

STATE OF NORTH CAROLINA  
COUNTY OF EDGECOMBE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
08-CRS-50309

---

STATE OF NORTH CAROLINA, )  
 )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 KNOLLY BROWN, JR., )  
 )  
 Defendant. )

---

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION  
HEARING  
DAY ONE & TWO

At North Carolina Judicial Center  
Raleigh, North Carolina

December 9 & 10, 2015

---

**Ira Anderson**  
**P.O. Box 6348**  
**Concord, NC 28027**

A P P E A R A N C E S

Lindsey Guice Smith, Esq.  
Sharon Stellato  
NORTH CAROLINA INNOCENCE INQUIRY COMMISSION  
Administrative Office of the Courts  
P.O. Box 2448  
Raleigh, North Carolina 27602

Commission Chair: The Honorable Anna Mills Wagoner  
Senior Resident Superior Court Judge

Commissioner: Luther Johnson Britt, III  
District Attorney

Commissioner: Michael A. Grace, Esq.  
Defense Attorney

Commissioner: Barbara Pickens  
Discretionary Member

Commissioner: Isaac Heard, Jr.  
Public Member

Commissioner: T. Diane Surgeon, Esq.  
Discretionary Member

Commissioner: Sheriff Susan D. Johnson

Commissioner: Jennifer Thompson  
Victim Advocate

Alternate: Camilla Cover  
Public Member

I N D E X

WITNESSES FOR PROCEEDINGS WHICH TOOK PLACE ON  
DECEMBER 9, 2015:

Sharon Stellato  
Examination by Ms. Guice Smith . . . . . 16

Meghan Clement  
Examination by Ms. Guice Smith . . . . . 63

Sharon Stellato  
Continued Examination by Ms. Guice Smith . . . . . 81

Knolly Brown  
Examination by Ms. Guice Smith . . . . . 139

WITNESSES FOR PROCEEDINGS WHICH TOOK PLACE ON  
DECEMBER 10, 2015:

Sharon Stellato  
Continued Examination by Ms. Guice Smith . . . . . 157

CLOSING REMARKS BY JUDGE WAGONER . . . . . 172

H A N D O U T S

No. 1	Knolly Brown Mental Health and Education Summary	11
No. 2	Map	18
No. 3	Map	18
No. 4	Map	18
No. 5	DNA Comparison Chart	24
No. 6	Emmanuel Maurice Battle Criminal Record	25
No. 7	James Lamar Brinkley Criminal Record	27
No. 8	Benjamin Christopher Gadson Criminal Record	28
No. 9	Thomas Lee Battle Criminal Record	29
No. 10	James Luther Andrews Criminal Record	29
No. 11	Michael Antoine Johnson Criminal Record	30
No. 12	Aaron Delany Atkins Criminal Record	34
No. 13	Case Supplemental Report	41
No. 14	Affidavit of Senior Police Officer Jamie Tyson	59
No. 15	Affidavit of Renee Walcott	59
No. 16	Curriculum Vitae of Meghan E. Clement, MS, F-ABC	64
No. 17	DNA Testing Chart of Victim's Clothing	68
No. 18	Devonte Jamal Johnson Criminal Record	80

H A N D O U T S  
(Continued)

No. 19	Keith Antonio Pressley Criminal Record	86
No. 20	Affidavit of Lamont Wiggins	114
No. 21	Affidavit of Matthew Sperati	114
No. 22	Knolly Brown, Jr. Criminal Record	115

1 JUDGE WAGONER: All right, good morning to  
2 everyone. There are three of us new ones here and  
3 we're happy to be here. We'll be hearing the  
4 Edgecombe County case of State versus Knolly Brown,  
5 08-CRS-50309. And this hearing is open to the public  
6 pursuant to NCGS 15A-1468(a). I do not believe we  
7 have any victim.

8 MS. GUICE SMITH: We do not.

9 JUDGE WAGONER: And you all all know this,  
10 I'm sure, but although the hearing is public, please  
11 keep distractions to a minimum. And we're going to  
12 ask that the door remain closed during the hearing and  
13 that no one should go in or out unless we're on a  
14 break or there is some type of an emergency.

15 I'm going to confirm for the record that we  
16 do have eight voting members of the Commission present  
17 as required by statute, correct? Yes.

18 And also, just for the record, I'll make a  
19 formal inquiry as to whether any Commissioner needs to  
20 recuse himself or herself pursuant to Rule 6(b)(1) of  
21 the Rules of Procedure. Anyone have a conflict?

22 (NO RESPONSE.)

23 JUDGE WAGONER: No? All right. Just let  
24 the record reflect no one has a conflict. And I will  
25 just again read the rule that states, a Commissioner

1 shall recuse himself or herself if some event has  
2 caused him or her to become biased about a case,  
3 unable to participate in the hearing in a fair and  
4 impartial mannerj. And a list of recusal information  
5 has previously been reviewed by all Commissioners and  
6 no one recused.

7 And I want to confirm that no Commissioners  
8 conduct any type of independent investigation. No one  
9 has, correct?

10 (NO RESPONSE.)

11 JUDGE WAGONER: Okay. And do we have any  
12 alternate Commissioners present?

13 MS. GUICE SMITH: Ms. Cover.

14 JUDGE WAGONER: But she's acting -- okay.  
15 Alternate Commissioner -

16 MS. COVER: Judge, could I ask you to speak  
17 just slightly louder?

18 JUDGE WAGONER: Okay. All right. I'm used  
19 to a mic.

20 MS. COVER: Because I did not, I did not  
21 hear what your last question was totally, so.

22 JUDGE WAGONER: All right. As for the  
23 alternate, the rules state that if an alternate  
24 Commissioner is not fulfilling full Commission duties,  
25 he or she may attend hearings of the Commission, but

1           may not participate in discussion and may not -- but,  
2           and of course alternates are welcome to attend the  
3           hearing and ask questions of the witnesses, but again,  
4           may not participate in the deliberations.

5                       And before we go any further, I skipped  
6           something. I'm going to ask that all the  
7           Commissioners and Committee staff at the table state  
8           and say their name, spell their names for the court  
9           reporter. I'll start. My name is Anna Mills Wagoner,  
10          W-a-g-o-n-e-r, I'm a Superior Court Judge from  
11          District 19C.

12                      MS. SURGEON: Dianne Surgeon, S-u-r-g-e-o-n,  
13          Commissioner.

14                      MR. HEARD: Isaac Heard, H-e-a-r-d,  
15          Commissioner.

16                      MS. THOMPSON: Jennifer Thompson, T-h-o-m-p-  
17          s-o-n, I'm an alternate Commissioner in place of  
18          Aurelia Sands Belle.

19                      MS. GUICE SMITH: Lindsey Guice Smith,  
20          G-u-i-c-e S-m-i-t-h. I am the Executive Director of  
21          the North Carolina Innocence Commission.

22                      MS. STELLATO: Sharon Stellato, S-t-e-l-l-a-  
23          t-o, Associate Director of the Commission.

24                      MS. COVER: Camilla Cover, C-a-m-i-l-l-a  
25          C-o-v-e-r, and I'm an alternate.



1 MR. GRACE: Michael Grace, G-r-a-c-e,  
2 criminal defense lawyer.

3 SHERIFF PICKENS: Barbara Pickens, P-i-c-k-e  
4 -n-s, Commissioner.

5 SHERIFF JOHNSON: Susan Johnson, J-o-h-n-s-o  
6 -n, Currituck Sheriff.

7 MR. BRITT: Johnson Britt, B-r-i-t-t,  
8 District Attorney, District 16B, Commissioner.

9 JUDGE WAGONER: All right. I think that is  
10 it. And we are now going to turn the floor and the  
11 hearing over to Ms. Smith.

12 MS. GUICE SMITH: Thank you, Your Honor.

13 JUDGE WAGONER: Yes, ma'am.

14 MS. GUICE SMITH: Good morning,  
15 Commissioners. Thank you for being here with us today  
16 for the hearing. This case involves the 2008 rape of  
17 a 12-year-old girl at an abandoned home in Rocky Mount,  
18 North Carolina. You all have been provided the  
19 Commission brief that describes the law enforcement  
20 investigation and Mr. Brown's plea. We will not review  
21 that material in-depth during this hearing, but we'll  
22 be presenting the Commission's investigation of  
23 Mr. Brown's innocence claim.

24 I was the lead investigator on this case, and  
25 our associate director, Ms. Stellato, also did

1 substantial work on the case. Throughout the hearing I  
2 will be calling Ms. Stellato to testify about our  
3 investigation. I will also be calling Meghan Clement,  
4 who is a DNA expert, to testify about the DNA testing  
5 that the Commission had conducted in the case, and then  
6 the last person that will testify will be the Claimant,  
7 Knolly Brown. Prior to the conclusion of this hearing  
8 the Commissioners are also going to go into a closed  
9 session to handle a few administrative matters that are  
10 unrelated to the case.

11 The victim, XXXXXX XXXXXX, is not with us  
12 today. Ms. Stellato is going to relay a statement, the  
13 victim's position during the victim impact statement  
14 portion of the hearing, which will be closed to the  
15 public. We were able to speak with the victim recently  
16 on the phone and ask her what her position was.

17 At this hearing you will be asked to  
18 determine whether there is sufficient evidence of  
19 factual innocence to merit judicial review. Guilty  
20 pleas require a unanimous vote of all eight  
21 Commissioners that there is sufficient evidence of  
22 factual innocence to merit judicial review. Knolly  
23 Brown pled no contest. Pursuant to Commission rules  
24 and procedures, all rules relating to guilty pleas also  
25 apply to Alford pleas, pleas of no contest, and nolo

1           contendere pleas. Therefore a unanimous vote will be  
2           required in order to refer this case forward to a  
3           three-judge panel. If the vote for further review is  
4           not unanimous, the case will be closed with the  
5           Commission and no appeal is available.

6                     Do the Commissioners have any questions about  
7           that?

8                     (NO RESPONSE.)

9                     MS. GUICE SMITH: Okay. Before I call any  
10           witnesses I want to make you all aware of the mental  
11           health diagnosis of the Claimant, Knolly Brown, as well  
12           as some potential capacity issues that the Commission  
13           staff came across during our investigation.  
14           Ms. Stellato is going to pass around a handout for you  
15           that details Mr. Brown's mental health and education  
16           history, and I'll give you a chance to review that.

17                     (WHEREUPON, HANDOUT NO. 1 WAS DISTRIBUTED.)

18                     JUDGE WAGONER: And these will be taken back  
19           up, correct?

20                     MS. GUICE SMITH: That one will not.

21                     JUDGE WAGONER: This one will not be?

22                     MS. GUICE SMITH: Correct.

23                     (COMMISSIONERS REVIEW DOCUMENT.)

24                     MS. GUICE SMITH: Prior to his plea,  
25           Mr. Brown's attorney made a Motion for Capacity to

1 Proceed. The court ordered an evaluation which was  
2 conducted in July of 2008. Ten months later  
3 Mr. Brown's trial attorney made a second Motion for  
4 Capacity to Proceed and the court ordered a second  
5 evaluation, which was conducted in June of 2009.  
6 During both evaluations Mr. Brown was diagnosed as  
7 schizophrenic, but was found to have the necessary  
8 capacity to proceed. There was a note made in each  
9 evaluation that continued treatment was required in  
10 order to maintain the capacity to proceed.

11 I would like to pass around both of those  
12 evaluations for the Commissioners to review. Because  
13 these were court ordered evaluations, I'm asking the  
14 Chair, Judge Wagoner, to keep those as a part of our  
15 confidential case file and not allow them to become  
16 public record as most handouts would.

17 JUDGE WAGONER: Okay. I will order that.

18 MS. GUICE SMITH: Thank you.

19 JUDGE WAGONER: Thank you.

20 MS. GUICE SMITH: So I will have Ms. Stellato  
21 pass those around. If you all will please review those  
22 and take the time that you need, but as soon as you're  
23 done, we'll collect those. If you'll just raise your  
24 hand when you're done with them, we'll make sure to get  
25 them from everyone.

1 (WHEREUPON, THE CONFIDENTIAL DOCUMENTS WERE  
2 DISTRIBUTED TO THE COMMISSIONERS FOR THEIR REVIEW.)

3 MS. GUICE SMITH: During a November 3, 2011  
4 interview that the Commission conducted with Mr. Brown,  
5 Mr. Brown exhibited signs that just raised concern to  
6 the Commission staff regarding his capacity. During  
7 that interview he reported that he was due for his  
8 Haldol shot six days later on November 9, 2011. He  
9 also reported his belief that his shot would wear off  
10 after three weeks rather than every four, which was the  
11 increment in which he was receiving it.

12 During that interview Mr. Brown had  
13 difficulty with his memory. He exhibited scattered  
14 thought patterns and he laid his head on the table for  
15 approximately 30 seconds. He was cooperative with the  
16 Commission to the extent that he was willing to answer  
17 our questions to the best of his ability. Ms. Stellato  
18 is going to testify about that interview more later  
19 during this hearing.

20 Based on the Commission's concerns, then  
21 Executive Director Kendra Montgomery-Blinn decided at  
22 that time that we should move the case into formal  
23 inquiry for the purpose of having an attorney appointed  
24 that could advise him regarding consent for our  
25 investigation and the signing of the Affidavit of

1 Innocence, which he had already done. This was done in  
2 order to make sure that Mr. Brown had in fact provided  
3 informed consent for the Commission to conduct an  
4 investigation in his case and that he understood that  
5 Affidavit of Innocence when he signed it.

6 He was appointed an attorney out of the  
7 Buncombe County Public Defender's Office. That  
8 attorney met with Mr. Brown and expressed her concerns  
9 to the Commission that he may have some capacity or  
10 competency issues. She made a motion to have a  
11 psychiatrist appointed to evaluate Mr. Brown and got an  
12 order to do so. Shortly thereafter, however, Mr. Brown  
13 was transferred from Mountain View Correctional  
14 Institute in the mountains of North Carolina to Pender  
15 Correctional Institute, which is all the way at the  
16 coast of North Carolina. At that time the Buncombe  
17 County Public Defender requested that IDS appoint  
18 Mr. Brown an attorney that was closer to the prison in  
19 which he was incarcerated, and IDS did that. The New  
20 Hanover County Public Defender was appointed. She then  
21 met with Mr. Brown on several occasions and didn't  
22 believe that there were any, there was any reason to go  
23 forward with the evaluation. At that time Mr. Brown  
24 signed the formal inquiry documents, including his  
25 waiver of procedural safeguards and privileges, and the

1 consent to formal inquiry, and today the New Hanover  
2 County Public Defender's Office currently is  
3 representing Mr. Brown.

4 You will hear from Mr. Brown toward the end  
5 of this hearing, and during that line of questioning I  
6 will be asking him about his medication and whether he  
7 is currently on that and when he last received that  
8 medication. So you will have that information later in  
9 the hearing.

10 At this time I'm going to call Ms. Stellato  
11 to the stand.

12 JUDGE WAGONER: And she needs to be sworn,  
13 correct?

14 MS. GUICE SMITH: She does need to be sworn  
15 and --

16 JUDGE WAGONER: All right. If you'll come to  
17 the stand and find a Bible.

18 MS. GUICE SMITH: Can you please get the  
19 Bible?

20 (WHEREUPON, COMMISSION STAFF EXIT THE ROOM TO  
21 RETRIEVE A BIBLE.)

22 MR. GRACE: Ms. Smith, may I ask you a  
23 question in the interim?

24 MS. GUICE SMITH: Absolutely.

25 MR. GRACE: You indicated that the New

1 Hanover PD who was appointed after the transfer  
2 indicated that there was not a need for --

3 MS. GUICE SMITH: An evaluation.

4 MR. GRACE: -- an evaluation?

5 MS. GUICE SMITH: Correct.

6 MR. GRACE: Is there anything in the record  
7 that expands on that?

8 MS. GUICE SMITH: Not really. We just had  
9 some email communication in which she met with him and  
10 felt it was more of a trust issue and that she, after  
11 meeting with him on several occasions, had developed a  
12 trust with him and didn't see the things that we had  
13 seen.

14

15 **Sharon Stellato, upon first being duly sworn,**  
16 **testified as follows:**

17

18 **EXAMINATION BY MS. GUICE SMITH**

19 Q. Good morning.

20 A. Good morning.

21 Q. Ms. Stellato, did the Commission staff obtain and  
22 review files from outside agencies and individuals?

23 A. We did.

24 Q. And what files did the Commission staff review as a  
25 part of our investigation?



1 A. The Defendant's questionnaire; the letters that he sent  
2 in to the Commission; his mother also provided  
3 documents that contained discovery; we reviewed the  
4 district attorney file; the Rocky Mount Police  
5 Department file; in addition to the Rocky Mount Police  
6 Department file, we also obtained a file from Rocky  
7 Mount Police Department evidence section that was a  
8 separate file from the Rocky Mount Police Department  
9 file; we then obtained a Rocky Mount Police Department  
10 file directly from a detective, Detective Walcott, who  
11 was no longer with the Rocky Mount Police Department  
12 -- Rocky Mount Police Department, this included crime  
13 scene photos that were not previously provided, and it  
14 was located much later; the Edgecombe County Clerk of  
15 Court file; two defense attorney files, one belonging  
16 to his first defense attorney, Lamont Wiggins --

17 Q. Ms. Stellato, did Mr. Wiggins actually have a file?

18 A. Excuse me, he did not. He was not able to locate one.  
19 We did contact him and he provided an Affidavit. The  
20 second defense attorney, Matthew Sperati, provided his  
21 entire file. The North Carolina State Crime Lab file,  
22 and the Department of Correction file, which contained  
23 education records, probation records, disciplinary  
24 records, medical records, substance abuse records, and  
25 all of his prison records.

