitized, meaning just the date you were convicted,  
17 the length of the sentence and so, and what you're  
18 serving, do you understand that?  
19 THE DEFENDANT: Yes, I do.  
20 MR. HIRSCHORN: Or if we make the strategic  
21 decision, we may raise what you're sentenced for,  
22 because we don't want the jury to think that it's  
23 another sex offense.  
24 THE DEFENDANT: Yes.  
25 MR. HIRSCHORN: And you understand that, you

1 understand that comes out?  
2 THE DEFENDANT: I understand that.  
3 MR. HIRSCHORN: And we've discussed that I'm  
4 probably going to even bring that out on direct exam.  
5 THE DEFENDANT: Yes.  
6 MR. HIRSCHORN: And you still wish to  
7 testify?  
8 THE DEFENDANT: Yes.  
9 MR. HIRSCHORN: Again, is anybody forcing you  
10 or threatening you to do that?  
11 THE DEFENDANT: No.  
12 MR. HIRSCHORN: Thank you, Judge.  
13 THE COURT: You're all set then?  
14 MR. TROIANO: Ready to go.  
15 THE COURT: And again, sanitize at your  
16 discretion. Okay? See everybody in about an hour and  
17 five minutes.  
18 Thanks.  
19 MR. TROIANO: Got it.  
20 MR. HIRSCHORN: Thanks, Judge.  
21 (RECESS)  
22 THE COURT: Are you ready to go?  
23 MR. TROIANO: Yes, Judge.  
24 MR. HIRSCHORN: Yes, sir.  
25 THE COURT: Bring the jury out, please.

1 (Jury enters the courtroom)  
2 THE COURT: Okay, good afternoon, everyone.  
3 MR. HIRSCHORN: Thank you, Judge. The  
4 defense calls Stephen Wright.  
5 S T E V E N W R I G H T, DEFENDANT, SWORN  
6 COURT OFFICER: For the record state your  
7 name?  
8 THE WITNESS: Steven Wright.  
9 COURT OFFICER: Thank you.  
10 DIRECT EXAMINATION BY MR. HIRSCHORN:  
11 Q Steven, just like everybody else I'm going to  
12 ask you to keep your voice up just like all the other  
13 witnesses did. This microphone I think is on, but it  
14 doesn't really -- yeah, you're good. Just keep your  
15 voice up so everybody can hear the answers to my  
16 questions, okay?  
17 A Okay.  
18 Q Let's start with first thing's first. You've  
19 been convicted of a couple of crimes, correct?  
20 A Yes.  
21 Q Back in June 19th of 2005 you were convicted  
22 of unlawful possession of a weapon, correct?  
23 A Yes.  
24 Q And you received probation for that?  
25 A Yes, I did.

S. Wright - Direct 100

1 Q And, then, on January the 9th, 2009 you were  
2 convicted of armed robbery, correct?  
3 A Yes.  
4 Q And that was a first degree crime, correct?  
5 A Yes.  
6 Q And what sentence did you receive for that?  
7 A Ten/eighty five. Ten years with eighty percent.  
8 Q Ten years in Jersey State Prison with 85  
9 percent before parole, correct?  
10 A Yes.  
11 Q You pled guilty to those two offenses?  
12 A Yes, I did.  
13 Q Are you currently -- you're currently serving  
14 that armed robbery sentence, right?  
15 A Yes.  
16 Q So you're in jail now as we speak?  
17 A Yes.  
18 Q If you recall when did you find out that you  
19 were being charged with this offense?  
20 A I was coming to court for sentencing and they  
21 brought me downstairs to BCI and charged me with that  
22 offense.  
23 Q So you were already in jail on the armed  
24 robbery --  
25 A Yes, I was.

S. Wright - Direct 101

1 Q -- when they charged you with this offense?  
2 A Yes, I was.  
3 Q You were never arrested on the street?  
4 A No.  
5 Q Never brought into custody or questioned  
6 about this offense?  
7 A No.  
8 Q Okay. I'm going to direct your attention  
9 back to your youth, what school did you go to here in  
10 Jersey City?  
11 A 22 School, P.S. 22 School, downtown.  
12 Q Okay. Did Ms. Santos go to that school?  
13 A Yes, she did.  
14 Q Did you know her?  
15 A Yes, I did.  
16 Q Was she the same age as you?  
17 A No.  
18 Q Was she older, younger?  
19 A Younger.  
20 Q She was a grade below, a couple of grades  
21 below?  
22 A I'd say about two.  
23 Q Were you -- did you know anyone else that was  
24 in her grade?  
25 A Yes.

S. Wright - Direct

102

1 Q Who's that?  
2 A That was my brother. He was in the same grade as  
3 her.  
4 Q What's your brother's name?  
5 A Antoine Wright.  
6 Q And you said he was in the same grade as  
7 Lillian San -- Lilliana Santos?  
8 A Yes, he was. Yes, he was.  
9 Q Keep your voice up, Steven, okay?  
10 A All right.  
11 Q Now, so you knew her back then when you guys  
12 were kids?  
13 A Yes.  
14 Q And you knew who she was?  
15 A Yes, I did.  
16 Q Do you know where she lived at that time when  
17 you were kids?  
18 A VanHorne and Bramhall.  
19 Q VanHorne and Bramhall, where is that?  
20 A Yes, that's -- that's downtown in Jersey City.  
21 Q Okay. And where did you live at that time?  
22 A At that time I was living on Wilkinson. That's on  
23 the hill in Jersey City. Wilkinson and Ocean.  
24 Q Okay. Are those -- about how far apart are  
25 those two locations?

S. Wright - Direct

103

1 A I'd say about 50 to a hundred blocks.  
2 Q Okay. So they were pretty far apart?  
3 A Yes.  
4 Q Okay. At some point in time later in your  
5 life did you begin to see or meet with Lilliana again?  
6 A Yes.  
7 Q When was that?  
8 A I think '05 like -- '06.  
9 Q 2006?  
10 A Yes.  
11 Q And how did you come to get back in contact  
12 with Ms. Santos?  
13 A She be down the block from where I be at.  
14 Q What does that mean --  
15 A I be on Communipaw and VanHorne, she be down the  
16 block on VanHorne and Bramhall. So I would see her  
17 walk to the store.  
18 Q Okay.  
19 A And I would talk --  
20 Q Would you talk to her?  
21 A -- to her. Yes. Yes, I would.  
22 Q Would she talk to you?  
23 A Yes, she would.  
24 Q At some point in time did you have any other  
25 kind of communication with her other than words? Did

S. Wright - Direct 104

1 you become closer?  
2 A A couple of times we would chill together. Well,  
3 hang out together in the neighborhood.  
4 Q Okay. Let's stop there. So you said late  
5 -- or in 2006 you began to see Liliana hang out in the  
6 area again?  
7 A Yes, I did.  
8 Q What happened next between you and Liliana  
9 Santos?  
10 A Well, we would just basically talk.  
11 Q Keep your voice up?  
12 A We would -- we would talk.  
13 Q Okay.  
14 A Hang out together.  
15 Q Okay. When you say hang out together do you  
16 mean on the block, do you mean you went places  
17 together?  
18 A On the block. No, we never -- we never went  
19 anywhere together.  
20 Q Okay. So you would hang out on the block.  
21 Were there other people out there at that time?  
22 A Yes, there was.  
23 Q Were members of her family out there?  
24 A Yes.  
25 Q Who do you know that's a member of her

S. Wright - Direct 105

1 family?  
2 A I know Macho, I know Marsalino (phonetic).  
3 Q And who are they to her?  
4 A Those is her brothers.  
5 Q Her brothers?  
6 A Yes, they are.  
7 Q You know both of them?  
8 A Both of them.  
9 Q Okay. And you said that she knows your  
10 brother?  
11 A Yes, she do.  
12 Q Okay. And you all hung out in the same area?  
13 A In the same area.  
14 Q At some point in time did you and Liliana's  
15 relationship go beyond just hanging out on the block?  
16 A Yes, it did.  
17 Q When was that?  
18 A I would say before the summertime.  
19 Q Before --  
20 A Of '06.  
21 Q Before the summertime of '06?  
22 A Yes.  
23 Q And what happened at that time?  
24 A Well, I would call her some times and we would  
25 hook up to go chill with each other or hang out.

S. Wright - Direct 106

1 Q Okay. So you had her telephone number?

2 A Yes, I did.

3 Q Did she have --

4 A Her cell phone number

5 Q -- your telephone number?

6 A Yes, she did.

7 Q And did you two communicate by telephone?

8 A All the time. Or if I would see her walking to

9 the store in the area that's the only way.

10 Q Okay. Do you recall -- did you and Liliana

11 ever become intimate?

12 A Yes, we did.

13 Q When was the first time?

14 A Summertime of '06.

15 Q Explain to the ladies and gentlemen of the

16 jury how that took place?

17 A Well, we would always hang out with each other.

18 But this one particular night I called her up asked her

19 if she wanted to hang out with me? She says, yeah,

20 she's not doing nothing else.

21 Q Okay. Did you meet up?

22 A Yes, we met up.

23 Q Where did you go?

24 A We went to my mother house.

25 Q Where was your mother living at that time?

S. Wright - Direct 107

1 A On Bramhall.

2 Q Was it a house an apartment?

3 A An apartment building. Between Clerk and

4 Arlington.

5 Q On Bramhall between Clerk and Arlington?

6 A Yes.

7 Q You said it was a house or an apartment?

8 A An apartment building.

9 Q How many rooms?

10 A Two.

11 Q Two bedrooms?

12 A Yeah.

13 Q Who lived there?

14 A My mother and my brother lived there.

15 Q Your brother, what's his name?

16 A Antoine Wright.

17 Q Okay. When you brought Liliana to your

18 mother's house was anybody home?

19 A Yes, my brother was home.

20 Q Was your mother home?

21 A No, she wasn't home.

22 Q But your brother Antoine was home?

23 A Yes, he was.

24 Q And what happened then?

25 A We went to my mother house. We was in the living

S. Wright - Direct

108

- 1 room watching a little TV, and we removed ourselves to  
2 my mother room, had sex, she woke up in the morning.  
3 Later told me she was going to her mother house. She'd  
4 see me later.
- 5 Q Okay. You and her were intimate that night,  
6 you had sex?
- 7 A Yes, she was.
- 8 Q And when was that again?
- 9 A That was in the summertime of '06 at my mother  
10 house.
- 11 Q And that was the first time that you and  
12 Liliana had had sex?
- 13 A Yes, it was.
- 14 Q And you said that your brother Antoine was  
15 home?
- 16 A Yes, he was.
- 17 Q Did you and Liliana see each other after that  
18 day, again, summer of '06?
- 19 A Yes, we definitely did.
- 20 Q Okay. Did you and her become intimate again?
- 21 A Yes, at her house.
- 22 Q When was that?
- 23 A This is, I would say, probably a couple of month  
24 after that.
- 25 Q Before or after November -- the date that's

S. Wright - Direct

109

- 1 been discussed here as you've heard?
- 2 A That was a couple of days before this date.
- 3 Q A couple of days?
- 4 A A couple of days before the date that the alleged  
5 thing happened.
- 6 Q Okay. And you said you went to Liliana's  
7 apartment?
- 8 A Yes, I did.
- 9 Q Okay. How did you end up going over there?
- 10 A I called the phone, her cell phone.
- 11 Q And what happened?
- 12 A Went over there to go hang out with her. We was  
13 in the living room, smoked a couple of cigarettes, went  
14 in her room, had sex, I left, she stayed there, and  
15 that was it.
- 16 Q And that was in November?
- 17 A Yes, it was.
- 18 Q A couple of days you said before --
- 19 A A couple of days before this alleged event.
- 20 Q Okay. Had you in between that time at your  
21 mom's house that you told the ladies and gentlemen  
22 about, and that time a couple of days before this  
23 alleged event had you and Liliana been intimate at any  
24 other times?
- 25 A Can you say that again?

S. Wright - Direct 110

1 Q Yeah. You told us that the first time that  
2 you and Liliana were together was in the end of the  
3 summer at your mother's house?  
4 A Yes.  
5 Q Then you told us about a time a couple of  
6 days before the alleged incident at Liliana's house?  
7 A Yes.  
8 Q Were the two of you together in a sexual  
9 manner at any time in between those, or was it just  
10 those two times that you had had sex?  
11 A No, it was a couple of times that we went to my  
12 mother house.  
13 Q Okay. Approximately how many times had you  
14 gone to your mother's house?  
15 A We went there like three times.  
16 Q Three times?  
17 A Yes.  
18 Q On those three occasions -- excuse me --  
19 strike that -- on all three occasions was it the same  
20 set of facts, or what happened each time?  
21 A Like the same set of facts. We just had sex, and  
22 we'd both go our ways.  
23 Q Okay. Did you have a girlfriend at this  
24 time?  
25 A Yes, I did.

S. Wright - Direct 111

1 Q Did Liliana -- what was her name?  
2 A Mia.  
3 Q Okay. Did Liliana know that you had a  
4 girlfriend?  
5 A Yes, she did.  
6 Q Did she -- was she happy with the fact that  
7 you had a girlfriend?  
8 A At first she was acting like she was happy with  
9 it. Like it was okay. But feelings get involved later  
10 on down the road, so she wasn't liking it.  
11 Q Okay. So approximately, Steven, before the  
12 night of this allegation how many times would you  
13 estimate that you and Liliana have had sex?  
14 A Say about five times.  
15 Q Five times. And three of those you said was  
16 at your mother's house?  
17 A Yes.  
18 Q We know one was in her apartment?  
19 A And one was downtown at my friend house.  
20 Q And one was at -- what's his name or her  
21 name?  
22 A His name is Buddha.  
23 Q Okay. Now, directing your attention to the  
24 night that we've all been talking about, where were you  
25 -- let's start earlier that night, where were you?



S. Wright - Direct 112

1 A Well, that night --

2 Q Say midnight where were you?

3 A Midnight I was downtown on Communipaw and

4 VanHorne.

5 Q Okay. What were you doing there?

6 A Hanging out with my friends.

7 Q At some point in time did you come to be

8 together with Liliana?

9 A I seen her.

10 Q Where did you see her?

11 A She was by the bar on Halladay.

12 Q What bar?

13 A Marjae's (phonetic).

14 Q So the bar that she said she went to meet Mr.

15 Weiring (phonetic)?

16 A Yes.

17 Q Okay. You saw her there?

18 A I seen her there that night.

19 Q Did you speak with her?

20 A No.

21 Q At some point in time did you speak with her

22 later that night?

23 A Yes, I did.

24 Q How did you speak with her?

25 A I called her cell phone.

S. Wright - Direct 113

1 Q Did she answer?

2 A Yes, she did.

3 Q And what happened next?

4 A I asked her what was -- what was she doing? She

5 said in the house chilling, laying down.

6 Q Okay. Do you recall approximately what time

7 that was?

8 A No, I don't -- not really.

9 Q Was it around the midnight that we discussed

10 before, or was it a couple of hours later?

11 A It was hours later.

12 Q Okay. So you -- you called Liliana?

13 A Yes.

14 Q And she answered her phone?

15 A Yes, she did.

16 Q And what did she say to you?

17 A She said that she was in the house relaxing,

18 laying in her bed.

19 Q Did she invite you over?

20 A I said, can I come over? She said, sure.

21 Q Okay. Did you ultimately go to 235 Arlington

22 Avenue?

23 A Went from where I was at straight there?

24 Q Did you do something in between?

25 A No. I went straight there.

S. Wright - Direct 114

1 Q Okay. Were you drinking that night?  
2 A Not at all.  
3 Q Do you drink Bacardi, by the way?  
4 A No.  
5 Q Okay. So you spoke with Liliana, she invited  
6 you after you asked to go over to her place, correct?  
7 A Yes.  
8 Q Do you go over there?  
9 A Did I go to her house?  
10 Q Yes.  
11 A Yes, I did.  
12 Q How did you get in?  
13 A I went there and called her. I told her I was in  
14 front of the door. She came --  
15 Q Let me ask you how did you get there?  
16 A How did I get there?  
17 Q How did you get to the house?  
18 A I got dropped off there by my friend.  
19 Q By who?  
20 A By my friend Steve.  
21 Q So Steve dropped you off at Liliana's house.  
22 You did what next?  
23 A I called to tell her I was in front of the door.  
24 She came and opened the door. I went in her apartment.  
25 Q Okay. So she opened the front door for you?

S. Wright - Direct 115

1 A Yes, she did.  
2 Q And you went in the apartment?  
3 A Yes, I did.  
4 Q And this is 235 Arlington Avenue?  
5 A Yes, it is.  
6 Q Did you notice that the windows were broken  
7 when you went in?  
8 A No, I wasn't paying attention to it.  
9 Q And you had said before you had been to that  
10 apartment before?  
11 A Yes, I did.  
12 Q Do you remember how many times you had been  
13 there before?  
14 A Twice.  
15 Q This was the third time, or this was the  
16 second time?  
17 A This was the second time.  
18 Q Okay. So the one time you had discussed  
19 before where you were chilling on the porch and, then,  
20 this time?  
21 A Yes.  
22 Q Or chilling on the window side?  
23 A Chilling on the inside, on the window sill.  
24 Q So ultimately you go inside?  
25 A Yes.

S. Wright - Direct

116

1 Q Do you recall what you were wearing that  
2 night?  
3 A I had a green hoody on, blue jeans, black Gotech  
4 boots, a black fitted green T-shirt, that's it.  
5 Q What's a green hoody, is that a sweatshirt?  
6 A Like -- like a sweatshirt with the -- with the  
7 hoody on it.  
8 Q Were you wearing a black leather jacket?  
9 A No, I wasn't.  
10 Q So you go in the apartment, what happens  
11 next?  
12 A Go in there, get comfortable, take my shoes off,  
13 my shirt, my hoody, my hat, sit it down on the floor.  
14 Started talking for a minute. Then we had sex. After  
15 we had sex since --  
16 Q Let me stop you there. We'll get to that  
17 next. So you had sex that night?  
18 A Yes.  
19 Q So you had -- did -- did you believe it was  
20 consensual sex?  
21 A Yes, it was.  
22 Q You had sex with her where in her apartment?  
23 A In her bedroom.  
24 Q On the floor or on the bed?  
25 A On the bed.

S. Wright - Direct

117

1 Q Okay. You had sex with her and, then, what  
2 were you going to say, what happened next?  
3 A After we had sex we sitting on the bed talking for  
4 a minute. It wasn't even that long. I'd say about  
5 five minutes, my phone started ringing. That's when  
6 Mia called me.  
7 Q And Mia was?  
8 A My girlfriend.  
9 Q Okay. So your girlfriend called you while  
10 you were with Liliana?  
11 A Yes, she did.  
12 Q Okay. Do you recall approximately what time  
13 that was?  
14 A It probably was the morning time 'cause she was  
15 yelling at me, angry about not being home yet.  
16 Q Okay. So what do you do next?  
17 A I tell Liliana that I got to go. I guess she  
18 assumed that -- I never told her I was going to call --  
19 MR. TROIANO: Objection.  
20 A -- my girlfriend.  
21 THE COURT: Sustained. Don't say anything.  
22 Next question?  
23 BY MR. HIRSCHORN:  
24 Q So don't say what Lilian -- what you assume  
25 Liliana thought. You can't testify to that, okay?

1 A All right.  
2 Q Just testify to what you did or what you  
3 know, all right?  
4 A Well, I told --  
5 Q So what happened, after you had sex the phone  
6 rings, it's your girlfriend?  
7 A Yes.  
8 Q What do you say to Liliana?  
9 A I told her that I have to go.  
10 Q Okay. What happens next?  
11 A She didn't like it that I was leaving. So she  
12 started a little argument, you're not leaving the  
13 house. You're staying here tonight. So she grabbed my  
14 hoody, my phone and my hat, like you're not going no  
15 where without this.  
16 Q Okay. So are you still in the bedroom at  
17 this time?  
18 A Yes, we are.  
19 Q So she grabs some of your clothes and your  
20 shoes from you?  
21 A Yes -- no, not my shoes.  
22 Q Not your shoes?  
23 A No.  
24 Q She grabbed some of your clothes from you?  
25 A She got my hoody, my hat and my cell phone.

1 Q And what does she do with those clothes?  
2 A She holding them hostage. She don't want to give  
3 them back to me.  
4 Q Okay.  
5 A So what I did was I put my boots on like I got to  
6 leave. I'm not staying here. I will leave without  
7 that. She like no, you won't. Now, she's trying to  
8 start a little argument, but I told her that I have to  
9 go no matter what she do. I'm leaving.  
10 Q Okay. Did she ultimately do anything with  
11 your clothes?  
12 A Well, she stormed out the bedroom started walking  
13 towards the living room. And she threw my stuff inside  
14 the closet.  
15 Q Now, when you say the closet are you talking  
16 about -- what closet are you talking about?  
17 A The closet by the window with the boiler room.  
18 Q Okay. So the close that's been discussed  
19 here in the front of the apartment?  
20 A Yes.  
21 Q At that time is the window broken?  
22 A No.  
23 Q Do you go into the closet?  
24 A Did I go in the closet?  
25 Q Did you go in the closet?

S. Wright - Direct

120

1 A No, 'cause I'm standing like where did you put my  
2 stuff at? So I see the closet door open. I'm like you  
3 put my stuff in there? She like, yeah, you're not  
4 going no where. She grabs it, I goes over there. I'm  
5 like why -- why is you doing this? So she's making me  
6 frustrated and angry. I punched the glass window.  
7 Q Okay. So let me stop you there. So you're  
8 still inside this apartment, correct?  
9 A Yes.  
10 Q You punched that window?  
11 A Yes, I did.  
12 Q Did it break?  
13 A Yes, it broke.  
14 Q And the glass -- did the glass shatter?  
15 A Yes, the glass shattered.  
16 Q Did you have any cuts on you?  
17 A I had a cut on my hand.  
18 Q Was it your right or your left hand?  
19 A Right hand.  
20 Q Is that the hand you punched the window with?  
21 A Yes, it was.  
22 Q After you punched the window where was your  
23 stuff now, Liliana had it?  
24 A She had my stuff --  
25 Q What did you -- what did you do next?

S. Wright - Direct

121

1 A I'm like Liliana, I have to go now. I hear the  
2 horn blowing outside. So --  
3 Q When you say you hear the horn blowing  
4 outside, what is that to you?  
5 A That's my -- I told my friend Steve I'm not going  
6 to be here long, come back in a half an hour, 45  
7 minutes.  
8 Q So you hear the horn, what happens next?  
9 A I'm telling her that's my ride. It's time for me  
10 to go.  
11 Q Okay.  
12 A She didn't want me to go. So what I did was I  
13 grabbed my hoody out of her hands.  
14 Q How was she holding your stuff, if you  
15 remember?  
16 A She's holding it like this.  
17 Q Okay. And what did you do, show it to the  
18 ladies and gentlemen again?  
19 A I grabbed it like this and I yanked it.  
20 THE COURT: For the record he said her hands  
21 were next to her body. He extended his hands forward  
22 and yanked. Okay.  
23 BY MR. HIRSCHORN:  
24 Q Did you make contact with her, did your hands  
25 touch her shirt?

S. Wright - Direct

122

- 1 A Yes, I would say it did.  
2 Q But you don't have any recollection. You  
3 just think they might have?  
4 A Yes.  
5 Q Now, after you leave that night -- strike  
6 that -- while you were having sex with Liliana did she  
7 scratch you?  
8 A No.  
9 Q Did she kick you, punch you?  
10 A No.  
11 Q Did you choke her?  
12 A No.  
13 Q Now, how would you describe -- you stated to  
14 the ladies and gentlemen that you had a girlfriend at  
15 that time, correct?  
16 A Yes.  
17 Q How would you describe what your relationship  
18 was with Liliana?  
19 A I would say just sex, like friends that just have  
20 sex together.  
21 Q And that was what you believed your  
22 relationship was with her?  
23 A Yes.  
24 Q And it's your testimony here that you were  
25 invited over to 235 Arlington that night?

S. Wright - Direct

123

- 1 A Yes, it is.  
2 Q It's your testimony here that you were  
3 allowed to enter 235 Arlington through the front door?  
4 A Yes.  
5 Q You didn't break the window and climb in that  
6 way?  
7 A No.  
8 Q After this incident, after November 19th, did  
9 you see Liliana again?  
10 A After that? Yes, I did see her again.  
11 Q When was that?  
12 A Downtown on Communipaw and VanHorne.  
13 Q Did she speak to you?  
14 A She said hi, that's it, and just kept walking.  
15 Q If you remember about how long after this  
16 incident was that?  
17 A After the house I would say a couple of days, a  
18 week.  
19 Q Do you go by the name S.DOT?  
20 A Yes.  
21 Q Did Liliana ever call you Steven?  
22 A No.  
23 Q What would she call you?  
24 A S.DOT.  
25 Q Did the people -- strike that -- was it

S. Wright - Direct 124

1 commonly known amongst the people that hung out there  
2 that your name was Steven?  
3 A Yes.  
4 Q Did you grow up your whole life in that are,  
5 minus -- you said you were up on the hill for awhile?  
6 A Yes.  
7 Q Did you hang out there in that area  
8 frequently?  
9 A Yes, I did.  
10 Q From your recollection was Liliana Santos in  
11 that area frequently?  
12 A Yes, she was.  
13 Q Was her brother Marsolino in that area?  
14 A Yes, he was.  
15 Q Was her brother Macho in that area?  
16 A Yes, he was.  
17 Q Were they in that area both before and after  
18 November 19th?  
19 A Before and after November 19th?  
20 Q November 19th, 2006, did you see her brothers  
21 -- I know you said you saw her one time, did you see  
22 her brothers in that area?  
23 A I didn't see Marsolino, but I seen Macho.  
24 Q After this alleged incident?  
25 A After.

S. Wright - Direct 125

1 Q Did he ever come up to you and accuse you --  
2 A I did see Marsolino.  
3 Q You saw Marsolino as well?  
4 A I did, I did.  
5 Q And, then, did either Macho or Marsolino ever  
6 come up to you and say, you raped my sister, what are  
7 you doing?  
8 A No, they acted like nothing even happened, like,  
9 that's why I didn't know.  
10 Q Did they know that you were having a sexual  
11 relationship with their sister?  
12 MR. TROIANO: Objection, Judge.  
13 THE COURT: If he knows.  
14 A Marsolino did.  
15 BY MR. HIRSCHORN:  
16 Q You were friendly with Marsolino?  
17 A Yes, I was.  
18 Q Would you consider him someone that you would  
19 call up and hang out with or you would just see him on  
20 the block?  
21 A That was somebody that I would hang with on the  
22 block.  
23 Q So you wouldn't call him?  
24 A I didn't have his number.  
25 Q Okay. Now, Steven, on November the 19th,

1 2006 did you have sex with Liliana Santos?  
2 A Yes, I did.  
3 Q Did Liliana Santos at any point in time  
4 during the course of that night tell you to stop?  
5 A No.  
6 Q Did Liliana Santos during the course of that  
7 night ever say you're raping me?  
8 A No.  
9 Q Did Liliana Santos ever tell you get out of  
10 her apartment?  
11 A No.  
12 Q Did you break that window from the inside or  
13 the outside?  
14 A Inside.  
15 MR. HIRSCHORN: I have no further questions,  
16 Judge.  
17 THE COURT: Cross?  
18 CROSS EXAMINATION BY MR. TROIANO:  
19 Q Mr. Wright, as you probably know by now my  
20 name is Matthew Troiano. I'm an Assistant Prosecutor  
21 here. You admit that on the night of November 19th,  
22 2006 you were at Liliana's basement apartment, is that  
23 correct?  
24 A Yes.  
25 Q So that issue is off the table, correct?

1 A Yes.  
2 Q You were there. And you had admitted first  
3 questions, that you are currently serving a sentence of  
4 10 years with 85 percent New Jersey State Prison, is  
5 that correct?  
6 A Yes, I am.  
7 Q And you realize that if you were found guilty  
8 of these charges that you could serve an additional  
9 period in State Prison, is that correct?  
10 A Yes.  
11 Q Separate and apart from the ten years?  
12 A Yes.  
13 Q And you don't want that to happen?  
14 A No.  
15 Q Now, you have -- you've told this jury here  
16 that you are quite the lady's man with regard to  
17 Liliana --  
18 MR. HIRSCHORN: Objection.  
19 Q -- is that correct?  
20 THE COURT: Overruled.  
21 BY MR. HIRSCHORN:  
22 Q You can answer.  
23 A Say that again?  
24 Q You are quite the lady's man, especially with  
25 regard to Liliana?



1 A No, I wouldn't say that.  
2 Q You had a girlfriend, correct?  
3 A Yeah.  
4 Q She, apparently, had a boyfriend, Mr.  
5 Weiring, is that correct?  
6 A Yes.  
7 Q All right. But you guys still had sex?  
8 A Yes.  
9 Q In fact, you said that you remember three and  
10 a half years ago that you had sex with her five times,  
11 correct?  
12 A Yes.  
13 Q You remember where you were, correct?  
14 A Yes.  
15 Q You remember that you were at your mom's  
16 house, your brother was there, is that correct?  
17 A Yes, it was.  
18 Q Okay. And the three times that you had sex  
19 at your mom's house everything happened about the same,  
20 is that correct?  
21 A Yes.  
22 Q Nothing different. You would call her up,  
23 correct?  
24 A Yes, I would.  
25 Q All right. You know her cell phone?

1 A Do I know her cell phone?  
2 Q Yeah.  
3 A No.  
4 Q You don't know her cell phone number?  
5 A Do I knew it, no, it was in my cell phone.  
6 Q Okay. You indicated that her brother, what's  
7 her brother's name?  
8 A Marsolino.  
9 Q Marsolino you said that you didn't know his  
10 cell phone, so you couldn't call him, is that correct?  
11 A No.  
12 Q But Liliana's cell phone you have, correct?  
13 A I had.  
14 Q And you admit that you were close to her  
15 you've known her for a long time, is that correct?  
16 A Yes, I do.  
17 Q All right. But you don't know her cell phone  
18 number here today?  
19 A No.  
20 Q Okay. Did you ever know her cell phone  
21 number?  
22 A I had it inside my phone.  
23 Q And you indicated that you knew Liliana from  
24 down on the block, is that correct?  
25 A Yes.

S. Wright - Cross 130

1 Q All right. You guys went to school together?  
2 A Yes, we did.  
3 Q Okay. And that's when you were up on  
4 Wilkinson and Ocean and she was down on Bramhall, you  
5 still went to school together --  
6 A Bramhall --  
7 Q -- correct?  
8 A Yes.  
9 Q When you were younger?  
10 A Yes.  
11 Q You mentioned that on the night of this  
12 incident when you were at Liliana's house that you were  
13 wearing a green hoody, correct?  
14 A Yes.  
15 Q Blue jeans, correct?  
16 A Yes.  
17 Q Green T-shirt?  
18 A Yes.  
19 Q Boots?  
20 A Yes.  
21 Q Do you remember what you were wearing on  
22 November 17th, 2006?  
23 A November 17th? I wear -- I wear blue everyday,  
24 but, I don't remember the exact colors though.  
25 Q Okay. What about November 20th, 2006, do you

S. Wright - Cross 131

1 remember?  
2 A November 20th, the day after that?  
3 Q Yes.  
4 A I had on red.  
5 Q You were wearing red on November 20th, 2006,  
6 three and a half years ago. Okay.  
7 A Yes, I did.  
8 Q How about November 21st, 2006?  
9 A Black.  
10 Q Black. November 22nd, 2006?  
11 A No.  
12 Q Don't remember that?  
13 A 'Cause I remember those two days 'cause after that  
14 my friend had a birthday party. It was an all red  
15 affair, that's why I knew I had on red.  
16 Q Okay. Okay, that's a good explanation. But  
17 you wear blue a lot of the times. You were wearing  
18 green, you specifically remember, the night you went to  
19 Liliana's house, okay.  
20 A Yes.  
21 Q Now at what point after this incident  
22 happened, November 19th, 2006 did you first find out  
23 about it?  
24 A November what?  
25 Q November 19th, 2006 --

1 A Okay.  
2 Q -- the day of this -- this incident, the day  
3 you were at her house, when did you first find out  
4 about it?  
5 A When I was incarcerated and I was coming here to  
6 get sentenced. He met me in the elevator, took me  
7 downstairs, to BCI on the first floor.  
8 Q So it's your testimony here to these jurors  
9 that you never heard about it on the block?  
10 A Never.  
11 Q Nobody was ever talking about it?  
12 A No.  
13 Q Liliana, in fact, came up to you and said hi,  
14 afterwards, is that correct?  
15 A Yes, she did.  
16 Q All right. But you've come to understand  
17 today and last week that immediately after you left her  
18 house she called the police and accused you of rape, is  
19 that correct?  
20 A Yes.  
21 Q Okay. But it's your testimony today that she  
22 spoke to you a couple of days after, said hi, like  
23 nothing was -- was a problem, is that correct?  
24 A Exactly.  
25 Q Okay. Now, on the night that this happened I

1 assume you were aware that she was with Anthony  
2 Weiring?  
3 A I -- I wouldn't say with, 'cause he --  
4 Q Physically with.  
5 A -- you was --  
6 Q Physically with her that night?  
7 A Yes.  
8 Q Okay. He was spending time with her that  
9 night before, and did you know that?  
10 A Did I know he was there that night?  
11 Q Yes.  
12 A Before I got there? No.  
13 Q She didn't say that?  
14 A No.  
15 Q Okay.  
16 A She did not.  
17 Q So it's your testimony today that she called  
18 you up, after she was done with Anthony, calls you up,  
19 told you to come over --  
20 A No, I called --  
21 Q -- that's your testimony here?  
22 A -- her.  
23 Q It's your testimony that you called her after  
24 Anthony left --  
25 MR. HIRSCHORN: Objection.