1 Q. And did you visit the area where the crime occurred?

2 A. We did.

3 Q. And are you now familiar with that area of Rocky Mount?

4 A. I am.

5 Q. Did the Commission staff create maps of that area of  
6 Rocky Mount?

7 A. Yes, we did.

8 Q. And would those maps assist you in showing the  
9 Commissioners the area where the crime occurred?

10 A. Yes, they would.

11 MS. GUICE SMITH: I am going to hand out some  
12 maps. There are going to be three maps coming around,  
13 so please make sure you get three of them. They're  
14 coming around separately.

15 (WHEREUPON, HANDOUTS NO. 2, 3, AND 4 WERE  
16 DISTRIBUTED.)

17 Q. Before we go any further, Ms. Stellato, will you please  
18 state your name and where you're employed for the  
19 record?

20 A. Of course. Sharon Stellato. I'm the associate  
21 director with the North Carolina Innocence Inquiry  
22 Commission.

23 Q. And how long have you been employed by the Commission?

24 A. Seven years and five months.

25 Q. Thank you. I'm also putting the first map on the

1 screen. Ms. Stellato, can you tell the Commissioners  
2 what this map shows?

3 A. Of course. It shows where the victim -- if you --  
4 where the victim was leaving and where she was heading  
5 on the day of the crime. So if you look at A, that is  
6 going to be the middle school where she was starting  
7 out, and D is where she was heading. I'll just stand  
8 up for a second.

9 Q. Absolutely.

10 A. The route she was taking, if everyone can hear me okay,  
11 is actually going to be down Virginia. She's going  
12 down Virginia to Coleman Avenue, so she would have  
13 walked straight down here, past here. And we're going  
14 to zoom in on this location here when we go to the next  
15 one.

16 MS. GUICE SMITH: This will be the second map  
17 that you all have.

18 A. So Coleman is where she is headed down, and B is where  
19 the crime ends up happening, but she's headed to D,  
20 which is her house. So she's walking down Coleman,  
21 she's going to turn on Highland and head to her house.  
22 Her sister, XXXXXXXX, if you read in the police  
23 reports, is actually turning down Highland, which is  
24 the last place that they see each other. And the crime  
25 happens here at B. Jamal leaves her at this corner,

1 and he lives here at C, it's a couple houses down. The  
2 exact address is, I don't know if you're interested in  
3 that, but the exact addresses are 516 Coleman Avenue is  
4 the crime scene here, and then 819 Grand Avenue is  
5 Jamal's house, and 707 Highland is where the victim is  
6 headed.

7 Do you want to go to the next map?

8 Q. Yes.

9 MS. GUICE SMITH: This is the third map that  
10 we handed out.

11 A. So the third map is depicting the following day when  
12 Knolly Brown is identified by the victim. On that map  
13 it's where the victim -- where Knolly Brown is earlier  
14 in the day. He is at B on Woodland Avenue when his  
15 friends come, a friend comes and tells him that he  
16 needs to go, and what he says his friend tells him is  
17 to get his face straight. That means that, he tells us  
18 in an interview, that he needs to go and let the victim  
19 see him. So that's where he is, and then he ends up  
20 going to the victim's home which is at C. He doesn't  
21 go in the home. He's walking down the street and the  
22 victim is walking down the street. And they end up  
23 chasing him, he says, to D, which is his home. Again,  
24 Jamal's house is here. She says that she's at Jamal's  
25 front porch -- excuse me, that she's at Jamal's house

1           when she sees him on the front porch of Barry's house,  
2           which is B.

3           Q.   And when you say she, you're referring to the victim?

4           A.   The victim.   Excuse me.

5           Q.   And this is the day after the crime?

6           A.   The day after the crime.

7                         JUDGE WAGONER:   Question.   Okay, someone came  
8           to Mr. Brown and told him he needed to have his face --

9           A.   Get his face straight.

10                        JUDGE WAGONER:   Straight, okay.

11          A.   Uh-huh (yes).

12                        JUDGE WAGONER:   So he voluntarily started out  
13          to the victim's house, is that right?

14          A.   He walked -- right.   He walked to -- he, and we'll talk  
15          about this more in the interviews.   But he, people are  
16          telling him that the victim says you raped her and you  
17          need to get your face straight, you need to go and let  
18          her see you, essentially.   And so he voluntarily is  
19          walking to the victim's home to let her see him.   But  
20          meanwhile, the victim is coming home, so they meet each  
21          other kind of in the road.   And there are other people  
22          there.   The victim's step-father, the victim's mother,  
23          and we talk about this more in the interview.   And so  
24          they see each other in the road and the victim bursts  
25          out crying.   He runs because people start chasing --

1 JUDGE WAGONER: That's what I was wondering.  
2 Why were people chasing him?

3 A. When the victim starts crying the step-father yells,  
4 you raped my daughter, you raped my daughter, and  
5 starts chasing Knolly Brown with a knife. He runs back  
6 to his house, which is here at D, and the police are  
7 called and that's where he's arrested. And we do cover  
8 all of that in the interview.

9 JUDGE WAGONER: Okay.

10 A. But we just kind of wanted to give you a location of  
11 the area.

12 JUDGE WAGONER: Thank you.

13 MS. GUICE SMITH: Are there any other  
14 questions about the maps, Commissioners?

15 (NO RESPONSE.)

16 Q. Okay. Ms. Stellato, did the Commission staff take  
17 photos of this area?

18 A. Yes, we did. We took photos in February of 2015 and  
19 September of 2015.

20 Q. And would those photos help you show the Commissioners  
21 the area where the crime took place?

22 A. Yes, it would.

23 MS. GUICE SMITH: Commissioners, I'm going to  
24 put a series of photos on the screen.

25 Q. And Ms. Stellato, if you'll just describe what these

1 are.

2 A. That is the front of the home. It's still abandoned  
3 today. That area is very similar to how it looked at  
4 the time, it was only 2008. That's the front of the  
5 home, the vacant home where the crime took place.

6 Q. And is that Coleman Avenue?

7 A. Correct.

8 Q. And what is this picture of?

9 A. It's still the front of the home. You can just kind  
10 of see down, down the side.

11 Q. And this one?

12 A. That is the side of the house, the other side where she  
13 was picked up off of the sidewalk. And that would be,  
14 that's the side that the perpetrator took her down when  
15 she was picked up off of the sidewalk.

16 Q. Okay.

17 A. And that is the back of the house. If you look, you  
18 can actually see the steps right here. If you read,  
19 she hooks her feet. This is the back door and she is  
20 taken in the back door there.

21 Q. And does that picture show the side of the house also  
22 that she was brought down?

23 A. It does.

24 MS. GUICE SMITH: Commissioners, do you have  
25 any questions for Ms. Stellato about the photographs?

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

(NO RESPONSE.)

Q. Okay. Ms. Stellato, I'm going to turn your attention now to the alternate suspects in this case. Did you identify alternate suspects in the case?

A. Yes, we did.

Q. I'm going to hand you a DNA comparison chart that was created by the Commission staff that lists the alternate suspects and other males that were involved in this case. Do you recognize this as being the chart that was created by the Commission?

A. I do.

Q. Okay.

MS. GUICE SMITH: Commissioners, I'm now going to pass around this chart. You will need or want to refer to this throughout the hearing.

(WHEREUPON, HANDOUT NO. 5 WAS DISTRIBUTED.)

Q. Ms. Stellato, how did the Commission identify the alternate suspects?

A. From the Rocky Mount Police Department law enforcement file.

Q. And how many alternate suspects were there?

A. Seven.

Q. Can you describe how you identified the alternate suspects?

A. There is a report from Detective Walcott.



1           Commissioners, if you have your brief, it is on page 20  
2           of your brief. In it Detective Walcott indicates that  
3           she met with the victim at the police department on  
4           January 26, 2008, and that she entered the physical  
5           description that the victim provided her, which was a  
6           black male ages 15 to 30, and she entered that into the  
7           Rocky Mount Police Department computer database. The  
8           system provided 2612 photographs that the victim  
9           reviewed.

10                       MS. GUICE SMITH: Commissioners, I'm going to  
11           now pass around a criminal record for the first  
12           individual.

13                       (WHEREUPON, HANDOUT NO. 6 WAS DISTRIBUTED.)

14           Q. Did the victim make any identifications from those  
15           pictures?

16           A. Yes, she did. When the victim arrived at a photograph  
17           of Emmanuel Maurice Battle she immediately pointed him  
18           out and stated, that is him. Detective Walcott asked  
19           her how sure she was on a scale of one to ten, and she  
20           stated she was not certain it was him, but that he  
21           looked very similar.

22           Q. Did the Rocky Mount Police Department conduct any  
23           follow-up investigation of Emmanuel Battle?

24           A. No, not according to the file.

25           Q. And did the Commission make any effort to locate

1 Mr. Battle?

2 A. Yes. The Commission conducted a search for the  
3 addresses for Mr. Battle. We attempted to locate him  
4 at those addresses and we left our contact information,  
5 however, we did not receive a call back from  
6 Mr. Battle.

7 JUDGE WAGONER: As far as you know,  
8 Mr. Battle was not incarcerated somewhere in DOC when  
9 you were looking for him, was he?

10 A. He was not; no, ma'am.

11 JUDGE WAGONER: Okay.

12 Q. And did the victim make any additional identifications  
13 from those pictures?

14 A. Yes, she did. Also, according to the police report,  
15 she continued going through the photographs and a short  
16 time later she picked out James Lamar Brinkley. She  
17 stated that he favored the suspect, but she was not  
18 100 percent certain.

19 Q. And did Rocky Mount Police Department conduct any  
20 follow-up investigation of Mr. Brinkley?

21 A. Not according to the file.

22 Q. Did the Commission make an effort to locate  
23 Mr. Brinkley?

24 A. Yes, we did. He is currently in prison serving for  
25 assault with a deadly weapon with intent to kill. The

1 Commission staff interviewed him at Craven County  
2 Correctional on April 22, 2015. He denied any  
3 involvement in the crime or any knowledge of the crime,  
4 and he voluntarily provided a DNA sample. We had that  
5 sample compared and he does not match any of the  
6 unknown DNA from the case.

7 MS. GUICE SMITH: Commissioners, I'm passing  
8 around the criminal record of James Lamar Brinkley.

9 (WHEREUPON, HANDOUT NO. 7 WAS DISTRIBUTED.)

10 Q. Ms. Stellato, did the victim identify anyone else from  
11 the 2612 pictures that she was shown?

12 A. She did. According to the report, as she continued  
13 looking through all of the photographs, she picked out  
14 three other men that had something similar that  
15 reminded her of the suspect. The three others that she  
16 picked out were Benjamin Christopher Gadson, Thomas Lee  
17 Battle, and James Luther Andrews. According to the  
18 report, when she continued picking those out she was  
19 not certain that they were the men who raped her.

20 Q. And do you know if any follow-up was conducted by the  
21 Rocky Mount Police Department on Benjamin Gadson,  
22 Thomas Battle, or James Andrews?

23 A. Not according to the file.

24 Q. Did the Commission make any effort to locate Benjamin  
25 Gadson?

1 A. Yes. We were able to interview Mr. Gadson on the phone  
2 on April 16, 2015. He denied any involvement in the  
3 crime. Mr. Gadson stated that in 2008 he was living in  
4 Charlotte and he was not in Rocky Mount. After  
5 searches we confirmed that he was, in fact, living at a  
6 Charlotte -- that he did, in fact, have a Charlotte  
7 address listed in 2008. He ultimately would not agree  
8 to meet with the Commission staff in person and we were  
9 unable to collect a DNA sample.

10 MS. GUICE SMITH: Commissioners, I am passing  
11 around the criminal record for Benjamin Gadson.

12 (WHEREUPON, HANDOUT NO. 8 WAS DISTRIBUTED.)

13 Q. Ms. Stellato, did the Commission make any effort to  
14 locate Thomas Lee Battle?

15 A. Yes, we did. We conducted a search for the addresses  
16 for Thomas Battle and were unable to locate him at  
17 those addresses. We did locate his girlfriend via  
18 telephone. She indicated she would provide him with  
19 the information, however, we did not receive a return  
20 call from Mr. Battle. We later went to his address.  
21 No one was home. We did leave contact information but  
22 he did not provide a return phone call.

23 MS. GUICE SMITH: Commissioners, I am now  
24 going to pass around the criminal record of Thomas  
25 Battle.

1 (WHEREUPON, HANDOUT NO. 9 WAS DISTRIBUTED.)

2 JUDGE WAGONER: Is he related to Emmanuel  
3 Battle?

4 A. Not that we can find. We cannot find any relation.  
5 There are a lot of Battles in that area, so there may  
6 be some distant relation.

7 Q. Ms. Stellato, did the Commission make any effort to  
8 locate the other alternate suspect, James Luther  
9 Andrews?

10 A. Yes, we did. We were able to locate and interview  
11 Mr. Andrews on April 20, 2015. He denied any  
12 involvement in the crime. He initially consented to  
13 voluntarily provide a DNA sample, however, after  
14 speaking with a friend, he withdrew that consent.

15 MS. GUICE SMITH: Commissioners, I am now  
16 passing around the criminal record of James Luther  
17 Andrews.

18 (WHEREUPON, HANDOUT NO. 10 WAS DISTRIBUTED.)

19 Q. Ms. Stellato, was the Commission able to identify any  
20 additional alternate suspects from the law enforcement  
21 file?

22 A. Yes, we identified Michael Antoine Johnson as a  
23 possible suspect. Johnson is listed as Antoine Michael  
24 Johnson in law enforcement police reports. He was  
25 interviewed on the day of the crime and a photo line-up

1 of him was shown to the victim that included his  
2 photograph, however, she did not identify him as her  
3 attacker.

4 Q. And did the Commission make any effort to locate  
5 Michael Johnson?

6 A. Yes, we did. We went to his last known address. The  
7 home was vacant and no one lived there. He currently  
8 has outstanding warrants and his location is unknown at  
9 this time.

10 MS. GUICE SMITH: Commissioners, I'm passing  
11 out the criminal record for Michael Antoine Johnson.

12 (WHEREUPON, HANDOUT NO. 11 WAS DISTRIBUTED.)

13 MR. HEARD: I've got a question, please.

14 A. Yes.

15 MR. HEARD: If she did not identify Michael  
16 Antoine Johnson from the pictures offered, how was he  
17 identified as an alternative suspect?

18 A. He was in the area at the time of the crime. Jamal  
19 Johnson described seeing a man fitting that  
20 description, and police picked him up because he was  
21 walking down the road wearing the same --

22 MR. HEARD: So it was basically based on the  
23 clothes he was wearing?

24 A. The description, yes.

25 MR. HEARD: Thank you.

1 A. Uh-huh (yes).

2 JUDGE WAGONER: Is Michael Johnson related to  
3 Jamal Johnson?

4 A. There are a lot of Johnsons also in that area. We  
5 don't know.

6 SHERIFF PICKENS: Sharon, do you know what  
7 the current warrant for him is for, did they tell you?

8 a. We do have that information and I can get it for you.  
9 It is not, I do know that it is not for a rape or --

10 SHERIFF PICKENS: That's all I wanted to  
11 know.

12 A. We can definitely look and get that.

13 Q. Ms. Stellato, did the Commission seek a Non-Testimonial  
14 Identification Order for any of the alternate suspects  
15 that we just discussed who would not voluntarily  
16 provide a DNA sample?

17 A. No. Based on the information that we had, which was  
18 very limited information in the police reports, the  
19 fact that the victim had not responded to our original  
20 request for an interview, the fact that she had  
21 ultimately identified Knolly Brown, we did not believe  
22 that we had reasonable grounds to seek an NTIO for  
23 these individuals.

24 Q. Did the Commission identify any other alternate  
25 suspects from the law enforcement file?

1 A. Yes, we did. We identified one additional alternate  
2 suspect through the documents that were provided, not  
3 through the law enforcement report or, excuse me, file  
4 that was provided from Rocky Mount Police Department,  
5 but through the file that was provided by the evidence  
6 section of Rocky Mount Police Department. These  
7 documents were not in the master file. The evidence  
8 records contained an evidence voucher, and it indicated  
9 that a pair of shoes were collected from a man named  
10 Aaron Atkins. On there Atkins was listed as a suspect  
11 on this evidence form, but there was no other mention  
12 of him in the file.

13 Q. Did the Commission make any effort to locate  
14 Mr. Atkins?

15 A. Yes, we located him and interviewed him on March 19,  
16 2015, and he provided additional information about the  
17 case and his interaction with law enforcement.

18 Q. I just want to go back. When you say that the only  
19 information you saw was on an evidence voucher with his  
20 name on it, was there any mention of him in the Rocky  
21 Mount Police Department file other than on the evidence  
22 voucher provided by the evidence section?