S. Wright - Cross

134

1 Q -- and she invited you over?  
2 MR. HIRSCHORN: He said he didn't know  
3 whether Anthony was there or not.  
4 THE COURT: Sustained.  
5 BY MR. TROIANO:  
6 Q You called her up, she invited you over?  
7 A Yes.  
8 Q And you guys had sex?  
9 A Yes.  
10 Q And this was the fifth time that you had sex,  
11 is that correct?  
12 A I don't remember.  
13 Q Well, it was your testimony on direct that  
14 you had sex five times?  
15 A Five times, but I don't know whether that was the  
16 fifth time.  
17 Q Oh, you had sex after that?  
18 A Did we have sex after that?  
19 Q You had sex after November 19th, 2006?  
20 A No.  
21 Q Okay. So it would be fair to say that that  
22 was the last time you had sex?  
23 A Yes.  
24 Q When you had arrived to Liliana's that night  
25 was her TV on?

S. Wright - Cross

135

1 A Was her TV on? Yes, her TV was on.  
2 Q The TV was on?  
3 A Yes, it was.  
4 Q Was her bathroom light on?  
5 A Yes, it was.  
6 Q Was her living room light on?  
7 A No.  
8 Q Just the bathroom and the TV, is that --  
9 A And TV --  
10 Q -- correct?  
11 A Yes.  
12 Q And you had sex that night with the lights  
13 on, is that correct?  
14 A Yes, we did, TV on.  
15 Q TV on, you don't know about the bathroom  
16 light?  
17 A No, the bathroom light was on.  
18 Q Okay. So TV light, bathroom light. And the  
19 previous times that you had sex with her, once at the  
20 friend's, three times at the -- at your mother's house,  
21 were those with the lights on?  
22 A Yes.  
23 Q I assume it would be an easy question for you  
24 here with your level of the relationship with her to  
25 tell us all what color her hair is?

1 A Who?  
2 Q Liliana?  
3 A Liliana be -- sometimes it be black. One time she  
4 had it like a brunette, like burgundy looking color.  
5 Q Okay. And it would be an easy question for  
6 me to ask you what color her eyes were?  
7 A No, because I don't be looking at her face like  
8 that.  
9 Q You don't know what color her eyes are?  
10 A No.  
11 Q Okay. And it would be safe for me to assume,  
12 correct me if I'm wrong, that during the course of you  
13 having sex with her that she was naked at some point?  
14 A When?  
15 Q Any one of those five, you pick?  
16 A Yes.  
17 Q Okay. She was naked?  
18 A Yes, like bottom off.  
19 Q And with her bottom off all five times. She  
20 was never naked any of the other times. She just had  
21 her bottom off, all five times?  
22 A Like she wouldn't take like -- I would just pull  
23 her shirt -- her breasts out of her shirt like, that's  
24 it, like. I'm not getting -- that's not my girlfriend.  
25 Q Okay. I'll leave that one alone. I assume

1 that you could tell the ladies and gentlemen of this  
2 jury that if, in fact, Liliana were to have some sort  
3 of distinguishing mark on her legs, back, you could  
4 tell them where it is?  
5 A No, I really don't pay attention like that to her  
6 body.  
7 Q Just having sex?  
8 A Just having sex.  
9 Q All right.  
10 A That's it.  
11 Q But it was light on and she was naked,  
12 correct?  
13 A Naked? No, she wasn't never --  
14 Q It was light on and she had her pants off, is  
15 that correct?  
16 A That's it.  
17 Q But it's your testimony here that you don't  
18 know if she had any marks on her body, nothing?  
19 A No.  
20 Q Okay. How many times you been to that  
21 apartment, 235 Arlington Avenue?  
22 A Twice.  
23 Q Just twice?  
24 A That's it.  
25 Q Never there after?

1 A No.  
2 Q Would it be safe for me to say that after  
3 this happened a friend or friend of the family moved  
4 into 235 Arlington Avenue?  
5 A I don't know.  
6 Q You don't know anything about that?  
7 A Don't know.  
8 Q All right. And you remember you're under  
9 oath?  
10 A Yes.  
11 Q Okay. So it's your testimony here today that  
12 a friend of the family or a family member did not move  
13 into that basement apartment after this happened?  
14 MR. HIRSCHORN: Objection. He --  
15 A I don't know.  
16 MR. HIRSCHORN: -- said he didn't know.  
17 MR. TROIANO: Withdrawn.  
18 BY MR. TROIANO:  
19 Q Now, let's talk about -- let's talk about  
20 that broken window. Your testimony to this jury that  
21 you got in an argument with Liliana because you wanted  
22 to leave, correct?  
23 A Yes.  
24 Q Your girlfriend Mia --  
25 A Mia.

1 Q -- Mia wanted you to go wherever you were  
2 going to go. Did she know you were there?  
3 A Huh?  
4 Q Did she know you were there?  
5 A No, she don't know I was there.  
6 Q Okay. Do you remember where you told her you  
7 were? Do you remember where you told her you were?  
8 A I never told her where I was.  
9 Q You were just out?  
10 A Yes.  
11 Q And that was okay?  
12 A Yes.  
13 Q Okay. Your testimony that you got on the  
14 phone with Mia, Mia got mad at you, you told Liliana  
15 you had to leave --  
16 A Yes.  
17 Q -- is that correct?  
18 A Yes.  
19 Q Liliana didn't want you to leave?  
20 A No.  
21 Q All right. This was a relationship that was  
22 just based on sex?  
23 A Yeah.  
24 Q Correct?  
25 A I mean we was close friends, but it was no type of

S. Wright - Cross

140

1 relationship of boyfriend and girlfriend.  
2 Q Just have sex and that's it?  
3 A We would just be as cool, that's it.  
4 Q Okay. No strings attached?  
5 A No.  
6 Q Okay. But on that night she got in an  
7 argument with you because you wanted to leave to go to  
8 your girlfriends?  
9 A I mean feelings get involved later on down the  
10 road once you're having sex with somebody. You're  
11 talking to them like there's going to be feelings.  
12 Q Okay. Did you have feelings?  
13 A A little bit.  
14 Q Okay.  
15 A Not a lot though.  
16 Q All right. But you didn't know if she had  
17 any marks on her body, or anything?  
18 A No.  
19 Q Okay. So your testimony is that she gets mad  
20 at you because you're going to leave, correct?  
21 A Yes.  
22 Q She wanted to spend more time with you?  
23 A Yes.  
24 Q Okay. And she takes her clothes -- your  
25 clothes rather -- strike that -- your clothes, and

S. Wright - Cross

141

1 walks them around to the other side of the apartment  
2 and puts them in a closet, correct?  
3 A I guess she was trying to hide them from me.  
4 Q Okay. She was trying to hide them. Was the  
5 closet locked?  
6 A It was open.  
7 Q And, so, by doing that she was going to keep  
8 you there, that's your testimony?  
9 A I guess that's what she thought. But I -- I would  
10 have left it anyway.  
11 Q You were going to leave -- you were going to  
12 up and leave with no clothes on?  
13 A If that would have kept going on like that, I  
14 would have left it there.  
15 Q Okay. Yet your testimony is that you picked  
16 up the clothes, she grabbed them back and, then, you  
17 punched the window?  
18 A I never said I picked the clothes up.  
19 Q Okay.  
20 A I said she picked the clothes up.  
21 Q She picked the clothes up, you got mad at her  
22 and you punched the window?  
23 A Yes.  
24 Q All right. And how did you punch the window?  
25 A I punched it like that with my hand.

1 Q All right. So you gave her the clothes  
2 first?  
3 A Gave her the clothes?  
4 Q She picked up the clothes?  
5 A Yes.  
6 Q Okay. She goes into the closet, picks up the  
7 clothes?  
8 A Yes.  
9 Q All right. And, then, you just decide I'm  
10 going to go into the closet and punch the window?  
11 A I was standing right by the closet.  
12 Q Okay. You were looking into the closet?  
13 A Like the closet is right here. I was, like,  
14 standing right here and she grabbed it and came out the  
15 closet. I'm like why we got to go through this?  
16 Q So you decided to punch the window?  
17 A Yes.  
18 Q Again? When you decided to punch the window  
19 where was Liliana? Say I'm you and I'm punching  
20 windows, I'm standing right here, I'm punching with my  
21 right hand, where was Liliana?  
22 A Like standing behind like over there.  
23 Q Okay. She's standing behind you?  
24 A Yes.  
25 Q All right. But you decide to punch the

1 window anyway?  
2 A Yes.  
3 Q Okay. Did you happen to see S-28 any of this  
4 stuff in here, hot water heater, pipes, anything --  
5 A That's what I was talking about the boiler room.  
6 Q You remember that?  
7 A Yes.  
8 Q All right. But you were able to -- you were  
9 able to extend your arm far enough inside the closet to  
10 break that window?  
11 A I was standing like inside the closet and I had a  
12 long reach.  
13 Q Okay. You were standing inside the closet?  
14 A Like in front of it.  
15 Q Okay. But you never picked up the clothes?  
16 A No.  
17 Q Liliana picked up the clothes?  
18 A Yes, she did.  
19 Q But you were standing inside the closet and,  
20 then, you punched?  
21 A Yes.  
22 Q All right. I got you. You got blood on your  
23 hand?  
24 A Yes.  
25 Q Right hand?



1 A Right hand.  
2 Q And I assume you have a scar?  
3 A Yes, I do.  
4 Q I assume. And, then, you went to get your  
5 clothes back from Liliana --  
6 A Yes.  
7 Q -- grabbed the shirt --  
8 A Grabbed what shirt?  
9 Q -- grabbed her shirt and that's how the blood  
10 got on there?  
11 A I never grabbed her shirt. I said I grabbed my  
12 hoody and stuff out of her hands, and yanked like this.  
13 I guess that's how the blood got on her shirt.  
14 Q You guess that's how the blood got on the  
15 shirt, okay. You grabbed like this and, I guess, the  
16 blood was on your knuckle, would that be fair to say?  
17 A Yes.  
18 Q All right. Blood on your knuckle and you  
19 grabbed and it touched her shirt?  
20 A Yes.  
21 Q That's how it got on there?  
22 A Yes.  
23 Q And, then, you left?  
24 A Yes.  
25 Q And, then, it's your testimony that your

1 friend --  
2 A Steve.  
3 Q -- Steve just happened to be there ready for  
4 you to leave?  
5 A He know -- he knew what time it was.  
6 Q What time was it?  
7 A I'm staying there for like a half an hour, forty  
8 five minutes, he's going to come back and pick me up.  
9 Q Okay. What time did -- what time did Steve  
10 drop you off?  
11 A I don't remember the time.  
12 Q But you remember now that Steve was waiting a  
13 half an hour, 45 minutes and, then, he was going to  
14 come swing around pick you up?  
15 A Yes.  
16 Q Okay. So Steve was -- Steve was your guy.  
17 He was like your -- your car service, for lack of a  
18 better phrase?  
19 A No, I wouldn't call it that. That's just my  
20 friend.  
21 Q He was going to drop you off, leave you  
22 there, come pick you up?  
23 A Yes.  
24 Q How far is it from Communipaw up to  
25 Arlington?

1 A About five, six blocks.  
2 Q Okay. But you would agree it's not a  
3 different neighborhood?  
4 A What Arlington?  
5 Q Yeah.  
6 A No.  
7 Q No. Okay. Your friend would drop you off on  
8 Arlington, leave, come back and kind of hang out until  
9 you were ready to go?  
10 A He would blow the horn and let me know he outside.  
11 Q At five, six o'clock in the morning?  
12 A Yes.  
13 Q Okay. No problem there. So it's your  
14 testimony today that the condom found at 249 Arlington  
15 Avenue was not yours?  
16 A I don't know. I don't know who condom it was.  
17 Q I'm asking if it was yours?  
18 A No, it was not mine.  
19 Q Did you throw a condom outside that night?  
20 A No.  
21 Q Did you use a condom that night?  
22 A Yes, I did.  
23 Q Do you remember what kind of condom?  
24 A Magnum's, of course.  
25 Q Of course. And it's your testimony that you

1 pocketed that Magnum?  
2 A Huh?  
3 Q It's your testimony that you pocketed that,  
4 you kept that with you?  
5 A No, I threw it in the garbage.  
6 Q What garbage?  
7 A There was a garbage in the kitchen. When you're  
8 walking down the hallway there was a garbage right  
9 there on the side counters.  
10 Q In Liliana's house?  
11 A Yes.  
12 Q You left a condom in her house?  
13 A In the garbage.  
14 Q In the garbage. And forgive me for asking,  
15 but did you ejaculate that night?  
16 A Yes, I did.  
17 Q Okay. So you left a used condom in her  
18 wastebasket?  
19 A Yes.  
20 Q Okay. So the condom at 249 Arlington Avenue,  
21 not yours?  
22 A 249, no.  
23 Q Okay. You've heard testimony that if you  
24 were, and correct me if, you know, I'm wrong at any  
25 point here, if you were looking at the street from 235

1 Arlington Avenue, 249 would be to your left. Would you  
2 agree with that?  
3 A I don't know.  
4 Q You don't know?  
5 A I don't pay attention to addresses.  
6 Q Okay. But you heard that being said that  
7 it's to the left?  
8 A Yes.  
9 Q Okay.  
10 A I just heard it right now.  
11 Q You heard it before during testimony,  
12 correct?  
13 A I never heard of 249 during testimonies.  
14 Q Okay. Where were you living at the time?  
15 A I was living on Bentley in Bergen.  
16 Q You weren't living with your mother?  
17 A No.  
18 Q Where did your mother live?  
19 A Bramhall.  
20 Q All right. When you went back with Liliana  
21 to have sex the three times you'd just bring her back  
22 to your mother's house, but you weren't living there?  
23 A Yes.  
24 Q And you would have sex with her in your  
25 mother's bed?

1 A Yes.  
2 Q Okay. And your mother was where?  
3 A She wasn't home.  
4 Q Where? No, no, no, where does she live?  
5 A Bramhall.  
6 Q Bramhall. All right. Correct me if I'm  
7 wrong, that if you were to look outside of 235  
8 Arlington Avenue to that street Arlington Avenue there,  
9 and you were to make a left and go down to the next  
10 cross street, that would be Bramhall?  
11 A No, it wouldn't. That would be Union, then  
12 Bramhall.  
13 Q Okay. Bramhall is maybe a block that way.  
14 A And you can't see it anyway because it go in a  
15 circle like this. It turns.  
16 Q The Light Rail Station is over there. Okay.  
17 A The Light Rail Station on --  
18 Q But down that street maybe --  
19 A -- Randolph.  
20 Q -- maybe a half of mile, maybe less than that  
21 is Bramhall?  
22 A Yeah.  
23 Q And, in fact, your mother lives right at that  
24 corner, is that correct?  
25 A No, she live up the block.

1 Q A couple of houses.  
2 A Four buildings.  
3 Q Okay. Four buildings up the block, okay.  
4 Your testimony that you weren't staying there that  
5 night, you weren't staying there before that, none of  
6 that?  
7 A No.  
8 Q Okay. You just went there to have sex?  
9 A Yes.  
10 Q Okay.  
11 MR. TROIANO: One second, Judge.  
12 BY MR. TROIANO:  
13 Q When you punched that window do you remember  
14 your hand going all the way through it?  
15 A No.  
16 Q Did it stop from something?  
17 A It snapped it back.  
18 Q Snapped it back. It didn't hit anything on  
19 the other end?  
20 A No.  
21 Q No screen?  
22 A No.  
23 Q Nothing?  
24 A Nothing.  
25 Q Okay. All right. And it's your testimony

1 here today that you spoke with Liliana afterwards and  
2 she said, hi to you?  
3 A Yes.  
4 Q And that you never had marks on your face?  
5 A Never.  
6 Q And there were never any allegations in the  
7 neighborhood about what you did to her?  
8 A No.  
9 Q And the first time you knew about this was a  
10 year later?  
11 A Yes, it was.  
12 Q That's your testimony here today?  
13 A Yes, it is.  
14 MR. TROIANO: Judge, I have nothing further.  
15 MR. HIRSCHORN: Judge, briefly.  
16 REDIRECT EXAMINATION BY MR. HIRSCHORN:  
17 Q I'm going to show you what's been marked  
18 S-14, do you recognize that?  
19 A Yes. Yes.  
20 Q What is it?  
21 A It's a window, broken window.  
22 Q Okay. You can see the closet doors there,  
23 right?  
24 A Yes.  
25 Q How deep is that closet? How many feet is it

S. Wright - Redirect 152

1 from those closet doors to that window?  
2 A It's not deep at all.  
3 Q So you could be standing by those doors and  
4 reach the window?  
5 A Yes, I could.  
6 MR. HIRSCHORN: Nothing further, Judge.  
7 Thank you.  
8 MR. TROIANO: Nothing, Judge.  
9 THE COURT: You're excused. You may step  
10 down.  
11 (On the record discussion at sidebar)  
12 MR. HIRSCHORN: Judge, can you give me five  
13 minutes in the back, I've just got to see if his  
14 brother's here. The other kid is supposed to be here  
15 at 3:30.  
16 THE COURT: Someone at 3:30?  
17 MR. HIRSCHORN: The third kid. I don't know  
18 how long he'll take.  
19 MR. TROIANO: Who, the brother?  
20 MR. HIRSCHORN: Yeah, if you could give me  
21 five minutes, Judge.  
22 THE COURT: Sure.  
23 (Sidebar discussion ended)  
24 THE COURT: All right, ladies and gentlemen,  
25 just take a couple of minutes in the jury room. We're

A. Wright - Direct 153

1 waiting for the next witness to arrive. He's due any  
2 moment. Do not discuss the case at all amongst  
3 yourselves. Just step inside, thank you.  
4 (Jury leaves the courtroom)  
5 THE COURT: All right, let me know when  
6 you're ready.  
7 (Off the record/on the record)  
8 THE COURT: Okay, we're ready to go? Next  
9 witness, please.  
10 MR. HIRSCHORN: Thank you, Judge. The  
11 defense calls Antwan Wright please.  
12 A N T W A N W R I G H T, DEFENSE WITNESS, SWORN  
13 COURT OFFICER: State your full name for the  
14 record, sir.  
15 THE WITNESS: Antwan Wright.  
16 COURT OFFICER: You can have a seat.  
17 DIRECT EXAMINATION BY MR. HIRSCHORN:  
18 Q. How you doing, Antwan?  
19 A. Hey.  
20 Q. Just do me a favor, just keep your voice up  
21 as much as you can. Everybody has to be able to hear  
22 you.  
23 A. All right, sure, no problem.  
24 Q. Antwan, this is your brother sitting over  
25 here, right?

A. Wright - Direct

154

- 1 A. Yeah, that's my brother.  
2 Q. Is he older or younger than you?  
3 A. Older.  
4 Q. I'm going to direct your attention back a  
5 little bit away to when you were a kid. What school  
6 did you go to?  
7 A. P.S. 22.  
8 Q. Okay. Let me ask before that, how many years  
9 older is Stephen than you?  
10 A. Two.  
11 Q. Okay. You went to P.S. 22. Did you know at  
12 that time a Liliana Santos?  
13 A. Yes, I did.  
14 Q. How did you know her?  
15 A. I can't exactly remember which grade, but we was  
16 in the same class, either second or third grade? One  
17 of them.  
18 Q. Okay. So you knew her when she was a little  
19 kid?  
20 A. Yeah.  
21 Q. You were the same age. At some point in time  
22 later in your life as you guys became teenagers and  
23 adults, did you start to see Liliana again?  
24 A. Yeah. All the time basically.  
25 Q. Okay. Where would you see her?

A. Wright - Direct

155

- 1 A. In the area where we grew up at, where we chilled  
2 out I guess you could say.  
3 Q. Okay. Where is that?  
4 A. Downtown area, Communipaw, VanHorn, you know.  
5 Q. Okay. And you lived in that area, right?  
6 A. Yeah, we lived on Bramhall but we went down that  
7 way like, didn't like the other area too much.  
8 Q. Now, back in November of 2006, did you live  
9 on Bramhall?  
10 A. Yes.  
11 Q. Who did you live with?  
12 A. My mother.  
13 Q. And that was your mother's apartment?  
14 A. Yes.  
15 Q. How big was the apartment?  
16 A. Two bedroom.  
17 Q. Okay. And it was just you and her living  
18 there?  
19 A. Uh-huh.  
20 Q. Would Stephen stay there on occasion?  
21 A. On occasion, once in awhile.  
22 Q. Did he have another home or another place  
23 that he lived?  
24 A. He pretty much stayed with his girl most of the  
25 time, Mia.

A. Wright - Direct 156

1 Q. Who was his girlfriend?  
2 A. Mia, Mia Jones.  
3 Q. Mia Jones?  
4 A. Yes.  
5 Q. So that was his girlfriend at that time?  
6 A. Uh-huh.  
7 Q. Did they have any children together?  
8 A. No.  
9 Q. Now, at some point, let's take you a couple  
10 of months back. Were you still living on Bramhall back  
11 in the summer of 2006?  
12 A. Yes.  
13 Q. At some point in time, did you see your  
14 brother begin to hang out with Liliana Santos?  
15 A. Uh-huh.  
16 Q. You got to speak.  
17 A. Yes, yes, I did.  
18 Q. We can all see you nodding your head. When  
19 was that if you recall?  
20 A. I'm not too good with times like but I'd say about  
21 -- I'm not too good with times.  
22 Q. Okay, was it spring, summer, early fall?  
23 A. I would say maybe spring, summer, something like  
24 that.  
25 Q. Okay. At some point in time did you have

A. Wright - Direct 157

1 occasion to see Liliana and Stephen together somewhere  
2 other than the block?  
3 A. The house.  
4 Q. Whose house was that?  
5 A. Mine.  
6 Q. Your house?  
7 A. Yeah.  
8 Q. If you can, describe to me the first such  
9 time that this happened?  
10 A. It was late I mean like four, five o'clock in the  
11 morning like he came in and she --  
12 Q. Who came in?  
13 A. My brother, Stephen Wright came in and Liliana was  
14 with him.  
15 Q. Okay. And they came in to you and your  
16 mother's house?  
17 A. Yes.  
18 Q. Did you see them together?  
19 A. Yes.  
20 Q. You were awake?  
21 A. Yes.  
22 Q. Were you asleep and woke up or were you awake  
23 sitting up --  
24 A. No, I was in the living room playing a game.  
25 Q. Playing a video game?

1 A. Yeah.  
2 Q. Okay. And what did Stephen and Liliana do  
3 when they entered the apartment?  
4 A. Went straight into my mother's room.  
5 Q. Was your mother home?  
6 A. No.  
7 Q. Did they close the door?  
8 A. Yes.  
9 Q. And did you stay awake?  
10 A. Yeah, pretty much.  
11 Q. Did you see them do anything?  
12 A. No, I didn't see anything. The door was closed.  
13 Q. Did you hear anything?  
14 A. I heard some things, I mean --  
15 Q. What did you hear?  
16 A. Should I be vague? I mean --  
17 Q. Just tell us what you heard.  
18 A. Sex.  
19 Q. You heard noises that resembled sex?  
20 A. Yeah, bed rocking like.  
21 Q. Okay. Were they the only two people in the  
22 room?  
23 A. Yes.  
24 Q. Are you certain that this was Liliana Santos?  
25 A. Guaranteed.

1 Q. Did there come an occasion any other times  
2 that Steven came to you and your mother's house with  
3 Liliana Santos?  
4 A. I can remember definitely one more time, maybe two  
5 more times, but definitely one more time after that.  
6 Q. On that other time that you definitely  
7 remember did you see or -- did you see anything go on?  
8 A. I mean no, the door was still closed, but --  
9 Q. Did they go into your mother's room that  
10 time?  
11 A. Same scenario.  
12 Q. Did you hear anything?  
13 A. Same thing, sex, bed rocking (laughing).  
14 Q. On either of those two occasions did you see  
15 Liliana leave?  
16 A. Leave as in after they was done?  
17 Q. As in leaving the apartment, yes?  
18 A. No, I took it down before they left. Before she  
19 left I usually went to bed.  
20 Q. Okay. Now, would Stephen and Liliana in  
21 times that you were in their presence would you see  
22 them together on the block as well?  
23 A. Yeah, I seen them outside a couple of times.  
24 Q. Okay. What were they doing when you would  
25 see them outside?



A. Wright - Direct

160

- 1 A. Like they was just chilling like --  
2 Q. When you say chilling, give us --  
3 A. Like maybe, I don't know, just hanging out,  
4 smoking maybe. That's about it.  
5 Q. Okay. Now, at some point in time after  
6 November of 2006, your brother went to jail, correct?  
7 After your brother went to jail, did you start to hear  
8 anything about what may have happened in November?  
9 A. Yeah, I remember being in the house and someone  
10 called my mother and let her know they showing mug  
11 shots of Stephen and they told her they were showing  
12 mug shots because he was supposed to have raped  
13 Liliana.  
14 Q. Okay. Now is it your recollection that when  
15 this started to take place, Stephen was already in  
16 jail?  
17 A. I believe so. I believe so.  
18 Q. You believe so but you're not 100 percent  
19 sure?  
20 A. I'm not guaranteed sure but I believe so.  
21 Q. Okay. Do you know any of Liliana's brothers?  
22 A. Yeah.  
23 Q. Who are they?  
24 A. Goon, Macho.  
25 Q. Okay. Do you know their real names?

A. Wright - Direct

161

- 1 A. We all grew up together, we all went to 22, all of  
2 us.  
3 Q. After November -- you may not remember this,  
4 but if you do, after November 19th, 2006, were you and  
5 your brother still hanging out in that same area?  
6 A. Yeah.  
7 Q. Would you see Liliana's brothers?  
8 A. Uh-huh.  
9 Q. Would --  
10 A. I still shake their hand to this day like.  
11 Q. Okay. At any point in time did -- that you  
12 were out there, did Liliana's brothers or Liliana  
13 herself approach Stephen and accuse him of anything?  
14 A. I don't think so, not that I know of.  
15 Q. That you know of. That's all you can testify  
16 to.  
17 A. Yeah, not that I know of.  
18 Q. You never witnessed anything like that? Did  
19 you and/or Stephen, especially Stephen, start to hang  
20 out somewhere else?  
21 A. No.  
22 Q. So he never left hanging out on that same  
23 block?  
24 A. Hanging out in the same area every day.  
25 Q. Okay. Do you still hang out there?

A. Wright - Direct

162

1 A. Yeah, unfortunately.  
2 Q. That's okay. Now at some point in time,  
3 let's direct your attention forward now. A couple of  
4 months ago, did you have a conversation with Liliana  
5 Santos?  
6 A. Yes.  
7 Q. Did you ask to speak with her or did she ask  
8 to speak with you?  
9 A. I asked to speak with her.  
10 Q. And what exactly did you want to speak with  
11 her about?  
12 A. I basically just wanted to know what was going on.  
13 It was like I seen you come in my house so it was like  
14 Liliana, like what are you doing like.  
15 Q. Okay.  
16 A. And then I'm hearing everything that they was  
17 saying she was saying and it was like you're saying you  
18 don't know him, really, like --  
19 Q. At some point in time during that  
20 conversation did she say to you that she believed that  
21 Stephen raped her?  
22 A. Yeah, she said that.  
23 Q. She did. Did she admit to you that you had  
24 obviously seen her before that?  
25 MR. TROIANO: Objection.

A. Wright - Direct

163

1 THE WITNESS: Yes.  
2 THE COURT: Overruled.  
3 THE WITNESS: Yes.  
4 BY MR. HIRSCHORN:  
5 Q. So when you had this conversation a couple of  
6 months ago, when you said to her why are you doing  
7 this?  
8 A. She said, she said it don't matter what me and him  
9 did, he shouldn't a did that to me.  
10 Q. Okay.  
11 A. Like it don't matter what happened in the past, he  
12 shouldn't a did that.  
13 Q. So she never tried to say to you I didn't  
14 know him?  
15 A. That was just like, that would be a total lie.  
16 She knew that.  
17 Q. Did -- at any point in time during that  
18 conversation, did you tell her or ask her to drop the  
19 charges against Stephen?  
20 A. No. No. I expressed how I felt about the case  
21 but other than that, no.  
22 Q. Did you ever threaten her?  
23 A. She gave me a ride home one time like since the  
24 time when I spoke to her, she gave me a ride home like,  
25 I mean we was about to, we was going chill together but

A. Wright - Direct 164

1 I had something to do like, I mean we basically got  
2 cool, that's why it was crazy that she -- I couldn't  
3 believe she was like actually making it seem like I was  
4 trying to like put pressure on her or something like.

5 Q. So as far as you're concerned as you sit here  
6 today, you and Liliana have no problem?

7 A. I thought we was cool (laughing).

8 MR. HIRSCHORN: Judge, I have no further  
9 questions. Thank you.

10 CROSS EXAMINATION BY MR. TROIANO:

11 Q. Mr. Wright, my name is Matthew Troiano, I'm  
12 the Assistant Prosecutor on this case. Thanks for  
13 coming in.

14 A. How you doing? No problem.

15 Q. You just said, this last part that you just  
16 said you said that I was shocked, something to the  
17 effect of I was shocked that Liliana was saying that I  
18 was threatening her. How did you find out about that?

19 A. How'd I find out about --

20 Q. How did you find out that Liliana was saying  
21 that you threatened her?

22 A. I mean being like we in the streets, people talk  
23 and it get back to you like. That's just how it go.

24 Q. Okay. So if I were to tell you that Liliana  
25 never accused you of that, would you say that that's a

A. Wright - Cross 165

1 lie?

2 A. Well couldn't say nothing like it just be like oh,  
3 okay.

4 Q. Okay, and you weren't told about these  
5 threats or anything by Mr. Hirschorn, were you?

6 A. No.

7 Q. No.

8 A. It's the first time I ever met him.

9 Q. First time you ever met him in person?

10 A. In person.

11 Q. You spoke to him on the phone a few times  
12 though.

13 A. Yeah, but it was basically Mr. Wright, are you  
14 coming to Court? Yeah, okay, sure. So I just got the  
15 date, time, all right.

16 Q. Okay. But you knew what you were coming to  
17 Court for, correct?

18 A. Yeah.

19 Q. Okay. In fact, you spoke to an investigator  
20 a couple of months ago, is that correct?

21 A. Yes.

22 Q. Okay. Now, Mr. Wright is your big brother,  
23 correct?

24 A. Yeah.

25 Q. And a couple years older than you?

1 A. Yes.  
2 Q. And it would be fair to say and I think  
3 everybody here could understand that you don't want to  
4 see him get in trouble, is that correct?  
5 A. Of course not.  
6 Q. Okay. And you don't want to see him, you  
7 know, potentially go to prison, nothing like that,  
8 correct?  
9 A. Nothing, no.  
10 Q. He's your -- he's your older brother and  
11 you're going to do what it takes to help him out?  
12 MR. HIRSCHORN: Objection, Judge.  
13 THE COURT: Overruled.  
14 THE WITNESS: Everyone, I mean there's  
15 limits. So no. There's limits.  
16 BY MR. TROIANO:  
17 Q. All right, but -- but he's your brother.  
18 Now, let me ask you a question, when did you first find  
19 out about these allegations that Liliana was making  
20 against your brother?  
21 A. Like he said, '06 sometime in --  
22 Q. You knew about it in '06, is that correct?  
23 And you knew in '06 that this is crazy, my -- my  
24 brother's having a relationship with her, right? You  
25 knew about that. But you also knew that Liliana was

1 making these accusations saying that he raped her, you  
2 know, he strangled her, whatever the case may be,  
3 correct? You knew about that back in '06, correct?  
4 A. Uh-huh.  
5 Q. You never told anybody that they had a  
6 relationship, did you?  
7 A. Of course I told people.  
8 Q. You never went to the police, did you?  
9 A. I mean I didn't, I was going wait for everything  
10 to pan out, see how it go.  
11 Q. Your brother has been accused of this crime  
12 for three and a half years, yet you knew maybe a month  
13 later that they had a relationship. You never went to  
14 the police, yes or no?  
15 A. Never went to the police.  
16 Q. You never came up to the Hudson County  
17 Prosecutor's Office to say my brother had a  
18 relationship with this girl, he's innocent. You never  
19 did that?  
20 A. I go off -- basically if my mother and my father  
21 would have came to me and told me that they felt it was  
22 necessary for me to do that, then I'd a did that.  
23 Q. Okay.  
24 A. But being that my mother and my father never came  
25 to me and said that, there's no reason to do that.

A. Wright - Cross

168

1 Q. Fair enough. Simple answer is no, you never  
2 did anything.  
3 A. No, I never did anything.  
4 Q. Okay. You're friends with Anthony Waring, is  
5 that correct?  
6 A. Yeah (laughing).  
7 Q. You guys hang out sometimes, play video  
8 games sometimes, is that correct?  
9 A. Yeah, Scoop's my mans.  
10 Q. He's what?  
11 A. He's my mans.  
12 Q. You guys, you guys are friends, right?  
13 A. Yeah (laughing).  
14 Q. And you knew bout this again back in 2006 and  
15 you, you know, the relationship never wavered, did it,  
16 with Anthony?  
17 A. Not never.  
18 Q. Okay. And you said that you knew Liliana  
19 from -- from way back when, is that correct?  
20 A. (indiscernible).  
21 Q. Say again?  
22 A. Toddlers, we were toddlers.  
23 THE COURT: Toddlers.  
24 BY MR. TROIANO:  
25 Q. Oh, since you were -- since you were young,

A. Wright - Cross

169

1 since you were kids. Do you recall speaking with a  
2 member of Mr. Hirschorn's staff with regard to this?  
3 A. The investigator.  
4 Q. I P.O. Rosetta, is that correct? That was in  
5 probably some time in January of this year, correct? I  
6 think you spoke to him twice?  
7 A. Probably, yes.  
8 Q. Okay. So you'd admit that that was the first  
9 time that you had ever spoken to somebody related to a  
10 lawyer about this case?  
11 A. Anybody.  
12 Q. Okay. And do you recall -- what's Liliana's  
13 name?  
14 A. Liliana.  
15 Q. Do you know her last name?  
16 A. Santos.  
17 Q. Okay. Do you remember in the report speaking  
18 with the investigator, Officer Rosetta and saying that  
19 her name was Liliana Garcia?  
20 A. Maybe I did say that?  
21 Q. Okay.  
22 A. I don't remember. You know the last, when I was  
23 in her class? Like, maybe I did say that.  
24 Q. Okay. Do you know today what her name is?  
25 A. Santos, Garcia, one of them.