23 A. No.

24 Q. What did Mr. Atkins say about his involvement with law  
25 enforcement on the day of the crime?



1 A. He stated that on the day of the crime he had been  
2 picked up for what he believed was an outstanding  
3 warrant. When he was approached by law enforcement he  
4 took off running because of his outstanding warrant  
5 that he knew of. He stated he thought he was being  
6 arrested for that, but then law enforcement took him  
7 down to the police station and they began questioning  
8 him about the rape of a little girl. He stated that  
9 they collected his shoes and told him he fit the  
10 description of the rapist and that they thought his  
11 shoes would match footprints that were collected from  
12 the crime scene. He told them that he had been picking  
13 up his mother from work at that time, and they verified  
14 his alibi. His alibi checked out and they did release  
15 him. They did not return the shoes, but they did  
16 release him.

17 Q. Did you ask Mr. Atkins whether he was involved in the  
18 crime?

19 A. Yes, we did.

20 Q. And what was his response?

21 A. He denied any involvement in the crime. He also  
22 voluntarily provided a DNA sample.

23 Q. Did we have that sample compared?

24 A. Yes, we did.

25 Q. And what were the results?

1 A. He does not match any of the unknown DNA from the case.

2 Q. Did you do anything else with respect to Mr. Atkins?

3 A. At the conclusion of the interview his mother was also  
4 waiting in the car, so we interviewed her. She  
5 confirmed that she was working at a job at a place  
6 called Keihin that day. She stated that she got off --  
7 and when I say that day, I mean the day of the crime --  
8 that she had got off work at 3:00 p.m. and that it took  
9 18 minutes to travel from her home to her work. She  
10 couldn't recall whether she had spoke with police that  
11 day or not, but she recalled her son being picked up by  
12 police on that day and that her son had fit the  
13 description of the rapist and that was why he was  
14 picked up.

15 MS. GUICE SMITH: We're going to talk a  
16 little bit more about Mr. Atkins, but I would like to  
17 go ahead and pass around his criminal record at this  
18 time, Commissioners.

19 (WHEREUPON, HANDOUT NO. 12 WAS DISTRIBUTED.)

20 Q. Ms. Stellato, did Mr. Atkins say anything to you about  
21 whether or not he had prior interactions with law  
22 enforcement?

23 A. He did.

24 Q. And what was that?

25 A. He had, he did have interactions with law enforcement.

1 Q. And did he indicate whether or not he ran when he saw  
2 law enforcement?

3 A. He would run when he saw law enforcement, yes.

4 Q. Regularly?

5 A. Regularly.

6 Q. Aside from the DNA testing that we're going to hear  
7 testimony on later about later on during this hearing,  
8 what other forensic analysis did the Commission have  
9 conducted related to Mr. Atkins?

10 A. We had a latent foot expert compare the shoe cast from  
11 the crime scene to the shoes of both Atkins and Knolly  
12 Brown.

13 Q. And was the latent examiner able to determine what kind  
14 of shoe made the print that was found at the crime  
15 scene?

16 A. Yes. It was made by an Air Jordan shoe.

17 JUDGE WAGONER: Air Jordan?

18 A. Nike Air Jordan shoe.

19 Q. And was the latent examiner able to compare that shoe  
20 cast to Knolly Brown's shoes?

21 A. Yes. The shoes that were collected from Knolly Brown  
22 on the day after the crime, the expert was able to  
23 conclude that they were Pony brand shoes, and Knolly  
24 Brown is excluded, his shoes are excluded from making  
25 that.

1 Q. Was the latent examiner able to compare the shoe cast  
2 to that of Aaron Atkins' shoes?

3 A. Yes. Atkins' shoes are Air Force Ones with an Air  
4 Jordan bottom.

5 Q. And were these the shoes that were originally collected  
6 by law enforcement from Mr. Atkins on the day of the  
7 crime?

8 A. Yes. Although the latent examiner was unable to find  
9 any individual characteristics present between the shoe  
10 casts and Atkins' shoes, it is his opinion that the  
11 left shoe of Atkins cannot be conclusively excluded as  
12 the source of the print.

13 Q. Did the Commission request that the latent examiner do  
14 any other analysis?

15 A. Yes. We asked him to determine the estimated size of  
16 the shoe that was represented in the shoe cast,  
17 however, he was unable to make a size estimate.

18 Q. And did the Commission do anything else related to  
19 those shoe prints?

20 A. We tried to determine -- what Atkins told us and what  
21 we knew is that the shoes he was wearing that day was a  
22 very popular shoe, so we tried to determine how  
23 popular. The Commission contacted Nike's corporate  
24 office to determine whether they could provide any  
25 additional information on the popularity of the shoe.

1 A member of Nike's legal team informed the Commission  
2 staff that Air Force Ones are their most popular shoes  
3 and over 30 million have been sold. They were first  
4 released in 1981 and became very popular in the 2000s.

5 Q. Did you learn anything more about Mr. Atkins from any  
6 of the files that the Commission reviewed?

7 A. Yes, we did.

8 Q. Okay. Can you describe what that is?

9 A. Yes. In October of 2015 the Commission received  
10 another file. That file came from Rocky Mount Police  
11 Department Detective Renee Walcott.

12 Q. Was Ms. Walcott with Rocky Mount at the time that that  
13 file was turned over?

14 A. No, she was not. She was living in Virginia and she  
15 was no longer with the department.

16 Q. And what did she state about that file?

17 A. She indicated that what she was providing us was a copy  
18 of the master file that Rocky Mount Police Department  
19 had already given us.

20 Q. Did the Commission, was the Commission able to confirm  
21 that she provided a copy of that file?

22 A. It was not a copy of that file.

23 Q. And what were the differences?

24 A. We noted that it contained crime scene photographs and  
25 other photographs that had not been provided to the

1 Commission and were not in the Rocky Mount Police  
2 Department master file.

3 Q. Other than the crime scene photographs, were there any  
4 other photographs that she provided that warranted  
5 additional investigation?

6 A. Yes. There was a black and white copy of a photograph  
7 that had been attached to a Rocky Mount Police  
8 Department report.

9 Q. And was that located in the Rocky Mount Police  
10 Department master file or in the file provided by  
11 Ms. Walcott?

12 A. The master file. And the report stated that the day  
13 prior to Knolly Brown's plea that he accepted an  
14 officer had been asked by Detective Walcott that she  
15 take a photograph over to the victim and ask the victim  
16 if she recognized the person in the attached  
17 photograph. According to the report, the officer took  
18 the photograph over to the victim and she asked the  
19 victim if she recognized the photograph, and the victim  
20 stated, I have never seen that person before. The  
21 report and the photograph had no identifying  
22 information on who the individual was, so the  
23 Commission couldn't tell from the report or from the  
24 photograph who they were asking the victim about.

25 Q. And how clear was the black and white photograph?

1 A. You are unable to determine -- it's not clear.

2 JUDGE WAGONER: So would you say it's grainy  
3 or something or --

4 A. It's grainy. It's black and white so it literally --  
5 and we will pass this out. It is literally a white  
6 sheet of paper with a black image on it.

7 Q. And did you follow up with Detective Walcott to see if  
8 she could provide any additional information about that  
9 request?

10 A. We had reached out to Detective Walcott several times  
11 and via email. We had reached out to see if she had  
12 any additional information regarding why this  
13 photograph had been shown to the victim on the day  
14 before Knolly Brown was to take a plea in the case and  
15 who the photograph was of. She had not responded to  
16 that email. We had also reached out to the ADA in the  
17 case and others to try to determine who this photograph  
18 was of.

19 Q. Did we also reach out to Defense Attorney Matthew  
20 Sperati?

21 A. Yes, we did.

22 Q. And did he have any recollection of who it was?

23 A. No, he did not.

24 Q. What happened when we received the color photos from  
25 Detective Walcott's file?

1 A. When we received the color photos we noted that there  
2 was a colored photo that appeared to be the same as the  
3 black and white. Upon looking at the colored photo we  
4 noted an emblem on the front of the man's sweatshirt  
5 and it said, Keihin. We remembered -- we conducted  
6 research and we learned that this was the name of a  
7 company in Tarboro and we recalled that name from our  
8 interview with Aaron Atkins. We confirmed that that  
9 was the place he had told us his mother worked from the  
10 interview. We then pulled booking photographs from  
11 CJLEADS for Aaron Atkins. Around the time we located a  
12 photograph from 2008 in which he was wearing a  
13 sweatshirt that appears to be the same. Based on all  
14 of this, we believe that the photograph shown to the  
15 victim the day before Knolly Brown's plea may have been  
16 that of Aaron Atkins.

17 Q. I'm going to hand you a packet. Can you tell me what  
18 is in this packet?

19 A. It is the report dated 10/13/2009, the black and white  
20 photograph, the colored photograph, and the CJLEADS  
21 photos.

22 Q. Does this packet illustrate the testimony that you just  
23 gave?

24 A. It does.

25 MS. GUICE SMITH: Commissioners, I'm now



1 going to pass out that packet that contains the  
2 original law enforcement report with the black and  
3 white photo as well as the color photo and the photos  
4 that we had pulled from CJLEADS.

5 (WHEREUPON, HANDOUT NO. 13 WAS DISTRIBUTED.)

6 MR. GRACE: Madame Director, may I ask a  
7 question at this point?

8 MS. GUICE SMITH: You may, yes.

9 MR. GRACE: The victim indicated that the  
10 pictures she was shown the day before the plea was not  
11 a person she knew or she couldn't identify that  
12 picture?

13 A. According to the report, the victim viewed the photo  
14 and stated she has never seen this person before. What  
15 we don't know is how the photo -- we don't know from  
16 what we have because what we have is a black and white  
17 photograph and report in the Rocky Mount Police  
18 Department file and a color photo that was provided to  
19 us by Detective Walcott's photo -- file without the  
20 report attached to it, we don't know how it was shown  
21 to the victim. We don't know the circumstances of what  
22 was said to the victim because it's not in the report.

23 MR. GRACE: So you're not certain whether she  
24 was shown the color photo which --

25 A. No, sir.

1 MR. GRACE: -- clearly --

2 A. All we know is what I'm testifying to and what we'll,  
3 what we're handing you.

4 JUDGE WAGONER: Was there any reason given by  
5 this person you talked to that no longer works for  
6 Rocky Mount why, why she was directed to do this, show  
7 the picture?

8 A. We've reached back out to her about this now. There is  
9 -- and we'll get to that a little bit more in  
10 testimony. We reached back out to her based on this to  
11 ask why were you showing the photograph of Aaron Atkins  
12 the day before the plea. She has not responded.  
13 Because she's in Virginia, the Commission, we can't get  
14 an answer on that. There are also some issues related  
15 to evidence that we'll talk about a little bit more,  
16 that she also located physical evidence in the case  
17 when she located the file. So we don't have an answer  
18 on that.

19

20 CONTINUED EXAMINATION BY MS. GUICE SMITH:

21 Q. Ms. Stellato, I'll turn your attention, if you will, to  
22 the last page in the packet with the CJLEADS photos.

23 A. (Witness complies.)

24 Q. Will you look at the photo in the center dated  
25 February 15, 2008?

1 A. (Witness complies.)

2 Q. Is that the one in which you believe Mr. Atkins is  
3 wearing the same sweatshirt as he's wearing in the  
4 color photograph on the page before?

5 A. It appears to be a similar sweatshirt.

6 Q. And what about it is similar?

7 A. The color, the inside of his sweatshirt, and the fact  
8 that we know both he and his mother worked at Keihin.

9 MS. GUICE SMITH: Are there any other  
10 questions about these photographs, Commissioners, or  
11 about the alternate suspects in general?

12 SHERIFF PICKENS: Sharon, the black and white  
13 photo was attached to the file that Walcott had or --

14 A. No, ma'am.

15 SHERIFF PICKENS: -- have I got that  
16 backwards?

17 A. The black and white photo was attached to this report  
18 in the Rocky Mount master file, Rocky Mount Police  
19 Department master file.

20 SHERIFF PICKENS: But she --

21 A. They know nothing about this. They do not have this  
22 photo as well as other photos, the crime scene photos,  
23 as well as physical evidence. They don't have them,  
24 they don't know about them.

25 SHERIFF PICKENS: But she had this photo,

1 correct?

2 A. Yes, ma'am.

3 SHERIFF PICKENS: Okay.

4 A. But she is not the one that showed -- she directed an  
5 Officer Robins -- sorry, Lewis, Investigator Lewis --  
6 she investigated -- she directed Investigator Lewis,  
7 and we've had no luck on that.

8 SHERIFF PICKENS: And so we don't know if  
9 Lewis was directed to show the black and white or the  
10 color photo?

11 A. We don't know.

12 SHERIFF PICKENS: There's no --

13 A. We don't know.

14 SHERIFF PICKENS: Okay.

15 SHERIFF JOHNSON: And we don't know why she  
16 directed them to show the photo?

17 A. We don't.

18 JUDGE WAGONER: Yes, ma'am.

19 MS. SURGEON: I just need to be clear. Did  
20 you say that the report and the black and white picture  
21 was in the police file?

22 A. The Rocky Mount Police Department file, yes, ma'am.

23 MS. SURGEON: But the color pictures were not  
24 in there?

25 A. The color pictures were with Detective Walcott in

1 Virginia.

2 MS. SURGEON: And not in the master file?

3 A. Right. Detective Walcott -- sorry, I'm trying to get  
4 you there.

5 MS. SURGEON: Right.

6 A. -- is saying that her file, the one she provided to us,  
7 is the copy, right? She's saying, I'm giving you a  
8 copy of it. They have the original file. But that  
9 can't be accurate if what we're getting from her are  
10 the color photos and Rocky Mount Police Department does  
11 not, not only do they not have a color photo of this,  
12 they don't have the other crime scene photos; they  
13 don't have them at all. So it can't be a copy if they  
14 don't have them.

15 SHERIFF PICKENS: So what she probably has is  
16 her working file?

17 A. We have discussed that with her.

18 SHERIFF PICKENS: That's just my opinion.

19 A. Yes, ma'am.

20 JUDGE WAGONER: Mr. Britt.

21 MR. BRITT: Did you reach out to the  
22 Investigator Lewis to clarify which photographs he may  
23 have shown the victim? Or she, I'm sorry.

24 A. She took it there, so there is no information on that  
25 that the Commission has been able to obtain.

1 CONTINUED EXAMINATION BY MS. GUICE SMITH:

2 Q. Ms. Stellato, I'm going to ask one follow-up question  
3 to clarify. Did the Commission originally receive a  
4 copy of the Rocky Mount Police Department file from  
5 Rocky Mount?

6 A. Yes.

7 Q. Did the Commission later go back to Rocky Mount Police  
8 Department and look through their master file?

9 A. Yes, we did.

10 Q. And when looking through the master file did the  
11 Commission find any color photographs, crime scene or  
12 otherwise?

13 A. No.

14 MR. GRACE: One follow-up and last question.  
15 The victim was certain that the picture she was shown  
16 was a person she did not know or was it that the  
17 picture, she couldn't determine from the picture who?

18 A. The only thing we know about what the victim says is  
19 from this report which states, the victim viewed the  
20 photo and stated she has never seen this person before.  
21 So we don't have any notes that the officer wrote, we  
22 just have this report.

23 MS. GUICE SMITH: Any other questions?

24 (NO RESPONSE.)

25

1 CONTINUED EXAMINATION BY MS. GUICE SMITH:

2 Q. Ms. Stellato, let's turn now to the physical evidence  
3 in this case.

4 JUDGE WAGONER: Let me ask one more. I  
5 thought you had also crime scene photos that were not  
6 in the master file, is that correct? Or are you  
7 getting to that now?

8 MS. GUICE SMITH: Would you like to ask that  
9 question of Ms. Stellato?

10 JUDGE WAGONER: Yes. Do you understand what  
11 the question was?

12 A. Yes, ma'am.

13 JUDGE WAGONER: Okay. Do you know?

14 A. Crime scene photos?

15 JUDGE WAGONER: Crime scene photos.

16 A. There were photographs of the, there were photographs  
17 of the outside of the home, there were photographs of  
18 -- there is a -- we don't know if it's the victim, we  
19 -- it may be the victim, it may not. There is a  
20 photograph of either an arm or a leg with a scratch on  
21 it. There are no photographs of the inside of the  
22 home. But yes, there -- that -- to the extent of the  
23 crime scene, that is what we have.

24

25 Q. Ms. Stellato, are there also pictures of the shoe

1 prints?

2 A. Uh-huh (yes). Very limited photographs of the shoe  
3 prints.

4 Q. And did the crime occur inside the home?

5 A. It did.

6 Q. And are there any photographs of the inside of the  
7 home?

8 A. No.

9 Q. Are any of the photographs labeled with any kind of  
10 identifying information?

11 A. No. And that is why we had wanted to find the original  
12 photographs, because normally police officers will  
13 write on the back, specifically that one of whatever  
14 we're looking at, they'll write, you know, victim's  
15 left arm or -- and there is no mark, there are no  
16 markings, so we're not sure.

17 Q. And are the photographs on photograph paper or on an  
18 8x11 piece of paper?

19 A. They're on an 8x11 piece of paper. But it was 2008 and  
20 that could be because the photographs were taken  
21 digitally and uploaded.

22 MR. GRACE: I'm still concerned about these  
23 pictures. I'm sorry, have we verified that a picture  
24 was actually shown to the victim other than that  
25 report?