A. Wright - Cross

170

- 1 Q. Either one, okay.
- 2 A. I don't know.
- 3 Q. But your testimony today is that you knew her
- 4 since you were toddlers, you hung out, she had been to
- 5 your house, but you don't know her last name, is that
- 6 correct?
- 7 A. Do you know when second, third grade was? I'm 23
- 8 like.
- 9 Q. You said that she's come to your house to
- 10 have sex with your brother while you're there?
- 11 A. Yeah.
- 12 Q. Okay, so you've seen her, you would admit to
- 13 me that you've seen her in between that second and
- 14 third grade, is that correct?
- 15 A. I think so.
- 16 Q. Okay. At the time that Stephen brought
- 17 Liliana over and they were in the bed, you know, that
- 18 whole thing, you were staying at Bramhall, 470 Bramhall
- 19 Avenue, is that correct?
- 20 A. Yes.
- 21 Q. Two bedroom apartment mom was there?
- 22 A. Yes.
- 23 Q. Okay. You never had a problem with your
- 24 brother having sex on your mom's bed?
- 25 A. I've had sex on my mom's bed so how could I get

A. Wright - Cross

171

- 1 mad at him?
- 2 Q. Okay. And the -- all right. And at the time
- 3 that this happened, Mr. Wright was not staying there,
- 4 is that correct?
- 5 A. I mean he passed through but he wasn't living --
- 6 Q. All right, but he wasn't living there?
- 7 A. No, he wasn't living there.
- 8 Q. Okay. So if I were to tell you that in this
- 9 investigation report it says at the time speaking about
- 10 this relationship at the time he and his brother were
- 11 staying at their mother's apartment, you would say that
- 12 this investigation report is incorrect?
- 13 A. I wouldn't say totally incorrect. I might have
- 14 said that but when I meant staying, I didn't mean
- 15 living, like I mean he should have emphasized, you know,
- 16 living, staying, like should have said living.
- 17 Q. Okay. So if somebody were to say to you, if
- 18 I were to say to you I'm staying at such and such a
- 19 place you would mean that to believe I'm living there?
- 20 A. I mean you could be staying at the Holiday Inn
- 21 like.
- 22 Q. Okay. Your testimony is despite the fact
- 23 that it says here that at times he and his brother were
- 24 staying at their mother's apartment, that he was not in
- 25 fact staying there. That's your testimony?

A. Wright - Cross

172

- 1 A. No, he was not living there. My brother wasn't  
2 living there.
- 3 Q. All right. And that was 470--
- 4 A. He couldn't be on the lease, he's, he got charges  
5 so he can't even be on the lease. Can't even put his  
6 name on the lease. He wasn't technically even allowed  
7 in the house but that's her son, so it ain't like she  
8 going kick him out.
- 9 Q. Okay. But he wasn't staying there. Okay.  
10 And it's your testimony that you had a  
11 conversation with Liliana Garcia Santos, correct?
- 12 A. Yes.
- 13 Q. Somewhat recently, correct?
- 14 A. Yes.
- 15 Q. In fact, wouldn't it be accurate that you had  
16 a conversation with her back in 2006 about this case?
- 17 A. Yes.
- 18 Q. Okay. And you asked her what, you know, what  
19 was going on, what were these charges about, yes?
- 20 A. Yes, uh-huh, yes.
- 21 Q. Okay. And most recently about a month ago  
22 give or take --
- 23 A. A month?
- 24 Q. Longer?
- 25 A. Yeah.

A. Wright - Cross

173

- 1 Q. How long ago?
- 2 A. Two, three.
- 3 Q. Okay, two, three months ago, you had another  
4 conversation with Liliana about this case?
- 5 A. Yeah.
- 6 Q. Okay. In fact, it would be fair to say that  
7 you spoke to Anthony, Scoop, about speaking with  
8 Liliana, is that correct?
- 9 A. Uh-huh, he asked me.
- 10 Q. And would it be fair to say that during the  
11 course of that conversation you had indicated that your  
12 mother was sick?
- 13 A. Sick?
- 14 Q. Sick.
- 15 A. My mother's not sick.
- 16 Q. You didn't say that?
- 17 A. No, I didn't say that, I said my mother's going  
18 through something, I mean my mother's going through a  
19 lot right now, her son, come on, like.
- 20 Q. Okay. And it's your testimony here that you  
21 never told Liliana that you knew your brother was  
22 guilty but that you didn't want to see your family go  
23 through that?
- 24 A. Are you kidding me man?
- 25 Q. Yes or no?

A. Wright - Cross

174

1 A. No, why would I ever say that (laughing).  
2 MR. TROIANO: One second, Judge.  
3 Nothing further.  
4 REDIRECT EXAMINATION BY MR. HIRSCHORN:  
5 Q. Antwan, are you sure that the individual that  
6 we've been talking about today is the girl that's the  
7 alleged victim of this case?  
8 A. Liliana?  
9 Q. Liliana?  
10 A. Yeah, I'm sure.  
11 Q. Whether her name is Garcia or Santos, are you  
12 sure it's that girl?  
13 A. Absolutely positive.  
14 Q. A hundred percent?  
15 A. Couldn't be more positive.  
16 Q. Are you sure this is the same girl you went  
17 to grade school with?  
18 A. Absolutely positive.  
19 Q. Are you sure this is the same girl that you  
20 saw come into the apartment with your brother on at  
21 least two, maybe three occasions and have sex?  
22 A. Absolutely positive.  
23 MR. HIRSCHORN: Nothing further, Judge, thank  
24 you.  
25 RECROSS EXAMINATION BY MR. TROIANO:

A. Wright - Recross

175



1 Q. Are you as sure about that as you are about  
2 her last name?  
3 A. No, because last name is all up in the air.  
4 Q. Last name, you've known her for a long time  
5 but you don't know that?  
6 A. It was second, third grade man.  
7 Q. No further questions.  
8 A. I ain't keeping up with nobody.  
9 REDIRECT EXAMINATION BY MR. HIRSCHORN:  
10 Q. You hang out with a lot of people on the  
11 street, right?  
12 A. Uh-huh.  
13 Q. You know all their last names?  
14 A. Phew.  
15 Q. How do you know a lot of people? What do you  
16 call them?  
17 A. Nicknames, first names.  
18 Q. Nicknames, first names?  
19 A. Whatever we call them on the street.  
20 Q. Still friends with those people?  
21 A. I just found out Scoop name was Waring (laughing).  
22 Q. If I brought him in Court, would you be able  
23 to say who he was though?  
24 A. Scoop?  
25 Q. Yeah.



1 A. Yeah.  
2 MR. HIRSCHORN: Nothing further, Judge,  
3 thanks.  
4 THE COURT: You're excused, sir, thank you  
5 very much.  
6 THE WITNESS: No problem.  
7 (On the record discussion at sidebar)  
8 MR. HIRSCHORN: I just need a couple of  
9 minutes to check with this other kid, see if he's -- he  
10 should be here shortly.  
11 You want to send them downstairs for a drink  
12 or something?  
13 THE COURT: Is anything open?  
14 MR. HIRSCHORN: Isn't the cafeteria open?  
15 THE COURT: No, they close at three o'clock.  
16 MR. TROIANO: Two o'clock, three o'clock.  
17 THE COURT: All right, I --  
18 MR. HIRSCHORN: Just give me five minutes to  
19 make sure the kid's coming. If not, I'll have him here  
20 first thing tomorrow morning. I can do it that way.  
21 THE COURT: Okay.  
22 MR. HIRSCHORN: All right?  
23 (Sidebar discussion ended)  
24 THE COURT: Take about a five minute break,  
25 folks. Do not discuss the case at all. Please step

1 in the jury room, okay. Thanks. We'll bring you out  
2 as soon as we're ready to go.  
3 (Off the record/on the record)  
4 THE COURT: We're going to adjourn for the  
5 evening, okay. Please do not discuss the case amongst  
6 yourselves, family or friends. Media as usual, I give  
7 you the same instructions. Don't do that. We're going  
8 to start tomorrow at 9:30 though, a few minutes later.  
9 9:30. I told you last week we're Tuesday and Wednesday  
10 last week and Tuesday, Wednesday of this week. We're  
11 right on schedule, everything is going according to  
12 plan in terms of budgeting of time, so that's working  
13 out well, all right. So thank you for your attention  
14 today, we'll see you tomorrow morning at 9:30. Once  
15 you're here we'll start promptly, okay.  
16 Thank you very much for your attention today.  
17 (Off the record/on the record)  
18 THE COURT: Tomorrow goes, make sure he's  
19 here, all right?  
20 MR. HIRSCHORN: Judge, he's under subpoena.  
21 If it comes to it, I'm going to have to do what I got  
22 to do as far as through you. But he was served with a  
23 subpoena to be here and hasn't come yet.  
24 THE COURT: Does he have any open warrant or  
25 anything like that? No reason for him not to come is

1 my question.  
 2 MR. HIRSCHORN: No, he was just C.O. at  
 3 Delaney Hall. Today he got stuck working a double  
 4 shift.  
 5 THE COURT: Oh, he works in Delaney Hall?  
 6 MR. HIRSCHORN: Yeah.  
 7 THE COURT: Oh, he'll be here then. All  
 8 right.  
 9 MR. HIRSCHORN: Yeah, so hopefully when he  
 10 gets off today I'll be able to -- my client's probably  
 11 going to be able to get ahold of him and --  
 12 THE COURT: Okay, make sure we have him here  
 13 by 9:15 tomorrow, okay.  
 14 All right, good, then thank you everybody,  
 15 see you tomorrow.  
 16 MR. TROIANO: Good night, Judge.  
 17 \* \* \*  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 CERTIFICATE  
 2 We, Dorothy A. Miragliotta and Donna Weber,  
 3 the assigned transcribers, do hereby certify that the  
 4 foregoing transcript of proceedings in the Hudson  
 5 County Superior Court on March 23, 2010, Tape No.  
 6 106-10, Index No. 0001 to 3180-7332, Tape No. 107-10,  
 7 Index No. 0001 to 6427, is prepared in full compliance  
 8 with the current Transcript Format for Judicial  
 9 Proceedings and is a true and accurate compressed  
 10 transcript of the proceedings as recorded, to the best  
 11 of our knowledge and ability.  
 12  
 13   
 14 DONNA WEBER *ejb* A.O.C. 390  
 15  
 16   
 17 DOROTHY A. MIRAGLIOTTA A.O.C. 295  
 18 A.R.T. AGENCY, INC. *ejb*  
 19  
 20  
 21 Date:  
 22  
 23  
 24  
 25



1 SUPERIOR COURT OF NEW JERSEY  
 2 HUDSON COUNTY  
 3 LAW DIVISION - CRIMINAL PART  
 4 DOCKET NO. 08-06-1073  
 5 A.D.# A-cc28-38-10-72

6 - - - - - :  
 7 THE STATE OF NEW JERSEY, :  
 8 :  
 9 TRANSCRIPT OF PROCEEDINGS

10 vs. :  
 11 STEPHEN WRIGHT, :  
 12 :  
 13 Defendant. :  
 14 - - - - - :

**FILED  
APPELLATE DIVISION**

TRIAL

**MAY 10 2011**

15 Place: Hudson County Courthouse  
 16 595 Newark Avenue  
 17 Jersey City, NJ 07306

Date: March 24, 2010

**B E F O R E:**

HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

**TRANSCRIPT ORDERED BY:**

HELEN C. GODBY, ESQ.  
 (Office of the Public Defender)

**A P P E A R A N C E S:**

MATTHEW J. TROIANO, ESQ.  
 (Assistant Prosecutor for the County of Hudson)  
 Attorney for the State.

**RECEIVED  
APPELLATE DIVISION**

KEITH HIRSCHORN, ESQ.  
 (Keith Hirschorn)  
 Attorney for the Defendant.

**MAY 10 2011**

**SUPERIOR COURT  
OF NEW JERSEY**

Transcribers Donna Weber  
 Dorothy A. Miragliotta  
 A.R.T. Agency, Inc.  
 4 Orchard Drive  
 Towaco, New Jersey 07082

Recording Operator, N/A  
 Compressed Transcript

		I N D E X		
WITNESSES		DIRECT	CROSS	
1				
2	WITNESSES			
3	For the Defense:			
4	Davon Parson	3	12	
5				
6	FOR THE STATE			
7	(REBUTTAL)			
8	MATTHEW STAMBULI	16	17	
9	LILIANA SANTOS	21	28	
10	SUMMATION BY: Mr. Hirschorn			Page 36
11	Mr. Troiano			54
12				
13	EXHIBITS			EVID.
14	S-1-4 Photographs			35
15	S-7-15 Photographs			35
16	S-17-18 Photographs			35
17	S-19 Blow-up			35
18	S-20A,B,C Shirt and packaging			35
19	S-22-24 Photos of fingerprints			35
20	S-25 Photograph			35
21	C-2 Jury question			131
22				
23	MOTION BY DEFENSE FOR A MISTRIAL			Page 81
24				
25	JURY CHARGE			83

Colloquy 3

1 THE COURT: Sorry for the late start. Every  
2 one was here on time, all our witnesses were here on  
3 time and obviously the attorneys and parties. But they  
4 pulled me downstairs to do something else to cover  
5 another Judge for about an hour. I'm sorry they made  
6 me do that, but we've got to do that sometimes.  
7 So thank you for our patience. Ready to  
8 begin? Let's go.  
9 MR. HIRSCHORN: Yes, Judge. The defense  
10 calls Davon Parsons, Judge. I believe he's present  
11 outside.  
12 D A V O N P A R S O N , DEFENSE WITNESS, SWORN  
13 COURT OFFICER: Please state your name for  
14 the record.  
15 THE WITNESS: Davon Parson.  
16 COURT OFFICER: Thank you.  
17 THE COURT: Have a seat, sir.  
18 Mr. Hirschorn.  
19 MR. HIRSCHORN: Thank you, Judge.  
20 DIRECT EXAMINATION BY MR. HIRSCHORN:  
21 Q. Davon, just do me a favor, I think this  
22 microphone amplifies a little bit but just keep your  
23 voice up so everybody can hear you, almost as if you're  
24 talking to somebody in the back of the room, okay?  
25 A. Okay, no problem.

Parsons - Direct

4

- 1 Q. Davon, do you know this guy sitting over  
2 here?  
3 A. Yes.  
4 Q. What's his name?  
5 A. Stephen Wright.  
6 Q. How long have you known Stephen?  
7 A. Since grammar school.  
8 Q. And what, about how old would you say?  
9 A. Maybe about ten.  
10 Q. Okay. Are you the same age as Stephen, are  
11 you older, younger?  
12 A. Yes. The same age. He's older than me by maybe  
13 about two months I think I believe, yes.  
14 Q. So were you guys in the same grade growing  
15 up?  
16 A. Yes.  
17 Q. Do you know somebody by the name of Liliana  
18 Santos?  
19 A. Yes.  
20 Q. How do you know her?  
21 A. She chills -- excuse me, she hangs out in the same  
22 area where I hang out at.  
23 Q. Okay. Did you know her before hanging out?  
24 A. Yes.  
25 Q. Okay. When did you know her from?

Parsons - Direct

5

- 1 A. We grew up together.  
2 Q. Okay. Is she the same age as you? Is she  
3 older, younger?  
4 A. No, she's younger than us.  
5 Q. She's younger?  
6 A. Yes.  
7 Q. Did she go to the same school?  
8 A. Yes.  
9 Q. Do you know any other members of her family?  
10 A. Yes.  
11 Q. Who do you know?  
12 A. I know her two brothers.  
13 Q. What are their names?  
14 A. Marceleno (phonetic) and Macho.  
15 Q. And how do you know those guys?  
16 A. We went to school together too.  
17 Q. Did they hang out on the block?  
18 A. Yes.  
19 Q. Did Liliana hang out on the block?  
20 A. Yes.  
21 Q. What is your -- we're calling it the block  
22 like everybody knows what we're talking about. Where  
23 did you all hang out?  
24 A. Communipaw and VanHorn Avenue.  
25 Q. Is that the area you grew up in?

1 A. Yes.  
2 Q. And you used to hang out there about how  
3 frequently?  
4 A. Well, every day.  
5 Q. Every day?  
6 A. Yes.  
7 Q. Did Stephen used to hang out there a lot?  
8 A. Yes.  
9 Q. Did -- do you know his brother, Antwan?  
10 A. Yes.  
11 Q. Did he hang out there as well?  
12 A. Yes.  
13 Q. Do you know somebody by the name of Anthony  
14 Waring or Scoop or Swoop?  
15 A. Yes.  
16 Q. Did he hang out there as well?  
17 A. Yes.  
18 Q. He grew up in the neighborhood as well,  
19 correct?  
20 A. Yes.  
21 Q. Okay. At some point in time you started to  
22 say later in life Liliana hung out in that area?  
23 A. Yes.  
24 Q. You knew her?  
25 A. Yes.

1 Q. If she came here today you'd recognize her?  
2 A. Yes.  
3 Q. Would she recognize you?  
4 A. Yes.  
5 Q. She'd know your name?  
6 A. Yes.  
7 Q. And you know hers?  
8 A. Yes.  
9 Q. At some point in time did a relationship  
10 develop between her and Stephen Wright?  
11 A. Yes.  
12 Q. How do you know?  
13 A. Well Stephen told me.  
14 MR. TROIANO: Objection, Judge.  
15 THE COURT: Sustained.  
16 BY MR. HIRSCHORN:  
17 Q. At any point in time did you see any  
18 interaction between Stephen and Liliana?  
19 A. Yes.  
20 Q. What was that?  
21 A. You know, flirting and hugging and things of that  
22 nature.  
23 Q. Okay. So you saw Liliana and Stephen make  
24 physical contact?  
25 A. Yes.

1 Q. You saw them hug?  
2 A. Yes.  
3 Q. Are you certain it was Liliana Santos?  
4 A. Yes, I'm sure.  
5 Q. You're certain it was Stephen Wright?  
6 A. Yes.  
7 Q. Okay. In your opinion, did these two people  
8 know each other?  
9 A. Yes.  
10 Q. Do you recall about when you used to see  
11 Stephen and Liliana flirting, by month, by year?  
12 A. Meaning?  
13 Q. Meaning when was this -- you told us that you  
14 saw Stephen and Liliana flirting on the block.  
15 A. Yes.  
16 Q. When she started to hang out there. About  
17 when was that?  
18 A. Meaning year, month or --  
19 Q. Whatever you can tell me as descriptive as  
20 you can tell me?  
21 A. I would say roughly maybe '06, 2006, something  
22 like that.  
23 Q. Okay. And at some point in time you became  
24 aware that Liliana was accusing Stephen of a crime,  
25 correct?

1 A. Yes.  
2 Q. Do you know where Stephen was when that  
3 started to circulate the block?  
4 A. No.  
5 Q. Was he still hanging out on the block?  
6 A. Yes, he still was out there.  
7 Q. Okay. Did anybody ever approach you and ask  
8 you about this situation back in 2006?  
9 A. Yes.  
10 MR. TROIANO: Objection, Judge.  
11 THE COURT: What he asked was okay.  
12 BY MR. HIRSCHORN:  
13 Q. They did?  
14 A. Yes.  
15 Q. And what was it -- strike that.  
16 THE COURT: Next question I'll sustain.  
17 MR. HIRSCHORN: Yeah, that's why I stopped,  
18 Judge. Strike that.  
19 BY MR. HIRSCHORN:  
20 Q. At some point it time did it come to your  
21 knowledge that Stephen got arrested?  
22 A. Yes.  
23 Q. And he was in jail, correct?  
24 A. Yes.  
25 Q. And he's been in jail ever since?

1 A. Yes.  
2 Q. And did it -- at that point in time did you  
3 find out any details about what the accusation was?  
4 A. No, just word of mouth like.  
5 Q. Okay. It was word of mouth that there was an  
6 accusation?  
7 A. Yes.  
8 Q. And that was circulating around the block?  
9 A. Yes.  
10 Q. And where was Stephen at this time?  
11 A. He was arrested then. He was in jail.  
12 Q. He was in jail. So at that time he was no  
13 longer hanging out on the block?  
14 A. No.  
15 Q. Are you presently employed?  
16 A. Yes.  
17 Q. Where do you work?  
18 MR. TROIANO: Objection, Judge.  
19 THE COURT: He can answer the question.  
20 BY MR. HIRSCHORN:  
21 Q. Where do you work?  
22 A. Delaney Hall.  
23 Q. And what do you do over there?  
24 A. I'm a operations counselor.  
25 Q. And Delaney Hall is over by the Hudson County

1 Jail?  
2 A. Essex County Jail.  
3 Q. Essex County Jail, excuse me. I'm thinking  
4 of Talbot (phonetic) Hall, I apologize.  
5 Are -- as you sit here today, have you had  
6 any conversations with Liliana Santos subsequent to  
7 November of 2006?  
8 A. No, I didn't.  
9 Q. Have you spoken with her brother, Marceleno,  
10 or Macho?  
11 A. Brief, hi, bye, what's up, what's going on. But  
12 not about this situation, no.  
13 Q. That was my next question. At no point in  
14 time did one of her two brothers ask you about this  
15 situation?  
16 A. No.  
17 Q. At no point in time did they bring up this  
18 accusation to you?  
19 A. No.  
20 Q. As you sit here today, are you certain that  
21 Liliana Santos knew Stephen Wright back in 2006?  
22 A. Yes, I'm positive.  
23 Q. Are you certain that you saw them hugging?  
24 A. Yes.  
25 Q. Are you certain that you saw them flirting?



1 A. Yes.  
2 MR. HIRSCHORN: No further questions, Judge.  
3 Thank you.  
4 CROSS EXAMINATION BY MR. TROIANO:  
5 Q. Mr. Parsons, my name is Matt Troiano, I'm an  
6 assistant Prosecutor here.  
7 A. Okay.  
8 Q. You realize and you know today that Mr.  
9 Wright has been charged with the sexual assault of  
10 Liliana Santos, is that correct?  
11 A. Yes, I understand.  
12 Q. And -- and obviously you were not there that  
13 night, you would admit that?  
14 A. Yes.  
15 Q. So you don't know if he did or did not  
16 sexually assault her?  
17 A. No, I don't.  
18 Q. It'd be fair to say that the purpose of your  
19 testimony here today is to -- to talk about this  
20 relationship between them, is that correct?  
21 A. Yes.  
22 Q. Okay. How long have you known Mr. Wright?  
23 A. Like I said, about grammar school, ten years old.  
24 Q. And how old are you now?  
25 A. Twenty-five.

1 Q. Okay. So awhile you've known him?  
2 A. Yes.  
3 Q. Would you consider him a good friend?  
4 A. Yes.  
5 Q. You obviously realize that these are serious  
6 charges?  
7 A. Yes, I understand.  
8 Q. And if he were to be found guilty, he could  
9 go to prison for a long time?  
10 A. Yes, I know.  
11 Q. And it'd be fair to say that you don't want  
12 to see that happen to your friend, correct?  
13 A. No.  
14 Q. I have a report here from a Mr. or Mrs.,  
15 excuse me, Rosetta from December 15th, 2009. Do you  
16 remember speaking with somebody by the name of that,  
17 Rosetta?  
18 A. Rosetta? Not that I recall, no.  
19 Q. Somebody with Mr. Hirschorn's office?  
20 A. Rosetta? An investigator? I'm not --  
21 Q. An investigator.  
22 A. Yes.  
23 Q. Okay. With regard to this case?  
24 A. Yes.  
25 Q. All right. And -- and correct me if I'm

1 wrong, but this was December 2009, three or four months  
2 ago?  
3 A. Yes.  
4 Q. Okay. It's your testimony, it was your  
5 testimony on direct examination that shortly after this  
6 incident happened, word started to circulate around  
7 the, around the block of these allegations, correct?  
8 A. Yes.  
9 Q. Okay. That Liliana was accusing Mr. Wright  
10 of sexually assaulting her?  
11 A. Yes.  
12 Q. And you knew then, it's your testimony that  
13 you knew then that they were having this relationship,  
14 that they knew each other, correct?  
15 A. Yes.  
16 Q. All right. And you would agree with me that  
17 you never went about telling an investigator or police  
18 officer or Prosecutor, nobody?  
19 A. No.  
20 Q. Okay. Mr. Hirschorn asked you when it was  
21 that -- he tried to, tried to get a little timeframe  
22 out of you, when it was that Mr. Wright was in jail.  
23 Do you know when he was in jail?  
24 A. Yes.  
25 Q. When was that? When did he go into jail?

1 A. If I'm not mistaken, well I know, early 2007 if  
2 I'm not mistaken.  
3 Q. January?  
4 A. Yes, yes.  
5 Q. Okay. And if you know, this event, sexual  
6 assault, happened in November of 2006.  
7 A. Uh-huh.  
8 Q. Would you agree with me?  
9 A. If it happened, yes.  
10 Q. Okay. Just the date, November 2006?  
11 A. Yes.  
12 Q. It's your testimony that nothing happened, no  
13 word of mouth, nothing on the street for those two  
14 months between November and January?  
15 A. Yes.  
16 Q. You never heard anything?  
17 A. Nothing.  
18 Q. Okay. It wasn't until after he was arrested,  
19 in jail, that people started talking about it?  
20 A. Yes.  
21 Q. Okay. And you, it would be fair to say that  
22 you did not call this investigator Rosetta, they called  
23 you, correct?  
24 A. Yes. Yes.  
25 MR. TROIANO: Nothing further, Judge.

1 MR. HIRSCHORN: No questions, Judge.  
 2 THE COURT: You're excused, sir, thanks very  
 3 much.  
 4 THE WITNESS: Okay, thank you.  
 5 MR. HIRSCHORN: Judge, at this point after  
 6 the testimony of our witnesses, the defense rests.  
 7 THE COURT: Okay. You have something?  
 8 MR. TROIANO: Yes.  
 9 THE COURT: Let's go.  
 10 MR. TROIANO: Judge, at this time the State  
 11 would re-call Detective Matthew Stambuli.  
 12 THE COURT: Detective, you were previously  
 13 sworn, correct?  
 14 THE WITNESS: That's correct.  
 15 THE COURT: Okay. Please.  
 16 M A T T H E W S T A M B U L I, STATE'S WITNESS,  
 17 PREVIOUSLY SWORN  
 18 MR. TROIANO: Thank you, Judge.  
 19 DIRECT EXAMINATION BY MR. TROIANO:  
 20 Q Detective, please be seated. Again, I'll  
 21 remind you to keep your voice up. And, again, you've  
 22 been previously sworn.  
 23 A Yes.  
 24 Q Detective, just a couple of questions. When  
 25 you had arrived, and I'll get to the point, when you

1 had arrived to this crime scene on November 19th, 2006  
 2 at 235 Arlington Avenue, did you have occasion to find  
 3 a garbage pail or a garbage basket inside Liliana  
 4 Santos's house?  
 5 A No. When we conducted our systematic check of the  
 6 residence we did not find any identifiable garbage can,  
 7 garbage pail inside the residence.  
 8 Q If you recall was there anything in the  
 9 residence that, you know, your recollection, that  
 10 garbage would have been put into?  
 11 A There may have been a bag or something to that  
 12 extent, but it was checked and there was nothing found  
 13 that appeared to have been related to this incident  
 14 whatsoever.  
 15 Q Okay. And during the course of your  
 16 investigation you canvassed the entire apartment,  
 17 correct?  
 18 A That's correct, yes.  
 19 Q Did you at ever time -- at any time, excuse  
 20 me, discover a used condom inside 235 Arlington Avenue?  
 21 A No. And if we would have it would have been  
 22 collected, photographed and everything else.  
 23 MR. TROIANO: No further questions.  
 24 CROSS EXAMINATION BY MR. HIRSCHORN:  
 25 Q Good morning, Detective.

1 A Good morning.  
2 Q Detective, you don't know what or if Liliana  
3 Santos did with any garbage can in that apartment  
4 before you arrived, correct?  
5 A Again, before I arrived?  
6 Q Before you arrived.  
7 A I wouldn't have any --  
8 Q Exactly.  
9 A -- knowledge of that.  
10 Q So you would have no idea whether or not she  
11 disposed of a garbage can or of garbage or whatever it  
12 may be before your arrival and your photographing of  
13 the scene?  
14 A That's correct. But I did check. There is a  
15 garbage on the exterior of the residence that's in the  
16 photos. We did check that as well, and there was  
17 nothing like a discarded garbage pail or garbage can  
18 within that exterior garbage pail.  
19 Q The one right outside the apartment?  
20 A That's correct.  
21 Q But it's fair to say you didn't canvass the  
22 area to look for a disposed garbage can because there  
23 was no information as to that?  
24 A Correct.  
25 MR. HIRSCHORN: Nothing further, Judge, thank

1 you.  
2 MR. TROIANO: Nothing, Judge.  
3 THE COURT: You're excused, sir, thank you  
4 very much.  
5 MR. TROIANO: Sidebar please, Judge.  
6 (THE FOLLOWING TAKES PLACE AT SIDEBAR)  
7 MR. TROIANO: I think she's here. I just got  
8 to go down to get her. Can we have five minutes.  
9 THE COURT: All right. And, then, after her  
10 we'll take five minutes than summations, right?  
11 MR. TROIANO: That's fine.  
12 THE COURT: This is your last witness?  
13 MR. HIRSCHORN: How long is she going to be?  
14 THE COURT: For me maybe ten minutes.  
15 (CANNOT HEAR ALL OF SIDEBAR)  
16 THE COURT: Then I'll tell them what's going  
17 on.  
18 MR. TROIANO: Yes.  
19 MR. HIRSCHORN: Okay.  
20 (THE FOLLOWING TAKES PLACE IN OPEN COURT)  
21 THE COURT: Okay, folks, this is the plan,  
22 okay, the State has one more witness, okay, who will be  
23 here in two minutes. Okay? Right after that witness  
24 I'm going to give both lawyers about five minutes or  
25 ten minutes to collect their thoughts and, then, we're

Santos - Direct

20

1 going to have two summations. All right? After the  
 2 summations I'm going to give you some time for lunch.  
 3 Once you come back for lunch I'll give you my  
 4 instructions and, then, you deliberate. So you should  
 5 get the case some time this afternoon. But that's our  
 6 plan for the rest of the day, okay? Right now while  
 7 the Prosecutor goes downstairs and gets the witness who  
 8 is being kept on the fourth floor -- third floor --  
 9 they're going to bring her up. Once we get her here,  
 10 bring right out, we're going to listen to her, five  
 11 minute break. They'll prepare their notes. They'll do  
 12 their summations then you go to lunch. Okay? Just  
 13 step in the jury room for a couple of minutes right  
 14 now, we'll bring you right back out in a couple of  
 15 minutes.

(TAPE OFF - TAPE ON)

17 MR. TROIANO: Judge, thank you. At this time  
 18 the State recalls Liliana Santos.

19 THE COURT: Good morning, Ms. Santos, you  
 20 previously have been sworn, okay?

21 THE WITNESS: Yeah.

22 THE COURT: Have a seat.

23 THE WITNESS: Okay.

24 L I L I A N A S A N T O S, STATE'S WITNESS,

25 PREVIOUSLY SWORN

Santos - Direct

21

1 DIRECT EXAMINATION BY MR. TROIANO:

2 Q Good morning.

3 A Good morning.

4 Q Again, just speak up into the microphone so  
 5 everybody can hear you. And as the Judge said you've  
 6 previously been sworn, okay?

7 A Okay.

8 Q A few questions for you, Liliana. S. Dot's  
 9 -- or rather do you know an individual by the name of  
 10 Ant or Antoine Wright?

11 A Yes.

12 Q Okay. And how do you know him?

13 A He came up to me a couple of months ago.

14 Q Well, before we get there did you ever see  
 15 him before?

16 A Yeah, he's from that area.

17 Q Okay. You see him often, you recognize him?

18 A Yes.

19 Q Okay. Do you know his name?

20 A I know him by Ant. They call him Ant.

21 Q But you know him to be S. Dot's brother,  
 22 would that be fair to say?

23 A Yes.

24 Q Now, you indicated that he came up to you and  
 25 explain what happened there?

Santos - Direct

22

1 A He came up to me and he told me --  
2 MR. HIRSCHORN: Objection.  
3 MR. TROIANO: Judge, this will all come out.  
4 THE COURT: It's -- no, it's overruled. Go  
5 ahead.  
6 BY MR. TROIANO:  
7 Q And just speak up.  
8 A (Continued) He came -- he came up to me, he told  
9 me that he apologized for what his brother did. That  
10 he know that it was real fuck -- messed up. That he's  
11 embarrassed that that's his brother. That -- but at  
12 the end of the day that's his brother and if there's  
13 anything I can do to stop, I guess no show up in court  
14 or whatever, that I will own him. That if I need him  
15 for anything all I would have to do is call him. He  
16 says that he feels responsible for me because what his  
17 brother did was messed up. And -- but at the end of  
18 the day his mother is -- she's really stressed out  
19 about the situation and that if there's anything I can  
20 do. Basically not show up in court or whatever I can  
21 do.  
22 Q Okay. And do you recall how this  
23 conversation -- how you got to the point that you spoke  
24 with him?  
25 A Well, he had told Anthony to tell me that he

Santos - Direct

23

1 wanted to speak to me. So I saw him one time and he  
2 pulled me to the side, and he didn't -- he didn't come  
3 up to me cursing at me or screaming or anything. He  
4 came up to me apologizing for what his brother did.  
5 Q Okay. So you weren't threatened in any way?  
6 A No.  
7 Q Okay. And had you ever had any issues with  
8 Ant or Antoine in the past?  
9 A No, he came up to me like a month later after this  
10 happened, and he -- he approached me and he asked me if  
11 it was true what everybody was saying? And I told him,  
12 yes, it was true. And he told me that he apologizes  
13 for what his brother did. The same thing.  
14 Q And when you say a month after, it was a  
15 month after this happened back in 2006?  
16 A Correct.  
17 Q Liliana, the last time that you were here I  
18 had asked you as to whether or not you knew or had any  
19 knowledge as to whether or not these accusations got  
20 out on the street, whether or not it was talked about  
21 in the neighborhood?  
22 A Yes.  
23 Q Okay. And what's the answer to that  
24 question?  
25 A Yes, it was talked about.