1 A. The victim, I'll speak on that later.

2 JUDGE WAGONER: I think it's your turn to ask  
3 a question.

4 SHERIFF JOHNSON: If there are no pictures of  
5 the inside of the house in the brief, where did that  
6 photo come from of the inside of the house?

7 A. The inside of the house?

8 SHERIFF JOHNSON: I think there's one with a  
9 photo of the inside of the house. I'm pretty sure I  
10 saw one.

11 MR. BRITT: There are references to glass  
12 being on the floor.

13 MS. GUICE SMITH: Commissioners, the  
14 photographs of the crime scene that are in your brief  
15 are on page 36 and 37.

16 Q. Ms. Stellato, if you will turn to that.

17 A. (Witness complies.)

18 JUDGE WAGONER: Page 37 is, I believe, what  
19 you're referring to.

20 Q. On page 37 can you describe what that is a picture of?

21 MR. HEARD: That's the outside of the house.

22 SHERIFF PICKENS: Yeah, it's the outside.

23 A. That's a photograph of the back door of the home.

24 MR. HEARD: That's the outside of the house.  
25 I thought it was the inside at first.

1 JUDGE WAGONER: Okay, let me just say, the  
2 court reporter has asked us all to speak up.  
3 Mr. Heard, would you repeat your statement or question.

4 MR. HEARD: I just noted that's, I think, the  
5 outside of the house, but it did appear when I first  
6 looked at it to be the inside of the house, but no.

7 Q. Ms. Stellato, can you confirm what that photo is of?

8 A. Uh-huh (yes). That's a picture of the outside of the  
9 home.

10 Q. And is that the back of the home?

11 A. Yes, that is the back door of the home.

12 Q. And if you turn to page 36 in the brief, can you tell  
13 the Commissioners what that picture is of?

14 A. That's the front door.

15 MS. GUICE SMITH: Any further questions about  
16 the crime scene photos?

17 (NO RESPONSE.)

18 Q. Okay. Ms. Stellato, now let's turn to the physical  
19 evidence in this case. Did the Commission collect  
20 evidence --

21 MS. GUICE SMITH: Before we turn to that, do  
22 you think we need a break?

23 JUDGE WAGONER: Break anyone? Yay or nay?

24 (NO RESPONSE.)

25 JUDGE WAGONER: Everybody okay to keep going?

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

MR. HEARD: Yes.

JUDGE WAGONER: All right.

Q. Did the Commission collect evidence in this case?

A. Yes, we collected evidence from the Rocky Mount Police Department in February of 2013. At that time we believed that this included all of the evidence that had been collected from the crime scene or in the case and all of the evidence that we had requested.

Q. And did the Commission send that evidence off for DNA testing?

A. We did. We sent it to private labs for DNA testing. That testing will be discussed later in the hearing.

Q. Okay. Can you tell me what the Commission learned in May of 2014?

A. In May of 2014 we were contacted by Cellmark Forensics, which is a private lab where we were conducting testing in the case. Specifically we were conducting testing on the victim's pubic hair combings. At that time we learned that a slide containing four pubic hair combings, that that entire slide was missing from the evidence.

Q. And what did the Commission do then?

A. We made extensive efforts to determine where the hairs were located. We contacted the North Carolina State Lab, the Connecticut lab where it had been sent, the

1 Rocky Mount Police Department, and even UPS, which was  
2 the shipping agency where it had been sent through.  
3 Ultimately we determined that the missing hairs had  
4 been sent by the North Carolina State Crime Lab, had  
5 been sent by the North Carolina State Crime Lab to the  
6 Connecticut lab in 2008 for testing.

7 Q. And why are these hairs important?

8 A. Those specific hairs were important because one of  
9 those four hairs was determined originally to be  
10 microscopically consistent with Mr. Brown, the  
11 Defendant, by the North Carolina State Crime Lab. That  
12 hair was then DNA tested by the Connecticut crime lab  
13 and determined to be that of the victim. All of this  
14 was known, but only one --

15 MS. COVER: I'm sorry. I have a technical  
16 difficulty, I'm sorry.

17 A. So that was one of the four.

18 MS. COVER: My apologies.

19 JUDGE WAGONER: Why don't we just be at ease  
20 for about five minutes?

21 MS. GUICE SMITH: This might be an  
22 appropriate time for our morning break, if that's --

23 JUDGE WAGONER: Sure. Let's go on and take  
24 our break.

25 (WHEREUPON, A SHORT RECESS WAS TAKEN FROM

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

11:25 A.M. THROUGH 11:37 A.M.)

CONTINUED EXAMINATION BY MS. GUICE SMITH:

Q. Okay. Ms. Stellato, I want to go back to where we were before we just took our break. I believe that you were telling us why the hairs that were sent from the state crime lab to the Connecticut crime lab were important.

A. In 2008 one of those hairs was found to be microscopically consistent with the Defendant, Mr. Brown, by the North Carolina State Crime Lab. It was then tested, DNA tested by the Connecticut lab and that hair was determined to belong to the victim.

Q. And why was it sent to the Connecticut lab for testing?

A. Because the State Crime Lab could not conduct DNA testing on a hair.

Q. Okay.

A. So only one of those four hairs, however, was tested, and that hair was completely consumed when it was tested, so three hairs remained.

Q. And those three hairs, were they deemed by the crime lab to be microscopically consistent with Knolly Brown?

A. No.

Q. Did the Commission have any way of knowing exactly which hair was tested?

A. No.

1 Q. Okay.

2 A. And we wanted to make sure that they had tested the  
3 correct hair out of the four, and in addition, that all  
4 of those hairs were tested.

5 Q. Okay. And the information that you just testified to  
6 about the microscopically consistent hair that was  
7 later tested by the Connecticut crime lab and was not  
8 Knolly Brown's hair but rather the victim's, was that  
9 information available at the time of the plea?

10 A. It was available when Mr. Brown took his plea.

11 Q. So that is not new evidence?

12 A. It is not.

13 Q. Okay. What else did you learn about the hairs?

14 A. We received documentation that the Connecticut lab had  
15 returned the slide which now had three remaining hairs  
16 along with the standards of both the victim and Knolly  
17 Brown via UPS next-day air to Detective Walcott at  
18 Rocky Mount Police Department on March 31, 2009.

19 Q. And were you able to follow up with the Rocky Mount  
20 Police Department?

21 A. Yes, we did. We again looked at the Rocky Mount Police  
22 Department file. We determined that neither the  
23 Connecticut lab reports were in the Rocky Mount Police  
24 Department or a letter to Detective Walcott, it wasn't  
25 in there. And we noted further that both the North

1 Carolina crime lab file and the district attorney's  
2 files both contained the information from the crime  
3 lab, the Connecticut lab reports and the letters. So  
4 we knew that two agencies had gotten the information  
5 from the Connecticut lab, but the Rocky Mount Police  
6 Department didn't have any record of having ever  
7 received copies of that information.

8 Q. And was the letter and the reports sent with the  
9 evidence?

10 A. It was.

11 Q. Did you make any additional efforts to locate that  
12 evidence?

13 A. We followed up directly with the Rocky Mount Police  
14 Department evidence section. By that time we learned  
15 that they weren't keeping their files together. They  
16 indicated that there was no documentation in their  
17 files that evidence had ever been received by them.

18 Q. Did you make any additional efforts?

19 A. Yes. We spoke directly with Detective Walcott by phone  
20 several times. As I stated earlier, by that time she  
21 was in Virginia so she was no longer with the Rocky  
22 Mount Police Department. She stated that she had never  
23 received the evidence. She stated that she didn't know  
24 anything about the evidence being returned. And she  
25 additionally stated she had searched her personal

1 storage location for a file and could not locate it.

2 Q. Did you request affidavits outlining the efforts taken  
3 to locate the evidence by Ms. Walcott and by the Rocky  
4 Mount Police Department evidence section?

5 A. Yes. Whenever we cannot locate a file or evidence we,  
6 the Commission, request affidavits, and we did so of  
7 both the Rocky Mount Police Department and Detective  
8 Walcott.

9 Q. And after requesting that affidavit, did Ms. Walcott  
10 follow up with the Commission?

11 A. Yes, as often is the case when we request an affidavit  
12 outlining what steps she took in her search, she  
13 returned to her personal storage unit, she found the  
14 file that we talked about earlier containing the  
15 photographs, and she also found the missing evidence.  
16 She found this evidence in a Pampers box. She stated  
17 it looked like it had trash in it. She did not contact  
18 us directly at that time, she contacted the Rocky Mount  
19 Police Department. She met them at the Virginia line,  
20 turned the evidence over to them. Rocky Mount Police  
21 Department knew that we were looking for it and they  
22 contacted us directly, then we arranged the immediate  
23 transfer of the evidence and we subsequently got the  
24 file, excuse me, copies of the file from Detective  
25 Walcott directly.



1 Q. And --

2 JUDGE WAGONER: Question from me. Is there  
3 any indication, and I might have missed something, that  
4 the Defense ever saw this report?

5 A. The Connecticut report?

6 JUDGE WAGONER: Yes.

7 A. They were aware that the testing on the hair did not  
8 match Knolly Brown, that it matched the victim at the  
9 time of the plea. That is not new evidence.

10 JUDGE WAGONER: Okay.

11 A. But they were not aware of the testing that we will  
12 have an expert testify to today. All of the testing  
13 that we will present today is new evidence.

14 JUDGE WAGONER: Okay.

15 A. That we have an expert coming to testify is new  
16 evidence.

17 MR. BRITT: Does the Connecticut report state  
18 that one hair was tested or does it state that the  
19 evidence itself, the hairs --

20 A. The Connecticut report states that one hair was tested  
21 and that it matches the victim.

22 MR. BRITT: But it's silent remaining the  
23 other three?

24 A. (Witness does not respond.)

25 MS. GUICE SMITH: Would you like to see

1 that -

2 MR. BRITT: Do we have a copy of that?

3 MS. GUICE SMITH: We do.

4 A. The reason they were testing that one hair is that the  
5 hair was found to be microscopically consistent with  
6 Knolly Brown. The Commission ultimately tests many  
7 hairs, including those three, but many more.

8 MR. BRITT: Is it correct for me to assume  
9 that they examined that one hair based upon the  
10 submission by the lab, the North Carolina state lab?

11 A. Correct.

12 MR. BRITT: I'm sorry, it's on page 4 of our  
13 brief; I'm sorry.

14 A. Isn't it on the back of that -- 46, is that -- sorry.

15 JUDGE WAGONER: 44.

16

17 CONTINUED EXAMINATION BY MS. GUICE SMITH:

18 Q. Ms. Stellato, can you read on page 46 of the brief?

19 A. They are examining a hair fragment so the report is  
20 silent as to the other hairs. Does that answer your  
21 question, Mr. Britt?

22 MR. BRITT: It does. Thank you.

23 Q. Ms. Stellato, I'm handing you two documents. Can you  
24 tell the Commissioners what these are?

25 A. These are affidavits from Rocky Mount Police Department

1 and Detective Walcott directly.

2 Q. And who did the affidavit at Rocky Mount Police  
3 Department?

4 A. Senior Police Officer Tyson.

5 MS. GUICE SMITH: Commissioners, I am passing  
6 around the affidavit of Senior Police Officer Tyson  
7 from the Rocky Mount Police Department as well as the  
8 affidavit of former Detective Walcott. I'll give you  
9 time to review those.

10 (WHEREUPON, HANDOUTS NO. 14 AND 15 WERE  
11 DISTRIBUTED.)

12 (COMMISSIONERS EXAMINE DOCUMENTS.)

13 JUDGE WAGONER: You may continue.

14 MS. GUICE SMITH: All right. At this time,  
15 that concludes that portion of Ms. Stellato's  
16 testimony. If the Commissioners have any questions now  
17 having read the affidavits about the evidence search  
18 and the missing evidence and the location of that  
19 evidence -

20 JUDGE WAGONER: Questions? Yes, sir,  
21 Mr. Grace.

22 MR. GRACE: Was the package from Connecticut,  
23 as the affidavit indicates, intact when you received  
24 it?

25 A. No, it had been -- no, because she, she --

1 Q. Ms. Stellato, did Detective Walcott send the Commission  
2 photographs of the evidence after she opened the outer  
3 packaging?

4 A. She did. She, when she found it, it was sealed inside  
5 of the Pampers box. But she opened the UPS package,  
6 looked inside of it, then she took pictures, then she  
7 took everything that was sealed and sent it to Rocky  
8 Mount Police Department where they checked it in, then  
9 we received it from them. So it was not sealed when we  
10 received it.

11 MR. GRACE: Thank you.

12 A. Uh-huh (yes).

13 JUDGE WAGONER: Other questions?

14 MS. GUICE SMITH: One follow-up.

15

16 CONTINUED EXAMINATION BY MS. GUICE SMITH:

17 Q. Ms. Stellato, were the individual packages within the  
18 outer UPS packaging sealed and were they sealed when  
19 -- sorry.

20 A. They were.

21 Q. And were they sealed when the Commission received them  
22 from Rocky Mount Police Department?

23 A. They were.

24 Q. And did Rocky Mount Police Department also provide to  
25 the Commission that outer packaging in another sealed

1 envelope?

2 A. They did.

3 MS. GUICE SMITH: Okay?

4 JUDGE WAGONER: Okay.

5 Q. All right. Ms. Stellato, you may step down.

6 A. (Witness complies.)

7 \* \* \* \* \*

8

9 MS. GUICE SMITH: Commissioners, we are now  
10 going to move on to the DNA testing that the Commission  
11 had conducted in this case. I'm going to give a brief  
12 overview of some of the less complex DNA testing, and  
13 then we're going to call a DNA expert who will testify  
14 to the remaining DNA testing. I've looked at the  
15 clock, it's a little bit after 12:00. I do know that  
16 the food is here. It is a hot lunch today. Rather  
17 than let that get cold, after I do my brief summary  
18 we'll go ahead, if it's okay with you, Judge Wagoner,  
19 and break for lunch before calling the expert.

20 JUDGE WAGONER: Thank you.

21 MS. GUICE SMITH: The Commission had  
22 extensive DNA testing conducted in this case. It  
23 spanned almost three years and was tested at three  
24 different private labs. The Commission specifically  
25 had DNA testing conducted on a condom that was found at

1 the crime scene. The lab located both male and female  
2 DNA on this condom and we had that compared to both the  
3 victim and to Mr. Brown. It did not match either of  
4 those. It excluded both of those individuals. Because  
5 of that, we felt that the condom was not relevant to  
6 the crime. This case did occur in an abandoned home  
7 and because we could not identify the victim's DNA on  
8 the condom, we didn't do anything further with that.  
9 Even so, Mr. Brown's DNA was excluded as well.

10 The Commission also had DNA testing conducted  
11 on the victim's vaginal swabs. We were trying to  
12 isolate male DNA on those swabs, but were unable to  
13 obtain a male DNA profile from the swabs.

14 Finally the Commission conducted DNA testing  
15 on all of the hairs from the victim's pubic hair  
16 combings, so this was including the hairs that were not  
17 sent to Connecticut as well as those final three hairs  
18 once we received them from Detective Walcott. Every  
19 single hair came back as being consistent with the  
20 profile of the victim. There were no foreign hairs  
21 found in the pubic hair combings.

22 The remaining DNA testing will be discussed  
23 or testified about by Meghan Clement. She works for  
24 Bode Cellmark Forensics in Lorton, Virginia, and she  
25 will be here to testify after lunch.

1 JUDGE WAGONER: All right. So we'll take our  
2 lunch break now. And what time do you want to resume?

3 MS. GUICE SMITH: That is up to you, Judge  
4 Wagoner.

5 JUDGE WAGONER: Do you all want to do 1:30 or  
6 2:00?

7 (WHEREUPON, A DISCUSSION WAS HAD OFF THE  
8 RECORD WHICH WAS NOT REPORTED.)

9 JUDGE WAGONER: 1:00 o'clock. Thank you.

10 (WHEREUPON, THE LUNCHEON RECESS WAS TAKEN  
11 FROM 12:00 P.M. THROUGH 1:00 P.M.)

12 JUDGE WAGONER: All right, we are ready to  
13 resume. Call your next witness, ma'am.

14 MS. GUICE SMITH: We call Meghan Clement.

15

16 **Meghan Clement, upon first being duly sworn,**  
17 **testified as follows:**

18

19 **EXAMINATION BY MS. GUICE SMITH**

20 JUDGE WAGONER: And if you'll state your  
21 name, and I'm sure Ms. Smith will ask you to do that.

22 A. My name is Meghan Clement.

23 Q. And where are you employed, Ms. Clement?

24 A. I'm employed at Bode Cellmark Forensics in Lorton,  
25 Virginia.

1 Q. Did you recently provide me with a copy of your CV?

2 A. Yes, I did.

3 Q. If you'll take a look at this and just let me know if  
4 that is the most recent copy?

5 A. (Witness examines document.) Yes, it is.

6 MS. GUICE SMITH: I'm going to pass around  
7 Ms. Clement's CV.

8 (WHEREUPON, HANDOUT NO. 16 WAS DISTRIBUTED.)

9 Q. Ms. Clement, can you tell us how many times you've  
10 testified as an expert, approximately?

11 A. In serology and/or DNA approximately 360 times, and  
12 I've also testified in --

13 JUDGE WAGONER: If you'll speak up just a  
14 little bit, please, ma'am.

15 A. Certainly. In serology and DNA testing slightly over  
16 360 times. And then I've also testified in other areas  
17 of forensics.

18 Q. Thank you. Have you testified for both the prosecution  
19 and the defense?

20 A. Yes, I have.

21 Q. And have you previously testified before the Innocence  
22 Inquiry Commission?

23 A. I have, yes.

24 Q. Can you tell us a little bit about your background?  
25 Where did you go to school?



1 A. I received my bachelors in biology from Westfield State  
2 College in Massachusetts, and my master of science in  
3 forensic sciences from the University of New Haven in  
4 West Haven, Connecticut. I've also attended graduate  
5 level courses at the University of New Mexico in  
6 Albuquerque as well as obtained graduate level credits  
7 from the University of Virginia through courses that I  
8 actually took at the FBI Academy in Quantico,  
9 Virginia.

10 Q. And how long have you been working in the fields of  
11 serology and DNA?

12 A. Since November -- oh, excuse me, since March of 1985,  
13 so a little over 30 years.

14 Q. And your CV says that you have worked at LabCorp,  
15 Cellmark, and Bode Cellmark. Can you briefly explain  
16 to the Commissioners how those labs are connected?

17 A. Yes. LabCorp is the parent company and they had a  
18 forensic identity laboratory in Research Triangle Park  
19 that was open from 1992 to June of 2012. In December  
20 of 2011 LabCorp purchased Orchid Cellmark in Texas and  
21 in early 2012 they made the decision to close down the  
22 Research Triangle Park laboratory and to consolidate  
23 testing to the Texas lab. Then in November of 2014  
24 they purchased a company called the Bode Technology  
25 Group in Lorton, Virginia, and in March of this year

1           they announced that they were shutting down the Texas  
2           laboratory, which was branded Cellmark Forensics, and  
3           combining all of the testing into the Virginia  
4           laboratory and rebranded the name Bode Cellmark  
5           Forensics. So Bode Cellmark Forensics as well as  
6           Cellmark Forensics were both wholly-owned subsidiaries  
7           of LabCorp.

8           Q. Thank you. Do you have any board certifications?

9           A. I do, yes. I am certified by the American Board of  
10          Criminalists.

11          Q. Okay.

12                         MS. GUICE SMITH: Your Honor, at this time  
13           I'd like to ask to qualify Ms. Clement as an expert in  
14           serology and DNA testing technology.

15                         JUDGE WAGONER: Okay. She can testify as an  
16           expert in serology and --

17                         MS. GUICE SMITH: DNA testing and technology.

18                         JUDGE WAGONER: -- DNA testing. Thank you.

19          Q. Ms. Clement, has Cellmark Forensics conducted DNA  
20          testing in the case of State versus Knolly Brown?

21          A. Yes, it has.

22          Q. And have you reviewed all of the testing conducted by  
23          Cellmark Forensics?

24          A. I have, yes.

25          Q. And are you comfortable about testifying about all of

1           it?

2           A.    I am.

3           Q.    Did Sorenson Forensics also conduct DNA testing on some  
4           of those items that Cellmark has also tested?

5           A.    Yes, they did.

6           Q.    And just for the record, Sorenson is not a part of  
7           Cellmark Forensics?

8           A.    No, that's correct. Sorenson is a separate for-profit  
9           DNA testing facility in Utah.

10          Q.    Okay. And have you reviewed the reports from Sorenson?

11          A.    I have, yes.

12          Q.    And are you comfortable testifying about the testing  
13          conducted by Sorenson?

14          A.    Yes, I am.

15          Q.    I'm handing you a stack of reports. If you will look  
16          at those.

17          A.    (Witness examines documents.)

18          Q.    These are reports for testing conducted by Sorenson  
19          Forensics and Cellmark Forensics. Once you've looked  
20          through them can you tell me if you've seen them all  
21          before?

22          A.    (Witness continues to examine documents.) Yes, I have.

23          Q.    And have you reviewed them prior to your testimony  
24          today?

25          A.    I have, yes.

1 Q. I'm also going to hand you another document. Do you  
2 recognize that?

3 A. Yes, I do.

4 Q. And is that a chart that the Commission has told you  
5 was created by the Commission --

6 A. Yes.

7 Q. -- to summarize the DNA testing conducted in this case?

8 A. Yes, some of the DNA testing; yes.

9 Q. Correct, some of the DNA testing. Does that help you  
10 with your testimony today?

11 A. Certainly.

12 MS. GUICE SMITH: Commissioners, I'm going to  
13 pass around a chart that was created by the Commission  
14 to summarize some of the DNA testing that was  
15 conducted, particularly the DNA testing conducted on  
16 the victim's clothing. You may follow along with it as  
17 Ms. Clement testifies.

18 (WHEREUPON, HANDOUT NO. 17 WAS DISTRIBUTED.)

19 Q. Ms. Clement, can you briefly describe to the  
20 Commissioners what Y-STR testing is?

21 A. Yes. Most of us are familiar with the DNA testing  
22 that's performed traditionally when evidence is  
23 submitted. And the traditional DNA testing looks at  
24 DNA which is inherited from both our mothers and our  
25 fathers. With Y-STR testing we're only looking at DNA

1           which is found on a Y chromosome, so only males are  
2           going to have a Y DNA profile. And it's also inherited  
3           from father to son or from son by his father, and so  
4           there's a paternal lineage. So a male child will have  
5           the same Y-STR profile as his dad, who will have the  
6           same Y-STR profile as his grandfather. If there are  
7           male siblings, those children or cousins will have the  
8           same Y-STR profile. So it basically is a testing which  
9           ignores all female DNA that may be present in a sample  
10          and only looks at the Y chromosome DNA.

11        Q.    And is that the kind of testing that the Commission had  
12           conducted on the victim's clothing in this case?

13        A.    Yes.

14        Q.    If you will go through the testing item by item and  
15           briefly explain what the results are and what they mean  
16           to the Commissioners. And you can start with the  
17           victim's jacket.

18        A.    Certainly. On the victim's jacket there was a partial  
19           Y-STR profile that was obtained from the right outer  
20           sleeve and shoulder area. So all that area was tested  
21           or swabbed and scraped. A partial STR profile means  
22           that not every location that was tested gave a result.  
23           So we look at 17 different areas. So we got less than  
24           17 pieces of information, and that's what the partial  
25           Y-STR means. With this partial profile there was a

1 clear major profile obtained, and at one of the  
2 locations there was a second characteristic which would  
3 indicate that it might be a mixture. Because there was  
4 only one area where we saw a possible minor mixture, we  
5 can't draw any conclusion about that minor profile.  
6 But when we looked at the major profile we could  
7 exclude Knolly Brown, James Brinkley, and Aaron Atkins.

8 Q. And were those the only individuals whose samples were  
9 submitted to the lab?

10 A. Yes.

11 Q. Okay. If you'll move on to the victim's belt.

12 A. On the victim's belt, again, we obtained a partial  
13 Y-STR profile. So again, not all 17 areas gave us  
14 results. There was clearly a mixture of at least two  
15 males on this. And when we compared those to the  
16 reference profiles, we were able to exclude Knolly  
17 Brown, James Brinkley, and Aaron Atkins.

18 Q. And the victim's pants?

19 A. On the victim's pants we obtained a partial Y-STR  
20 profile again. This partial profile was a mixture of  
21 at least three males. And on the waistband we could  
22 exclude Knolly Brown and James Brinkley, but because of  
23 the partial nature and not having all information at  
24 all 17 and the fact that we were seeing some what we  
25 call drop out, which is very small amounts of DNA that

1 we're just not getting enough of in order to determine  
2 what the characteristics are, we couldn't draw any  
3 conclusions about Aaron Atkins for this particular  
4 sample.

5 Q. And that was on the waistband of the pants, is that  
6 correct?

7 A. That's correct. There was a stain near the waistband  
8 of the pants.

9 Q. Was any additional analysis conducted on that stain?

10 A. Yes. Excuse me, I misspoke. The first was just on the  
11 waistband itself. There was a second stain on the  
12 waistband that was tested separately, and for the stain  
13 on the waistband we did obtain a full Y-STR profile.  
14 This particular sample only gave results, very, very  
15 minor results, and no determination could be made  
16 regarding any of the minor characteristics, however,  
17 Knolly Brown, James Brinkley, and Aaron Atkins are  
18 excluded as contributors of the major.

19 Q. And so you said that was a full Y-STR profile on that  
20 stain?

21 A. That's correct.

22 Q. Okay. And Brown, Brinkley, and Atkins were all  
23 excluded?

24 A. That's correct.

25 Q. And was any additional analysis conducted on that

1 particular stain, on the waistband of the pants?

2 A. Yes. There were some serological tests that were  
3 performed on this particular stain. And serology is  
4 usually the first step in the analysis of clothing. If  
5 you're looking at clothing and trying to determine  
6 whether there is a potential stain that could be tested  
7 or could contain DNA, we perform serology tests. The  
8 first test is called an AP or acid phosphatase test.  
9 Acid phosphatase is an enzyme which is found in semen.  
10 It's also found in other body fluids, so it's not  
11 considered a confirmatory test, it's considered a  
12 presumptive test. In this case the acid phosphatase  
13 test was positive. And all that means is that it might  
14 be semen, but it may not necessarily be. It doesn't  
15 have to be, it just might be.

16 So we then take it a step further and we  
17 perform a microscopic examination to determine whether  
18 spermatozoa are present. When we performed the sperm  
19 search we did not see any sperm on this particular  
20 stain. So we have a positive presumptive and a  
21 negative sperm.

22 And then there's a third test that we can  
23 perform and it's called a P30. It looks for prostate  
24 specific antigen, and it's considered another  
25 confirmatory test for semen. The prostate specific



1 antigen is typically only found in males. And in this  
2 particular case that test was positive. So having a  
3 positive presumptive acid phosphatase and the positive  
4 P30 would give you a conclusion that there was indeed  
5 seminal fluid present.

6 Q. So I just want to be clear, what you're saying on that  
7 stain that is on the waistband of the victim's panties  
8 was an acid phosphatase which was positive, which is a  
9 presumptive for semen, no sperm, but then a P30 antigen  
10 test that was positive, which is confirmatory for  
11 semen. It's my understanding, and please correct me if  
12 I'm wrong, that those two cannot sustain in a wash?

13 A. That's correct.

14 Q. Can you explain that further for the Commissioners?

15 JUDGE WAGONER: They cannot sustain in a  
16 what?

17 MS. GUICE SMITH: Sustain in a regular wash,  
18 like a washing machine.

19 JUDGE WAGONER: Okay.

20 A. Yes. There has been a lot of research done on what  
21 components of stains will survive a washing machine  
22 cycle. And the components of acid phosphatase, which  
23 is an enzyme, it's water soluble so it will not  
24 sustain, will not be maintained when an article is  
25 usually run through a washing machine. And the

1 prostate specific antigen is the same, it will not  
2 remain after going through a washing machine cycle.  
3 However, because sperm is an actual cell, it can get  
4 intertwined in clothing and it can sustain or be found  
5 after being washed in a washing machine. So when we  
6 see an AP positive or a P30 positive, it indicates that  
7 an article, an item of clothing or bedding or something  
8 like that has not recently been washed and that those  
9 stains were deposited after the last washing.

10 Q. Thank you. Can you move now on to the crotch area of  
11 the victim's pants?

12 A. Yes. There was a stain, again, on the waistband of the  
13 panties.

14 Q. Sorry, we're on the crotch of the pants.

15 A. Oh, I'm sorry, the crotch of the pants. I'm skipping  
16 ahead. There was only one area out of the 17 where we  
17 obtained DNA results on the crotch of the pants. And  
18 because of that, there -- we only use it for  
19 exclusionary purposes, and we could exclude Knolly  
20 Brown, James Brinkley, and Aaron Atkins as to that  
21 single contribution.

22 Q. Was there any additional analysis conducted on the  
23 crotch of the panties -- the pants, rather, crotch of  
24 the pants?

25 A. Yes. This sample also underwent the serology testing.

1 We did get an acid phosphatase negative on this  
2 particular sample. We looked for sperm, that was also  
3 negative. And we did run the P30 test for the prostate  
4 specific antigen, and that was clearly positive.

5 Q. Can you explain that any further or draw any  
6 conclusions from that?

7 A. The fact that there was P30 present is indicative that  
8 there was seminal fluid present.

9 Q. Okay. Now we'll move on to the panties. And if you  
10 will, go through -- begin with the waistband of the  
11 panties.

12 A. The waistband of the panties, we obtained a partial  
13 Y-STR profile. The profile was a mixture. And again,  
14 because the minor component may have been dropping out,  
15 we could not draw any conclusions about the minor  
16 component. However, Knolly Brown, James Brinkley, and  
17 Aaron Atkins are excluded as contributors of the major  
18 profile in this particular sample.

19 Q. And now if you will turn your attention to the crotch  
20 of the panties.

21 A. On the crotch area of the panties we obtained a partial  
22 Y-STR profile. And this was from both the epithelial  
23 fraction and the sperm fraction from the crotch of the  
24 panties. When we know that we have DNA from a  
25 potential victim, alleged victim who wore clothing, we

1 attempt to separate sperm DNA and non-sperm DNA. We do  
2 that for the traditional DNA testing, and that's how we  
3 started this extraction process. So that's why we  
4 ended up with a sperm fraction and an epithelial cell  
5 fraction. Because we did Y-STR testing only, we don't  
6 have results for the typical traditional testing. But  
7 in this particular case with the Y-STR we got partial  
8 results from both of those. And again, Knolly Brown,  
9 James Brinkley, and Aaron Atkins are excluded as  
10 contributors to that particular sample, both fractions.

11 Q. And was any additional analysis conducted on the crotch  
12 of the victim's panties?

13 A. Yes. Again, we did perform the serology testing on  
14 this particular sample. The sample was positive for  
15 acid phosphatase. And when we performed the  
16 microscopic search for sperm, we did see two sperm  
17 heads on the slide. So because that is a confirmatory  
18 test for the presence of semen, we did not bother to do  
19 the P30, prostate specific antigen test. So at this  
20 point we know that there's seminal fluid on this  
21 particular sample.

22 Q. Okay. And I want to go back for just a second because  
23 I know that you said before that sperm can survive in a  
24 washing machine, and you said the acid phosphatase  
25 would not survive. So when you're seeing acid

1           phosphatase and sperm, is there any conclusion you can  
2           draw about that?

3           A.    It would be consistent with a deposit after the last  
4           washing.  So this most likely did not occur after -- I  
5           mean prior to being washed.  So the sperm, it's  
6           consistent with it coming, being deposited at the same  
7           time, both the acid phosphatase and the sperm.

8           Q.    Okay.  You also had said that you saw, I think you said  
9           -- did you say how many sperm you saw?

10          A.    There were two sperm heads that were seen.

11          Q.    Can you explain what may account for the fact that  
12          we're only seeing two sperm heads in the sample?

13          A.    Certainly.  There are a number of explanations that  
14          would result potentially in only two sperm heads.  Some  
15          males are very low sperm producers, that could be one.  
16          There are situations where this could actually have  
17          been from a pre-ejaculate, in which case there are  
18          usually very few sperm in a pre-ejaculate.  Or it could  
19          be maybe occasionally aspermic males will only have one  
20          or two sperm in their ejaculate.  So it could be really  
21          any one of a number of explanations.

22          Q.    Okay.  And we don't know in this case what explanation  
23          it is, those are just some examples of explanations, is  
24          that correct?

25          A.    That's correct.

1 Q. Okay. If you'll now move on to the stain on the front  
2 of the victim's panties and tell us what testing was  
3 conducted.

4 A. The stain on the front of the victim's panties, we  
5 performed a serology test and there was AP positive.  
6 We extracted the sample and quantitated it to determine  
7 whether there was male DNA and there was no male DNA  
8 found, so we did not perform any other testing.

9 Q. And I know that you have testified already that Knolly  
10 Brown and James Brinkley and Aaron Atkins are excluded  
11 from all of these profiles. Can you draw any  
12 conclusion about whether or not any of the profiles you  
13 got from these various items are the same or are a  
14 consistent profile with one another?

15 A. First let me correct that only on the waistband I  
16 couldn't draw a conclusion about Aaron Atkins.

17 Q. My apologies.

18 A. But he was excluded on every other sample. And yes,  
19 when I compared the profiles that were obtained for  
20 each of these samples, even those that resulted in  
21 mixtures, the major profile in these samples all were  
22 pretty consistent with each other. And because in some  
23 samples I may have only gotten five results, on other  
24 samples I may have gotten 16 results, when looking at  
25 where there were commonalities it was clear that they

1           could have had the same single source.

2           Q.    And can you summarize which items you're talking about?

3           A.    I'm talking about the crotch of the panties, the  
4           waistband of the panties, the major profile from the  
5           stain on the inner front waistband of the pants, all of  
6           those appear to have a consistent source.

7           Q.    Okay.  So is it correct to state that what you saw in  
8           your testing through the testing that you testified  
9           about today is that there's a consistent DNA profile  
10          from the crotch of the pair of the panties that had  
11          sperm in them, a stain on the inside of the waistband  
12          of the victim's pants that was presumptive positive for  
13          semen and confirmed with the P30 antigen, and then  
14          touch DNA from the waistband of the victim's panties?