Santos - Direct 24

1 Q And could you provide a time frame as to how  
2 long it took for people to start talking about it?  
3 A A week later I came outside and everyone was  
4 coming up to me asking -- telling me --  
5 MR. HIRSCHORN: Objection, Judge.  
6 A (Continued) -- asking me if I was okay --  
7 MR. TROIANO: Not for the truth, Judge.  
8 THE COURT: All right. Overruled. Continue.  
9 A (Continued) -- everyone was asking me if I was  
10 okay? If they wanted me to do anything to him. And  
11 stuff like that.  
12 BY MR. TROIANO:  
13 Q Okay. So within a week or about a week after  
14 this happened --  
15 A Correct.  
16 Q -- in November 2006?  
17 A Yes.  
18 Q We went over the layout of your apartment a  
19 lot. I'd like to ask you about in November -- November  
20 19th, 2006 how it was that you threw away garbage in  
21 your apartment?  
22 A I had a little pail. But when I would take the  
23 pail outside I would have a little plastic bag hanging,  
24 like on the doorknob or something.  
25 Q Okay.

Santos - Direct 25

1 A And, then, I would just take it out.  
2 Q So you had one pail?  
3 A Yes.  
4 Q Okay. And I'd like to show you what has been  
5 marked as --  
6 MR. TROIANO: Pardon me, Judge.  
7 MR. HIRSCHORN: What number?  
8 MR. TROIANO: S-2 for identification.  
9 BY MR. TROIANO:  
10 Q Do you remember looking at this picture?  
11 A Yes.  
12 Q Okay. And all these circles and writings are  
13 yours, is that correct?  
14 A Yes.  
15 Q All right. There's a garbage pail there, is  
16 that correct?  
17 A Yes.  
18 Q Is this the pail that you're referring to?  
19 A Yes.  
20 Q Okay. At some point was this inside of your  
21 house?  
22 A Yes.  
23 Q But how did it get out there?  
24 A I put it out there.  
25 Q Okay. And when -- when did you do that?

Santos - Direct

26

- 1 A I'm not exactly sure when, but it couldn't have  
2 been took long after. I think the day before this  
3 happened I must have took it outside.
- 4 Q Okay. After you were assaulted that night  
5 did you go about taking this pail outside and placing  
6 it on the curb --
- 7 A No.
- 8 Q -- or patio, whatever you call that?
- 9 A No.
- 10 Q Okay. So no pail inside besides that?
- 11 A No.
- 12 Q And you would use garbage bags to throw away  
13 your garbage?
- 14 A Yes.
- 15 Q To your knowledge on the morning of November  
16 19th, 2006 was there a used condom in one of those  
17 garbage bags?
- 18 A No.
- 19 Q Did you yourself ever find a used condom?
- 20 A No.
- 21 Q Did you ever throw away a used condom?
- 22 A No.
- 23 Q Okay. Did you ever flush one down the  
24 toilet?
- 25 A No.

Santos - Direct

27

- 1 Q Had you ever been to S. Dot -- S. Dot's  
2 mother's house at 470 Bramhall Avenue?
- 3 A No.
- 4 Q Never once?
- 5 A Never.
- 6 Q Do you know where he lives?
- 7 A Now, I do.
- 8 Q In November of 2006 did you know where he  
9 lived?
- 10 A No.
- 11 Q Were you having a relationship with him on  
12 the slide before this happened in November 19th, 2006?
- 13 A No.
- 14 Q Did you sleep with him five times?
- 15 A No.
- 16 Q Did you guys ever have sex?
- 17 A No.
- 18 Q Did you guys ever kiss, hug, make out,  
19 anything like that --
- 20 A Nothing --
- 21 Q -- on the street?
- 22 A -- no, no.
- 23 Q If somebody were to come in here and say that  
24 you did have a relationship with him would that be  
25 accurate?



1 A No.  
2 MR. TROIANO: No further questions.  
3 CROSS EXAMINATION BY MR. HIRSCHORN:  
4 Q You told me the last time you were here you  
5 know Davon Parsons, right?  
6 A I know --  
7 Q Davon Parsons, excuse me?  
8 A I know his name now after Matt told me his name.  
9 But before I only knew him by face.  
10 Q Okay. You would agree with me that he hung  
11 out in the same area as you?  
12 A Correct.  
13 Q So if he came in here and said that you were  
14 on the street and he saw you hugging Steven Wright  
15 before November he's lying?  
16 A Correct.  
17 Q Okay. And Antoine Wright or Ant came in  
18 here, despite coming in -- coming to you and saying  
19 drop the charges, this, that and the other, if he came  
20 in here and said you had a relationship with his  
21 brother, he'd be lying?  
22 A He would be lying.  
23 Q If he said you went to 470 Bramhall and had  
24 sex in Steven Wright's mother's bed he would be lying?  
25 A Yes, he would be lying.

1 Q If he came in here and said he knows you from  
2 P.S. 22 he'd be lying about that too?  
3 A No, I don't think he would be lying about that. I  
4 went to P.S. 22 School.  
5 Q And you're the same age as him, right,  
6 Antoine Wright or Ant?  
7 A I'm not sure we're the same age.  
8 Q Okay. What are your brothers' names?  
9 A My brother?  
10 Q Your brother?  
11 A My brother's name is Marsolino Ramos and Eddie  
12 Berdal (phonetic) Ramos.  
13 Q Okay. Does one of them go by Macho?  
14 A Correct.  
15 Q Okay. Do you know that your brother knows  
16 both Steven Wright and Antoine Wright?  
17 A He prob --  
18 Q Brothers.  
19 A -- he probably does.  
20 Q Do you know when you talked about that after  
21 Antoine approached you back in November of 2006 did you  
22 tell your brothers about this?  
23 A No, I didn't.  
24 Q Never told your brothers?  
25 A No.

Santos - Cross

30

1 Q Just told other people on the street?  
2 A No, I never told anyone on the street.  
3 Q All right. Did your brothers find out?  
4 A They found -- he -- my oldest brother found out a  
5 year later after he was already arrested.  
6 Q So back in November of 2006 everyone else on  
7 the block knew what was going on, but not your  
8 brothers?  
9 A Marsolino Ramos -- Marsolino Ramos was  
10 incarcerated at the time, I think.  
11 Q What about Macho?  
12 A He's -- he does drugs. He be out on the street.  
13 I don't even speak to him.  
14 Q He's your brother though, right?  
15 A Yeah, he's my brother.  
16 Q And you would agree that your brother if you  
17 told him or somebody else told him --  
18 A I never told --  
19 Q -- you were raped --  
20 A -- him anything.  
21 Q I didn't say you did. I said you would agree  
22 with me that if you did tell him or if someone else  
23 told him that S. Dot, a guy he knows on the block,  
24 raped you, he'd be upset about that, right?  
25 A I don't know what he would be because he's

Santos - Cross

31

1 bipolar. So I don't know what he would be feeling.  
2 Q So you don't think that your brother would be  
3 mad?  
4 A Of course.  
5 Q Okay. Do you think that he would do  
6 something about it?  
7 A I don't know.  
8 Q Okay. That's fair. Now, this pail that  
9 we're talking about, did you ever search that pail on  
10 November 19th?  
11 A Did I search it?  
12 Q Yeah, did you look through it?  
13 A No.  
14 Q Did you empty it?  
15 A No.  
16 Q I'll show you what's been marked S-2 for  
17 identification -- sorry about that -- is that the pail  
18 you're referring to, the one to the right as you're  
19 looking at the picture?  
20 A Yes.  
21 Q Does it look like there's things in that  
22 garbage pail?  
23 A Yes.  
24 Q It doesn't look like it was emptied by  
25 anybody, correct?

1 A No.  
2 Q And that's the pail that was at some point  
3 inside your apartment?  
4 A Yes.  
5 Q And where was it in your apartment?  
6 A In the kitchen.  
7 Q In the kitchen by the wine chiller?  
8 A No.  
9 Q On the other side of the kitchen?  
10 A No, it was actually by, in between on the wall in  
11 between the bathroom and the kitchen.  
12 Q Okay. Now, obviously, as you're upset here  
13 today, you were obviously upset back then in November,  
14 right?  
15 A Yes.  
16 Q And you said that various people on the  
17 street came up to you and said is there anything you  
18 want me to do about this?  
19 A Yes.  
20 Q Did anybody ever do anything?  
21 A No.  
22 Q Did any of those people ever go to the police  
23 and say I saw S. Dot today or I saw Steven Wright  
24 today, come arrest him?  
25 A Not that I know of.

1 Q Did any of those people ever do anything to  
2 him?  
3 A Not that I know of.  
4 Q Did anybody ever do anything to help you out  
5 in November of 2006?  
6 A I told them it was being taken care of by the  
7 police.  
8 Q But now you understand it wasn't really taken  
9 care of by the police, right, back in November of 2006?  
10 A Well, the -- Shanda Rosario told me that she was  
11 going to take care of it and they were going to find  
12 him.  
13 Q And Shanda Rosario, again, told you that S.  
14 Dot was Steven Wright, right?  
15 A Correct.  
16 Q Back in November of 2006?  
17 A Yes.  
18 Q And she knew his name?  
19 A Yes.  
20 Q Did she tell you where he lived?  
21 A No.  
22 MR. TROIANO: Judge, we are completely  
23 outside of the scope of the --  
24 MR. HIRSCHORN: Judge, that's fine.  
25 THE COURT: Overruled.

1 BY MR. HIRSCHORN:  
2 Q Did she tell you where he lived?  
3 A No.  
4 Q But she knew his name and she told you?  
5 A Yes.  
6 MR. HIRSCHORN: Nothing further, Judge.  
7 Thank you very much.  
8 MR. TROIANO: Thank you.  
9 THE COURT: You're excused. Thank you very  
10 much for coming.  
11 THE COURT: All right, folks, this is what  
12 we're going to do. I'm going to give the lawyers a few  
13 minutes to review their notes, then you're going to  
14 have two summations. Then lunch, okay. So just step  
15 in the jury room for a couple minutes, we'll bring you  
16 right back out. Thank you. Do not discuss the case at  
17 all.  
18 (Off the record/on the record)  
19 MR. TROIANO: Judge, how would you like to  
20 address evidence?  
21 THE COURT: We didn't do that yet?  
22 MR. TROIANO: No.  
23 THE COURT: All right, what are you going to  
24 move into evidence?  
25 MR. TROIANO: S-1 through four; S-7 through

1 15.  
2 THE COURT: Any objection?  
3 MR. HIRSCHORN: To the photos, Judge? I  
4 believe those are all photos, correct?  
5 MR. TROIANO: Correct.  
6 MR. HIRSCHORN: No, no objection, Judge.  
7 THE COURT: One through four, seven through  
8 15?  
9 MR. TROIANO: Correct. Then S-17 and 18 are  
10 also photos.  
11 MR. HIRSCHORN: No objection to those, Judge.  
12 MR. TROIANO: S-19 is the blow-up. S-20A, B  
13 and C are the shirt and the packaging. S-22 is a  
14 photo, S-22, S-23, S-24 are photos of the fingerprints.  
15 S-25 is an additional photo. That's it.  
16 THE COURT: Any objection?  
17 MR. HIRSCHORN: Judge, no objection to any of  
18 the photos. Judge, I believe the shirt was S-20,  
19 correct?  
20 MR. TROIANO: Yes.  
21 THE COURT: Yes.  
22 MR. HIRSCHORN: And the other A, B, and C are  
23 just the packaging?  
24 THE COURT: Correct.  
25 MR. TROIANO: Correct.

Santos - Cross

36

1 MR. HIRSCHORN: No objection to that either,  
2 Judge.  
3 THE COURT: All right, so moved.  
4 MR. TROIANO: Thank you, Judge.  
5 (Off the record/on the record)  
6 THE COURT: Mr. Hirschorn.  
7 MR. HIRSCHORN: Thank you, Judge.  
8 SUMMATION BY MR. HIRSCHORN:  
9 MR. HIRSCHORN: Mr. Troiano, Stephen.  
10 Morning ladies and gentlemen. I guess we  
11 finished pretty much on time which was good budgeting  
12 by the Judge. He pretty much told you exactly how long  
13 you were going to be here. Each and every one of the  
14 14 of you sat there for the past week and a half, two  
15 weeks, minutes Fridays and Mondays, and listened to the  
16 testimony of each of these witnesses.  
17 The State presented witnesses to you here in  
18 Court and fortunately because it's not always the case,  
19 the defense was able to present not only the defendant  
20 who certainly didn't have to take the stand as the  
21 Judge told you before and will tell you again. As well  
22 as two fact witnesses. I can tell you, ladies and  
23 gentlemen from having done this quite a few times,  
24 that that's not always the case. The defense a lot of  
25 times --

Summations

37

1 MR. TROIANO: Objection, Judge.  
2 THE COURT: Sustained.  
3 MR. HIRSCHORN: Fine.  
4 Now, ladies and gentlemen, as I said, you  
5 heard from various witnesses. What I'd like to do here  
6 today with my time before each of you and then Mr.  
7 Troiano will have his time, is point out what I thought  
8 was important, what inconsistencies I thought existed  
9 throughout the testimony, hitting on each of the  
10 witnesses, the high points, the low points, whatever it  
11 may be. This is my recollection of how the evidence  
12 came in as I listened and took notes.  
13 Certainly you guys, the 14 of you, men and  
14 women, are the judges of the facts here. The Judge  
15 will instruct you on the law, it's your recollection of  
16 the facts that rules.  
17 If you think that I say something that's not  
18 accurate, go with your recollection. If you think that  
19 there's something that I say that is accurate or is  
20 important, stick with that recollection.  
21 But certainly it's up to you 14 ladies and  
22 gentlemen to go by what you remember took place here.  
23 Now, before I go into the actual testimony,  
24 there's one other thing I wanted to hit on. First of  
25 all, what I'm about to say to you, ladies and

Summations

38

1 gentlemen, isn't evidence. What Mr. Troiano will say  
2 to you is not evidence either.

3 The evidence in this case is over. What's  
4 for your consideration what will be given to you in the  
5 jury room, I know some of you were interested in  
6 actually seeing these photos. I'm going to show them  
7 to you now, some of them, and they're all going to go  
8 in with you. That's what we just did, we marked those  
9 into evidence.

10 But our closing arguments, just like I said  
11 to you during our openings, those aren't evidence.  
12 These are just what we believe is important. I'm going  
13 to tell you what I believe is important and Mr. Troiano  
14 gets his opportunity to do the same.

15 The reason that I get to go first, ladies and  
16 gentlemen, as you all remember, I went second the last  
17 time, is because the burden in this case is on the  
18 State. Beyond a reasonable doubt. It's a serious  
19 burden. I'm sure Mr. Troiano from listening to many of  
20 these closing arguments from the State is going to tell  
21 you how he stands by that burden, he knows it's a hard  
22 burden and he believes he can meet it. He's going to  
23 go through the elements of the crimes and tell you how  
24 he satisfies each of those elements.

25 Ladies and gentlemen, it's Mr. Troiano's

Summations

39

1 burden. He has to prove to you each and every element  
2 of each and ever crime to your satisfaction beyond a  
3 reasonable doubt.

4 In this case, there's two crimes. Aggravated  
5 sexual assault and burglary. You'll hear when the  
6 Judge instructs you on the law that there's what's  
7 called lesser included offenses that comprise different  
8 facts. And those are for your consideration as well.

9 But certainly you will hear that later and  
10 that's when you listen to it, you listen to what the  
11 Judge tells you when he instructs you on the law. And  
12 the Judge will tell you exactly what the law is to each  
13 of these crimes and their lesser included offenses.

14 Now, ladies and gentlemen, the first thing I  
15 want to hit on as far as the testimony is you ladies  
16 and gentlemen heard that the parties entered into  
17 what's called stipulation. You'll also have this. It's  
18 been marked Court's exhibit one and the reason it's  
19 marked Court's exhibit is because it's an agreement  
20 between myself and Mr. Troiano that certain facts are  
21 true.

22 The fact that we agreed upon is true is that  
23 the blood on Liliana Santos' white camisole belonged to  
24 Stephen Wright.

25 I'll get to the reason later, ladies and

## Summations

40

1 gentlemen, why we didn't make the State bring in their  
2 experts to testify to how DNA is done and how blood is  
3 collected. Because as you heard Mr. Wright say, he  
4 admitted the blood on her shirt was his. There's a  
5 reason it was on her shirt, and he gave you that  
6 explanation. But we'll get to that later.

7 The second part of the stipulation is also  
8 very important. And it discusses the condom that  
9 Detective Stambuli decided to pick up off the road from  
10 about 100 yards away or 100 feet away. And that was  
11 tested and it came back untestable (phonetic).

12 So ladies and gentlemen, basically what that  
13 means is that the State doesn't know whose it was,  
14 whose DNA was in there. They couldn't test it, they  
15 couldn't figure it out.

16 Now the first witness that you all heard from  
17 was Lilibiana Santos. Lilibiana Santos got on the stand  
18 and told you a story. She told you what she believed  
19 happened back in November of 2006 with many tears, with  
20 some emotion. And if it happened that way, ladies and  
21 gentlemen, I submit to you that you should have been  
22 emotional as well. If it happened that way, if that  
23 happened, then this is a sad situation and you should  
24 find Mr. Wright guilty.

25 But ladies and gentlemen, it didn't happen

## Summations

41

1 like Lilibiana Santos said. Lilibiana Santos got on the  
2 stand and testified about that night, about before that  
3 night, about after that night. She didn't admit that  
4 she knew Stephen Wright, that she knew other than by  
5 face Davon Parsons, that she knew other than by the  
6 name Ant, Antwan Wright.

7 So ladies and gentlemen, it comes down to  
8 credibility. Mr. Troiano tried to point out for you,  
9 ladies and gentlemen, that these gentlemen that took  
10 the stand had motivation. They had a reason to come in  
11 here and tell you guys a story that wasn't the truth.  
12 That's what Mr. Troiano insinuated by his questions.

13 Well ladies and gentlemen, who in this case  
14 has the most to lose by coming in here and changing her  
15 story, or telling you something else? That's Lilibiana  
16 Santos.

17 Davon Parsons and Antwan Wright walked in  
18 here, gave their testimony and walked out. Whether  
19 they told you, ladies and gentlemen, the truth, that's  
20 for your determination. But whether they did or they  
21 didn't, they were walking out of here. The two people  
22 most intimately involved in this case, the man facing  
23 the jail sentence and the alleged victim of this crime  
24 had the most reason to fabricate. And I submit to you  
25 that Lilibiana Santos told quite a story.

## Summations

42

1 Let's get to the pictures that you guys were  
2 so interested in. I saw you looking along. S-14,  
3 picture of the window. You'll get it inside if you  
4 can't see it clearly. It's a little small and hazy.  
5 Detective Stambuli and Liliana Santos agreed the only  
6 way that someone could have entered through that window  
7 is to break that window.

8 First of all, take out the screen, break that  
9 window. Couldn't climb through, shards of glass, too  
10 small. Stephen Wright's not a small guy. Couldn't  
11 climb through. So the individual if they entered  
12 through that window lifted the screen, broke the window  
13 from the outside, lifted the window, climbed through  
14 the window, took the time in the pitch black of a  
15 closet to turn around, close the window, lock the  
16 window, and then go in to rape somebody.

17 Ladies and gentlemen, in our law, rape is  
18 about as serious a crime as you can be charged with.  
19 I'd submit to you that murder is about the only thing  
20 worse, if worse. If worse.

21 This individual took the time to lock a  
22 window. Detective Stambuli searched that window, he  
23 told you about how he fingerprints and all the things  
24 he does. No prints on the lock, no prints on this  
25 window that was lifted up. No prints that are

## Summations

43

1 discernible anywhere.

2 The only thing we have is Liliana Santos  
3 telling the police she believed that somebody touched  
4 the wine chiller. Police, Detective Stambuli and his  
5 partner at the time, pulled those prints. No match.

6 Ladies and gentlemen, we all watch shows on  
7 TV like C.S.I., Law and Order. They talked about DNA  
8 evidence. That's what C.S.I.'s all about. They think  
9 that you can pull prints from anything. You can't.  
10 But you certainly can pull a print if he, Stephen  
11 Wright touched those. No doubt about that. That's a  
12 flat surface that somebody, I submit to you when I  
13 close my eyes can go like this or go like this.  
14 There'd be fingerprints on that.

15 He looked. There were none.

16 Now Liliana Santos, again, gave a whole story  
17 about how this took place, how the individual came into  
18 her room, put his hands around her neck and told her to  
19 shut the fuck up. That's what she said.

20 She goes to the hospital. No injury. No  
21 contusions to the neck. No contusions to the arm where  
22 she's allegedly being held down. No injury to her  
23 private area where they do the rape kit.

24 No injury, no DNA. She says she thinks that  
25 this individual used a condom. They check as Nurse



1 Richardson said when she got up here, extensively  
2 during the rape kit, just in case that wasn't the --  
3 wasn't the situation. They don't find anything.

4 Now ladies and gentlemen, I'm going to take a  
5 step back here for one second, and this goes along with  
6 my argument about the window. Someone broke into a  
7 house, put their arms around somebody and choked them.  
8 And while they're doing this, to rape them, decided to  
9 open and put on a condom? Seems a little strange to  
10 me, ladies and gentlemen. Doesn't make sense.

11 And that's what you see throughout Liliana's  
12 testimony. Did she go to the -- to the hospital? She  
13 certainly did. Did she tell the nurse her story? She  
14 certainly did. Did she continue at the Prosecutor's  
15 Office after that? At that time she did. Do I know  
16 why she came in here and made up this story? I have  
17 absolutely no idea.

18 Was she disturbed that Mr. Wright didn't want  
19 to be with her or that he no longer wished to have any  
20 kind of a relationship with her other than of a sexual  
21 nature? I don't know.

22 As a matter of fact, I would submit that none  
23 of us know. But that's not really for our  
24 consideration here. Liliana Santos got up on this  
25 stand and pinned herself in to the story of she didn't

1 know S.DOT or Stephen Wright before that day, never  
2 spoke to him other than to say what's up.

3 So, this isn't a situation where you, ladies  
4 and gentlemen, should go back there and consider did  
5 she let Stephen Wright in and then say no at some point  
6 or did he continue after she said no. This isn't that  
7 situation. Liliana Santos didn't say that. She said  
8 Stephen Wright broke into her apartment and raped her.  
9 But she couldn't identify him.

10 And ladies and gentlemen, this kind of goes  
11 to this whole thing about who told her what his real  
12 name was. She knew him and she tells Detective Rosario  
13 as S.DOT. Liliana Santos testified not once, but  
14 twice, that in November of 2006, either the day of or  
15 the day after, that Detective, now Sergeant, Shonda  
16 Rosario told her that S.DOT was Stephen Wright.

17 Nobody arrested him. Nobody went to the  
18 block that he told you he hung out on before and after.  
19 Never left that area until he was arrested on the other  
20 charge that we've already discussed. The reason he's  
21 in jail today. He pled guilty to another offense, he  
22 was in jail, he admitted his guilt, he was in jail.

23 At that point in time, a year and a month  
24 later, the State decides to charge Mr. Wright with this  
25 crime. Now ladies and gentlemen, either the State

## Summations

46

1 didn't take this too seriously or they didn't believe  
2 Liliana Santos, because why did this take a year? If  
3 they knew back in November of 2006 that S.DOT was  
4 Stephen Wright, or S.DOT hung out on VanHorn and  
5 Communipaw, did they do anything about it? No.

6 Did they charge that person with a crime?  
7 No.

8 Something's not right here, ladies and  
9 gentlemen. Something isn't right that this took a year  
10 for the State to finally be convinced that Stephen  
11 Wright should be charged with this crime.

12 Now, a couple of things also about Liliana  
13 Santos' testimony. Liliana Santos testified before  
14 you, ladies and gentlemen, that she left the white  
15 shirt on the bathroom floor because she took a shower  
16 after this incident took place because she felt dirty.  
17 That was her testimony.

18 Detective Stambuli got in and told you that  
19 he found the white shirt in this plastic bag. Meaning  
20 that Liliana Santos took the affirmative step after she  
21 had suffered this traumatic event to pick up this white  
22 tee shirt off the bathroom floor, throw it in a plastic  
23 bag and put it on top of the wine chiller so the police  
24 could come and collect it.

25 That doesn't add up again with the state of

## Summations

47

1 mind that you heard she was in throughout this. You  
2 heard Nurse Richardson say two hours, three hours later  
3 she was visibly upset and shaking. But she took the  
4 time to collect evidence? Doesn't add up.

5 Now, ladies and gentlemen you heard some  
6 testimony about a garbage can. Those are the two  
7 garbage cans. The small one is the one that Liliana  
8 stated was in her kitchen, that she removed and put  
9 outside some days earlier. In that garbage can is  
10 trash. Did Detective Stambuli search through that? I  
11 don't know. I don't remember if you ladies and  
12 gentlemen know either.

13 Stephen Wright testified before you, ladies  
14 and gentlemen, that they had consensual sex. That he  
15 was let into the apartment. He testified that he used  
16 condom. I think he said Magnum of course. He testified  
17 that he threw the condom in this garbage pail that was  
18 in the kitchen.

19 You don't think that Stephen Wright could  
20 have said to you, ladies and gentlemen, I took the  
21 condom with me. I flushed the condom down the toilet.  
22 Could have very easily said that to you, ladies and  
23 gentlemen, and nobody would have ever known. That's  
24 his story.

25 He didn't do that. He told you the truth.

1 He told you he put the condom in the wastebasket and he  
2 left.

3 He told you the truth, even though he sat  
4 here for a week and listened to all the testimony about  
5 how there was nothing found related to him other than  
6 the blood. And this and that and the other, and there  
7 was no condom found in the apartment, only a wrapper of  
8 the condom.

9 Yet, he still told you the truth and told you  
10 he put the condom in the garbage pail and left.

11 Ladies and gentlemen, he gave you an  
12 explanation for this window. He told you, Liliana  
13 Santos was reluctant to let him leave. He told you he  
14 got angry. He told you that he wanted his things back  
15 and he wanted to go. He was having problems with his  
16 girlfriend. He told you he punched that window from  
17 the inside. He told you he cut his hand. He told you  
18 he took the clothes from Liliana and believes his hand  
19 brushed up against her shirt. He told you he pulled  
20 back after he punched the window and he was bleeding.

21 All consistent with the blood on her shirt.

22 Detective Stambuli told you there was no  
23 blood anywhere else in the apartment. Wasn't bleeding  
24 profusely, blood didn't drip in the closet, blood  
25 didn't drip in the hallway. No blood in the bedroom.

1 No DNA. Speaking of Detective Stambuli, I  
2 was a little bit outraged, ladies and gentlemen, and I  
3 hope you are as well, that we live here in a time that  
4 a detective from the Prosecutor's Office is going to  
5 tell you that he collected a piece of evidence where  
6 an alleged rape took place on a bed, he collected the  
7 sheets because he thought it was important, and the  
8 State Police are too busy to test it?

9 It would be one thing, good for the State if  
10 evidence came back and pointed to Stephen Wright. But  
11 what if evidence came back and pointed to a third  
12 person, not Anthony Waring, not Stephen Wright,  
13 somebody else? Wouldn't that have been important here?  
14 I think so. And Detective Stambuli obviously thought  
15 so or else he would have left it there. But he didn't  
16 do that. State Police was too busy to look into this.

17 It's a little outrageous, ladies and  
18 gentlemen. Now, ladies and gentlemen, as I started and  
19 I'll finish. I don't know why Liliana Santos lied to  
20 you. I don't know why Liliana Santos wouldn't come in  
21 here and admit that she went to grammar school with  
22 Antwan Wright, that she knew Davon Parsons and Antwan  
23 Wright, that they all hung out on the street, that she  
24 knew them by face. She wouldn't even admit that. She  
25 wouldn't admit that she knew Stephen Wright.

## Summations

50

1 Antwan Wright came in here, because I asked  
2 him to. He came in here to testify for his brother.  
3 No way around that. This is his brother. Does he have  
4 motivation to testify and help his brother? Of course  
5 he does, it's his brother. Does he want to see his  
6 brother get in any more trouble? Of course not. It's  
7 his brother.

8 But Mr. Troiano asked him if he'd do anything  
9 for his brother and I think he was quite candid with  
10 you when he said there's limits. Why would he come in  
11 here and say I heard him have sex on two or three  
12 occasions in my mother's house, in my mother's bed?  
13 Tell you ladies and gentlemen that. He could have come  
14 in here and said I saw them hang out on the block, I  
15 know they touched once or twice on the block. I know  
16 they kissed. He didn't say that. He said he heard  
17 them have sex, saw them walk in, heard them have sex in  
18 the mother's bed.

19 Why? Why go that far? Why make that up?  
20 All in my opinion the defense needed to show you,  
21 ladies and gentlemen, that Liliana Santos was lying is  
22 that these two people knew each other. We could go a  
23 step further than that. We could bring in Antwan  
24 Wright, and prove to you, ladies and gentlemen, that  
25 they not only knew each other, but they had a

## Summations

51

1 relationship. And a sexual relationship at that.  
2 Had Davon Parsons come in here, took his time  
3 off from work. Again, why didn't he tell anybody back  
4 then? I guess the same reason Liliana Santos told  
5 nobody. I don't know. The streets talk, they hear  
6 things, did they go to police as Mr. Troiano asked?  
7 No. Doesn't work like that I submit, ladies and  
8 gentlemen, here in Jersey City. You don't just go to  
9 the police. You wait to be contacted by somebody.

10 I reached out to Davon Parsons because I knew  
11 he had information that would help you ladies and  
12 gentlemen in your determination. So I brought him  
13 here. I made him take a day off work, made him come  
14 here. He came in, he testified. Ask yourselves, what  
15 motivation does he have?

16 It's his friend, who he hasn't seen in a long  
17 time. They've been friends a long time. Ask  
18 yourselves, are you going to come in here, risk your  
19 job, lie on the stand, just to help out a friend? Make  
20 something up completely? Why would he make it up? He  
21 didn't tell you ladies and gentlemen he saw them have  
22 sex or heard them have sex. He gave you the other  
23 side. Yes, she was on the block all the time. I know  
24 her brothers. We all hung out together. I know  
25 Anthony Waring. We all hung out together.

## Summations

52

1           These people were chilling, were flirting,  
2 were hugging. That's what he came in here and told  
3 you. Again, Liliana Santos got on the stand and  
4 claimed to you ladies and gentlemen that she didn't  
5 know Stephen Wright. She knew him as S.DOT. That goes  
6 back again to how she found out his real name. Because  
7 we know that Sergeant Rosario didn't tell her. But yet  
8 she knew that day. Somehow, some way, she knew that  
9 day. She told you that.

10           Now ladies and gentlemen, you all have a  
11 difficult situation and decision to make here, because  
12 you've got to decide did Liliana Santos come in here  
13 and tell you the truth, the complete truth, or did  
14 Liliana Santos come in here and not tell you the  
15 complete truth. You've been presented with witnesses  
16 and evidence that shows that she didn't. If you lie  
17 about one thing, and you're caught in a lie about one  
18 thing, that's for your determination as to whether or  
19 not you're lying about other things.

20           But again, I don't know why she's doing what  
21 she's doing. I don't. I know that this man had sex  
22 with her that night. I know that this man was let in  
23 that apartment. I know that this man left that  
24 apartment after punching that window.

25           And by the way, what happened to dusting the

## Summations

53

1 doorknobs for fingerprints? He left through the door,  
2 had to grab the doorknob. Didn't find anything there  
3 either.

4           So ladies and gentlemen, Stephen Wright told  
5 you the truth. That truth was corroborated by his  
6 friend and his brother. He told you what happened that  
7 night. He can't provide you with an explanation for  
8 what Liliana Santos did. And like I said before,  
9 folks, either can I. All he  
10 can do is tell you the truth.

11           And I submit to you that's what he did.

12           So I'd just ask when you ladies and gentlemen  
13 go back to that jury room and start your deliberations,  
14 that you consider everything that I've said. That you  
15 consider everything Mr. Troiano says as well, the  
16 Judge's law, but don't leave one thing out here.  
17 Because there's one thing that each of the 14 of you  
18 have in common. And that's common sense. We all come  
19 here with common sense; we all leave with common sense.  
20 And ask yourselves if common sense tells you that this  
21 happened the way Liliana Santos said.

22           And I submit to you that after you do that,  
23 and after you've considered all the evidence, the  
24 arguments of counsel, and the law of the Judge, that  
25 you'll return a verdict of not guilty to all counts.

1 Thank you again.

2 THE COURT: Thank you, counsel.

3 SUMMATION BY MR. TROIANO:

4 MR. TROIANO: Judge, Mr. Hirschorn, ladies  
5 and gentlemen, good afternoon.

6 Let me first thank you again as Mr. Hirschorn  
7 did. You've been here about a week. You've sat in  
8 these, in this box, you've sat in those chairs, you've  
9 heard serious, serious allegations. It has been  
10 emotional at times. We've seen it in your face.

11 You are going to be asked in hopefully for  
12 your sake maybe about 15 minutes or so to first listen  
13 to some jury, to some jury instructions and then to go  
14 and deliberate, render a verdict, all right.

15 And when I began my opening a week ago, I  
16 said to you that there were certain things that you  
17 needed to remember. Ways in which that I suggested to  
18 you that you should approach this case. Kind of like  
19 the who, what, when, where and why that you learned  
20 when you were little kids, all right.

21 Who tells you things, why do they tell you  
22 things, when did they tell you things, how did they  
23 tell you things. I asked you when you listen to each  
24 and every one of the witnesses to think about those  
25 things. And I ask you again, that when you go back

1 into that jury room use that who, what, when, where,  
2 why, how, when you deliberate. When you think about  
3 this case.

4 I have every confidence, ladies and  
5 gentlemen, that you are going to return a verdict of  
6 guilty. I don't waver when I say that, I don't  
7 hesitate. I listened to the same arguments, I listened  
8 to the same testimony, I have no doubt.

9 I submit to you, ladies and gentlemen, that  
10 on November 19th, 2006, Liliana Santos' home was broken  
11 into. All right. You'll see pictures of that. You'll  
12 remember her testimony, you'll remember the testimony  
13 of others. Permission was not given, ladies and  
14 gentlemen. She didn't allow anybody into her house.  
15 She didn't allow anybody through her window into the  
16 closet. Her house was broken into, okay. That's  
17 burglary.

18 Broken into with intent to commit a crime  
19 when you're inside. That's burglary. He's also been  
20 charged with aggravated sexual assault, and I would  
21 submit to you that he is guilty of that. I would  
22 submit to you that on November 19th, 2006, S.DOT  
23 Stephen Wright broke into that house, sexually  
24 assaulted, raped, Liliana Santos.

25 I would submit to you that we know that

Summations

56

1 through the testimony. We know that Liliana was living  
2 there November 19th, 2006. We know that she was living  
3 there for a short period of time. She testified that  
4 not many people had been over there. She testified  
5 that on the 19th, she went, or rather on the 18th  
6 first, she went to a baby shower. She was downtown  
7 Jersey City. She eventually met up with Anthony  
8 Waring. Earlier in the day she saw S.DOT. She meets  
9 up with Anthony Waring. S.DOT's still in that same  
10 area, right.

11 This nonsense about her not knowing him is an  
12 argument that's being made by counsel, but she admits  
13 to you I mean she knows who the guy is. She's seen him  
14 on the street. She doesn't know his first name, she  
15 doesn't know his last name, she doesn't know where he  
16 lived, but she knows who he is. Much the same with Ant  
17 or Mr. Parsons. They know each other. They know who  
18 they are, all right. They don't know anything about  
19 their family life, they don't know where they live, but  
20 they know who they are.

21 So she's out that night, S.DOT's out that  
22 night, she goes home with Mr. Waring. You heard her,  
23 they had sex. At some point he decides to leave, she  
24 hangs out for a little while, no broken window at this  
25 point. Mr. Waring leaves, everything's fine, she

Summations

57

1 smokes a cigarette, she hangs by the window, eventually  
2 she goes to bed and leaves the TV on.

3 And she told you what happened from there.

4 And she told you how somebody entered her  
5 apartment, grabbed her neck, ultimately bent her over,  
6 pulled down her pants and raped her.

7 Now, it would be safe to say that at this  
8 point the stories that you've heard have gone in two  
9 separate directions. I'll admit that. I would submit  
10 to you though, ladies and gentlemen, I would submit to  
11 you, that at some point in that night, while Mr.  
12 Wright, S.DOT, was down at Communipaw and Halladay,  
13 Marjay's, wherever he was, he saw Liliana and probably  
14 got it in his mind to do something with her, all right.  
15 Not the way he says, but to go to that house.

16 I submit to you that he was living at that  
17 time on Bramhall Avenue which is probably about a half  
18 a mile away, right down the street. I submit to you  
19 that later on in the night he made his way over to 235  
20 Arlington Avenue.

21 I submit to you that he probably knew that  
22 she lived there, all right, because it's basically the  
23 same neighborhood. I submit to you that he probably  
24 knew that she lived by herself. I submit to you that  
25 he arrived, he got there, maybe he saw Anthony Waring

Summations

58

1 leave, maybe he saw her smoking a cigarette, but I  
2 submit to you that towards the later portions of that  
3 night, S.DOT went to that window, all right.

4 And I'll submit to you, ladies and gentlemen,  
5 that it's fair for you to infer that he probably  
6 started at the other window. Probably looked through  
7 there first. Probably realized that there was light  
8 from the TV, light possibly from the bathroom, said  
9 this is probably not a good idea, okay.

10 And let me just say this right now. I cannot  
11 speak to what somebody like this or why someone like  
12 this would do this.

13 MR. HIRSCHORN: Objection, Judge.

14 THE COURT: Overruled. Continue.

15 MR. TROIANO: I can't speak to that, all  
16 right. I can't give you motivation. I can't do it,  
17 all right. This is the type of crime that has no  
18 motivation that I could speak to.

19 But I would submit he's probably looking in  
20 that window and he's probably seeing the lights on, all  
21 right, and he probably waits there for a little while  
22 and at some point realizes that there's no movement  
23 anymore.

24 So, he doesn't think that this is a good  
25 window, because it obviously leads right into the

Summations

59

1 living room. So he moves over to the right. And he  
2 probably looks in and he sees immediately that this is  
3 some sort of closet area. It's dark in there, right?  
4 So if he were to break in and get inside the apartment,  
5 he's not going to be seen, he's in the closet. All  
6 right, there's water heaters, there's pipes.

7 Pushes up the screen. Screen has no locking  
8 mechanism. And busts the window. Whether or not he  
9 busts it with his hand, with his elbow, I have no idea.  
10 He testified on -- on cross examination that he had a  
11 scar on his hand. I don't know if you believe him or  
12 not. Okay.

13 But the window's broken. I would submit that  
14 he reaches in, thumbs the locking mechanism, raises the  
15 window, climbs in, probably moves that pail because  
16 it's in the way, all right. Climbs in, shuts it.  
17 Reason why he locks it? No idea. But the window's  
18 locked.

19 I'll tell you this, the reason why he shut  
20 the screen is because if you were looking at the house  
21 from the street without the screen, you would just see  
22 broken glass, all right, and that would probably tip  
23 some people that something's going on here, all right.

24 So he shuts the screen, kind of blocks it. I  
25 would submit to you ladies and gentlemen, that he walks



## Summations

60

1 into that house, opens up those closet doors, and  
 2 there's some light. And I would submit to you that he  
 3 strategically walks through and shuts the lights off.  
 4 Shuts the light off in the bathroom or the kitchen,  
 5 whatever was on. Ultimately gets to the end of the  
 6 apartment, hits the light for the TV.

7 I would submit to you at this point he goes  
 8 up to Liliana, grabs her by the neck, struggle ensues,  
 9 she's thrown off the bed, she's thrown back on the bed,  
 10 she's thrown on her stomach, her pants are removed, his  
 11 pants are moved, and he rapes her.

12 Okay? Why he took a condom out and put it  
 13 on, I have no idea, all right. I don't know if rape is  
 14 practice safe sex or not. No idea. But he did, all  
 15 right.

16 Or she said I think he was wearing a condom.  
 17 Condom wrapper is left there, Magnum condom wrapper  
 18 left on the floor. Condom outside, all right. And the  
 19 significance of the condom outside is this, ladies and  
 20 gentlemen. He tells you that his mother lives down the  
 21 street to the left on Bramhall Avenue. He denied that  
 22 he was living there. We know from his brother that he  
 23 was. And I'll get to that.

24 But he ran down the street, Liliana saw him  
 25 running down the street and I would submit to you

## Summations

61

1 ladies and gentlemen, that he chucks a condom, all  
 2 right. He doesn't flush it there, he doesn't leave it  
 3 in a pail that's non-existent, doesn't put it in one of  
 4 these bags. He runs with it, chucks it.

5 Importantly I think you should realize that I  
 6 bet Stephen Wright, S.DOT, had no idea that she knew  
 7 who he was. I bet you that he had no idea that he got  
 8 blood on her shirt. I bet you he had no idea that she  
 9 recognized him. I bet you he had no idea. All right.  
 10 He found out a little bit later from talk in the  
 11 neighborhood. But I bet you at that point he had no  
 12 idea.

13 Now, we know that Liliana calls the police  
 14 immediately, all right. And this is important. You  
 15 need to remember this, ladies and gentlemen, because if  
 16 you're going to think that she sat up here and lied  
 17 about this whole thing, all right, you need to remember  
 18 that she calls the police immediately. She tells them  
 19 I was raped. She's taken to Christ Hospital, she's  
 20 examined for an hour, she's put with the sexual assault  
 21 nurse examiner, she's examined for an hour. She gives  
 22 a full statement about what happened.

23 She subjects herself to swabs on her genital  
 24 area, she subjects herself to a speculum and -- I'm not  
 25 a woman, I've never been to a gynecologist, but she

## Summations

62

1 subjects herself to a speculum and a colposcope, words  
2 I don't even understand without asking, all right.  
3 She subjects herself to some serious stuff over the  
4 course of an hour. Gives a statement.

5 She's then taken directly to the Hudson  
6 County Prosecutor's Office, and gives a consistent  
7 statement. Immediately. She has come to Grand Jury  
8 and testified, she said she came to meet with me five  
9 times, she sat up there through direct examination and  
10 told you all this story. She sat through cross  
11 examination and was questioned about whether or not  
12 this happened.

13 Now, our system allows for that and we have a  
14 wonderful system. But it'd be fair to say that she was  
15 victimized twice, all right. Because not only was she  
16 victimized in her bedroom that night, but she had to  
17 come up here and be questioned about whether or not  
18 this actually happened, all right.

19 And despite the minor inconsistencies that  
20 Mr. Hirschorn has done a good job of bringing out, she  
21 has said to you throughout I never had sex with this  
22 guy before, I never had a relationship, he raped me.

23 The reason that it took 14 months to arrest  
24 him is because that is when the DNA came back saying it  
25 was him. Simple as that, all right. No conspiracies,

## Summations

63

1 nothing like that. From the moment, and Shonda Rosario  
2 testified to this, from the moment that she got the  
3 results from the State lab, she contacted Liliana and  
4 Mr. Wright was arrested.

5 So that's what happened. Okay. And it  
6 paints this kind of picture, all right. You're left  
7 with this picture of what happened. And lawyers  
8 sometimes use this analogy of a puzzle, all right, that  
9 you need to put the pieces of the puzzle together to  
10 get the picture. I would submit to you that I've just  
11 given you the picture. All right. And the testimony  
12 and the evidence and the exhibits were all those pieces  
13 that went together to form this picture.

14 I would submit to you that once you have that  
15 picture, the defense is left with a situation where  
16 they need to change those pieces, all right. They need  
17 to come up with their own pieces that fit together to  
18 get the end result, all right. The end result being  
19 here a bloody shirt, the end result being a broken  
20 window, the end result being a sexual assault, all  
21 right.

22 But first, think about Liliana's testimony,  
23 all right. Was it consistent, all right. Besides  
24 those small inconsistencies who called who Anthony  
25 first, where did the -- Mr. Hirschorn actually wanted

## Summations

64

1 to, he wants you to find Mr. Wright not guilty because  
2 she couldn't be sure if she put the bloody shirt on the  
3 floor or she couldn't be sure if she put the bloody  
4 shirt on the, in the bag on the wine cooler. She  
5 couldn't be sure. This is a girl that ten minutes  
6 prior had been raped, but now we're asking her to  
7 remember with specificity what she did with that shirt.  
8 And if she can't remember, then this didn't happen.

9           Okay? Is she consistent. Has she said the  
10 same story throughout. I would submit to you that she  
11 did. Is she believable? I would submit to you that  
12 she is. Would she make this up? And that is the most  
13 important thing, or one of the most important. Because  
14 I think there's other things that are more important.

15           Would she make this up? Is she going to make  
16 up a rape allegation, an aggravated sexual assault  
17 allegation, within a couple minutes, have a story  
18 nailed down about how this happened, just because this  
19 guy left the house? All right?

20           She was so pissed that he left the house  
21 after half an hour spending time together that she is  
22 going to call the cops, accuse him of rape and for  
23 three and a half years pursue that rape charge. Just  
24 because he left.

25           Crazy. It's crazy. It doesn't make any

## Summations

65

1 sense. Is she believable? I would submit that she is.

2           Think about this. What did Liliana Santos do  
3 right after this incident happened? All right,  
4 remember this. She testified that she never went back  
5 to that apartment. All right, she testified that she  
6 went in there, I think Anthony brought her back,  
7 cleared out her stuff and didn't go back. She did not  
8 go back to that apartment. And I'm sure some of you  
9 have moved before, all right. I'm sure you all  
10 understand the inconvenience of moving, all right. You  
11 don't just pack up your stuff and up and leave the  
12 apartment just because you got in a fight with your  
13 boyfriend, or a guy you're having sex with. You don't  
14 do it, all right.

15           Why do you leave an apartment, on the fly,  
16 never go back? Because somebody broke into the window  
17 of your basement apartment and you're scared that he's  
18 going to come back. So you leave and you don't come  
19 back.

20           This is irrefutable, all right. She said  
21 this. Now, are we to think that Liliana Santos is that  
22 much of a conspirer that she knows that, you know, just  
23 to kind of support this story that I've made up, I  
24 better leave my apartment and not go back? Does that  
25 make any sense? I would submit to you that it makes no

1 sense. And her actions afterward show that this in fact  
2 happened.

3 Now, her reliance on the criminal justice  
4 system and the Prosecutor's Office, ultimately you  
5 heard from detectives from my office, all right. And  
6 right here and right now I'm the representative from  
7 the office. Liliana Santos relied on the cops for  
8 this, okay. She didn't rely on anybody else, all  
9 right. She wasn't asking for vigilante justice, she  
10 wasn't, all right. She relied on the cops.

11 That is what we are trained to do. If  
12 somebody victimizes us, we call the cops. We don't  
13 call the biggest guy in the neighborhood to go beat  
14 somebody up. We just don't do that, all right.

15 She relied on the police. She tried to help  
16 the police. She called Shonda and she said I think  
17 he's over there, go get him. She called and asked for  
18 updates, periodically throughout. She relied on us to  
19 help her.

20 And I would submit to you that we did exactly  
21 that. Once we got the results from the lab that that  
22 blood on that shirt was that man's, he was charged.

23 I would submit to you, ladies and gentlemen,  
24 that the reason that she didn't go after him was  
25 because she was probably scared. She said she was

1 scared. Nurse Richardson said she was scared. I would  
2 submit to you, ladies and gentlemen, as much as Anthony  
3 Waring probably didn't want to admit it, he was  
4 probably scared too. He probably didn't want to go  
5 and mess around with this, okay. He had been in  
6 trouble before, he didn't want to get in trouble again.

7 But ultimately it comes down to what's the  
8 motivation. What's her motivation to lie? What's her  
9 motivation to come in here, subject herself to  
10 questioning by everybody, reveal specific details about  
11 her life, intimate details, private details that  
12 otherwise she didn't have to tell any of you, any of  
13 us, nobody. But she did it, all right. She did it.  
14 She did it because what she said is true and she stands  
15 by it.

16 So, we saw obviously that the defense has put  
17 on a case. All right. Put on three witnesses. And  
18 Mr. Hirschorn rightly told you that there's no  
19 obligation to do that. But he did it, all right. And  
20 as I said before, he tried to recreate this puzzle,  
21 okay. You're left with a picture of -- of a bloody  
22 shirts, broken glass, sexual assault allegations, and  
23 you need to put together new puzzle pieces to fit  
24 together. And that's what he did.

25 And I would submit to you, ladies and

1 gentlemen, that he knew what that puzzle looked like.  
2 He knew what that picture looked like. So he had to  
3 step back, all right. He had to start from there and  
4 reverse his way back. There had to be an explanation  
5 for each one of those things, all right.  
6 And I would submit to you that you heard from  
7 witnesses. Now if you think about it, you heard the  
8 bare minimum.  
9 THE COURT: Come to sidebar a minute counsel,  
10 please.  
11 (On the record discussion at sidebar)  
12 THE COURT: You can't do that.  
13 MR. TROIANO: Sure I can. They put it out  
14 there.  
15 THE COURT: You can't say that (inaudible)  
16 MR. TROIANO: (inaudible)  
17 THE COURT: Be careful please.  
18 (Sidebar discussion ended)  
19 THE COURT: I'm sorry, continue.  
20 MR. TROIANO: And I would submit to you,  
21 ladies and gentlemen, that you heard the bare minimum.  
22 All right. There weren't details provided to you.  
23 When asked for specifics, they were non-existent, all  
24 right.  
25 These witnesses were subjected to cross

1 examination. Same as my witnesses, all right. They  
2 should be held to that same standard, credibility,  
3 common sense determinations, and if they didn't answer  
4 those obvious questions, you have to say to yourself,  
5 what's going on here, all right.  
6 And there's a few things that I think that  
7 are important, all right. First of all what the Judge  
8 will tell you about Mr. Wright's convictions. They  
9 could be used all right, in a sense that he has  
10 disobeyed society's laws in the past, he may be less  
11 inclined to take that oath seriously. And the Judge  
12 will explain that a little bit further, okay.  
13 He talked to you about everybody knowing  
14 names, all right. Everybody said we all know each  
15 other, we've known each other our whole lives,  
16 everybody knows everybody down there. Nobody knows  
17 anybody's last name, first name, but everybody knows  
18 everybody. If Liliana Santos wanted to make up these  
19 allegations, finger Mr. Wright for this crime, and she  
20 had been to his mother's house, then why didn't she  
21 take Shonda Rosario to his mother's house? Why didn't  
22 she take him down to the block and say his name is  
23 Stephen Wright, he lives on Bramhall Avenue, I've known  
24 his brother, Ant, since we were in grade school at  
25 PS22, all right. I know he hangs out with Davon

1 Parsons (phonetic).  
2 She didn't do that because she didn't know  
3 where he lived, she had never been to that house. So  
4 everybody knowing his name, maybe everybody does know  
5 his name, all right. But she didn't. She did not.  
6 He said that he had sex with her five times,  
7 all right. He said that at some points they were  
8 naked. I asked him what her eye color was, ladies and  
9 gentlemen. I don't know, I don't look at her eyes.  
10 All right. I asked when she was naked and, you know,  
11 and you guys were having sex, did you recognize  
12 anything about her? Any moles, anything that could  
13 say, you know, she's got a mole that looks like the  
14 State of New Jersey on her, on her hip. No, he didn't  
15 say nothing. He didn't say anything.  
16 All right, now I don't want to delve into  
17 your sex lives or anything like that, but, you know,  
18 you start to have intimate relations with somebody,  
19 multiple times, five times, you start to know something  
20 about that person. Nothing. I know her hair is dark,  
21 sometimes it's burgundy. He could figure that out from  
22 seeing her on the street.  
23 Had his testimony been true that he had sex  
24 with her, he could have provided you with additional  
25 information. And he didn't.

1 Antwan Wright, his brother. Now we heard  
2 from Liliana today about Antwan Wright coming up to  
3 Liliana on the street a month ago, all right. We heard  
4 what he said. He even admitted to us that he talked to  
5 her. Now Liliana didn't come here before you and say  
6 oh, he threatened me, he said he was going to kill me  
7 if I didn't do this. No, she said, you know, he was  
8 very nice, but he said what he said, all right, about  
9 his brother's culpability, responsibility and about  
10 what he would do for her if she didn't show up.  
11 Now, on the other hand, had Antwan Wright  
12 known about these allegations, what would he do? He  
13 would come in, because the Jersey City Police  
14 Department, Hudson County Prosecutor's Office, into  
15 this Court and say hold up, she's saying that she  
16 doesn't know him, they've known each other for 15  
17 years.  
18 Ladies and gentlemen, it's not my job to  
19 convict people, all right. It's not. It's not my job  
20 to convict people. It's my job to do justice, all  
21 right. If a law has been violated, it's my job to  
22 prosecute the violation of that law. I don't just try  
23 to convict people.  
24 THE COURT: Overruled. Continue.  
25 MR. TROIANO: Nothing. All right. Three and

## Summations

72

1 a half years, this has been on the street. Two and a  
2 half years he's been accused of this. Nothing. Same  
3 goes for Davon Parsons but I think Mr. Wright, Antwan  
4 Wright, a little bit more forceful of an argument.

5 I would submit to you that him saying the  
6 first time I found out about these charges was in  
7 November of 2007 is absolute nonsense. All right. And  
8 why do I say that? Because Liliana said that this came  
9 out right away on the street, all right. Antwan Wright  
10 said this came out right away on the street. Davon  
11 Parsons a day later said no, this didn't come out until  
12 after he was in jail, all right. It's pretty evident  
13 what was going on there, all right.

14 Antwan Wright said to you immediately  
15 everybody knew what was going on here. Stephen Wright  
16 says no, it wasn't until November of the next year.  
17 Not true.

18 The Bramhall address. He says I never lived  
19 in the Bramhall address. This is the bedroom where  
20 he's having sex, his mother's bed, all right? I never  
21 lived there.

22 The investigation report submitted by Mr.  
23 Hirschorn from Antwan Wright say she and his brother  
24 were staying there at that time. Now he tried to give  
25 you this line about staying at a hotel which made no

## Summations

73

1 sense, all right. Fact of the matter was he was living  
2 there at the time. And why does he want all 14 of you  
3 to not think he was living there? Because it's a  
4 block, two blocks away from where this incident  
5 happened. And he wants you to think he's living on the  
6 other end of town, all right.

7 It's in the exact same direction where  
8 Liliana says this guy ran away. It's in the exact same  
9 direction that that condom was found. But he says no,  
10 I wasn't living there. I wasn't living there.

11 Not believable, ladies and gentlemen. The  
12 condom. Mr. Wright got caught up in his own story,  
13 all right. He didn't tell you about the condom because  
14 it was truth, all right. He told you about the condom  
15 because he got caught up in his own story. He wanted  
16 to support his own story so he just said oh, I threw it  
17 out in the garbage. There was no garbage. There was  
18 no garbage. There was no garbage according to Liliana.  
19 There was no garbage according to Detective Stambuli.  
20 There was no garbage in the house. Mr. Wright says I  
21 dropped it in the garbage pail in the house.

22 Believable? Believable? No.

23 Liliana testified that she didn't have a  
24 working cell phone. She had to call 911 on one of the  
25 cell phones, but she had no minutes. Mr. Wright says

Summations

74

1 on the night that this happened I called her on the  
2 phone, all right. Think about that, ladies and  
3 gentlemen, and think about how that would have had to  
4 take place. Anthony Waring's at the house till four,  
5 five o'clock in the morning, he leaves, Liliana says  
6 I'm up for maybe ten, 15 minutes and then I go to bed.  
7 Presumably Mr. Wright would have had to call  
8 her within that ten to 15 minute timeframe at five  
9 o'clock in the morning after never speaking to her  
10 before in the night. He said he only called once and  
11 he just happened to get through to her, just happened  
12 to get through to her, she didn't call him, happened to  
13 get through to her, and she says to him, yes, just  
14 finished having sex with Anthony Waring, why don't you  
15 come over.

16 Does it make sense? It does not make sense.  
17 But the best, the broken window, all right.  
18 Got to figure out how that window got broken. All  
19 right. They get in a fight back in the, back in the  
20 apartment, Liliana takes his clothes and he remembers,  
21 ladies, let's talk about that, he remembered everything  
22 he was wearing from November 19th -- November 17th,  
23 November 18th, November 19th, 20t, 21st, 22nd. I  
24 remember exactly what I was wearing three and a half  
25 years ago. To the point I was wearing color tee

Summations

75

1 shirts, hats, boots, different colors, different days.  
2 What were you guys wearing last Monday? No idea. No  
3 idea. But he remembers, all right. Doesn't make  
4 sense.

5 But let's talk about the glass. Liliana  
6 takes his clothes, she goes all the way on the other  
7 side of the apartment to the closet that she says I  
8 never even go into. I went in there once when I was  
9 looking at this place. But she decides to hide his  
10 clothes in the closet, all right. These aren't five  
11 year olds, ladies and gentlemen, all right. These  
12 people are 20 to 25 years old, they're hiding each  
13 other's clothes, all right.

14 So he runs over there, they get into a fight,  
15 she picks up the clothes, and this is important, all  
16 right. She picks up the clothes, she goes, according  
17 to Mr. Wright, to the back of the room. He's standing  
18 by the doorway to the closet. They are arguing with  
19 one another, all right. Glass behind him mind you.  
20 They are arguing with one another. He gets so mad he  
21 wants to punch something. Does he punch the wall next  
22 to him? No. Does he punch the wall that's on the side  
23 of her head because he's so pissed off at her? No.

24 What he does, according to him, is he turns  
25 around and punches through a closet, past a water



Summations

76

1 heater, all these pipes, all this other stuff that  
2 you're going to see, he punches through the closet into  
3 the window. Does that make any sense, ladies and  
4 gentlemen? Does that make any sense? No.

5 But the window is broken, all right.  
6 Interesting thing about that window, okay. And this is  
7 it. This is why you know he's not telling the truth,  
8 all right. Screen is always down, that's the  
9 testimony, okay. Screen's always down. Screen never  
10 put up, screen doesn't have a locking mechanism, screen  
11 is always down. Liliana says I never even go in there.  
12 Screen's always down, all right. Where is this  
13 picture. Pardon me.

14 Okay, screen's always down. Mr. Wright says  
15 on cross examination I punched the window and I pulled  
16 back so quick that I didn't hit a screen. Do you  
17 remember that? I asked him specifically and I asked  
18 him specifically for a reason, all right. Because if  
19 you punch through a window and there is nothing on the  
20 other side, for instance a screen, where is the broken  
21 glass going to go? On the other side. But in this  
22 case, there's a screen, all right. So he would have  
23 had to hit the screen with his hand. If he didn't,  
24 that's fine.

25 Yet, ladies and gentlemen, next day glass

Summations

77

1 found outside. Screen down whole time, glass found  
2 outside. No rips in the screen, no tears in the  
3 screen, nothing like that. How did that glass get  
4 outside? Ask yourselves that question. It is  
5 physically impossible. If you were to believe what  
6 he's telling you, physically impossible for the glass  
7 to miraculously, magic glass, get past the screen onto  
8 the ground.

9 Doesn't make sense.

10 And then of course we get the story on the  
11 blood, all right. Obviously whacks it when he turns  
12 around to punch the glass and then he does one of these  
13 to get his clothes back and he just -- he doesn't know  
14 he gets blood on her but he, you know, whatever. We,  
15 he finds out a year and a half later, okay. He's got a  
16 scar to prove it, you know, all that.

17 The Judge will tell you about this concept  
18 that we have, false in one, false in all, okay. Which  
19 basically means that if you lie about one thing, and  
20 you all recognize that he lies about one thing, then  
21 you can say that he lies about everything. And I've  
22 just given you, ladies and gentlemen, ten lies. Things  
23 that just don't make sense, all right. Things that  
24 sound good, all right. Make for some good argument.  
25 But if you think about them, you analyze them they

1 don't make sense.

2 But the pieces don't fit.

3 Ladies and gentlemen, I asked you in the  
4 beginning use that who, what, when, where, why, how.  
5 Go back there, make a decision about this case, all  
6 right. Put the two stories next to each other and see  
7 what makes sense, all right. See what lines up. See  
8 what doesn't make sense. See what's impossible,  
9 impossible to happen.

10 Ask yourselves, who's been saying the same  
11 story exactly for three and a half years. Ask yourself  
12 who's come in here after telling somebody about it a  
13 month ago. Ask yourself who's got more to lose here.  
14 Ask yourself who went to the police, who went to the  
15 nurses, who went to the Prosecutors, who went to the  
16 Grand Jury, who subjected themselves to questioning.  
17 All right?

18 Ask yourselves, who has motivation to lie?  
19 Ask yourselves if Liliana was going to make this up,  
20 ladies and gentlemen, why didn't she just give up a  
21 long time ago? Why didn't she just give up a long time  
22 ago. If this was as crazy a story as the defense wants  
23 to put out that she was just mad because this guy was  
24 leaving her that night after half an hour together,  
25 then why didn't she just give up? Why has she been so

1 consistent, so adamant for three and a half years that  
2 on that date at that time she was raped by that guy?

3 All right, you can't get around that.

4 Ladies and gentlemen, Mr. Hirschorn said on  
5 his opening, said on his closing, if the facts as the  
6 State says you believe to be true, then he's guilty of  
7 a horrible crime. And I agree with him. The facts  
8 that I stated when I opened, the facts that I stated  
9 when I closed, the facts that you heard from this  
10 witness stand through my witnesses, told you the truth  
11 about what happened November 19th, 2006.

12 I submit to you that Mr. Wright was guilty  
13 then, I submit to you that he is guilty now.

14 Ladies and gentlemen, I thank you very much.

15 THE COURT: Thank you, Mr. Troiano.

16 Okay, folks, this is the plan. I'm going to  
17 send you to lunch for one hour. You're to come back in  
18 one hour. Do not discuss the case at all amongst  
19 yourselves. Just enjoy your lunch. I want you to come  
20 back in an hour. I'll give you my instructions, it  
21 should take about 45 minutes.

22 With regard to timing for the day, normally I  
23 get you out of here by 4:30, okay. But if you want to  
24 stay past 4:30, I'll let you send me a note between  
25 four and 4:30 as to what you're going to do.

Colloquy

80

1 But think about that. And the reason I tell  
2 you that now is because in the event you want to call  
3 family or friends or if you have obligations, you may  
4 want to put them on notice about that in terms of what  
5 you can do or can't do and in terms of your schedules  
6 this afternoon, okay.

7 So I thank you very much, thanks for your  
8 attention, see you in one hour. Don't discuss the case  
9 amongst yourselves.

10 (Off the record/on the record)

11 THE COURT: First degree aggravated assault,  
12 we'll give in addition to burglary. Second aggravated  
13 assault, physical force, coercion without physical  
14 injury, contact during the course of a burglary and  
15 contact, simple contact. That's four, those four,  
16 burglary, second and third.

17 MR. TROIANO: Yeah, we -- we -- none of us  
18 really like that wording of the verdict sheet.

19 THE COURT: Tell me what you want to change  
20 on it.

21 MR. TROIANO: Okay.

22 THE COURT: As far as the lesser included, I  
23 mean both parties are admitting penetration, but  
24 according to case law, I have to give lesser included.  
25 I'm going to do it. Statement of defendant, prior

Colloquy

81

1 contradictory statements, false in one, false in all,  
2 prior conviction of defendant, prior conviction of the  
3 witness, identification.

4 MR. TROIANO: False in one, false in all,  
5 that's in the non 2C?

6 THE COURT: I think we talked about it in our  
7 conference but if anything else comes to mind over  
8 lunch let me know. And in the meantime take a look at  
9 the verdict sheet and let me know about that too.

10 Thank you.

11 MR. SMITH: Judge, I wanted to make an  
12 application as to Mr. Troiano's closing. Would you  
13 like me to do it now or --

14 THE COURT: Yeah, you can do it now.

15 MR. HIRSCHORN: Judge, I'm going to make an  
16 application at this point in time for a mistrial. At  
17 various points in time through Mr. Troiano's closing  
18 specifically one, he brought up this whole idea of the  
19 markings on the victim. And what my client would have  
20 or would not have known, leaving in the jury's mind  
21 this idea that Miss Santos has some markings upon her  
22 that my client should have recognized.

23 At no point in time throughout the testimony  
24 did any witness testify as to any kind of marking. So  
25 what Mr. Troiano has left in the jury's mind is an idea

Colloquy

82

1 that this man should have known something that none of  
2 us know, because nothing was ever elicited as to that.

3 So now I've got a jury who is going to go  
4 back there and believe or could potentially believe I  
5 should say, that he could be guilty because he didn't  
6 see as Mr. Troiano said, the State of New Jersey on her  
7 hip. That's problem, Judge. That's a problem. That  
8 wasn't part of the testimony in any way, shape or form.  
9 It was one question that was asked and he said he  
10 didn't know.

11 That's my application, Judge. Thanks.

12 THE COURT: Okay.

13 Mr. Troiano, anything?

14 MR. TROIANO: No, Judge. It came out in  
15 cross examination, I asked some multiple questions  
16 about any markings, his level of knowledge about her.  
17 I mean the -- the specific reference to New Jersey was  
18 kind of tongue in cheek.

19 THE COURT: Yeah, I mean I don't think the  
20 jury's going to -- I disagree with you about the fact  
21 whether or not the jury's going to infer she had  
22 markings. I think the jury is going to ask why didn't  
23 Mr. Troiano ask her on rebuttal if she had any  
24 markings. You didn't ask. So I don't believe it  
25 assumes she had -- had them, because she came back.

Colloquy

83

1 So I'm not going to assume they think she  
2 didn't have them. Frankly, I mean the purpose during,  
3 if you're talking about trial strategy, and Mr. Troiano  
4 was under the impression that Mr. Wright was not  
5 telling the truth, perhaps under the impression that  
6 she -- she couldn't come back, and he perhaps was  
7 fishing for him to make something up, at which time  
8 he'd bring her back on rebuttal and she'd be able to  
9 say, he could ask her, do you have such a marking, and  
10 she could say no.

11 So, I don't think the jury's going to jump to  
12 the conclusion she has any markings, so I disagree with  
13 you there.