15          A.    Yes, that's correct.

16          Q.    And Knolly Brown is excluded as a contributor of the  
17          major profile of all the male DNA on all of those  
18          items, is that correct?

19          A.    That's correct.

20          Q.    Do you have anything else to add that I have not  
21          covered?

22          A.    No.

23          Q.    Okay.

24                         MS. GUICE SMITH:  Commissioners, questions?

25                         JUDGE WAGONER:  Anyone?

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

(NO RESPONSE.)

Q. Okay. You are free to go.

A. Thank you.

JUDGE WAGONER: Thank you.

Q. You are released.

(WHEREUPON, MS. CLEMENT STEPS DOWN.)

\* \* \* \* \*

MS. GUICE SMITH: All right. I will now call Sharon Stellato back to the stand.

**Sharon Stellato, having first been duly reminded that she was still under oath, testified as follows:**

MS. GUICE SMITH: Commissioners, I'm going to pass around a criminal record for the next person Ms. Stellato will be testifying about, that's Devonte Jamal Johnson who goes by the name Jamal.

(WHEREUPON, HANDOUT NO. 18 WAS DISTRIBUTED.)

JUDGE WAGONER: Jamal Johnson is on the chart.

MS. GUICE SMITH: That is correct, Jamal is on the DNA comparison chart that we handed out.

EXAMINATION BY MS. GUICE SMITH



1 Q. Ms. Stellato, can you explain to the Commissioners who  
2 Jamal Johnson is?

3 A. He was a friend of the victim. He walked home with her  
4 on the day of the crime.

5 Q. And did the Commission staff contact Jamal Johnson?

6 A. We did. We conducted two telephone interviews with  
7 him, one on April 22, 2015 and one on May 12, 2015.

8 Q. And can you describe to the Commissioners what he told  
9 the Commission staff during those interviews?

10 A. Sure. He stated that he was friends with the victim,  
11 that they would walk home from school together every  
12 day. He still runs into the victim, they still see  
13 each other from time to time. He used to make sure  
14 that he got -- that the victim got home from school  
15 every day.

16 JUDGE WAGONER: Ms. Stellato, how old is he  
17 in relation to her? Her being the victim.

18 A. Just one moment.

19 JUDGE WAGONER: Sure.

20 A. (Witness examines document.)

21 Q. Ms. Stellato, I'm going to hand you a document from the  
22 Rocky Mount Police Department file that may assist.

23 A. (Witness examines document.) He is, his birth date is  
24 12/4/1992, the victim's birth date is 1/21/1996, so  
25 he's about three years older than the victim.

1 JUDGE WAGONER: Thank you.

2 A. Uh-huh (yes).

3 Q. If you will, Ms. Stellato, continue telling the  
4 Commissioners what Jamal Johnson told the Commission  
5 staff in those interviews.

6 A. He remembered walking her to the corner that day where  
7 he used to walk her every day. He would walk past his  
8 house and then turn around and walk back to his house.  
9 He recalled the police terrifying him when they  
10 interviewed him, coming to get him out of class. He  
11 did not see Knolly after leaving the victim that day,  
12 he didn't see Knolly Brown anywhere in the area when he  
13 left the victim. He was reluctant to talk to us. He  
14 stated that he doesn't know what happened. He just  
15 remembers the police coming to get him out of class and  
16 he recalled seeing a crime scene van pull up behind his  
17 home. The day after the crime he recalled that the  
18 victim saw Knolly Brown walking up the street and that  
19 the victim started screaming. The victim was with him  
20 and his grandmother, Cynthia Johnson, when that  
21 occurred.

22 He stated that he didn't know who Knolly  
23 Brown was back then, but he does know him now. Knolly  
24 Brown grew up with his mother, Jamal's mother. They  
25 went to school together when his mother was younger.

1           Jamal now sees and speaks to Knolly Brown regularly.  
2           He described Knolly Brown as cuckoo in the head. Jamal  
3           stated that he doesn't know who committed the rape and  
4           he didn't see the rape occur.

5           Q. Did you ask Jamal Johnson about touching the victim or  
6           any casual contact he might have had with the victim?

7           A. Yes, we did.

8           Q. And did you ask him that because we were conducting DNA  
9           testing on the victim's jacket?

10          A. Correct.

11          Q. And why were we conducting DNA testing on the victim's  
12          jacket, particularly the sleeve and shoulder area of  
13          that jacket?

14          A. The victim stated -- the police report stated that she  
15          was grabbed by the arm, shoulder area when she was  
16          dragged to the back of the home of the vacant house.

17          Q. Okay. Did you also ask Mr. Johnson if he had ever had  
18          sex with the victim?

19          A. We did. If I can just go back one second. He did,  
20          Jamal Johnson did indicate that he would hold hands  
21          with the victim, that they would horseplay, that he  
22          would have casual contact, goofing around, things of  
23          that nature when they would walk to and from school.

24          Q. Did you then ask him whether or not he had had sex with  
25          the victim?

1 A. We did, absolutely. He denied having sex with the  
2 victim.

3 Q. And did you ask him to provide a DNA sample?

4 A. We did.

5 Q. And did he agree to do that?

6 A. He did not. Jamal Johnson has had a lot of run-ins  
7 with the police department. He was not willing to  
8 provide his DNA and he told us that the police  
9 department had it on file and that we could get it  
10 there.

11 Q. And did the Commission staff make any other efforts to  
12 get a sample from Jamal Johnson?

13 A. We did. According to Jamal Johnson he was a suspect.  
14 We submitted a Motion for Collection of DNA Sample to  
15 our then chair, Commission Chair Judge Jones. Judge  
16 Jones reviewed the proposed motion and he replied via  
17 letter that he was not going to order Jamal Johnson to  
18 submit a DNA sample because he was not a party to the  
19 case.

20 Q. And why were you trying to get Jamal Johnson's DNA?

21 A. We wanted to be able to exclude him based on his casual  
22 contact with the victim that he had told us about in  
23 his interview.

24 MS. GUICE SMITH: Commissioners, do you all  
25 have any questions for Ms. Stellato regarding

1 Mr. Johnson?

2 JUDGE WAGONER: Is there indeed a -- doesn't  
3 the Sheriff's Department of Edgecombe County have a  
4 copy -- I mean, have a sample of his DNA because of his  
5 felony convictions?

6 A. DNA is sent to the SBI and then put into CODIS. Y-STR  
7 is not put into CODIS.

8 JUDGE WAGONER: Okay.

9 A. And that's the profiles that we have in this case.

10 JUDGE WAGONER: Oh.

11 MR. HEARD: What was his alibi for the time  
12 of the crime?

13 A. His alibi essentially is that he was with the victim  
14 and that then he went home to his house.

15 MR. HEARD: Could that portion, have you  
16 corroborated it, that when he was separated from the  
17 victim, that he was, that he had gone home?

18 A. It wasn't corroborated by police, I would say simply  
19 because they did, they did question him in great  
20 detail.

21 Q. Ms. Stellato, did the victim say anything about whether  
22 or not she knew the perpetrator?

23 A. What is corroborated is that the victim has stated it  
24 was an unknown black male between the ages -- you know,  
25 she has stated repeatedly and consistently states today

1           that it was an unknown black male who raped her --

2                       MR. HEARD:  Someone other than --

3  A.   -- and not Jamal or anyone she knew.

4                       MR. HEARD:  But there was no attempt to  
5           corroborate his specific alibi that he was home by  
6           himself for whatever --

7  A.   No; no.

8                       MR. HEARD:  Okay.

9  
10  CONTINUED EXAMINATION BY MS. GUICE SMITH:

11  Q.   Ms. Stellato, I'm going to turn your attention now to  
12       another individual.

13                      MS. GUICE SMITH:  Commissioners, I'm going to  
14       hand out to you the record of Keith Antonio Pressley,  
15       who Ms. Stellato will be testifying about.

16                      (WHEREUPON, HANDOUT NO. 19 WAS DISTRIBUTED.)

17  Q.   Ms. Stellato, can you tell the Commissioners who Keith  
18       Pressley is?

19  A.   He was, at the time of the crime he was the victim's  
20       step-father.

21  Q.   And did the Commission staff contact Mr. Pressley?

22  A.   We did.  We interviewed him by telephone on March 19,  
23       2015.

24  Q.   And where was Mr. Pressley living at the time of that  
25       interview?

1 A. In Baltimore, Maryland.

2 Q. And what did he tell the Commission staff during that  
3 interview?

4 A. He stated that he was living in the home with the  
5 victim at the time of the crime. He stated he was home  
6 on the day of the rape when she came home. He recalled  
7 that her sister came home first, and then the victim  
8 came walking down the street crying and told them what  
9 happened, and they called the police. He recalled that  
10 right after that Knolly Brown was walking down the  
11 street and that it was the same day of the crime. He  
12 stated that the police had been called but they hadn't  
13 gotten involved yet, and that the victim saw him and  
14 stated, quote, there he go, there he go right there,  
15 and that he, Pressley, began to follow Brown home. The  
16 police then arrived and Brown was arrested. Pressley  
17 stated it was him and a couple of local guys from the  
18 neighborhood who pursued Knolly Brown, but he didn't  
19 know who the other two guys were or what their  
20 involvement was.

21 Q. Is that statement consistent with what the law  
22 enforcement reports say regarding when Knolly Brown was  
23 arrested and identified?

24 A. No. The law enforcement reports indicate that the  
25 victim saw Brown and that Brown was followed by

1 Pressley the next day after the crime.

2 Q. Okay. Did Mr. Pressley say anything else about whether  
3 or not he was present for the crime?

4 A. He stated that he wasn't there for the crime so he  
5 can't state whether Knolly Brown did it or didn't do  
6 it.

7 Q. What else did he tell you?

8 A. He knew who Knolly Brown was from the neighborhood, but  
9 he was not friends with him. He also denied helping in  
10 any way with the laundry, and stated his DNA would not  
11 be on the victim's clothing.

12 Q. And did you ask Pressley to provide a DNA sample?

13 A. We did.

14 Q. And did he agree to do so?

15 A. He would not.

16 Q. Did the Commission staff make any other efforts to get  
17 a sample from Keith Pressley?

18 A. We did. We contacted the Rocky Mount Police Department  
19 to determine if they had a standard on file. They  
20 indicated that a sample was taken from him in 2012. We  
21 were contacting them because of the nature of his  
22 crimes. They sent it to the state crime lab and did  
23 not have a sample at the police department.

24 Q. Did the Commission make any other efforts to get a  
25 sample of Mr. Pressley's DNA?



1 A. We also submitted a Motion for Collection of DNA Sample  
2 to the then Chair, Judge Jones. He reviewed that  
3 proposed motion and via letter he said he was not going  
4 to order Keith Pressley to submit a DNA sample because  
5 Keith Pressley was not a party to the case.

6 Q. And why were you trying to get Keith Pressley's DNA?

7 A. We wanted to exclude him because he lived in the home  
8 with the victim.

9 MS. GUICE SMITH: Commissioners, do you have  
10 any questions about Keith Pressley?

11 MR. BRITT: With respect to Mr. Pressley's  
12 record, it says he was convicted in 1992 of crime  
13 against nature. Was that the original charge?

14 A. No.

15 MR. BRITT: What was the original charge?

16 A. Indecent liberties was the original; indecent  
17 liberties.

18 MR. BRITT: And with respect to that, do you  
19 know how old the victim was in that case?

20 A. It was a child.

21 JUDGE WAGONER: And was it a family member?

22 A. There are other charges, but not convictions, for  
23 family members.

24 MR. BRITT: Of the same nature?

25 A. Child sex charges, not convictions.

1 MR. BRITT: In what time frame?

2 A. After this, after 2008.

3 MR. BRITT: And his record shows that he was  
4 convicted in 2013 of sexual battery.

5 A. Uh-huh (yes).

6 MR. BRITT: Was that the original charge?

7 A. One moment.

8 MS. GUICE SMITH: Commissioners, it will take  
9 me a little bit of time to get that information. We do  
10 have it and I can get it for you. But if you don't  
11 mind if we get it maybe on our next break.

12 MR. BRITT: Okay. If I can back up?

13 JUDGE WAGONER: Sure.

14 MR. BRITT: We go back, you said that there  
15 are other allegations or other charges --

16 A. Charges that he, they're outstanding charges.

17 MR. BRITT: As in there are outstanding  
18 warrants or --

19 A. No, as in they're still, they're still there and  
20 nothing, they're just still there. They haven't gone  
21 to -- there's no conviction, there's just the charges.

22 Q. Ms. Stellato --

23 MR. BRITT: Was he ever arrested?

24 MS. GUICE SMITH: If I may follow up with a  
25 question.

1 Q. Ms. Stellato, when you say outstanding charges, do you  
2 mean that there is an open investigation, however, no  
3 charges have been filed?

4 A. Correct. Sorry.

5 MR. BRITT: And was the victim in Mr. Brown's  
6 case the alleged victim in any of Mr. Pressley's  
7 outstanding allegations?

8 A. Not according to the victim.

9 MR. BRITT: What about the police  
10 investigation?

11 MS. GUICE SMITH: If you'll give me a moment.

12 JUDGE WAGONER: While she's taking a minute,  
13 he's in Baltimore now?

14 A. He is in Baltimore, but he returns to Rocky Mount where  
15 his mother resides.

16 SHERIFF JOHNSON: Do we have from the other  
17 sister who arrived at the home, do we have evidence  
18 that he was at the house at the time that she arrived  
19 there?

20 A. No; no.

21 JUDGE WAGONER: We don't have it or it was  
22 never asked of her, where was step-father?

23 A. There's no indication that anyone other than XXXXXXXX,  
24 the sister, and the mother, Kate, were home. Now, that  
25 doesn't mean -- there's just no indication from the

1 reports.

2 MR. HEARD: So again, no corroboration of the  
3 alibi, just what he says is the only thing we have?

4 A. Correct.

5 JUDGE WAGONER: But his statement was  
6 inconsistent with the police investigation as to him  
7 charging after Mr. Brown?

8 A. Correct.

9 Q. Ms. Stellato, I'm going to hand you some Rocky Mount  
10 Police Department reports, if you want to familiarize  
11 yourself with those. Those will go to Mr. Britt's  
12 question.

13 A. (Witness examines document.)

14 JUDGE WAGONER: Do you want him to repeat his  
15 question, would that be helpful?

16 A. No, I know his question. Thank you though.

17 JUDGE WAGONER: Okay.

18 A. The allegations against Keith Pressley were for both  
19 victims, XXXXXXXX and XXXXXX, in November of 2008.

20 JUDGE WAGONER: November 2000 --

21 A. '08.

22 JUDGE WAGONER: '08.

23 MS. SURGEON: Can we ask what the allegations  
24 were?

25 A. (Witness examines document.) The mother, XXXX, accused

1 him of sexually assaulting both of the girls.

2 MR. HEARD: You say he's moving back and  
3 forth between Baltimore and -- what town is this?

4 JUDGE WAGONER: Rocky Mount.

5 MR. HEARD: -- Rocky Mount. Does that mean  
6 he is divorced from the mother?

7 A. They are not together. They have a child together,  
8 they are not together.

9 MR. HEARD: Were they ever married in the  
10 first place? That should be a question. Were they  
11 ever married in the first place?

12 A. I don't believe they were married. They refer to him  
13 as her step-father, she refers to him as her step-  
14 father. I don't believe they were married. I don't  
15 have confirmation of that.

16 MR. BRITT: The allegations that he sexually  
17 assaulted both girls, was that reported to Rocky Mount  
18 Police?

19 A. It was.

20 MR. BRITT: Do they have a file on that?

21 A. They do.

22 MR. BRITT: Did they interview the girls?

23 A. They did.

24 MR. BRITT: And did the girls acknowledge the  
25 allegations or did they deny that those allegations

1 occurred?

2 A. The victim denies being abused, sexually abused by  
3 Keith Pressley. XXXXXX XXXXXX denies being sexually  
4 abused by -- she doesn't deny -- I don't know what she  
5 says then. She says now she was not sexually abused by  
6 Keith Pressley.

7 MR. BRITT: Were those allegations also  
8 reported to DSS since he was in the home?

9 A. I'm just not sure because it's an open investigation.

10 JUDGE WAGONER: It's still open? It's 2008,  
11 that's when it happened. This is 2015.

12 Q. Ms. Stellato, did we receive information from the  
13 police department about the status of these crimes?

14 A. We did.

15 Q. And does their information indicate that this is still  
16 an open investigation?

17 A. It does.

18 Q. And has anyone been charged in the crime?

19 A. No.

20 MR. BRITT: Is anyone actively working the  
21 case or was that just a label they placed on it?

22 A. They told us it's an open investigation.

23 MS. SURGEON: Tell me again when these  
24 allegations were made by the mother.

25 A. 11/12/2008.

1 MS. SURGEON: And at that time the  
2 allegations were sexual abuse against both victims?

3 A. Correct.

4 MS. THOMPSON: You said that XXXXXX denies  
5 that the step-father sexually abused her. Does  
6 XXXXXXXX deny that the step-father --

7 A. The Commission was in -- contacted the victim's mother.  
8 We did not hear back from her. The Commission did  
9 contact and speak with ultimately the victim. We did  
10 not speak with XXXXXXXX and we would not interview her  
11 about an investigation related to this.