14 All right, we'll see you at -- in an hour.

15 MR. TROIANO: Thanks, Judge.

16 THE COURT: And folks in the --

17 (Off the record/on the record)

18 (RECESS)

19 THE COURT: -- ladies and gentlemen, the  
20 evidence in the case has been presented, the attorneys  
21 have completed their summations, we now arrive at that  
22 time when you as jurors are to perform your final  
23 function in this case.

24 At the outset, let me express my thanks and  
25 appreciation to you for your attention to this case. I

Jury Charge

84

1 would like to commend counsel for the professional  
2 manner in which they have presented their respective  
3 cases and for their courtesy to the Court and jury  
4 during the course of this trial.

5 Before you retire to deliberate and reach  
6 your verdict, it is my obligation to instruct you as to  
7 the principles of law applicable to this case. You  
8 shall consider my instructions in their entirety and  
9 not pick out any particular instruction and  
10 over-emphasize it.

11 You must accept and apply this law for this  
12 case as I give it to you in this instruction. Any  
13 ideas that you have of what the law is or what the law  
14 should be or any statements by the attorneys as to what  
15 the law may be, must be disregarded by you if they are  
16 in conflict with my instructions.

17 During the course of the trial, I was  
18 required to make certain rulings on the admissibility  
19 of the evidence either in or outside of your presence.  
20 These rulings involved questions of law. The comments  
21 of the attorneys on these matters was not evidence. In  
22 ruling, I have decided questions of law and whatever  
23 the ruling may have been in any particular case, you  
24 should understand that it was not an expression or  
25 opinion by me on the merits of the case.

Jury Charge

85

1 Neither should my other rulings on any other  
2 aspect of the trial be taken by you as favoring one  
3 side or the other. Each matter was decided on its own  
4 merits.

5 When I use the term evidence, I mean the  
6 testimony you have heard and seen from this witness box  
7 and the exhibits that have been admitted into evidence.

8 Any testimony that I may have had occasion to  
9 strike is not evidence and shall not enter into your  
10 final deliberations. It must be disregarded by you.

11 This means that even though you may remember  
12 the testimony, you are not to use it in your  
13 discussions or deliberations.

14 Further, if I gave a limiting instruction as  
15 to how to use certain evidence, that evidence must be  
16 considered by you for that purpose only. You cannot  
17 use it for any other purpose.

18 As jurors, it is your duty to weigh the  
19 evidence calmly and without passion, prejudice, or  
20 sympathy. Any influence caused by these emotions has  
21 the potential to deprive both the State and the  
22 defendant of what you promised them, a fair and  
23 impartial trial by fair and impartial jurors.

24 Also, speculation, conjecture and other forms  
25 of guessing play no role in the performance of your

1 duty.

2 The defendant stands before you on an  
3 indictment returned by the Grand Jury charging him with  
4 aggravated sexual assault and burglary.

5 The indictment is not evidence of the  
6 defendant's guilt on the charges. It's simply a step in  
7 the procedure to bring the matter before the Court and  
8 jury for the jury's ultimate determination as to  
9 whether the defendant is guilty or not guilty on the  
10 charges stated in it.

11 The defendant has pled not guilty to the  
12 charges and he is presumed to be innocent unless each  
13 and every essential element of the offense charged is  
14 proved beyond a reasonable doubt, the defendant must be  
15 found not guilty of the charge.

16 The burden of proving each element of a  
17 charge beyond a reasonable doubt rests upon the State  
18 and that burden never shifts to the defendant. The  
19 defendant in a criminal case has no obligation or duty  
20 to prove his innocence or offer any proof relating to  
21 his innocence. The prosecution must prove its case by  
22 more than a mere preponderance of the evidence, yet not  
23 necessarily to an absolute certainty.

24 The State has the burden of proving the  
25 defendant guilty beyond a reasonable doubt. Some of

1 you may have served as jurors in civil cases where you  
2 were told that it is necessary to prove only that a  
3 fact is more likely true than not true. In criminal  
4 cases, the State's proof must be more powerful than  
5 that, it must be beyond a reasonable doubt.

6 A reasonable doubt is an honest and  
7 reasonable uncertainty in your minds about the guilt of  
8 the defendant after you have given full and impartial  
9 consideration to all of the evidence.

10 A reasonable doubt may arise from the  
11 evidence itself, or from a lack of evidence. It is a  
12 doubt that a reasonable person hearing the same  
13 evidence would have.

14 Proof beyond a reasonable doubt is proof that  
15 leaves you firmly convinced of the defendant's guilt.  
16 In this world, we know very few things with absolute  
17 certainty. In criminal cases, the law does not require  
18 proof that overcomes every possible doubt.

19 If, based on your consideration of the  
20 evidence, you are firmly convinced that the defendant  
21 is guilty of the crime charged, you must find him  
22 guilty.

23 If, on the other hand, you are not firmly  
24 convinced of defendant's guilt, you must give defendant  
25 the benefit of the doubt and find him not guilty.

Jury Charge

88

1 In my preliminary instruction when we started  
2 the case I explained to you that you are the judges of  
3 the facts, and as judges of the facts, you to determine  
4 the credibility of the various witnesses as well as the  
5 weight to be attached to their testimony.  
6 You and you alone are the sole and exclusive  
7 judges of the evidence, of the credibility of the  
8 witnesses and the weight to be attached to the  
9 testimony of each witness.  
10 Regardless of what counsel said, or I may  
11 have said recalling the evidence in this case, it is  
12 your recollection of the evidence that should guide you  
13 as judges of the facts. Arguments, statements,  
14 remarks, openings and summation of counsel are not  
15 evidence and must not be treated as evidence.  
16 Although the attorneys may point out what  
17 they think is important in this case, you must rely  
18 solely upon your understanding and recollection of the  
19 evidence that was admitted during the course of t he  
20 trial.  
21 Whether or not the defendant has been proven  
22 guilty beyond a reasonable doubt is for you to  
23 determine based on all the evidence presented during  
24 the trial.  
25 Any comments made by the attorneys are not

Jury Charge

89

1 controlling. It is your sworn duty to arrive at a just  
2 conclusion after considering all the evidence which was  
3 presented during the course of the trial.  
4 The function of the Court is separate and  
5 distinct from the function of the jury. It is my  
6 responsibility to determine all questions of law  
7 arising during the trial and to instruct the jury as to  
8 the law which applies in this case. You must accept  
9 the law as given to you by me and apply it to the facts  
10 as you find them to be.  
11 I have sustained objections to some questions  
12 asked by counsel which may have contained statements  
13 of certain facts. The mere fact that an attorney asks  
14 a question and inserts facts or comments or opinions in  
15 that question in no way proves the existence of those  
16 facts.  
17 You will only consider such facts which in  
18 your judgment have been proven by the testimony of the  
19 witness or from exhibits admitted into evidence by the  
20 Court.  
21 As you know, evidence may be either direct or  
22 circumstantial. Direct evidence means evidence that  
23 directly proves a fact without an inference and which  
24 in itself, if true, conclusively establishes that fact.  
25 On the other hand, circumstantial evidence means

## Jury Charge

90

1 evidence that proves a fact from which an inference of  
2 the existence of another fact may be drawn.

3 And the example of that was the snow falling.  
4 It's the best way to distinguish the two.

5 An inference is a deduction of fact that may  
6 logically and reasonably be drawn from another fact or  
7 group of facts established by the evidence. Whether or  
8 not inferences should be drawn is for you to decide  
9 using your own common sense, knowledge and every day  
10 life experience. Ask yourselves, is it probable,  
11 logical and reasonable.

12 It is not necessary that all the facts be  
13 proven by direct evidence. They may be proven by  
14 direct evidence, circumstantial evidence or by a  
15 combination of direct and circumstantial evidence. All  
16 are acceptable as a means of proof.

17 In many cases, circumstantial evidence may be  
18 more certain, satisfying and persuasive than direct  
19 evidence. However, direct and circumstantial evidence  
20 should be scrutinized and evaluated carefully. A  
21 verdict of guilty may be based on direct evidence  
22 alone, circumstantial evidence alone or a combination  
23 provided of course that it convinces you of the  
24 defendant's guilt beyond a reasonable doubt.

25 The reverse is also true. A defendant may be

## Jury Charge

91

1 found not guilty by reason of direct evidence,  
2 circumstantial evidence, a combination of the two or a  
3 lack of evidence if it raises in your mind a reasonable  
4 doubt as to the defendant's guilt.

5 As the judges of the facts, you are to  
6 determine the credibility of the witnesses, and in  
7 determining whether a witness is worthy of belief and  
8 therefore credible, you may take into consideration.  
9 The appearance and demeanor of the witness; the manner  
10 in which he or she may have testified; the witness'  
11 interest in the outcome of the trial, if any; his or  
12 her means of obtaining knowledge of the facts; the  
13 witness' power of discernment meaning their judgment or  
14 understanding; his or her ability to reason, observe,  
15 recollect and relate; the possible bias, if any, in  
16 favor of the side for whom the witness testified; the  
17 extent to which, if at all, each witness is either  
18 corroborated or contradicted, supported or discredited  
19 by other evidence; whether the witness testified with  
20 an intent to deceive you; the reasonableness or  
21 unreasonableness of the testimony the witness has  
22 given; whether the witness made any inconsistent or  
23 contradictory statement; and any and all other matters  
24 in the evidence which serve to support or discredit his  
25 or her testimony.



## Jury Charge

92

1 Through this analysis, as the judges of the  
2 facts, you weigh the testimony of the witness and then  
3 determine the weight to give it. Through that process,  
4 you may accept all of it, a portion of it or none of  
5 it.

6 If you believe any witness or party willfully  
7 or knowingly testified falsely to any material facts in  
8 the case, with an intent to deceive you, you may give  
9 such weight to his or her testimony as you deem it is  
10 entitled. You may believe some of it, or you may in  
11 your discretion disregard all of it.

12 Now there are two offenses charged in the  
13 indictment. They are separate offenses by separate  
14 counts of the indictment. In your determination of  
15 whether the defendant, I'm sorry, whether the State has  
16 proven the defendant guilty of the crimes charged in  
17 the indictment beyond a reasonable doubt, the defendant  
18 is entitled to have each count considered separately by  
19 the evidence which is relevant and material to that  
20 particular charge based on the law as I will give it to  
21 you.

22 Now, evidence including a witness' statement  
23 or testimony prior to trial showing that at a prior  
24 time a witness has said something which is inconsistent  
25 with the witness' testimony at trial, may be considered

## Jury Charge

93

1 by you for the purpose of judging the witness'  
2 credibility.

3 It may be also considered by you as  
4 substantive evidence, that is as proof of the truth of  
5 what is stated in the prior contradictory statement.

6 Evidence has been presented showing that at a  
7 prior time the witness has said something or failed to  
8 say something which is inconsistent with his testimony  
9 at the trial. This evidence may be considered by you  
10 as substantive evidence or proof of the truth of the  
11 prior contradictory statement or omitted statement.

12 However, before deciding whether the prior  
13 inconsistent or omitted statement reflects the truth,  
14 in all fairness you will want to consider all the  
15 circumstances under which the statement or failure to  
16 disclose occurred.

17 You may consider the extent of the  
18 inconsistency or omission and the importance or lack of  
19 importance of the inconsistency or omission on the  
20 overall testimony of the witness as bearing on his or  
21 her credibility.

22 You may consider such factors as where and  
23 when the prior statement or omission occurred and the  
24 reasons if any therefore.

25 The extent to which such inconsistencies or

Jury Charge

94

1 omissions reflect the truth is for you to determine.  
2 Consider their materiality and relationship to his or  
3 her entire testimony and all the evidence in the case,  
4 when, where, and the circumstances under which they  
5 were said or omitted and whether the reasons he or she  
6 gave you there -- therefore appear to be, to you to  
7 believe, to -- appear to you to be believable and  
8 logical.

9 In short, consider all that I have told you  
10 before about prior inconsistent statements or  
11 omissions.

12 You of course consider other evidence and  
13 inferences from other evidence including statements  
14 from other witnesses or acts of other witnesses and  
15 others disclosing other motives that the witnesses may  
16 have had to testify as he or she did, that is reason  
17 other than what he or she gave to us.

18 All right. You heard evidence that Anthony  
19 Waring has previously been convicted of a crime. This  
20 evidence may be only used in determining the  
21 credibility or believability of the witness' testimony.

22 A jury has a right to consider whether a  
23 person who has previously failed to comply with  
24 society's rules as demonstrated through a criminal  
25 conviction will be more likely to ignore the oath

Jury Charge

95

1 requiring truthfulness on the witness stand than a  
2 person who has never been convicted of a crime.

3 You may consider in determining this issue  
4 the nature and degree of the prior conviction and when  
5 they occurred.

6 You are not, however, obligated to change  
7 your opinion as to the credibility of these witnesses  
8 simply because of a prior conviction. You may consider  
9 such evidence along with all facts as we previously  
10 discussed in determining credibility of a witness.

11 You also heard evidence that Stephen Wright  
12 has previously been convicted of the crimes of  
13 possession of a weapon and armed robbery. This  
14 evidence may only be used in determining the  
15 credibility or believability of the defendant's  
16 testimony. You may not conclude that defendant  
17 committed the crime charged in this case or is more  
18 likely to have committed the crime simply charged,  
19 because he committed a crime on a prior occasion.

20 All right. A jury has a right to consider  
21 whether a person who has previously failed to comply  
22 with society's rules as demonstrated through a criminal  
23 conviction will be more likely to ignore the oath  
24 requiring truthfulness on the witness stand, than a  
25 person who has never been convicted of any crime.

Jury Charge

96

1 You may consider in determining this issue  
2 the nature and degree of the prior convictions and when  
3 they occurred.

4 Our law permits a conviction to be received  
5 in evidence only for the purpose of affecting the  
6 credibility of the defendant and for no other purpose.  
7 You are not, however, obligated to change your opinion  
8 as to the credibility of the defendant simply because  
9 of a prior conviction. You may consider such evidence  
10 along with all other factors as we previously discussed  
11 in determining the credibility of this defendant.

12 All right. There is for your consideration  
13 in this case, a statement allegedly made by the  
14 defendant. And by statement I mean Lilitiana Santos  
15 testified that the person who assaulted her spoke some  
16 words.

17 I'll leave it to your recollection as to what  
18 those words were.

19 It is your function to determine whether or  
20 not the statement was actually made by the defendant  
21 and if made, whether the statement or any portion of it  
22 is credible.

23 In considering whether or not an oral  
24 statement was actually made by the defendant and, if  
25 made, whether it is credible, you should receive, weigh

Jury Charge

97

1 and consider this evidence with caution based on the  
2 generally recognized risk of misunderstanding by the  
3 hearer, or the ability of the hearer to recall  
4 accurately the words used by the defendant.

5 The specific words used and the ability to  
6 remember them are important to the correct  
7 understanding of any oral communication because the  
8 presence or absence or change of a single word may  
9 substantially change the true meaning of even the  
10 shortest sentence.

11 You should, therefore, receive, weigh and  
12 consider such evidence with caution.

13 And I'm not going to repeat what he said,  
14 I'll leave that to your recollection.

15 If, after consideration of all these factors,  
16 you determine that the statement was not actually made,  
17 or that the statement is not credible, then you must  
18 disregard the statement completely.

19 If you find that the statement was made and  
20 that part or all of the statement is credible, you may  
21 give what weight you think appropriate to the portion  
22 of the statement you find to be truthful and credible.

23 Defendant as part of his general denial of  
24 guilt contends the State has not presented sufficient  
25 reliable evidence to establish beyond a reasonable

## Jury Charge

98

1 doubt that he is the person who committed the alleged  
2 offense.

3           The burden of proving the identity of the  
4 person who committed the crime is upon the State. For  
5 you to find the defendant guilty, the State must prove  
6 beyond a reasonable doubt that this defendant is the  
7 person who committed the crime.

8           The defendant has neither the burden nor the  
9 duty to show that the crime if committed was committed  
10 by someone else, or to prove the identity of that other  
11 person.

12           You must determine, therefore, not only  
13 whether the State has proven each and every element of  
14 the offenses charged beyond a reasonable doubt, but  
15 also whether the State has proven beyond a reasonable  
16 doubt that this person, this defendant, is the person  
17 who committed it.

18           The State has presented the testimony of  
19 Liliana Santos. You may recall that this witness  
20 identified the defendant in Court as the person who  
21 committed the crimes of burglary and aggravated sexual  
22 assault.

23           The State also presented testimony that on a  
24 prior occasion before the trial, the witness identified  
25 the defendant as the person who committed these

## Jury Charge

99

1 offenses.

2           According to the witness, her identification  
3 of the defendant was based upon the observations,  
4 perceptions she made of the perpetrator at the time the  
5 offense was being committed.

6           It is your -- it is your function to  
7 determine whether a witness' identification of  
8 defendant is reliable and believable or whether it was  
9 based on a mistake, or for any reason not worthy of  
10 belief.

11           You must decide whether it is sufficiently  
12 reliable upon which to conclude that this defendant is  
13 the person charged who committed the offense -- that  
14 this defendant is the person who committed the offense  
15 charged.

16           You consider -- you should consider the  
17 observations and perceptions on which the  
18 identification was based, and the circumstances under  
19 which the identification was made.

20           Although nothing may appear more convincing  
21 than a witness' categorical identification of a  
22 perpetrator, you must critically analyze such  
23 testimony. Such identifications, even if made in good  
24 faith, may be mistaken.

25           Therefore, when analyzing the testimony be

## Jury Charge

100

1 advised that a witness' level of confidence standing  
2 alone may not be an indication of the reliability of  
3 the identification.

4 In evaluating the identifications, you should  
5 consider the observations and perceptions upon which  
6 the identifications were based, and the witness'  
7 ability to make these observations and perceptions.

8 If you determine that the out-of-Court  
9 identification is not reliable, you may still consider  
10 the witness' in-Court identification of the defendant  
11 if you find it to be reliable.

12 Unless the in-Court identification resulted  
13 from the witness' observations or perceptions of the  
14 perpetrator during the commission of the offense,  
15 rather than being gained from -- rather than being the  
16 product of an impression gained at an out-of-Court  
17 procedure it should be afforded no weight.

18 The ultimate issue of trustworthiness of both  
19 the in-Court and out-of-Court identification are for  
20 you to decide.

21 To decide whether the identification  
22 testimony is sufficiently reliable evidence upon which  
23 to conclude that this defendant is the person who  
24 committed the offenses charged, you should evaluate the  
25 testimony of the witness in light of the factors for

## Jury Charge

101

1 considering credibility that I've already explained to  
2 you.

3 In addition, you may consider the following  
4 factors. The witness' opportunity to view the person  
5 who committed the offense at the time of the offense;  
6 the witness' degree of attention to the perpetrator at  
7 the time of the offense; the accuracy of any  
8 description the witness gave prior to identifying the  
9 perpetrator; the degree of certainty expressed by the  
10 witness in making any identification; the length of  
11 time between the witness' observation of the offense  
12 and the first identification; discrepancies or  
13 inconsistencies between identifications, if any; the  
14 circumstances under which any out-of-Court ID was made;  
15 and whether or not it was the product of a suggestive  
16 procedure including done or said -- including  
17 everything done or said by the law enforcement to the  
18 witness before, during or after the identification  
19 process.

20 And any and all of the factors based upon the  
21 evidence or lack of evidence in the case which you  
22 consider relevant to your determination whether the  
23 identifications were reliable.

24 The fact that an identifying witness is not  
25 of the same race as the perpetrator and/or defendant,

## Jury Charge

102

1 and whether that fact might have an impact on the  
2 accuracy of the witness' original perception, and on  
3 accuracy of the subsequent identification, you should  
4 consider that ordinary -- ordinary human experience  
5 people have greater difficulty identifying members of a  
6 different race.

7 Unless the -- unless the in-Court,  
8 out-of-Court identification result from the witness'  
9 observations or perceptions of the perpetrator during  
10 the commission of the offense, rather than being the  
11 product of an impression gained at the in-Court and/or  
12 out-of--Court identification procedure, it should be  
13 afforded no weight.

14 The ultimate issue of the trustworthiness of  
15 the identification is for you to decide. If, after  
16 consideration of all the evidence you determine the  
17 State has not proven beyond a reasonable doubt the  
18 defendant was the person who committed these offenses,  
19 then you must find him not guilty.

20 If, on the other hand, after consideration of  
21 all the evidence, you are convinced beyond a  
22 reasonable doubt that defendant was correctly  
23 identified, you will then consider whether the State  
24 has proven each and every essential element of the  
25 charges, beyond a reasonable doubt.

## Jury Charge

103

1 Now I'm going to charge you the exact  
2 offenses in the indictment. I'm going to give you the  
3 definitions of aggravated sexual assault and the  
4 definition of burglary.

5 All right, count one of the indictment  
6 charges the defendant with aggravated sexual assault.  
7 Our laws provide in pertinent part as follows. An  
8 actor is guilty of aggravated sexual assault if he  
9 commits an act of sexual penetration with another  
10 person during the commission of a burglary.

11 In order to convict defendant of this charge,  
12 the State must prove the following elements beyond a  
13 reasonable doubt.

14 Number one, that the defendant committed an  
15 act of sexual penetration with another person.

16 Two, that defendant acted knowingly.

17 Three, that the penetration occurred during  
18 the commission of a burglary.

19 The first element the State must prove beyond  
20 a reasonable doubt is that the defendant committed an  
21 act of sexual penetration with Liliana Santos.  
22 According to the law, vaginal intercourse by the  
23 defendant constitutes sexual penetration.

24 Any amount of insertion, however slight,  
25 constitutes penetration. That is the depth of the

## Jury Charge

104

1 insertion is not relevant.

2 The definition of vaginal intercourse is the  
3 penetration of the vagina.

4 Second element the State must prove beyond a  
5 reasonable doubt is that defendant acted knowingly.  
6 And knowingly is in a lot of definitions so please pay  
7 attention. I may not repeat it.

8 A person acts knowingly with respect to the  
9 nature of his conduct or the -- or the attendant  
10 circumstances if he is aware that the conduct is of  
11 that nature or that such circumstances exist or the  
12 person is aware of a high probability of their  
13 existence.

14 A person acts knowingly with respect to a  
15 result of the conduct if he is aware that it is  
16 practically certain that the conduct will cause such a  
17 result.

18 Knowing, with knowledge are equivalent terms  
19 and have the same meaning.

20 Knowledge is a condition of the mind, it  
21 cannot be seen. It can only be determined by  
22 inferences from defendant's conduct, words or acts. A  
23 state of mind is rarely susceptible of direct proof but  
24 must ordinarily be inferred from the facts.

25 Therefore, it is not necessary that the State

## Jury Charge

105

1 produce a witness to testify that an accused said he  
2 had a certain state of mind when he did a particular  
3 thing. It is within your power to find that such proof  
4 has been furnished beyond a reasonable doubt by  
5 inferences which may arise from the nature of his acts  
6 and conduct or from all he said and did at the  
7 particular time and place, and from all the surrounding  
8 circumstances established by the evidence.

9 Three, the third element the State must prove  
10 beyond a reasonable doubt is the penetration occurred  
11 during the commission of a burglary. And I'm going to  
12 instruct you on burglary next.

13 If you find the State has proven beyond a  
14 reasonable doubt each of these three elements then you  
15 must find the defendant guilty of the crime of  
16 aggravated sexual assault.

17 On the other hand, if you find the State has  
18 failed to prove any of these elements beyond a  
19 reasonable doubt, then you must find the defendant not  
20 guilty of aggravated sexual assault.

21 Now, the law requires the Court to instruct  
22 the jury with respect to possible lesser included  
23 offenses even if they are not contained in the  
24 indictment.

25 Just because the Court is instructing you

## Jury Charge

106

1 concerning these offenses does not mean the Court has  
2 an opinion one way or another about whether the  
3 defendant committed these or any other offenses. You  
4 should consider these offenses along with those for  
5 which the defendant is indicted.

6 However, you are not to render a verdict on  
7 these offenses or answer the questions on the verdict  
8 sheet unless you find the State has failed to meet its  
9 burden with regard to the offenses in the indictment.

10 Now, on aggravated sexual assault, there are  
11 three lesser included offenses. I'm going to give you  
12 each one right now.

13 Okay, the first lesser included offense. Our  
14 statute provides in pertinent part as follows. An  
15 actor is guilty of sexual assault, this is different.  
16 The -- my first definition was aggravated sexual  
17 assault, now I'm defining sexual assault.

18 A person is guilty of sexual assault if he  
19 commits an act of sexual penetration with another  
20 person and the actor uses physical force or coercion  
21 but the victim does not sustain severe personal injury.

22 In order to convict defendant on these  
23 charges, the State must prove the following elements  
24 beyond a reasonable doubt.

25 One, defendant committed an act of sexual

## Jury Charge

107

1 penetration with another person.

2 Two, defendant acted knowingly -- there's  
3 that word knowingly again.

4 Three, defendant used physical force or  
5 coercion.

6 Four, the victim did not sustain severe  
7 personal injury.

8 The first element the State must prove beyond  
9 a doubt is the defendant committed an act of sexual  
10 penetration with Liliana Santos. And again, according  
11 to the law, vaginal intercourse by defendant  
12 constitutes sexual penetration. Any amount of  
13 insertion, however slight, constitutes penetration.  
14 Depth of insertion is not relevant. And vaginal  
15 intercourse is the penetration of the vagina.

16 The second element the State must prove  
17 beyond a reasonable doubt is that defendant acted  
18 knowingly. I just defined it so I'm not going to  
19 repeat knowingly for you, okay.

20 Third element the State must prove beyond a  
21 reasonable doubt is that defendant used physical force  
22 or coercion.

23 Physical force is defined as the commission  
24 of the act of sexual penetration without the victim's  
25 freely and affirmatively given permission to the



## Jury Charge

108

1 specific act of penetration alleged to have occurred.

2 You must decide whether defendant's alleged  
3 act of penetration was undertaken in circumstances that  
4 led the defendant reasonably to believe that the victim  
5 had freely given affirmative permission to the specific  
6 act of sexual penetration.

7 Simply put, affirmatively given permission  
8 means the victim did or said something which would lead  
9 a reasonable person to believe he was -- she was  
10 agreeing to engage in the act of sexual penetration.  
11 And freely given permission means the victim agreed of  
12 her own free will to engage in the act of sexual  
13 penetration.

14 Freely and affirmatively given penetr --  
15 permission rather can be indicated through words or  
16 through actions that when viewed in light of all the  
17 surrounding circumstances would demonstrate to a  
18 reasonable person that affirmative and freely given  
19 permission for the specific act of sexual penetration  
20 had been given.

21 Persons need not of course expressly announce  
22 their consent to engage in an act of sexual intercourse  
23 for there to be affirmative permission. Permission to  
24 engage in an act of sexual penetration can be and  
25 indeed often is indicated through physical actions

## Jury Charge

109

1 rather than words. Permission is demonstrated when the  
2 evidence in whatever form is sufficient to demonstrate  
3 that a reasonable person would have believed that the  
4 alleged victim had affirmatively and freely given  
5 authorization to the act.

6 Proof that the act of sexual penetration  
7 occurred without the victim's permission can be based  
8 on evidence of conduct or words in light of the  
9 surrounding circumstances and must demonstrate beyond a  
10 reasonable doubt that a reasonable person would not  
11 have believed that there was affirmative and freely  
12 given permission.

13 If there is evidence to suggest that  
14 defendant reasonably believed that such permission had  
15 been given, the State must demonstrate beyond a  
16 reasonable doubt the defendant did not actually believe  
17 that the permission had been freely given or that such  
18 belief was unreasonable under the circumstances.

19 In determining the reasonableness of  
20 defendant's belief that victim had freely given  
21 affirmative permission, you must keep in mind that the  
22 law places no burden on the alleged victim to have  
23 expressed non-consent or to have denied permission.

24 You should not speculate as to what the  
25 alleged victim thought or desired or why she did not

## Jury Charge

110

1 resist or protest. The State is not required to prove  
2 the victim resisted.

3 To find defendant used coercion, you must  
4 find defendant, with the purpose to unlawfully restrict  
5 Liliana Santos freedom of action to engage in or  
6 refrain from engaging in the act of sexual penetration  
7 threatened to inflict bodily injury.

8 To find defendant used coercion, you must  
9 find that defendant's purpose was to compel Liliana  
10 Santos to engage in an act of sexual penetration by  
11 threatening her.

12 A person acts purposely and that's another  
13 very important word, purposely. A person acts  
14 purposely with respect to the nature of his conduct or  
15 the result of that conduct if it is his conscious  
16 object to engage in conduct of that nature and to cause  
17 such a result.

18 A person acts purposely with respect to  
19 attendant circumstances if the person is aware of the  
20 existence of such circumstances or believes or hopes  
21 that they exist.

22 With purpose, design, with design are  
23 equivalent terms and have the same meaning.

24 Knowledge and purpose are conditions of the  
25 mind that cannot be seen. They can only be determined

## Jury Charge

111

1 by inference from defendant's conduct, words or act. A  
2 state of mind is rarely susceptible of direct proof but  
3 must ordinarily be inferred from the facts.

4 Therefore, it is not necessary that the State  
5 produce witnesses to testify that an accused said he  
6 had a certain state of mind when he did a particular  
7 thing.

8 It is within your power to find that such  
9 proof has been furnished beyond a reasonable doubt by  
10 inference which may arise from the nature of his act  
11 and conduct and from all he said and did at the  
12 particular time and place, and from all the surrounding  
13 circumstances established by the evidence.

14 The fourth element the State must prove  
15 beyond a reasonable doubt is that the victim did not  
16 sustain severe physical injury. And severe -- severe  
17 -- I'm sorry, severe physical injury, yes. Severe  
18 personal injury means severe bodily injury,  
19 disfigurement, disease, incapacitating mental anguish  
20 or chronic pain.

21 If you find the State has proven beyond a  
22 reasonable doubt each of these four elements, then you  
23 must find defendant guilty of sexual assault.

24 On the other hand, if you find the State has  
25 failed to prove any of these elements beyond a

## Jury Charge

112

1 reasonable doubt, then you must find defendant not  
2 guilty of sexual assault.

3 Okay. The next lesser included offense, the  
4 first one was aggravated sexual assault, next I defined  
5 sexual assault. Number three is aggravated criminal  
6 sexual contact. Okay? During the course of a felony.

7 Okay, our law provides as follows. A person  
8 is guilty of aggravated criminal sexual contact if he  
9 commits an act of sexual contact, not penetration,  
10 contact, on another person during the commission of a  
11 burglary.

12 In order to convict defendant of the charge,  
13 State must prove the following elements beyond a  
14 reasonable doubt.

15 Number one, the defendant purposely, there's  
16 the word purposely again, committed an act of sexual  
17 contact with another person.

18 And two, the act of the sexual contact was  
19 committed during the commission of a burglary.

20 First element the State must prove beyond a  
21 reasonable doubt is that defendant committed an act of  
22 sexual contact upon Liliana Santos. Sexual contact  
23 means an intentional touching by the defendant, either  
24 directly or through clothing of Liliana Santos'  
25 intimate parts for the purpose of degrading or

## Jury Charge

113

1 humiliating Liliana Santos or sexually arousing and  
2 gratifying defendant.

3 Intimate parts means sexual organs, genital  
4 area, anal area, inner thigh, buttock or breast of a  
5 person.

6 To find defendant committed an act of  
7 criminal sexual contact you must find beyond a  
8 reasonable doubt that the touching was both intentional  
9 and that it was done with the purpose of degrading or  
10 humiliating Liliana Santos or sexually arousing or  
11 gratifying defendant.

12 Intentional means purposeful, it means on  
13 purpose. A person acts purposely with respect to the  
14 nature of his conduct or a result thereof if it is his  
15 conscious object to engage in conduct of that nature or  
16 to cause such a result.

17 A person acts purposely with respect to the  
18 attendant circumstances if he is aware of the existence  
19 of such circumstances or believes or hopes that they  
20 exist.

21 Second element the State must prove beyond a  
22 reasonable doubt is that the act of sexual contact was  
23 committed during the commission of a burglary. And  
24 again I have to define burglary for you. I'll do that  
25 in a minute.

## Jury Charge

114

1 If you find the State has proven each of  
2 these elements beyond a reasonable doubt, then you must  
3 find the defendant guilty.

4 If you find that the State has failed to  
5 prove any of these elements beyond a reasonable doubt,  
6 you must find defendant not guilty.

7 Okay, so that was aggravated sexual assault,  
8 number one. Sexual assault was number two. Three was  
9 aggravated criminal sexual contact during the course of  
10 a burglary.

11 The last lesser included is just criminal  
12 sexual contact. An actor is guilty of sexual contact  
13 if he commits an act of sexual contact with the victim  
14 and the actor uses physical force or coercion but the  
15 victim does not sustain severe personal injury.

16 In order to convict defendant of this charge,  
17 the State must prove the following elements beyond a  
18 reasonable doubt.

19 Number one, defendant purposely committed an  
20 act of sexual contact with another person.

21 Two, the defendant used physical force or  
22 coercion but the victim did not sustain severe personal  
23 injury.

24 First element the State must prove beyond a  
25 reasonable doubt is that defendant committed an act of

## Jury Charge

115

1 sexual contact with Liliana Santos. And I already  
2 explained what that was. The intentional touching by  
3 defendant either directly or indirectly through the  
4 clothing of Liliana Santos for the purpose of degrading  
5 or humiliating her or sexually arousing or gratifying  
6 defendant.

7 And I already explained what intimate parts  
8 are and I won't do that again.

9 To find defendant committed an act of  
10 criminal sexual contact, you must find beyond a  
11 reasonable doubt that both, that, that the touching was  
12 intentional and it was done with purpose of degrading  
13 or humiliating Liliana Santos or sexually arousing or  
14 gratifying the defendant.

15 I already defined purpose for you, I'm not  
16 going to repeat purpose.

17 Second element the State must prove beyond a  
18 reasonable doubt is that defendant used physical force  
19 or coercion but the victim did not sustain severe  
20 personal injury.

21 Physical force is defined as the commission  
22 of the act of sexual contact without the victim's  
23 freely and affirmatively given permission to the  
24 specific act of contact alleged to have occurred.

25 You must decide whether defendant's alleged

## Jury Charge

116

1 act of conduct was undertaken in circumstances that led  
2 the defendant reasonably to believe the victim had  
3 freely given affirmative permission to the specific act  
4 of sexual contact.

5           Simply put, affirmatively given permission  
6 means the victim did or said something which would lead  
7 a reasonable person to believe she was agreeing to  
8 engage in the act of sexual contact. And freely given  
9 permission means the victim agreed of her own free will  
10 to engage in the act of sexual contact.

11           Freely and affirmatively given permission can  
12 be indicated either through words or through actions  
13 when viewed in light of all the surrounding  
14 circumstances would demonstrate to a reasonable person  
15 that affirmative and freely given permission for the  
16 specific act of sexual contact had been given.

17           Persons need not of course expressly announce  
18 their consent to engage in an act of sexual intercourse  
19 for there to be affirmative permission. Permission to  
20 engage in the act of sexual contact can be and indeed  
21 often is indicated by physical actions rather than  
22 words.

23           Permission is demonstrated when the evidence  
24 in whatever form is sufficient to demonstrate that a  
25 reasonable person would have believed that the alleged

## Jury Charge

117

1 victim had affirmatively and freely given authorization  
2 to the act.

3           Proof that the act of sexual contact occurred  
4 without the victim's permission can be based on the  
5 evidence of conduct or words in light of surrounding  
6 circumstances and must demonstrate beyond a reasonable  
7 doubt that a reasonable person would not have believed  
8 that there was affirmative and freely given permission.

9           If there is evidence to suggest that  
10 defendant reasonably believed that such permission had  
11 been given, the State must demonstrate either that  
12 defendant didn't actually believe that such permission  
13 had really been given or that such a belief was  
14 unreasonable under all of the surrounding  
15 circumstances.

16           In determining the reasonableness of the  
17 defendant's belief that the victim had freely given  
18 affirmative permission you must keep in mind the law  
19 places no burden on the alleged victim to have  
20 expressed non-consent or have denied permission. You  
21 should not speculate as to what the alleged victim  
22 thought or desired or why she did not resist or  
23 protest. The State is not required to prove that the  
24 victim resisted or resisted to the utmost of un -- or  
25 resisted to the utmost or reasonably resisted the

1 sexual contact.

2 To find the defendant used coercion you must  
3 find defendant with purpose, that is a conscious object  
4 to unlawfully restrict Liliana San -- San -- Liliana  
5 Santos' freedom of action to engage in or refrain from  
6 engaging in the act of sexual contact, threaten to  
7 inflict bodily injury.

8 In other words, to find the defendant used  
9 coercion, you must find that defendant's purpose, that  
10 is his conscious object, was to compel Liliana Santos  
11 to engage in an act of sexual contact by threatening  
12 her.

13 Severe personal injury means bodily injury,  
14 disfigurement, disease, incapacitating mental anguish  
15 or chronic pain.

16 If you find the State has proven each of  
17 these elements beyond a reasonable doubt, then you must  
18 find defendant guilty of the crime of sexual contact.

19 If you find the State has failed to prove any  
20 of these elements beyond a reasonable doubt, then you  
21 must find defendant not guilty of criminal sexual  
22 contact, okay.

23 And what I'm going to do is I'm going to give  
24 you a verdict sheet, and the verdict sheet's going to  
25 have count one, aggravated sexual contact -- I'm sorry,

1 aggravated sexual assault; two, sexual assault; three,  
2 aggravated sexual contact; and lastly sexual contact.  
3 You'll have all four to consider. And it's  
4 self-explanatory.

5 All right, the last charge in the indictment  
6 is burglary. The pertinent part of our statute on  
7 which the indictment is based reads as follows. A  
8 person is guilty of burglary in the third degree if  
9 with the purpose to commit an offense therein, the  
10 person enters a structure knowing that he is not  
11 licensed or privileged to do so, with the intent to  
12 commit a crime once he's inside.

13 A person is guilty of burglary in the second  
14 degree if in the course of committing the offense I  
15 just described to you, that person purposely or  
16 knowingly inflicts or threatens to inflict bodily  
17 injury on anyone.

18 In order for you to find the defendant guilty  
19 of the crime of burglary, the State must prove beyond a  
20 reasonable doubt the following elements.

21 Number one, defendant entered the structure  
22 known as 235 Arlington Avenue in Jersey City without  
23 permission.

24 Two, defendant did so with the purpose to  
25 commit a crime once he was inside.

## Jury Charge

120

1 Structure means any building or room.  
 2 Purpose to commit an offense inside means the defendant  
 3 intended to commit an unlawful act once he went inside.  
 4 The unlawful act alleged here is what's set  
 5 forth in count one, the aggravated sexual assault.  
 6 A person acts purposely with respect to the  
 7 nature of his conduct or result thereof if it is his  
 8 conscious object to engage in conduct of that nature or  
 9 to cause such a result.  
 10 Purpose, with purpose, and similar words have  
 11 the same meaning.  
 12 In other words, in order for you to find  
 13 defendant -- in order for you to find defendant acted  
 14 purposely, the State must prove beyond a reasonable  
 15 doubt that it was defendant's conscious object at the  
 16 time he unlawfully entered the premises to commit an  
 17 unlawful act once he went inside.  
 18 A person purpose is a state of mind and -- a  
 19 --a condition of the mind which cannot be seen. It can  
 20 only be determined by inferences from conduct, words of  
 21 acts. A state of mind is rarely susceptible to direct  
 22 proof but must be ordinarily inferred from the facts.  
 23 Therefore, it is not necessary members of the  
 24 jury that witnesses be produced to testify that an  
 25 accused said he had a certain state of mind when he

## Jury Charge

121

1 engaged in a particular act. His state of mind may be  
 2 gathered from his acts and his conduct, from all he  
 3 said and did at the particular time and place and from  
 4 all the surrounding circumstances.  
 5 If you find the State has proven beyond a  
 6 reasonable doubt the elements of the crime of burglary,  
 7 then you must determine whether the State the following  
 8 additional elements beyond a reasonable doubt.  
 9 I have already informed you that a section of  
 10 the statute provides that burglary becomes a crime of  
 11 the second degree if the burglar purposely or knowingly  
 12 inflicts or threatens to inflict bodily injury during  
 13 the course of the burglary.  
 14 In this case, the State has alleged that  
 15 defendant purposely inflicted or threatened to inflict  
 16 bodily injury upon Liliana Santos. I've already  
 17 defined purpose for you, I'm not going to repeat that.  
 18 In this case, the State has also alleged that  
 19 defendant knowingly inflicted bodily injury upon  
 20 Liliana Santos. I already did knowingly for you, I'm  
 21 not going to repeat that.  
 22 The phrase bodily injury means of course  
 23 physical pain, illness or impairment of physical  
 24 condition.  
 25 If you find beyond a reasonable doubt that

## Jury Charge

122

1 defendant committed the crime of burglary, and in the  
2 course of committing that offense he purposely or  
3 knowingly inflicted or threatened to inflict bodily  
4 injury upon Liliana Santos, then you must find the  
5 defendant guilty of the crime of burglary in the second  
6 degree.

7 If you find the State did prove beyond a  
8 reasonable doubt all the elements of the crime of  
9 burglary, but the State has not proven beyond a  
10 reasonable doubt the additional elements of the crime  
11 of burglary in the second degree as I defined those to  
12 you, then you must find the defendant not guilty of  
13 burglary in the second degree, but guilty of burglary  
14 in the third degree.

15 And lastly, if you find the -- if you find  
16 the State has not proven beyond a reasonable doubt each  
17 element of the crime of burglary as I defined that  
18 crime to you, then you must find the defendant not  
19 guilty.

20 That concludes my instructions as to the  
21 principles of law regarding the offense charged in the  
22 indictment. There is nothing different in the way a  
23 jury is to consider the proof in a criminal case from  
24 that in which all reasonable persons treat any  
25 questions depending upon evidence presented to them.

## Jury Charge

123

1 You are expected to use your own good common  
2 sense, consider the evidence for only those purposes  
3 for which it has been admitted, and give it a  
4 reasonable and fair construction in light of your  
5 knowledge of how people behave. It is the quality of  
6 the evidence, not simply the number of witnesses that  
7 control.

8 Anything that has not been marked into  
9 evidence cannot be given to you in the jury room even  
10 though it may have been marked for identification. We  
11 marked several things that were shown to witnesses that  
12 were not admitted into evidence. You can't have those.  
13 Only those items marked in evidence can be given to  
14 you.

15 Very shortly you will go into the jury room  
16 to start your deliberations. I remind you that during  
17 deliberations and in fact at any time in the jury  
18 deliberation room you got to keep your cell phone off,  
19 your pager off, your Blackberry off, whatever  
20 electronic device you have, you got to keep it off,  
21 okay.

22 You are to apply the law as I've instructed  
23 you to the facts as you find them to be for the purpose  
24 of arriving at a fair and correct verdict. The verdict  
25 must represent the considered judgment of each juror



## Jury Charge

124

1 and must be unanimous as to each charge.

2 This means all of you must agree if the  
3 defendant is guilty or not guilty on each charge.

4 It is your duty as jurors to consult with one  
5 another and to deliberate with a view to reaching an  
6 agreement if you can do so without violence to your  
7 individual judgment. Each of you must decide the case  
8 for yourself, but do so only after an impartial  
9 consideration of the evidence with your fellow jurors.

10 In the course of your deliberations, do not  
11 hesitate to re-examine your own views and change your  
12 opinion if convinced it is erroneous but do not  
13 surrender your honest conviction as to the weight or  
14 effective evidence solely because of the opinion of  
15 your fellow jurors or for the mere purpose of returning  
16 a verdict. You are not partisans, you are judges,  
17 judges of the facts.

18 You may return on each crime charged a  
19 verdict of either not guilty or guilty. Your verdict  
20 whatever it may be as to the crime charged must be  
21 unanimous. That means all 12 of you who are  
22 deliberating must agree as to the verdict.

23 Now, to assist you in reporting a verdict, I  
24 have prepared for you what's called a verdict sheet.  
25 And I'll give you a copy of this. This verdict form is

## Jury Charge

125

1 not any form of evidence.

2 Do you have a copy of the verdict sheet?

3 MR. HIRSCHORN: Judge, can we go to sidebar?  
4 (On the record discussion at sidebar)

5 MR. HIRSCHORN: Judge, can I just make a  
6 record. As I read it, I was reading the law again, it  
7 seems like the Appellate Division has said that the  
8 commission of the burglary is enough of -- the  
9 commission of a predicate offense which burglary  
10 obviously is one of the ones listed, is enough to  
11 establish lack of consent. And there's another case  
12 that's referenced in there, STATE VERSUS CUNI  
13 (phonetic) that seems to indicate that the charge to  
14 the jurors should include some mention of consent.

15 I know the model charge doesn't. Clearly the  
16 facts in this case, that's the defense. So I don't  
17 know if the case that they're referencing is the  
18 Appellate Division case, it's not given a case name  
19 that's the controlling case or if this CUNI case that  
20 went up to the Supreme Court should -- the Appellate  
21 Division said if you're committing the crime (inaudible  
22 - much background noise)

23 But this other case seems to indicate that  
24 you could --

25 THE COURT: I'll say it.

## Jury Charge

126

1 MR. TROIANO: With regard to the aggravated  
2 sexual assault, are you going to specify that you only  
3 need the third degree even though we know that it does  
4 make a difference? It just says in there burglary, it  
5 doesn't say second degree burglary.

6 THE COURT: Okay.

7 MR. HIRSCHORN: I have no problem with that.  
8 Thanks, Judge.

9 (Sidebar discussion ended)

10 THE COURT: All right, now the verdict sheet  
11 has count one, sexual assault -- sexual assault in the  
12 commission of a burglary. And lesser included, lesser  
13 included, then lesser included. Once you find, if you  
14 find him guilty if at all, you don't proceed lower,  
15 okay.

16 And then count two is burglary. Again,  
17 second degree and third degree.

18 Two things I need to point out to you. With  
19 respect to the first charge on sexual assault during  
20 the commission of a burglary, of course it has to be a  
21 sexual penetration without consent of the victim. If I  
22 didn't say that specifically, of course that's the law,  
23 and clearly that's an element the State has to prove.

24 Additionally, with respect to assault during  
25 the commission of a burglary, it doesn't matter whether

## Jury Charge

127

1 it's second or third degree burglary. But you must  
2 find a burglary occurred for commission -- for the  
3 aggravated sexual -- aggravated sexual -- aggravated  
4 sexual assault to have occurred during the course of a  
5 burglary.

6 Understand what I'm saying? I'll repeat it  
7 again.

8 Two things. The first count, aggravated  
9 sexual assault during the commission of a burglary has  
10 -- the sexual penetration must have occurred without  
11 consent of the victim. And also in order to convict of  
12 aggravated sexual assault during the commission of a  
13 burglary, you have to find, you must find either a  
14 second or third degree burglary occurred.

15 Okay? If, during your deliberations, you  
16 have a question or feel you need further assistance or  
17 instructions from me, write it down on a piece of paper  
18 and give it to the sheriff's officer who will be  
19 standing at the jury room door who in turn will give it  
20 to me. I will then go over the question with the  
21 lawyers and I will try to answer it as quickly as  
22 possible.

23 But please be patient. If you need, if you  
24 do -- if you do send out a question, do not disclose to  
25 me where you stand on your deliberations. In other

## Jury Charge

128

1 words I don't need to know if it's ten to two or six to  
2 six or whatever the count may be.

3 If you have a unanimous verdict on each  
4 charge, knock on the door, let my sheriff's officer  
5 know, and we'll bring you into Court and read it as  
6 quickly as possible.

7 We now have to select two alternates, okay.  
8 So we do that randomly with a modern bingo box there.  
9 Let's go. All 14 names are in there and we pick two  
10 out.

11 MR. HIRSCHORN: Judge, does your clerk have  
12 to be sworn prior to that?

13 THE COURT: No. The officers do.

14 THE CLERK: Juror number 14 step down, sir.  
15 Have a seat in the first row there.

16 Juror number 11. Step down, sir, have a seat  
17 in the first row.

18 THE COURT: Okay. Juror number one, because  
19 you're in the first seat, you are the foreperson of the  
20 jury. You will preside over deliberations and tell us  
21 what the verdict is when you reach it. Your vote  
22 carries no greater weight than that of any other person  
23 in the jury room, but we designate you as the person to  
24 preside over deliberations.

25 It's also your responsibility to tell us what

## Jury Charge

129

1 the verdict is, once the verdict has been reached.  
2 When you come out with your verdict, you'll stand and  
3 everyone will resume the same seats they have now.  
4 We'll the make sure every one is here and ask the  
5 foreperson to rise and give his verdict. After we read  
6 -- after you read the verdict, I'll ask -- I'll ask  
7 each juror whether they agree with that verdict.

8 Okay, as soon as the officers are sworn, you  
9 will proceed into the jury room. But do not begin  
10 deliberations until your jury, until the jury verdict  
11 form has been given to you and the exhibits have been  
12 given to you as well.

13 Additionally, send me a note some time after  
14 four o'clock how late you want to stay. If I don't  
15 hear from you, I'm going to assume you want to go home  
16 at 4:30 and I'll send you home at 4:30. But if you  
17 want to stay later, just let me know some time between  
18 four and 4:30, okay.

19 Additionally, in the event you are back  
20 tomorrow, we may have to stay late tomorrow, because we  
21 won't be sitting Friday.

22 So again, let your family, friends and anyone  
23 else who's important in your lives know if you have to  
24 be somewhere, you may be staying late tomorrow night,  
25 if necessary at all. I'm just giving you a heads up

## Jury Charge

130

1 about what may happen in the future.

2 All right, counsel, please review all the  
3 evidence, verdict sheet, make sure they're in order.  
4 If so, state on the record, and let's swear the  
5 sheriff's officers in please.

6 SHERIFF'S OFFICERS SWORN

7 THE CLERK: Officers sworn.

8 THE COURT: Okay, 12 of you can proceed into  
9 the jury room. Two of you stay right there.

10 (Off the record/on the record)

11 THE COURT: We have to keep you in a separate  
12 location in case it becomes necessary for you to  
13 actively participate as a juror. Therefore, you should  
14 not discuss the case at all with anyone else for that  
15 matter. If it becomes necessary to bring you back in,  
16 we'll give you further instruction. If they have a  
17 question or a verdict, we'll bring you in for that as  
18 well, okay?

19 Thank you very much. All right. Officer,  
20 let the jury know I'll trust that they're going to  
21 follow my instructions and we'll not confiscate their  
22 cell phones. But if I find out there's been cell phone  
23 use, I will confiscate them.

24 MR. HIRSCHORN: Judge, are we still on the  
25 record?

## Jury Charge

131

1 THE CLERK: Yes, we are.

2 MR. HIRSCHORN: Okay. Judge, on behalf of Mr.  
3 Wright, I did review with Mr. Troiano, obviously he can  
4 speak for himself, but I did review the evidence as  
5 well as the verdict sheet and it does appear that  
6 everything is in order.

7 THE COURT: Any objections to the charge  
8 other than what we talked about?

9 MR. HIRSCHORN: Other than what I placed on  
10 the record, Judge, that you corrected, no, no  
11 objection.

12 MR. TROIANO: No objection.

13 (Off the record/on the record)

14 THE COURT: Okay, the jury sent me a note. It  
15 says we need more time, we would like to return  
16 tomorrow. So that's what we'll do. It came out at  
17 four o'clock. Make it C-1 or C-2. The stipulation is  
18 C-1. 3:24:10. Okay, bring the jury out please.

19 MR. HIRSCHORN: What time tomorrow, Judge?

20 THE COURT: Nine.

21 (Jury enters the courtroom)

22 THE COURT: We're waiting for the alternates.  
23 All right. Okay, folks, I got your note, I  
24 marked it C-2. We need more time, we'd like to return  
25 tomorrow. Perfectly okay. You are to cease

Jury Charge

1 deliberations as of right now, don't talk about it with  
2 anyone else, amongst yourselves at all or with family  
3 and friends. And of course avoid the media coverage at  
4 all.

5 Have a pleasant evening, come back tomorrow  
6 morning nine o'clock sharp. Once all 12 of you are  
7 there, you can begin deliberations once we give you  
8 everything, okay. We have other things going on  
9 tomorrow. I'm completing I'm waiting for this case, so  
10 when you're here, please go right into the jury room  
11 and we'll have you begin, okay. But -- but we need 12  
12 of you to start so if one person is late, 11 people are  
13 going to be sitting. So please try to be here on time,  
14 nine o'clock tomorrow.

15 Thank you. \* \* \*

16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

2 We, Dorothy A. Miragliotta and Donna Weber,  
3 the assigned transcribers, do hereby certify that the  
4 foregoing transcript of proceedings in the Hudson  
5 Superior Court on March 24, 2010, Tape No. 108-10,  
6 Index No. 0001 to 7388 and Tape No. 109, Index No. 0001  
7 to 3866, is prepared in full compliance with the  
8 current Transcript Format for Judicial Proceedings and  
9 is a true and accurate compressed transcript of the  
10 proceedings as recorded, to the best of our knowledge  
11 and ability.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*Donna Weber*  
DONNA WEBER *lp* A.O.C. 390

*Dorothy A. Miragliotta*  
DOROTHY A. MIRAGLIOTTA A.O.C. 295  
A.R.T. AGENCY, INC. *lp*

Date: 5/3/11

1 SUPERIOR COURT OF NEW JERSEY  
 HUDSON COUNTY  
 2 LAW DIVISION - CRIMINAL PART  
 DOCKET NO. 08-06-1073  
 3 A.D.# A-002828-10-T2

4 - - - - - :  
 THE STATE OF NEW JERSEY, :  
 5 :  
 : TRANSCRIPT OF PROCEEDINGS  
 6 :  
 vs. :  
 7 :  
 STEPHEN WRIGHT, :  
 8 : SENTENCE

9 - - - - - :  
 Defendant **FILED**  
**APPELLATE DIVISION**

10 Place: Hudson County Courthouse  
 11 595 Newark Avenue  
 Jersey City, NJ 07306

12 Date: September 10, 2010  
*MAILED*

13 B E F O R E:  
 14 HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

15 TRANSCRIPT ORDERED BY:  
 16 HELEN C. GODBY, ESQ.  
 (Office of the Public Defender)

17 A P P E A R A N C E S:  
 18 MATTHEW J. TROIANO, ESQ.  
 19 (Assistant Prosecutor for the County of Hudson)  
 Attorney for the State.  
 20  
 KEITH HIRSCHORN, ESQ.  
 21 (Keith Hirschorn)  
 Attorney for the Defendant.

**RECEIVED**  
**APPELLATE DIVISION**  
**MAY 10 2011**

22 Transcriber Dorothy A. Miragliotta  
 23 A.R.T. Agency, Inc.  
 4 Orchard Drive  
 24 Towaco, New Jersey 07082

25 Recording Operator, N/A  
 Compressed Transcript

I N D E X

1  
2 ARGUMENT BY: Mr. Troiano Page 4/10  
3 Mr. Hirschorn 7/13  
4  
5 DECISION 14  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Colloquy 3

1 THE CLERK: Indictment 10736 of the 08 term.  
2 Your appearances, please for the record.  
3 MR. TROIANO: Matthew Troiano for the State.  
4 MR. HIRSCHORN: Good morning, Judge, Keith  
5 Hirschorn on behalf of Stephen Wright.  
6 THE COURT: Okay. Any additions,  
7 corrections, deletions from the PSI other than the  
8 change in the sentence date listed from 6-17 to 9-10,  
9 and accordingly he'll get that much more time in gap  
10 time credit, and I'll calculate that.  
11 MR. HIRSCHORN: That's correct, Judge.  
12 Judge, the other change is my recollection of  
13 the verdict in this particular case and I believe it's  
14 referenced in Mr. Troiano's brief is that the final  
15 charge is to reflect count two, burglary, was a third  
16 degree offense.  
17 THE COURT: That's correct, yeah.  
18 MR. HIRSCHORN: Not a second degree.  
19 THE COURT: Yeah, that's correct.  
20 MR. HIRSCHORN: Judge, other than that I did  
21 have an opportunity to review the report with my client  
22 and it does appear to be accurate at this time.  
23 THE COURT: Okay. And not to get ahead of  
24 ourselves, anyone disagree with the fact that count two  
25 shouldn't merge with count one?

Colloquy

4

1 MR. HIRSCHORN: No.  
2 MR. TROIANO: No.  
3 THE COURT: Okay. All right. I'll hear you,  
4 Mr. Hirschorn.  
5 MR. HIRSCHORN: Judge, would you like me to  
6 address the extended term Motion first or --  
7 THE COURT: Yeah, whatever you need to.  
8 Sure, go ahead, do that first.  
9 MR. HIRSCHORN: Thank you, Judge.  
10 Judge, Mr. Troiano did file originally with  
11 my self and Mr. Wright a notice --  
12 MR. TROIANO: Judge, just for the purposes of  
13 the record, I think that I should go first with regard  
14 to the Motion. It's the State's Motion.  
15 THE COURT: Extended term? Okay.  
16 MR. TROIANO: Yes. Judge, I believe that one  
17 of my colleagues filed the initial paperwork with Your  
18 Honor, Mr. Hirschorn as well as Mr. Wright with regard  
19 to the extended term.  
20 I have since supplemented that with a brief.  
21 It's the State's position that Mr. Wright is extended  
22 term eligible as a persistent offender. Statute reads  
23 he was 21 years of age or over at the time of the  
24 offense. He had two priors.  
25 With regard to the timing of the prior

Colloquy

5

1 convictions with regard to this offense, it's basically  
2 irrelevant. There's case law on point to that. I have  
3 the case cited if Your Honor needs it but it's clear  
4 that the sequence of the convictions does not play a  
5 part.  
6 With regard -- and that's what makes him  
7 eligible as a persistent offender.  
8 With regard to the aggravating and mitigating  
9 factors, as I cited in the brief, the State would ask  
10 for the imposition of aggravating factors one, two,  
11 three, six and nine. One and two being the factors  
12 that would be of most point of contention.  
13 But Judge, with regard to the facts of this  
14 case and you're fully aware of them, you sat through  
15 the trial, the allegations which were borne out at  
16 trial was that Mr. Wright broke into this house,  
17 ultimately raped Miss Santos.  
18 The facts that were testified to went above  
19 and beyond simply a burglary and an aggravated sexual  
20 assault. There was physical injury to her, she was  
21 choked, she was thrown around the room, she was  
22 threatened at the end. There was a heinous nature to  
23 the, to the crime. There was lasting implications for  
24 Miss Santos, but that she testified to and that she's  
25 suffering now, but I'll rely on what she testified to.



## Colloquy

6

1 The emotional strain that she was going through and the  
2 lasting harm that was done to her.

3 I would ask for thee, six and nine on the  
4 basis of his prior record. Both his convictions and  
5 with respect to his contacts with the system. He's not  
6 that old and basically every year he has had contacts  
7 with the system elevating in their level of severity.  
8 A lot of them having to do with weapons offenses.

9 Now, Judge, I would not argue that that  
10 factor applies for his prior, his prior record which  
11 would be aggravating factor six but just the need to  
12 deter this defendant. He has obviously not gotten the  
13 point that he needs to stop this behavior.

14 The crimes that he has committed have been  
15 very, very, very serious, both namely both this and the  
16 prior robbery. And -- and the State thinks that those  
17 aggravating factors clearly outweigh the mitigating  
18 factors.

19 The number that was cited, this is a first  
20 degree aggravated sexual assault, the extended term  
21 range is 20 to life. The number that was cited by the  
22 State in its brief is 35 years. Obviously that's  
23 within your discretion, Judge.

24 But the State asks for that number and asks  
25 for the imposition of the 85 percent in accordance with

## Colloquy

7

1 N.E.R.A. and ask that that be consecutive to the ten  
2 with 85 that he is serving now. These are clearly  
3 separate and distinct crimes.

4 And -- and basically I'd like to speak as to,  
5 as to some of the things that were contained in the  
6 report, but I think it's fair to let Mr. Hirschorn  
7 respond to the extended term Motion.

8 MR. HIRSCHORN: Judge, as far as the extended  
9 term Motion, Judge, I would ask that Your Honor not  
10 impose the extended term. It is obviously  
11 discretionary. Mr. Troiano does correctly state that  
12 both of these convictions can be considered by the  
13 Court to make my client extended term.

14 However, Judge, this is one of those cases  
15 that is somewhat unique as far as the convictions go  
16 because the date of this offense was prior to one of  
17 the two convictions that he's had as an adult. The  
18 original conviction, Judge, back in 2005 he received  
19 three years probation which he successfully completed.

20 So basically, Judge, what we're discussing  
21 here is a second conviction that took place after the  
22 date of this offense. Now Judge, while I understand  
23 and it is clear after reading through the statute as  
24 well as the commentary, there's case law on point that  
25 Your Honor can consider that second case which would be

Colloquy

8

1 the factor that would make my client extended term.

2           However, Judge, there has been much  
3 disagreement and if you read throughout the comments  
4 there is considerable discussion as to whether or not  
5 it is appropriate for a Court to consider an offense  
6 that took place prior to a conviction.

7           Judge, it seems to me that this is the type  
8 of case that the discussion is about. It doesn't make  
9 sense to extend an individual, to me, Judge, and I  
10 would submit to the Court, it doesn't make sense to  
11 extend Mr. Wright in this particular case based upon a  
12 conviction that took place after the incident.

13           Now, Judge, in this case if we were just  
14 dealing with a sequential time period here, we would be  
15 standing before Your Honor with Mr. Wright convicted of  
16 a first degree offense. His prior record at that time  
17 that this offense took place was a third degree offense  
18 to which he received and successfully completed  
19 probation.

20           He has had other contacts, Judge, those  
21 resulted in either acquittals or dismissals. So Judge,  
22 the only convictions that he has are a prior  
23 probationary conviction and a subsequent first -- first  
24 degree robbery conviction.

25           Judge, based upon those factors, I would ask

Colloquy

9

1 that Your Honor consider not imposing the extended term  
2 here.

3           Additionally, Judge, we would while three,  
4 six and nine certainly are applicable here, and we  
5 would not dispute what the State has presented as far  
6 as those three factors based upon the usage of them in  
7 the Courts here in Hudson County, we do dispute, Judge,  
8 finding the additional aggravating factors one and two.

9           Judge, it would appear to me that those two  
10 factors while in their language may be applicable,  
11 Judge, what makes, what Mr. Troiano has argued is the  
12 circumstances that convicted my client of these crimes.  
13 I would submit to the Court that nothing above and  
14 beyond -- in its nature, Judge, aggravated sexual  
15 assault is going to be a heinous crime. That's the  
16 nature of the crime. When someone's convicted of that  
17 or pleads guilty to that, it's a heinous crime. To  
18 then find additional factors that make those one and  
19 two as aggravating factors, Judge, I don't think are  
20 applicable here.

21           I would submit to the Court that even  
22 should Your Honor believe the testimony as the jury did  
23 of Miss Santos as well as the other witnesses, that  
24 this case is an aggravated sexual assault that should  
25 be sentenced accordingly. And I would submit that the

Colloquy

10

1 only aggravating factors that apply here, Judge, are  
2 three, six and nine.

3 But Judge, just in summation, based upon the  
4 prior argument as far as the sequential nature of these  
5 charges, based upon the fact that this isn't someone  
6 who would have otherwise been extended term eligible,  
7 or who has an extensive prior record that was on the  
8 cusp of -- of an extended term and that the sole factor  
9 pushing him to an extended term is a subsequent  
10 conviction, I would ask that Your Honor not impose the  
11 extended term here and deny the State's Motion.

12 MR. TROIANO: Judge, just for the purposes of  
13 the record what was cited with regard to the chronology  
14 was STATE VERSUS COOK, 330 N.J. Super 395 at 421. This  
15 section permits a sentencing Judge to consider multiple  
16 convictions irrespective of chronology as long as the  
17 other criteria of the sub-section are satisfied.

18 And -- and just for the record, I would note,  
19 Judge, that this, the date of this crime was somewhere  
20 in the middle of November. The date of the armed  
21 robbery was within the first week of the following  
22 January which was about a month and a half difference.  
23 Both crimes extremely severe.

24 So while I note and Mr. Hirschorn's correct  
25 with the chronology, I would note the closeness in time

Colloquy

11

1 between these two criminal acts.

2 THE COURT: Okay. Mr. Wright, I'm sorry, did  
3 you want to say something?

4 THE DEFENDANT: I just basically want to say  
5 that I'm still innocent, Your Honor. I'm going to  
6 remain innocent. I feel as though I did not have a  
7 fair trial. That's basically all that I have to say.

8 THE COURT: What wasn't fair about it?

9 THE DEFENDANT: I feel that the facts of the  
10 trial did not convict me guilty. When the jury first  
11 heard the situation, they already convicted me guilty  
12 by hearing it. They never gave me a fair chance.

13 THE COURT: Anything else, sir?

14 THE DEFENDANT: That's it.

15 THE COURT: All right. We, following a one  
16 week trial which I presided over, a jury found Mr.  
17 Stephen Wright --

18 MR. TROIANO: Judge, would you like to hear  
19 arguments with regard to, additional arguments with  
20 regard to sentencing?

21 THE COURT: Oh, you didn't speak about that  
22 yet?

23 MR. HIRSCHORN: No, Judge, I thought you were  
24 going to rule on the extended term prior to --

25 THE COURT: Oh, I'm sorry, go ahead. I

Colloquy

12

1 didn't mean to cut you off.

2 MR. HIRSCHORN: That's okay, Judge.

3 THE COURT: As to sentencing generally? I'm  
4 sorry, go ahead.

5 MR. HIRSCHORN: Judge, I would ask as far as  
6 sentencing goes should Your Honor decide to not impose  
7 the extended term, first of all with Mr. Troiano's  
8 statement as to consecutive terms, Judge, we have no  
9 argument that this should run concurrent to the  
10 sentence that -- that he's presently serving.  
11 Obviously they're separate dates. That's part of my  
12 argument as to the extended term Motion.

13 Judge, should Your Honor be inclined not to  
14 impose the extended term, I would agree with what the  
15 Court stated earlier that count two does merge into  
16 count one. Count one being an aggravated sexual  
17 assault which is a crime in the first degree. I would  
18 ask that Your Honor consider imposing a period of  
19 incarceration for ten years New Jersey State Prison.  
20 Obviously the 85 percent law does apply, that's part of  
21 the statute as well, to run consecutive to the sentence  
22 he's presently serving.

23 Should Your Honor be inclined to impose the  
24 extended term, the statement by Mr. Troiano as well was  
25 correct that it runs between 20 years and life.

Colloquy

13

1 I would ask that Your Honor again consider  
2 imposing the minimum sentence at that point of 20 years  
3 New Jersey State Prison with 85 percent before parole.

4 Judge, as far as if Your Honor decides to  
5 impose the extended term, certainly he's receiving  
6 double the penalty that he could have received already.  
7 To then go above and beyond that, and sentence him to a  
8 period of incarceration longer than that, I don't think  
9 is appropriate in this particular matter. Certainly I  
10 don't think sentencing him to 35 years in prison on top  
11 of ten years previous is anything but excessive.

12 So Judge, just a short summation. Should  
13 Your Honor not impose the extended term, I would ask  
14 for ten with 85. Should Your Honor be inclined to  
15 impose the extended term, I would ask for 20 with 85.