12 JUDGE WAGONER: Do you know if the ongoing  
13 investigation has tried to collect DNA from  
14 Mr. Pressley or anyone else?

15 A. They have collected DNA from Keith Pressley related to  
16 the other sex abuse, the other child convictions that I  
17 mentioned that are -- so he, so he is in CODIS. This  
18 was a delayed report so I don't know if they collected  
19 it. But if it's a sex abuse delayed report, I mean, he  
20 was a known offender so I can't say whether they  
21 collected it related to this case or not. But I do  
22 know that they collected it related to other cases.

23 JUDGE WAGONER: Do you know if this victim,  
24 the victim, has any relationship or had any  
25 relationship much with this step-father after this

1 occurrence for which Mr. Brown pled no contest?

2 A. With Keith Pressley?

3 JUDGE WAGONER: Uh-huh (yes).

4 A. I know that her mother and Keith Pressley have a child  
5 together, and I don't know whether or not XXXXXX has  
6 contact with him or not.

7 JUDGE WAGONER: But you don't have any  
8 knowledge of the relationship between the step-father  
9 and the victim in this case after this incident  
10 happened?

11 A. I don't.

12 JUDGE WAGONER: Okay.

13 MS. SURGEON: Did your investigation reveal  
14 any kind of relationship or how much contact  
15 Mr. Pressley had with Mr. Brown before the date of this  
16 offense?

17 A. We interviewed both Mr. Pressley and Mr. Brown about  
18 that. Mr. Pressley had just, according to him,  
19 returned from Raleigh, the Raleigh area where he lived,  
20 to Rocky Mount. He states they weren't friends, that  
21 he just, you know, knew him from the area, but that  
22 they were not friends. Mr. Brown states that they were  
23 friends and he describes it later as a hi-bye  
24 friendship and that they knew each other.

25 MS. SURGEON: Was Mr. Brown known in the



1 community as someone who might be lower functioning?

2 A. From the people that -- I can only testify about the  
3 people that we interviewed. Yes. It's a very small  
4 area that we're talking about, several blocks, and he  
5 was known by the people that we've interviewed as low  
6 functioning. Well, low functioning may not be the  
7 right term. He was known as, people described him as  
8 not right in the head or they used different terms,  
9 but -

10 MS. SURGEON: Thank you.

11 A. Uh-huh (yes).

12 JUDGE WAGONER: Those are the questions we  
13 have for now. You're going to wait for the answer on  
14 your sexual battery.

15 MR. BRITT: Yes.

16 MS. GUICE SMITH: We will get that  
17 information. Mr. Britt, could you repeat the question?  
18 I may have the answer in front of me. If you could  
19 repeat your question about the sexual battery.

20 MR. BRITT: The sexual battery conviction,  
21 was that the original charge or was that reduced from a  
22 greater charge?

23 MS. GUICE SMITH: (Examines documents.) I  
24 will get the answer for you.

25 MR. BRITT: Okay. And as a follow-up for

1 that, with respect to the sexual battery, if it was the  
2 original charge, what is the alleged act that  
3 constitutes the sexual battery?

4 MS. GUICE SMITH: Okay.

5 MR. BRITT: And, you know, give the name,  
6 well, not necessarily the name, but the sex of the  
7 victim and the age of the victim, if you could find  
8 that out as well.

9 MS. GUICE SMITH: Okay.

10 MR. BRITT: All right. Thank you.

11 MS. GUICE SMITH: I have it.

12 JUDGE WAGONER: Okay.

13 Q. Could you turn to page 74 to 86?

14 A. (Witness complies.)

15 Q. I've handed you a Commission report that summarizes the  
16 law enforcement report for the March 2012 sexual  
17 battery charge and follow-up conviction. If you could  
18 answer Mr. Britt's question regarding what the original  
19 charge was and the facts surrounding that case.

20 A. The original charge is indecent liberties with a minor.  
21 It is March of 2012, and she is, she was 11 years old.

22 JUDGE WAGONER: 11?

23 A. Yes, ma'am.

24 JUDGE WAGONER: Did she have a relationship  
25 to him or is she just some strange child, stranger?

1 A. It appears to have been a friend of his daughter.

2 MS. GUICE SMITH: Are there any other  
3 questions about that? Go ahead.

4 JUDGE WAGONER: Could you sort of state what  
5 the indictment read? If you could leave out the  
6 victim's name, but where it happened, how it happened,  
7 the circumstances.

8 A. He was playing hide and seek with his daughter and her  
9 friend. When he found her during the third game he  
10 grabbed her as if he was trying to tickle her, and then  
11 grabbed her vagina with his hand on the outside of her  
12 clothing. He pulled out his penis and grabbed her arm,  
13 pulled it behind her back, and made her touch it. She  
14 pulled away and ran to find her other friends. He  
15 never stated anything to her and she did not say  
16 anything to him because she was afraid. When he was  
17 confronted with this he stated that he had opened the  
18 door to his daughter's room and when he did, the victim  
19 had grabbed him in his private parts. It looks like  
20 that was on one incident.

21 Another incident with the same victim stated  
22 that when she stayed at Pressley's home with his  
23 daughter she was awakened when Pressley laid in bed  
24 with her the following morning. He had laid beside her  
25 with the front, with his front side pressed against her

1 back side completely unclothed. She was dressed at the  
2 time. She then moved to get away and he got up and  
3 apologized and left the room. The ADA actually  
4 dismissed that charge stating there was not enough to  
5 prove sexual gratification.

6 SHERIFF PICKENS: Was that a separate  
7 incident?

8 A. Yes, ma'am.

9 SHERIFF PICKENS: Two incidents?

10 A. Those were two incidents.

11 MS. SURGEON: Yes, is there anything to  
12 indicate how any of these allegations got reported?  
13 Did an adult report it and --

14 A. The mother reported the allegations when her daughter  
15 came to her stating that she had been touched by him.  
16 Related to the XXXXXXXX and XXXXXX, Ms. XXXXXX, their  
17 XXXXXX, reported it stating that Keith Pressley was  
18 living in her residence, Mr. Pressley was using her  
19 family for money, assaulting the family, and she  
20 accused him of sexual allegations. Ms. XXXXXX stated  
21 that he attempted to have sex with the XXXXX XXXXXX,  
22 XXXXXXXX, numerous times, also stated that Mr. Pressley  
23 attempted to use his finger in an attempt to touch her  
24 vagina. The victim's XXXXXX was unaware of the sexual  
25 allegations her XXXXXXXX had been making. She was

1 aware of his prior sex offence. The XXXXX XXXXXXXX,  
2 XXXXXXXX, refused to comment at all during questioning.  
3 The officer learned that Pressley had been charged with  
4 child abuse on 10/22/2008 for hitting XXXXXXXX in the  
5 face. This case remains open.

6 MS. SURGEON: Did you say that there was or  
7 was not a reporting and investigation through the  
8 Department of Social Services?

9 A. I don't know.

10 JUDGE WAGONER: Other questions?

11 (NO RESPONSE.)

12

13 CONTINUED EXAMINATION BY MS. GUICE SMITH:

14 Q. Ms. Stellato, before we turn our attention to the next  
15 person, I just -- the allegation in this crime is that  
16 Ms. XXXXXX was attacked by someone she does not know,  
17 is that correct?

18 A. An unknown black man.

19 Q. An unknown black male. And we spoke with Ms. XXXXXX  
20 recently, is that correct?

21 A. Correct.

22 Q. And did Ms. XXXXXX say whether or not she had ever been  
23 sexually abused by Mr. Pressley?

24 A. She stated she had not been sexually abused by  
25 Mr. Pressley.

1 Q. And did we ask her that directly?

2 A. We did.

3 Q. All right. We are going to turn our attention now to  
4 the victim, XXXXXX XXXXXX. Were you able to interview  
5 the victim in this case?

6 A. We were, although the victim and her family did not  
7 respond to our request to meet in person originally.  
8 The victim is 19. When we first contacted her she was  
9 still underage, so those requests went to her mother.  
10 Her mother did not respond as well. When the case was  
11 moving forward to hearing, by statute we notified,  
12 asked for interviews and also let her know, of course,  
13 of the hearing. It is up to a victim whether or not  
14 they would like to speak with us or whether they would  
15 like to attend. We did go to her home on one occasion,  
16 we confirmed that she lived there with the person who  
17 lived there, and left cards and wrote letters and made  
18 phone calls. But at some point we decided that she  
19 needed to not be contacted if she didn't wish to be  
20 contacted, so although she didn't respond to our  
21 request to meet in person, she was willing to answer  
22 questions in a brief phone call that we had on  
23 November 30, 2015 and she was receptive to that phone  
24 call.

25 Q. And I know we just talked about it, but if you can

1 please refresh the Commissioners on the victim's  
2 statement regarding the rape that occurred on  
3 January 25, 2008.

4 A. That she was coming home from school when she was  
5 pulled into a vacant home by an unknown black male who  
6 pulled her pants down with both hands all the way down  
7 to her ankles.

8 Q. And after that occurred, is that when the rape  
9 occurred?

10 A. Yes; correct.

11 Q. Did you verify with the victim whether or not she had  
12 been in any kind of sexual relationship prior to or at  
13 the time of the rape?

14 A. We did. Our letters to her told her that there was  
15 unknown DNA that did not match Knolly Brown, so we  
16 wanted to confirm or discuss with her whether or not  
17 she had ever been in a sexual relationship prior to the  
18 rape. We did verify with the victim that she was not  
19 in any kind of a sexual relationship.

20 Q. And then did you ask her about Keith Pressley?

21 A. We did. She stated that she was not sexually abused by  
22 Keith Pressley.

23 Q. Did you ask her whether or not she was aware of any  
24 prior sex abuse of children, convictions that  
25 Mr. Pressley had?

1 A. We asked her -- we told her that during our  
2 investigation we had become aware about those charges,  
3 and she responded that she was aware of that, too. And  
4 we asked her at that time whether she had been sexually  
5 abused, and she said she had not been sexually abused,  
6 and that outside of this rape in the vacant home, she  
7 had never been sexually abused by anyone else.

8 Q. Did you ask Ms. XXXXXX any specifics related to her  
9 feelings about Knolly Brown and about this case?

10 A. Yes, we did.

11 Q. And will that information be disclosed to the  
12 Commissioners during the victim impact statement that  
13 you will be giving?

14 A. It will.

15 MS. GUICE SMITH: Are there any questions?

16 MR. GRACE: Is there anything in any of the  
17 reports that indicate what physical position the victim  
18 and the assailant were in when the sex act took place,  
19 whether they were standing or lying down?

20 A. The only thing in there states that I believe one time  
21 he held the door shut with his foot maybe, so nothing,  
22 nothing that you could, nothing that you could really  
23 figure out with any clarity.

24 MR. GRACE: Was she ever asked whether she  
25 was made to lie on the floor?



1 A. No.

2 Q. Ms. Stellato.

3 A. Yes.

4 Q. If I could refer you to page 22 of the brief.

5 JUDGE WAGONER: Page 22?

6 MS. GUICE SMITH: 22.

7 A. (Witness examines document.) Uh-huh (yes).

8 Q. If you could read the paragraph that starts, the black  
9 male then forced her into the first bedroom. That may  
10 answer that question.

11 A. The black male then forced her into the first bedroom  
12 to the left across from --

13 JUDGE WAGONER: Slow down a little bit for  
14 the court reporter.

15 A. I'm sorry.

16 JUDGE WAGONER: Okay. Thank you.

17 A. The black male then forced her into the first bedroom  
18 to the left across from a bathroom once she entered the  
19 house. XXXXXX described the room as having a brick on  
20 the floor and a lot of glass. The male then held her  
21 up against the wall to the right when you enter the  
22 room. He closed the room door and held it shut with  
23 his foot. Next he took XXXXXX's pants off while  
24 holding her against the wall and removed his pants  
25 also. The male pulled his pants down to his ankles.

1 XXXXXX said her pants were also at -- his pants were  
2 also at his ankles. He then put her on the floor and  
3 put his penis in her vagina, and it popped out the  
4 first time. He then put his penis back in for to five  
5 more times.

6 MR. GRACE: Thank you. I think that answers  
7 the question. Were her clothes, her entire outfit  
8 taken by the police department?

9 A. Yes, they were.

10 MS. SURGEON: Okay. You said that, I think,  
11 that Ms. XXXXXX said that she was aware of some  
12 charges. Was she aware of the charges as it relates to  
13 the hide and seek with some girls or the allegations  
14 that her mother had made?

15 A. We were asking her about the 2008 charges related to  
16 her and XXXXXXXX.

17 MS. SURGEON: And her response was?

18 A. Her response was related to her and XXXXXXXX, and she  
19 stated that she was not abused by Mr. Pressley.

20 MS. SURGEON: Thank you.

21 MR. BRITT: You said that she denied that  
22 she'd ever been sexually abused by Mr. Pressley. Is  
23 that the way the question was formatted?

24 A. Did he sexually abuse you or your sister in any way?

25 No. No, not me. No. And not that my sister, that I

1 know of.

2 MR. BRITT: Did you ever ask her if she was  
3 sexually active?

4 A. Yes.

5 MR. BRITT: And what was her response to  
6 that?

7 A. No, I wasn't. Were you in any kind of sexual  
8 relationship in any way? No.

9 JUDGE WAGONER: Did you ask her if she or her  
10 sister had sex with Mr., did they have sex with  
11 Mr. Pressley?

12 A. We didn't ask about her sister simply because --

13 JUDGE WAGONER: Or did you ask her if she had  
14 sex, not abuse, but just sex?

15 A. We didn't ask if she had -- we asked if she was, if she  
16 had sex with anyone, if she was in a sexual  
17 relationship, if she was abused by Mr. Pressley.

18 JUDGE WAGONER: And she denied all that?

19 A. Yes, ma'am. She was a virgin, right.

20 MS. SURGEON: Was she ever asked if she was  
21 able to see the person at all?

22 A. Yes, she -- yes.

23 MS. SURGEON: And she said she could see the  
24 person and she was clear that it was not someone that  
25 she knew?

1 A. Yes.

2 MS. SURGEON: Was there any indication in the  
3 investigation that she, in the community, knew or had  
4 seen Mr. Brown?

5 A. We asked her that, and we also asked if after Mr. Brown  
6 was convicted, was arrested, if she had ever seen  
7 someone who she thought may have been the rapist, you  
8 know, after he went away. She had never seen Knolly  
9 Brown prior, according to her, prior to this rape. She  
10 never saw anyone after this that she thought was the  
11 rapist.

12 MR. BRITT: Go back. The course of the  
13 investigation you testified there was a show-up with  
14 Mr. Brown where he ran?

15 A. Well, right. I mean, I referred a show-up with police,  
16 but yes, sir. I mean, yeah; uh-huh (yes).

17 MR. BRITT: Was the victim ever presented a  
18 photographic line-up with possible suspects who  
19 included Mr. Brown?

20 A. So we don't know if Knolly Brown was in the 2,600-and-  
21 some photographs.

22 Q. Ms. Stellato, was Mr. Brown older than 30 years old at  
23 the time of the crime?

24 A. He was older than 30 years old, so he wouldn't have  
25 been in the 2,600-and-some photographs.

1 Q. Was a show-up later conducted outside of him showing up  
2 at the victim's home? Did the police later bring the  
3 victim to a location where Knolly Brown was in person?

4 A. Yes.

5 Q. And did she identify him during that show-up?

6 A. Yes.

7 MR. BRITT: All right. But after his arrest  
8 she was never presented with a photograph at the line-  
9 up which included Mr. Brown's photograph?

10 A. No.

11 JUDGE WAGONER: And do you know who was  
12 present with her when she identified Mr. Brown as her  
13 assailant? Was it her mother or her step-father or her  
14 sister or Jamal or --

15 A. When they're in the road?

16 JUDGE WAGONER: -- or anybody else present?

17 A. In the road?

18 JUDGE WAGONER: Yes.

19 A. We know at least some of the people there. We know  
20 that her mother was there, we know that Knolly Brown  
21 was there, we know that the step-dad was there, we know  
22 that Jamal ends up there at some point, we also know  
23 that Jamal's, I believe it's his grandmother or --  
24 (Witness examines document.) -- Cynthia Johnson, his  
25 grandmother is there. There's some confusion over who

1 was actually walking next to the victim, whether it's  
2 Cynthia Johnson or the victim's mother or both are  
3 walking with her.

4 MR. HEARD: Let me clarify for just a second.  
5 When they went and -- when XXXXXX saw Brown, was she  
6 walking with her step-father to go see him?

7 A. She's returning --

8 MR. HEARD: Or, I mean, I'm trying to, I'm  
9 trying to reconstruct that.

10 A. Sure. She's returning to her house -

11 MR. HEARD: Okay.

12 A. -- okay, where Keith Pressley is. So he's there.  
13 She's returning to her house presumably, we believe,  
14 with Jamal, because she's with Jamal when she sees  
15 Brown across the street on a porch.

16 MR. HEARD: Okay.

17 A. So she's returning to her home, which may explain why  
18 Cynthia Johnson is with her, because Cynthia Johnson is  
19 related to Jamal Johnson. So they're walking back down  
20 the street. Keith Pressley is at her house, the  
21 victim's house. And then they all kind of meet in the  
22 road. It doesn't actually happen, you know, in the  
23 house, it happens out front of the house there.