16 MR. TROIANO: Judge, the only other thing  
17 that I'll add and I read the Avenel report which was  
18 attached to the PSI, is that Mr. Wright has shown a  
19 complete lack of responsibility, remorse, asking for  
20 forgiveness, it -- it boggles my mind that with regard  
21 to this offense, and with regard to his other first  
22 degree robbery which he make excuses for here as well,  
23 that he just, there is as complete utter lack of  
24 responsibility. And I don't know if that's immaturity  
25 or if that's just -- I don't know what it is. Really,

## Colloquy

14

1 I don't know what it is.

2 What I do know about Mr. Wright and I've  
3 dealt with him now for four years is that Mr. Wright is  
4 a very, very dangerous person. He has been convicted  
5 or raping somebody, he has been convicted of shooting a  
6 16 year old girl with a shotgun. He has been convicted  
7 of another weapons offense. Luckily for him he's  
8 cleared two weapons trials. But he is clearly a danger  
9 to society and he himself needs to be deterred.

10 I would ask that you honor what the State is  
11 requesting with regard to the extended term, sentence  
12 Mr. Wright accordingly.

13 THE COURT: All right, following  
14 approximately a week or more trial before me, Mr.  
15 Wright was convicted of first degree aggravated sexual  
16 assault and third degree burglary.

17 I'm obviously very familiar with the matter,  
18 I presided over the trial. And what -- and what leaps  
19 out of me in reading the presentence report as well as  
20 listening to Mr. Wright today in Court is complete lack  
21 of remorsefulness, and indignation that he didn't do  
22 anything wrong.

23 Obviously the jury disagreed. I didn't play  
24 any function in the decision of the jury other than  
25 reading instructions. I'm not a Judge to get involved

## Decision

15

1 in the trial or ask questions. I just sit back and let  
2 the lawyers do what they have to do. But listening to  
3 that victim, there was no doubt in my mind she was the  
4 victim of a very terrible rape. And that was not  
5 consent. Clearly not. Here home was -- she was a  
6 young girl coming out into the world, finally was able  
7 to afford her own place, a little independence. And in  
8 the middle of the night, someone broke into her home  
9 and violated her and raped her. It's a horrible,  
10 horrible thing.

11 And there's no doubt in my mind that's what  
12 happened. And the fact that I believe that had nothing  
13 to do with any ruling I made in the case. Again, I had  
14 the lawyers try the case. I let the jury make the  
15 decision. But sitting back and listening to that young  
16 lady testify, I had an idea where the jury might go  
17 with this case because she was genuinely assaulted as  
18 was evidenced by her testimony.

19 Mr. Wright was born July -- I'm sorry,  
20 February 14th, 1984 in Jersey City. He's 26 years old,  
21 he's single, has one child himself, a daughter. And  
22 I'm sure I know what he'd be thinking if something like  
23 this happened to his own daughter.

24 Only made it to the 11th grade in Snyder High  
25 School, last lived with his grandmother. He's in State

Decision

16

1 Prison now on another charge. Last worked in January  
2 of '07 for a moving company.

3 There was an Avenel report done and it was  
4 found that he did not fall within the purview of the  
5 sex offender statute for sentencing purposes.

6 One arrest as a juvenile, seven arrests as an  
7 adult, third indictable conviction. Aggravating  
8 factors -- I don't think aggravating factor one does  
9 apply because I think the act itself was heinous, cruel  
10 and depraved. So I think that would be double  
11 counting.

12 However, I believe aggravating factor two  
13 does apply because certain victims are affected a  
14 different way and I think there was a great deal of  
15 psychological serious harm done to the victim. She  
16 left her apartment shortly thereafter and can't go back  
17 there and can't live by herself. So I think it's a  
18 severe harmful impact on her life.

19 And aggravating factors three, six and nine  
20 of course also apply.

21 And I can't find any mitigating factors  
22 whatsoever. None whatsoever.

23 I am -- there are no mitigating factors and  
24 I'm absolutely convinced that the aggravating factors  
25 substantially predominate here.

Decision

17

1 In terms of the discretionary extended term  
2 pursuant to 2C:44-3A, Mr. Wright is certainly eligible.  
3 He's over 21, has two previous convictions and the  
4 aggravating factors speak for themselves as well as the  
5 serious impact on this young lady's life.

6 So I find that the statute does apply.

7 And I am sentencing him accordingly pursuant  
8 to 2C:44-3A.

9 Therefore, you're sentenced as follows. On  
10 count one, first degree aggravated sexual assault, you  
11 are committed to the custody of the Department of  
12 Corrections for a term of 25 years. You must serve 85  
13 percent of said 25 years pursuant to the No Early  
14 Release Act. And I reached the number 25 above the  
15 number 20 pursuant to 2C:44-3A the extended term  
16 statute.

17 There'll be a five year period of  
18 supervision, parole supervision upon release, pursuant  
19 to the No Early Release Act.

20 This sentence shall run consecutive to the  
21 indictment he's now serving, 076924 which was the armed  
22 robbery.

23 There'll be parole supervision for life, and  
24 Megan's Law will apply as well once released. There's  
25 a state-wide sexual assault nurse examiner penalty --

1 what is that amount again, 800?  
 2 MR. TROIANO: 800, yes.  
 3 THE COURT: \$800. And the sex crime penalty  
 4 will be \$1,000. V.C.C.B. is 50 -- I'm sorry, 100, it's  
 5 a first degree offense, the Safe Neighborhoods  
 6 assessment of \$75, Law Enforcement Training Fund  
 7 Assessment is \$30.  
 8 Count three -- I'm sorry, count two, third  
 9 degree burglary, will merge into count one and be  
 10 dismissed as the elements are the same.  
 11 The reason for the consecutive sentences it  
 12 was a separate and different offense. And in fact,  
 13 pursuant to plea negotiations I'll note for the record  
 14 the State offered him a concurrent term which he  
 15 rejected.  
 16 Mr. Wright, you have 45 days from today to  
 17 appeal your conviction and your sentence. If you can't  
 18 afford a lawyer, we will give you an opportunity to  
 19 have a public defender.  
 20 Thank you.  
 21 MR. TROIANO: Thank you, Judge.  
 22 MR. HIRSCHORN: Thank you, Judge.  
 23 \* \* \*  
 24  
 25

CERTIFICATION

1 I, DOROTHY A. MIRAGLIOTTA, the assigned  
 2 transcriber, do hereby certify that the foregoing  
 3 transcript of proceedings in the Hudson County Superior  
 4 Court, Law Division, Criminal Part, on 9-10-10, Tape  
 5 262, Index 6119 - 7359; Tape 263, Index 0001 - 0499, is  
 6 prepared in full compliance with the current Transcript  
 7 Format for Judicial Proceedings and is a true and  
 8 accurate compressed transcript of the proceedings as  
 9 recorded to the best of my knowledge and ability.  
 10  
 11  
 12  
 13  
 14  
 15

16   
 17 A. R. T. AGENCY, INC. *DM*

A.O.C. No. 295  
 Dated: 5/3/11

18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1  
A - 2828-10TL

The State of NJ v. Wright

SHEET 1

1 SUPERIOR COURT OF NEW JERSEY  
2 HUDSON COUNTY  
3 LAW DIVISION - CRIMINAL PART  
4 DOCKET NO. 08-06-1073  
5 A.D.# A - 002828 '10-T2

6 - - - - - :  
7 THE STATE OF NEW JERSEY, :  
8 :  
9 : TRANSCRIPT OF PROCEEDINGS  
10 :  
11 vs. :  
12 :  
13 STEPHEN WRIGHT, :  
14 : TRIAL  
15 Defendant. :  
16 - - - - - :

**FILED  
APPELLATE DIVISION**

Place: Hudson County Courthouse  
595 Newark Avenue  
Jersey City, NJ 07306

**MAY 10 2011**

Date: March 25, 2010

13 B E F O R E: *AW*  
*CLFSG*  
14 HON. JOSEPH V. ISABELLA, J.S.C. and a Jury

15 TRANSCRIPT ORDERED BY:  
16 HELEN C. GODBY, ESQ.  
17 (Office of the Public Defender)

18 A P P E A R A N C E S:  
19 MATTHEW J. TROIANO, ESQ.  
(Assistant Prosecutor for the County of Hudson)  
Attorney for the State.  
20 KEITH HIRSCHORN, ESQ.  
21 (Keith Hirschorn)  
Attorney for the Defendant.

**RECEIVED  
APPELLATE DIVISION**

**MAY 10 2011**

**SUPERIOR COURT  
NEW JERSEY**

22 Transcriber Dorothy A. Wilkage-Lotta  
23 A.R.T. Agency, Inc.  
24 4 Orchard Drive  
Towaco, New Jersey 07082

25 Recording Operator, N/A  
Compressed Transcript



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

VERDICT

I N D E X

Page 23

Colloquy

3

1 THE COURT: Back to State versus Stephen  
2 Wright. We've got two notes. First one, C-3,  
3 question, define aggravated sexual assault and sexual  
4 assault. That's at 10:20 a.m. And then five minutes  
5 later they asked for the definition of coercion which  
6 is contained in the other definition so I'll just do  
7 that.

8 Then the real life matters they want coffee.  
9 Can we have a coffee break. But didn't they have a  
10 coffee break at line ten o'clock? They didn't go for  
11 coffee? All right.

12 MR. HIRSCHORN: Judge, the only thing I'd ask  
13 is what we discussed at the end of the charge if you  
14 could put that into the aggravated sexual assault  
15 charge as you read it about without consent. Because  
16 I think that is part of the definition.

17 THE COURT: I agree with you. I'm thinking  
18 about how to do it. I don't disagree with you in  
19 principle, but I'm thinking the proper way to do it.

20 MR. TROIANO: Judge, do you have a copy of  
21 the verdict sheet?

22 THE COURT: The verdict sheet? Yeah. Well I  
23 think the best way to do it is I'll read both model  
24 charges, and when I'm done with both model charges I'll  
25 indicate during the definition of sexual assault I

1 indicated to you you have to make a determination as to  
2 whether the victim freely and affirmatively consented,  
3 okay. That same consent applies to the first count as  
4 well.

5 MR. HIRSCHORN: I would have no objection to  
6 that, Judge.

7 THE COURT: Okay.

8 MR. TROIANO: I mean you would agree, Judge,  
9 that they're basically asking why the words physical  
10 force or coercion are left out of count one.

11 THE COURT: Yeah.

12 MR. HIRSCHORN: Seems to be.

13 MR. TROIANO: And Judge, for the record, the  
14 only issue I have with it is that it's just not  
15 contained in the jury charge.

16 THE COURT: I agree, exactly.

17 MR. TROIANO: And -- and I understand what  
18 Mr. Hirschorn's saying about it but it's not that, and  
19 we're reading something into a charge that is --

20 THE COURT: Yeah, but, you know, it's not  
21 there, but I mean literally reading that charge, if the  
22 defendant hypothetically broke into someone's home,  
23 okay, with the intent to commit a crime, and then had  
24 consensual sex, it's -- it's a --

25 MR. TROIANO: I agree with you, but we can't

1 explain that to them in those terms.

2 THE COURT: So -- so what I intend to do is I  
3 think in the case of both charges, that the same words  
4 -- you have a note? Okay. Words to the effect that --

5 MR. TROIANO: What I'm saying, Judge, is even if you  
6 put in these words without consent, you know, it still  
7 is different from what's in count two.

8 THE COURT: Absolutely.

9 MR. HIRSCHORN: Yeah, I agree with you.

10 THE COURT: Different than the burglary. And  
11 they want a coffee break.

12 MR. HIRSCHORN: Do you want to give them that  
13 first, Judge, and then the charge, or --

14 THE COURT: I'll bring them out and ask them.

15 MR. TROIANO: Could -- could you say to them  
16 basically or are you going to say to them basically  
17 that they are the same exact thing, it only becomes  
18 aggravated sexual assault if you find that there was a  
19 burglary.

20 THE COURT: That's probably better. That's  
21 probably -- that's probably much better.

22 MR. HIRSCHORN: Judge, I would just ask for  
23 that along with the additional language that you stated  
24 just so that element is clear that that's part of  
25 both charges.

Colloquy

6

1 MR. TROIANO: No, I think how you should say  
2 this, maybe just read the sexual assault charge, and  
3 say that's sex assault. If you find that there was a  
4 burglary on top of that sex assault, it makes it an  
5 aggravated sexual assault.

6 THE COURT: I can't do that. I'll read both  
7 and when I'm done I'm saying and the bottom line,  
8 ladies and gentlemen, the only difference between  
9 sexual assault and aggravated sexual assault is the  
10 aggravated sexual assault has a component of burglary.

11 MR. TROIANO: Okay.

12 THE COURT: Okay? That's probably a better  
13 way to do it.

14 Let's bring them out. You know -- you know  
15 what I'll do, I'll read sexual assault first. Makes  
16 sense.

17 MR. TROIANO: It does.

18 MR. HIRSCHORN: It makes sense to read them  
19 all out of order when you, like you said yesterday.  
20 They're more confusing than they help, the jury  
21 charges.

22 (Jury enters the courtroom)

23 COURT OFFICER: Stay right here folks. Do  
24 you want coffee first or the charge first?

25 JURORS: Charge first.

Colloquy

7

1 THE COURT: Okay. Folks I got your three  
2 notes. First one, define aggravated sexual assault and  
3 sexual assault.

4 MR. TROIANO: Judge, I think there's someone  
5 in the rest room. Oh, she came out.

6 THE COURT: I'm good. I'll good, thanks.

7 MR. TROIANO: Sorry.

8 THE COURT: That's okay.

9 Your second note was definition of coercion.  
10 Third note, coffee break.

11 So what I'll do is I'll give you the  
12 definitions, you can go for coffee and you can come  
13 back and resume deliberations, okay?

14 This is what I'm going to do on this one.  
15 I'm going to -- you asked for aggravated sexual assault  
16 and sexual assault. I'm going to read sexual assault  
17 first, okay.

18 An actor is guilty of sexual assault if he  
19 commits an act of sexual penetration with another  
20 person, and the actor uses physical force or coercion,  
21 but the victim does not sustain severe personal injury.

22 In order to convict defendant of the charges,  
23 the State must prove the following elements beyond a  
24 reasonable doubt.

25 Number one, the defendant committed an act of

## Colloquy

8

1 sexual penetration with another person.

2 Two, defendant acted knowingly.

3 Three, the defendant used physical force or  
4 coercion.

5 And four, the victim did not sustain severe  
6 personal injury.

7 The first element the State must prove beyond  
8 a reasonable doubt is that the defendant committed an  
9 act of sexual penetration with Liliana Santos.

10 According to the law, vaginal intercourse by  
11 the defendant constitutes sexual penetration. Any  
12 amount of insertion however slight, constitutes  
13 penetration. That is depth of insertion is not  
14 relevant.

15 The definition of vaginal intercourse is the  
16 penetration of the vagina.

17 The second element the State must prove  
18 beyond a reasonable doubt is defendant acted knowingly.  
19 A person acts knowingly with respect to the nature of  
20 his conduct or the attendant circumstances if he is  
21 aware that the conduct is of that nature or that such  
22 circumstances exist or the person is aware of a high  
23 probability of their existence.

24 A person acts knowingly with respect to a  
25 result of the conduct of he is aware that it is

## Colloquy

9

1 practically certain that the conduct will cause a  
2 result.

3 Knowing, with knowledge or equivalent terms  
4 have the same meaning. Knowledge is a condition of the  
5 mind and it cannot be seen. It can only be determined  
6 by inferences from defendant's conduct, words or acts.

7 A state of mind is rarely susceptible of  
8 direct proof but must ordinarily be inferred from the  
9 facts.

10 Therefore, it is not necessary that the State  
11 Produce witnesses to testify that an accused said that  
12 he had a certain state of mind when he did a particular  
13 thing.

14 It is within your power to find that such  
15 proof has been furnished beyond a reasonable doubt by  
16 inferences, which may arise from the nature of his acts  
17 and conduct from all he said and did at the particular  
18 time and place and from all the surrounding  
19 circumstances established by the evidence.

20 Third element the State must prove beyond a  
21 reasonable doubt is the defendant used physical force  
22 or coercion. Physical force is defined as the  
23 commission of the act of sexual penetration without the  
24 victim's freely and affirmatively given permission to  
25 the specific act of penetration alleged to have

1 occurred.

2 You must decide whether the defendant's  
3 alleged act of penetration was undertaken in  
4 circumstances that led the defendant reasonably to  
5 believe that the victim had freely given affirmative  
6 permission to the specific act of sexual penetration.

7 Simply put, affirmatively given permission  
8 means the victim did or said something which would lead  
9 a reasonable person to believe she was agreeing to  
10 engage in the act of sexual penetration. And freely  
11 given permission means the victim agreed of her own  
12 free will to engage in the act of sexual penetration.

13 Freely and affirmatively given permission can  
14 be indicated either through words or through actions  
15 that when viewed in light of all the surrounding  
16 circumstances, would demonstrate to a reasonable person  
17 that affirmative and freely given permission for the  
18 specific act of sexual penetration had been given.

19 Persons need not of course expressly announce  
20 their consent to engage in an act of sexual intercourse  
21 for there to be affirmative permission. Permission to  
22 engage in an act of sexual penetration can be and  
23 indeed often is indicated through physical actions  
24 rather than words.

25 Permission is demonstrated when the evidence

1 in whatever form is sufficient to demonstrate that a  
2 reasonable person would have believed that the alleged  
3 victim had affirmatively and freely given authorization  
4 to the act.

5 Proof that the act of sexual penetration  
6 occurred without the victim's permission can be based  
7 on evidence of conduct or words in light of the  
8 surrounding circumstances and must demonstrate beyond a  
9 reasonable doubt that a reasonable person would not  
10 have believed that there was an affirmative and freely  
11 given permission.

12 If there is evidence to suggest that  
13 defendant reasonably believed that such permission had  
14 been given, the State must demonstrate beyond a  
15 reasonable doubt that either defendant did not actually  
16 believe that such permission had been given, or that  
17 such a belief was unreasonable under all the  
18 circumstances.

19 In determining the reasonableness of  
20 defendant's belief that the victim had freely given  
21 affirmative permission, you must keep in mind that the  
22 law places no burden on the alleged victim to have  
23 expressed non consent or to have denied permission.  
24 You should not speculate as to what the alleged victim  
25 thought or desired or why she did not resist or

1 protest.

2 The State is not required to prove that the  
3 victim resisted.

4 To find the defendant used coercion you must  
5 find that defendant, with a purpose to unlawfully  
6 restrict Liliana Santos' freedom of action to engage  
7 or refrain from engaging in the act of sexual  
8 penetration, threatened to inflict bodily injury.

9 To find defendant used coercion, you must  
10 find that defendant's purpose was to compel Liliana  
11 Santos to engage in an act of sexual penetration by  
12 threatening her.

13 A person acts purposely with respect to the  
14 nature of his conduct or a result of that conduct if it  
15 is his conscious object to engage in conduct of that  
16 nature or to cause such a result.

17 A person acts purposely with respect to  
18 attendant circumstances if the person is aware of the  
19 existence of such circumstances or believes or hopes  
20 that they exist.

21 With purpose, design, with design are  
22 equivalent terms and have the same meaning.

23 Knowledge and purpose are conditions of the  
24 mind. They cannot be seen. They can only be determined  
25 by inference from defendant's conduct, words or acts.

1 A state of mind is rarely susceptible of  
2 direct proof but must ordinarily be inferred from the  
3 facts. Therefore, it is not necessary the State  
4 produce witnesses to testify that an accused said he  
5 had a certain state of mind when he did a particular  
6 thing. It is within your power to find that such proof  
7 has been furnished beyond a reasonable doubt by  
8 inference which may arise from the nature of his acts  
9 and conduct and from all he said and did at the  
10 particular time and place, and from all the surrounding  
11 circumstances established by the evidence.

12 Fourth element the State must prove beyond a  
13 reasonable doubt is that the victim did not sustain  
14 severe person -- severe physical injury and severe  
15 personal injury means severe bodily injury,  
16 disfigurement, disease, incapacitating mental anguish  
17 or chronic pain.

18 If you find the State has proven beyond a  
19 reasonable doubt each of these four elements, then you  
20 must find defendant guilty of sexual assault. If, on  
21 the other hand, you find the State has failed to prove  
22 any of these elements beyond a reasonable doubt then  
23 you must find him not guilty of sexual assault.

24 And I'll repeat the four elements.

25 One, defendant committed an act of sexual

1 penetration on another person.

2 Two, defendant acted knowingly.

3 Three, defendant used physical force or  
4 coercion.

5 Four, the victim did not sustain severe  
6 personal injury.

7 Those are the four elements.

8 Now, I'm going to give you the definition of  
9 aggravated sexual assault. And basically the only  
10 difference between these two definitions is with  
11 aggravated sexual assault the sexual penetration as  
12 referred to in sexual assault occurred during the  
13 course of a burglary, okay. That's the only difference  
14 between the two. This has a burglary component, this  
15 does not.

16 But I'll repeat it.

17 Count one of the indictment charged the  
18 defendant with aggravated sexual assault. Our statute  
19 provides in pertinent part as follows. An actor is  
20 guilty of aggravated sexual assault if he commits an  
21 act of sexual penetration with another person during  
22 the commission of a burglary.

23 In order to convict defendant of this charge,  
24 the State must prove the following elements beyond a  
25 reasonable doubt.

1 One, that defendant committed an act of  
2 sexual penetration with another person.

3 And two, defendant acted knowingly. There's  
4 that word knowingly again.

5 And three, the penetration occurred during  
6 the commission of a burglary.

7 The first element the State must prove beyond  
8 a reasonable doubt is the defendant committed an act of  
9 sexual penetration with Liliana Santos. And I've  
10 already defined that vaginal intercourse by defendant  
11 constitutes sexual penetration. Any amount of  
12 insertion however slight constitutes penetration. Depth  
13 is not relevant and vaginal intercourse is penetration  
14 of the vagina.

15 Second element the State must prove beyond a  
16 reasonable doubt is that defendant acted knowingly.  
17 And I've already defined that, I won't repeat that for  
18 you.

19 Third element the State must prove beyond a  
20 reasonable doubt is that the penetration occurred  
21 during the commission of a burglary, all right.

22 If you find the State has proven beyond a  
23 reasonable doubt each of these three elements, then you  
24 must find defendant guilty of the crime of aggravated  
25 sexual assault.

Colloquy

16

1 On the other hand, if you find the State has  
2 failed to prove any of these elements beyond a  
3 reasonable doubt, then you must find defendant not  
4 guilty of aggravated sexual assault.

5 So again, three elements for that one. One,  
6 defendant committed an act of sexual penetration with  
7 another person.

8 Two, did so knowingly.

9 Three, the penetration occurred during the  
10 commission of a burglary.

11 So, between the two charges, the only  
12 difference is aggravated sexual assault has a burglary  
13 component. Without the burglary, if all other elements  
14 are met, then it's sexual assault. Okay? Understand?

15 All right, thank you very much. Sidebar one  
16 minute.

17 Okay, all right, that's your definition.  
18 Take, go grab a cup of coffee and come back. Don't do  
19 any discussion while you're having your coffee, okay?  
20 Think bout what I just said. Once you're all back in  
21 the room you can resume your deliberations, okay? Any  
22 other questions just let me know.

23 Thank you.

(RECESS)

24 THE COURT: Have a seat behind the first  
25

Colloquy

17

1 seat.

2 Okay. You're not feeling well, miss?

3 JUROR: Headache, stomach and I feel my body  
4 hot.

5 THE COURT: Hot? Okay, and you feel you're  
6 too ill to continue?

7 JUROR: Yeah, but I'll try. I got a headache  
8 but --

9 THE COURT: You want to try to continue? Are  
10 you sure? If you're too ill to continue, I'll excuse  
11 you. But if you're telling me you're strong enough to  
12 continue, you can continue. It's totally up to you.

13 JUROR: No, I'll try, I'll try. I'm going be  
14 fine.

15 THE COURT: Okay then, thank you very much.  
16 Step back inside. If there's a problem, let me know.

17 (RECESS)

18 THE COURT: Okay, back on State versus  
19 Wright. We dealt with the sick juror, C-7. C-6 is as  
20 follows. On the count two burglary, does mental  
21 anguish qualify as quote, bodily injury, unquote, yes  
22 or no.

23 I could just --

24 MR. HIRSCHORN: The answer's no. In my  
25 opinion, Judge, I would submit to the Court the



Colloquy

18

1 answer's no. I know Mr. Troiano has an argument he'd  
2 like to make. They asked a yes or no question, Judge,  
3 I think that the answer is no and that's all that needs  
4 to be said, despite what their confusion --

5 THE COURT: Well no, by saying yes or no I'm  
6 giving them, I'm giving them a factual answer.

7 MR. TROIANO: Yes, exactly.

8 THE COURT: Because here's, the phrase -- I  
9 want to read the model charge. The phrase bodily  
10 injury means physical pain, illness or impairment of  
11 physical condition. Now, whether impairment of  
12 physical condition is mental anguish that's a fact for  
13 them to find.

14 MR. HIRSCHORN: Then I would submit, Judge,  
15 that all that should be read is that one definition of  
16 bodily injury.

17 MR. TROIANO: The definition of bodily  
18 injury.

19 MR. HIRSCHORN: That's fine.

20 THE COURT: That's what I was going to do.

21 MR. TROIANO: Judge, I think that there is  
22 definitely a more important point here, something I  
23 raised yesterday. I raised at sidebar before.

24 The -- the issue as to bodily injury has to  
25 do with the second degree burglary, all right. And the

Colloquy

19

1 issue that I raised from the beginning is that they  
2 need to be specifically instructed that the burglary  
3 for aggravated sexual assault is only third degree  
4 burglary.

5 I -- I'm forcing an issue here where they are  
6 saying we need to have third degree -- second degree  
7 burglary, excuse me, in order to get the aggravated  
8 sexual assault. I didn't think that it was clear  
9 yesterday, I didn't think that it was clear today, I've  
10 raised the issue and it's -- it definitely has become  
11 an issue.

12 In the, in the verdict sheet itself it  
13 doesn't specify that you need only third degree  
14 burglary and I think that that they should be informed  
15 about this in light of the questions that have been  
16 presented so far. And in light of the objections or  
17 the issues that I've raised.

18 MR. HIRSCHORN: Judge, I would object to them  
19 being told anything in addition to what answers their  
20 question. Whether they're confused or not, they can  
21 ask another question if that's their issue.

22 THE COURT: Yeah, and the other thing they  
23 brought up the word mental anguish. You know why they  
24 brought that up, because the definition of severe  
25 bodily injury is incapacity mental anguish.

1 But gentlemen, I can't give them information  
2 they didn't ask for.

3 MR. TROIANO: I -- I can't say that I  
4 disagree with what Mr. Hirschorn's response is. It's  
5 frustrating because I said this from the beginning that  
6 I thought that they should have been instructed  
7 specifically on this.

8 THE COURT: And they were. I told them  
9 either burglary, third or second degree burglary is the  
10 predicate act for the --

11 MR. TROIANO: But today when they had the  
12 question about the definition of aggravated sexual  
13 assault I specifically asked that the burglary that  
14 was sufficient -- in essence, Judge, today when they  
15 were read they were left out an element of aggravated  
16 sexual assault. That wasn't read to them, and that's  
17 why I made the objection before.

18 One of the elements of aggravated sexual  
19 assault is burglary, and when you instructed them again  
20 you didn't instruct them on what burglary is.

21 THE COURT: Oh, I didn't do it before when I  
22 should have done it you're saying.

23 MR. TROIANO: Yes.

24 MR. HIRSCHORN: Judge, I don't -- I would --  
25 I don't think that that was actually necessary. It

1 wasn't as if the next question that came out is can you  
2 please reinstruct us on burglary. I don't think we're  
3 nece -- that the issue goes to whether -- I don't think  
4 that that question necessarily says that the issue goes  
5 to which degree of burglary do we need for aggravated  
6 sexual assault.

7 MR. TROIANO: Of course, I mean --

8 MR. HIRSCHORN: They could just be  
9 considering the difference between the two burglaries  
10 or some other issue.

11 MR. TROIANO: No, I mean I understand what --  
12 what Keith's saying with all due respect, and he may be  
13 right. But when they ask for a definition, you're  
14 supposed to give them, they are supposed to get rather,  
15 the definition of all the elements, and I -- I think  
16 you would admit, Judge, that you didn't define for them  
17 today what burglary --

18 THE COURT: I did not do it before. All  
19 right, I see your point.

20 MR. TROIANO: And if they're hung up on  
21 bodily injury, or mental anguish, then there's an issue  
22 with that burglary count.

23 THE COURT: All right, so you want me to  
24 correct the previous -- in other words, I can say this.  
25 Before when I gave you the definition of aggravated

1 sexual assault and I told you the only difference  
2 between that and sexual assault was the burglary  
3 component, let me repeat the elements for you.

4 An actor is guilty of aggravated sexual  
5 assault if he commits sexual penetration with another  
6 person in the commission of a burglary.

7 It doesn't make a difference if it's a third  
8 degree burglary or a second degree burglary with  
9 respect to that count.

10 As to your question as to bodily injury, I'll  
11 repeat the definition. Bodily injury means physical  
12 pain, illness or impairment of physical condition.

13 And leave it at that.

14 MR. HIRSCHORN: Judge, I would object and  
15 just if I can make my position clear for the record.

16 Judge, I would object to you going back and  
17 saying anything about the first count.

18 THE COURT: Well --

19 MR. HIRSCHORN: You did instruct them that it  
20 could be second or third degree at some point. It's  
21 not as if the question came out after you re-read the  
22 definitions that were asked before. Point one, it's  
23 not that it came back out could this be second or third  
24 degree burglary. That wasn't asked. It's not as if  
25 there was a question asked specifically as to burglary.

1 And certainly it's not as if we limit their questions.  
2 So if that leads to another question, so be it. Then  
3 we answer it then. But --

4 THE COURT: But -- I -- I would agree but for  
5 the fact I omitted to do it when I should have did  
6 (sic) it, that -- that's the point.

7 If he -- if they're -- if -- if I didn't omit  
8 it before, I would agree with you. But if I omitted to  
9 do it before, then it makes it clearer.

10 So I'll -- based upon that I'll do it.

11 Bring the jury out please.

12 (Jury enters the courtroom)

13 (Off the record/on the record)

14 THE COURT: -- on count two burglary, does  
15 mental anguish qualify as bodily injury.

16 Couple things. Before I gave you the  
17 definitions of aggravated sexual assault and sexual  
18 assault, and I told you the only difference was the  
19 burglary component in the aggravated, okay.

20 What I neglected or forgot to tell you was is  
21 that it doesn't matter what level the burglary for  
22 aggravated sexual assault, it's any burglary for the  
23 aggravated sexual assault. Number one.

24 Number two, as to answer your question, I'm  
25 going to redefine bodily injury for you. The phrase

1 bodily injury means physical pain, illness or  
2 impairment of physical condition. That's what bodily  
3 injury means, okay?  
4 Thank you very much; you can resume  
5 deliberations.  
6 (Off the record/on the record)  
7 THE COURT: Okay, would the Foreperson remain  
8 standing please. In the matter of State versus Stephen  
9 Wright, indictment number 1073-62008, has the jury  
10 reached a verdict?  
11 FOREPERSON: Yes, sir.  
12 THE COURT: Is it unanimous?  
13 FOREPERSON: Yes.  
14 THE COURT: As to count one, sexual assault  
15 during the commission of a burglary, how do you find,  
16 not guilty or guilty?  
17 FOREPERSON: Guilty.  
18 THE COURT: As to count two, burglary, how do  
19 you find, guilty or not guilty?  
20 FOREPERSON: For the first part, Judge?  
21 THE COURT: First part, yes.  
22 FOREPERSON: Not guilty.  
23 THE COURT: Not guilty. Okay. As to  
24 burglary in the third degree, how do you find?  
25 FOREPERSON: Guilty.

1 THE COURT: Okay. I'm going to call your  
2 number. If you agree with the verdict, say yes.  
3 Obviously if you don't agree, say no.  
4 (JURY WAS POLLED; VERDICT AS READ)  
5 THE COURT: Okay, thank you very much.  
6 Ladies and gentlemen of the jury, thank you  
7 very much for your service. You gave us five days that  
8 you dedicated to the assistance of New Jersey. We  
9 thank you very much. Our system of justice cannot  
10 function without you. I thank you, have a pleasant  
11 trip home.  
12 Thank you.  
13 Unless you need something from the fourth  
14 floor, leave the badges on the seats, we'll take care  
15 of them for you. You can go right to your cars.  
16 Give the verdict sheet, please, to the  
17 officer.  
18 (Jury leaves the courtroom)  
19 THE COURT: Okay. Thank you very much.  
20 All right, Mr. Wright has been found guilty  
21 of counts one and count two. We will sentence him -  
22 THE CLERK: Thursday May 6th, Judge.  
23 THE COURT: Well, it's an Avenel, so it will  
24 probably be late June.  
25 THE CLERK: Thursday, June --

Colloquy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Any time after June 14th.  
THE CLERK: June 17th, Judge.  
THE COURT: June 17th it is.  
Thank you, counsel.  
MR. TROIANO: Thank you, Judge.  
\* \* \*

CERTIFICATION

I, DOROTHY A. MIRAGLIOTTA, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings in the Hudson County Superior Court, Law Division, Criminal Part, on 3-25-10, Tape 110, Index 4234 - 5661; Tape 111, Index 3896 - 5014, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded to the best of my knowledge and ability.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*Dorothy A. Miragliotta*  
A. R. T. AGENCY, INC. *lys*

A.O.C. No. 295  
Dated: 5/3/11