24 MR. HEARD: I guess what I was getting at was  
25 whether or not Pressley is in her presence when she

1 identifies Brown, if I understood you correctly, and  
2 then he chases him with a knife. I'm --

3 A. He goes back into the house to get a butcher knife.

4 MR. HEARD: But he's there with her when she  
5 identifies him?

6 A. Where exactly he is as far as is he next to her, is he  
7 in the yard --

8 MR. HEARD: I mean, they are together?

9 A. They're together.

10 MR. HEARD: Okay.

11 JUDGE WAGONER: And did not her mother yell  
12 at Mr Brown, you raped my daughter, or something, at  
13 the beginning?

14 MR. HEARD: Or the step-father.

15 A. According to Brown in his interview -- so a lot of this  
16 is just according to, I have to say according to Brown  
17 in his interview, it is Keith Pressley that says, you  
18 raped my daughter, you raped my daughter. The mother  
19 says, it's him, is that him.

20 JUDGE WAGONER: To the daughter?

21 A. (Witness nods head affirmatively.)

22 JUDGE WAGONER: Okay.

23 A. I think Brown says that she says, it was you.

24 CONTINUED EXAMINATION BY MS. GUICE SMITH:

25 Q. All right, Ms. Stellato, we're going to turn our

1 attention now to Knolly Brown. Did the Commission  
2 staff talk to Mr. Brown's trial attorneys?

3 A. Yes, we did.

4 Q. And did we speak to his first attorney, Lamont Wiggins,  
5 and his second attorney, Matthew Sperati?

6 A. We did.

7 Q. Can you explain briefly for the Commissioners why there  
8 were two attorneys involved in this case?

9 A. Sure. Mr. Wiggins was originally appointed, however,  
10 the court later issued an order allowing Mr. Wiggins to  
11 withdraw as counsel, and at that time Mr. Sperati was  
12 appointed.

13 Q. And do we know anything about why that withdrawal  
14 occurred?

15 A. Mr. Brown was unhappy with his counsel. It talks a  
16 little bit about that. And so the court, he had wrote  
17 to the court and the court allowed him to, Mr. Wiggins  
18 to withdraw, Mr. Wiggins also talked to us about that a  
19 little bit, and Mr. Sperati was appointed.

20 Q. Did either Mr. Wiggins or Mr. Sperati retain a file in  
21 this case?

22 A. Mr. Wiggins looked, but he was unable to locate his  
23 file. Mr. Sperati was able to locate a file and he  
24 provided a copy of it to the Commission.

25 Q. And did the Commission staff review Mr. Sperati's file?



1 A. Yes, we did.

2 Q. And were there any admissions of guilt that the  
3 Commission located in the file?

4 A. No.

5 Q. And when Mr. Sperati turned over his file, did he turn  
6 over the complete file including any attorney-client  
7 privilege based on the fact that the case was in formal  
8 inquiry?

9 A. Correct, he did.

10 Q. Did the Commission staff interview Mr. Wiggins?

11 A. We did.

12 Q. And did he say anything regarding his representation of  
13 Mr. Brown?

14 A. Mr. Wiggins stated that Mr. Brown had always claimed  
15 innocence throughout his representation, and that he  
16 had never, that Mr. Brown had never admitted guilt to  
17 him.

18 Q. And did the Commission staff interview Mr. Sperati?

19 A. Yes, we did.

20 Q. What did he say regarding his representation of  
21 Mr. Brown?

22 A. Mr. Sperati did not recall Mr. Brown ever admitting  
23 guilt. He further stated that he had reviewed his file  
24 after we contacted him and that he didn't have anything  
25 in his file or his notes that indicated Mr. Brown

1           having admitted guilt.

2           Q.    Did the Commission staff ask Mr. Wiggins and  
3                Mr. Sperati to submit affidavits regarding their  
4                representation of Mr. Brown?

5           A.    Yes, we did.

6           Q.    I'm going to hand you two documents, if you could tell  
7                the Commissioners what these are.

8           A.    They are the affidavits of Lamont Wiggins and Matthew  
9                Sperati.

10                        MS. GUICE SMITH:  Commissioners, I am going  
11                        to pass around these affidavits and we'll give you an  
12                        opportunity to read through them.

13                               (WHEREUPON, HANDOUTS NO. 20 AND 21 WERE  
14                        DISTRIBUTED.)

15                               (COMMISSIONERS REVIEW DOCUMENTS.)

16                        MS. GUICE SMITH:  Having reviewed the  
17                        affidavits of Mr. Wiggins and Mr. Sperati, do the  
18                        Commissioners have any questions for Ms. Stellato at  
19                        this time?

20                               (NO RESPONSE.)

21                        MS. GUICE SMITH:  Okay.  I am now going to  
22                        pass around to the Commissioners the criminal record of  
23                        Knolly Brown.  I'll give you an opportunity to look at  
24                        that.

25                               (WHEREUPON, HANDOUT NO. 22 WAS DISTRIBUTED.)

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

(COMMISSIONERS EXAMINE DOCUMENT.)

CONTINUED EXAMINATION BY MS. GUICE SMITH:

Q. Ms. Stellato, did the Commission interview Mr. Brown?

A. Yes, we did, we interviewed him twice on November 3, 2011, and November 19, 2015.

Q. Where was that November 3, 2011 interview conducted?

A. While he was still in prison at Mountain View Correctional.

Q. And what did Mr. Brown initially tell the Commission staff?

A. When we first went to interview he stated that he --

JUDGE WAGONER: A little bit louder, please.

A. I'm sorry.

JUDGE WAGONER: That's okay.

A. When we first went to interview him he stated that he wasn't all there due to the fact that he had not had his Haldol shot and that his Haldol helps him to slow down and helps him to think.

Q. Did he say when he was due for that shot?

A. He was supposed to have it on November 9.

Q. What else did he say?

A. He stated that he had been in a fire back in 1996 and that the firemen had to save him and he was traumatized from that.

1 Q. And did the Commissioners ask whether or not -- I'm  
2 sorry, the Commission staff ask whether or not he knew  
3 the victim?

4 A. We did. Mr. Brown stated that he believed he had seen  
5 the victim walking with two guys the day prior to the  
6 rape. He did not know if it was really her or not.

7 Q. Did the Commission ask whether or not Mr. Brown raped  
8 the victim?

9 A. We did, and he stated that he had not raped the victim.

10 Q. Did the Commission staff ask whether or not he had  
11 raped anyone?

12 A. Yes. Mr. Brown stated that a very long time ago his  
13 girlfriend had asked him to stop messing with her and  
14 that he did not stop.

15 Q. Did the Commission ask, given his mental health and  
16 Haldol, whether or not he could have raped the victim  
17 and not had a recollection of it, not remembered it?

18 A. We did ask him that, and Mr. Brown stated that no.

19 Q. What did Mr. Brown say happened the day after the  
20 crime?

21 A. He stated the day after the crime a friend of his named  
22 Rickey came to a house where he was on Woodland. He  
23 told him that Brown should go with him to the victim's  
24 house to get his face straight. He went with Rickey  
25 and when he went, the victim was walking up the street.

1 Mr. Brown saw the victim's mother first. He stated  
2 that the mom said to him, you did it, and Mr. Brown  
3 said no. Mr. Brown stated that the victim's dad then  
4 said, is it him, and pointed at Mr. Brown. The victim  
5 then burst out crying. Mr. Brown stated that the  
6 victim's dad then ran around saying, he raped my  
7 daughter, he raped my daughter. The victim's dad then  
8 went into the house and got a butcher knife and he and  
9 two other people chased Mr. Brown back to his home.  
10 Mr. Brown stated that when he got to his house he went  
11 inside and put on sweaters. He stated he came back out  
12 on the porch and said to them, you all are setting me  
13 up, you all are setting me up, and he said, on my  
14 grandmother, I didn't do it.

15 Q. You just mentioned that Mr. Brown --

16 JUDGE WAGONER: One question. When the  
17 police, according to Mr. Brown's statement, when the  
18 policeman asked him to go to get his face straight or  
19 whatever, is there any indication that Mr. Brown even  
20 knew what had happened? What did the police tell him  
21 prior to that, if you know?

22 A. It wasn't the police asking him to get his face  
23 straight, it was his friends.

24 JUDGE WAGONER: Okay.

25 A. It was actually the people that he was doing drugs

1 with. He was at a drug house. It was a guy named  
2 Barry's house and it was a drug house. And there were  
3 a lot of drug users there and they, many people were  
4 telling him, you raped that girl. He was saying, I  
5 didn't rape that girl. And Rickey came in and said, go  
6 get your face straight. We asked him what go get your  
7 face straight meant, he said that meant go show your  
8 face to her so that she can say whether it's you or  
9 not. So Rickey and him go there to get his face  
10 straight. He did know why he was going there.

11 MR. GRACE: Prior to the young lady  
12 identifying him on the street, who had put his face and  
13 name with that incident?

14 A. We clarify that in the next interview that we have. At  
15 that time the only people that he tells us are saying  
16 that, in this interview, are Rickey and people -- and  
17 he says everyone was saying it, go get your face  
18 straight. When we interview him again we clarify  
19 exactly who is saying it, and that will come up in just  
20 a moment.

21 MR. HEARD: But if I understood you  
22 correctly, Pressley is in the presence of the victim  
23 when Brown is spotted and identified?

24 A. According to Brown, it is the dad who says to the  
25 victim, is that him, and points at Brown, and the

1 victim bursts out crying. He then ran around saying,  
2 he raped my daughter, he raped my daughter, went into  
3 the house, got a butcher knife, and he and two other  
4 people chase Mr. Brown to his house.

5 MR. HEARD: And though not directly related  
6 to this, but between the date of the incident and that  
7 identification, XXXXXX and Pressley were at home  
8 together, they had opportunity to -- they had --  
9 A. Presumably, I mean, after the rape she goes to the  
10 hospital --

11 MR. HEARD: And goes home and he's there, and  
12 it's the next day when this identification occurs?

13 A. It is the next day, yes.

14 JUDGE WAGONER: I'd like to go back. They  
15 show her 2,000-plus photos that first day this  
16 happened?

17 A. No, they show her 2,000 photos on January 26.

18 JUDGE WAGONER: But all at one sitting?

19 A. Yes; yes, ma'am.

20 JUDGE WAGONER: Okay. Thank you.

21 Q. You just mentioned a moment ago that Knolly Brown  
22 stated that Rickey came to Barry's house and told  
23 Mr. Brown to go with him to the victim's house to get  
24 his face straight. Were you able to locate Rickey?

25 A. Yes.

1 Q. Did Commission staff interview Rickey?

2 A. We did.

3 Q. And how many interviews were there?

4 A. Three interviews.

5 Q. And were those on the phone and in-person?

6 A. Two were on the phone and one was in person.

7 Q. And what did he say?

8 A. Rickey does not recall anything about the crime, he  
9 does not recall Knolly Brown.

10 Q. And did we try to refresh his recollection with case  
11 documents?

12 A. Yes, we did.

13 Q. And did that assist?

14 A. It did not. Rickey recalls several crimes, but not  
15 this one.

16 Q. Do you recall at the start of this hearing my  
17 statements to the Commissioners regarding Mr. Brown's  
18 capacity?

19 A. I do.

20 Q. And do the audio and transcript of this first interview  
21 reflect those concerns?

22 A. They do. During this interview Mr. Brown had  
23 difficulty with his memory, he exhibited scattered  
24 thought patterns. At one point he did lay his head  
25 down. It was extremely hard to follow and to



1 understand what Mr. Brown was talking about, and he was  
2 very frustrated during the interview.

3 Q. And you said earlier the Commission interviewed  
4 Mr. Brown two times. When did that second interview  
5 occur?

6 A. November 19, 2015.

7 Q. And had Mr. Brown been released from prison at that  
8 point?

9 A. He had. He was released in 2012 and he was still on  
10 post release supervision and he had satellite base  
11 monitoring.

12 Q. And who was present for that interview, that second  
13 interview?

14 A. His attorney at that time. We scheduled it through his  
15 attorney, Tracy Wilkinson was present, and the  
16 interview took place at his mother's home.

17 Q. And at the time that the interview was scheduled was  
18 Mr. Brown present?

19 A. No. We had scheduled the interview. When we arrived  
20 Mr. Brown had left. He was not present for the  
21 interview. He had left the home. His mother stated  
22 that he had stepped out to go to the store, and he did  
23 return approximately 30 minutes after the interview was  
24 scheduled to start.

25 Q. When you started that interview did you ask Mr. Brown

1 if he was receiving his medication at that time?

2 A. We did. He was on several medications including  
3 Haldol. He stated that he continues to take Haldol.  
4 He had received his shot on November 3 or 4th, and he  
5 continues to take it every four weeks.

6 Q. And you said he received it on November 3 or 4th, and  
7 the date of this interview was November 19, is that  
8 correct?

9 A. Correct.

10 Q. Did he say anything else about how he felt?

11 A. He stated that he felt physically bad and emotionally  
12 sad, that he had a lot of things going on in his life,  
13 that he had family problems, and that nothing goes  
14 right for him. He then stated, I really don't even  
15 want to do this. I just want, I just want everything  
16 behind me. I know if I do this, it's just going to be  
17 more problems. I mean, they already got the evidence.  
18 The DNA didn't match, what more do they need? What,  
19 what do you all want me to do? What do you all want  
20 out of me? What do you want me to do, spill my guts?  
21 It's just too much.

22 I then explained to him what the Commission  
23 does and that he had filed a claim, but that the  
24 Commission could not proceed unless he wanted to do so.  
25 By statute we have to have the Claimant's cooperation.

1 At this point he was having a hard time. I asked him  
2 if he would like to speak with his lawyer privately  
3 because she was present. He and his lawyer spoke  
4 outside of our presence and when they returned,  
5 Mr. Brown decided he wanted to go forward and the  
6 interview continued.

7 Q. Did you ask then Mr. Brown about the day of the crime?

8 A. Uh-huh (yes). He stated -- yes, I did. He stated that  
9 at the time of the crime he had been going to community  
10 college. He was smoking marijuana that day and he had  
11 been at a house on Carolina Avenue, which is on the  
12 road that he lives on -- lived on, smoking a blunt with  
13 friends. Mr. Brown said that he saw the victim that  
14 night at a store and that she was with her dad, and  
15 that he didn't know who she was, but that when she and  
16 her dad left there was another person in the store who  
17 said, that girl is saying that you raped her. As the  
18 interview went on, Mr. Brown said that it was actually  
19 the day before the crime when he saw the victim and her  
20 dad in the store, and when they left, a girl told him,  
21 they're saying you raped that girl.

22 I tried to clarify that Mr. Brown -- with  
23 Mr. Brown that if that was said, it would be prior to  
24 the rape, and we were never able to clarify that with  
25 Mr. Brown. We were left with he saw the victim and her

1           dad in a store, convenience store in that area right  
2           near the crime scene the day before the rape, at night,  
3           that they were at the counter, and that he didn't pay  
4           them any mind, but when they walked out, a girl named  
5           Katie told him, they're saying you raped that girl.

6       Q.    Did you ask Mr. Brown what happened the day after the  
7           crime?

8       A.    Yes.

9       Q.    What did he say?

10      A.    He stated that the day after the crime he was at a  
11           friend's house, Barry's house on Woodland, and that his  
12           friend, Rickey, said, go get your face straight,  
13           regarding the rape. He said he walked down to the  
14           victim's home, he saw the victim walking, and that the  
15           victim said, that's him, and then busted out crying.  
16           The victim's father then said, he raped my daughter.  
17           He stated that the victim's dad chased him with a  
18           butcher knife to his house. Knolly Brown said he did  
19           have a knife on him, but he didn't get it out or want  
20           to use it because he hadn't committed any crime. He  
21           stated he was arrested on his front porch by police and  
22           that he had been set up for this crime.

23      Q.    What else did you ask Mr. Brown?

24      A.    We asked him if he knew Keith Pressley.

25      Q.    And Keith Pressley is the step-father of the victim?

1 A. Correct.

2 Q. What did he say about that?

3 A. He said that he did know him and that they were  
4 friends. He described their relationship as a hi-bye  
5 kind of friendship. We also asked him if he had ever  
6 been to the victim's home prior to this day, and he  
7 said he had never been in the home.

8 Q. Did you follow up with Mr. Brown about the incident  
9 that he discussed in his first interview with the  
10 Commission regarding his ex-girlfriend?

11 A. I asked him about the interview previously conducted by  
12 Commission staff where -- the rape of the ex-  
13 girlfriend. He stated that he and his ex-girlfriend  
14 had had an argument and he didn't believe she wanted to  
15 have sex, but they had sex anyway. He stated it was  
16 just a little fight. He further stated that it wasn't  
17 rape or anything like that, and she didn't press  
18 charges. I asked him if he had ever had sex with any  
19 other women against their will, and he stated he had  
20 not.

21 Q. Did you ask Mr. Brown whether he committed the rape of  
22 XXXXXX XXXXXX?

23 A. I did. He stated he was 100 percent confident that he  
24 had not committed the rape and that there is no doubt  
25 in his mind.

1 Q. Did Mr. Brown say anything else to you about the  
2 victim?

3 A. He stated that he had seen the victim walking. He  
4 stated he saw a girl and two guys come out of the  
5 vacant home where the victim was raped, that he and  
6 another man had seen this. He said it was in the same  
7 block where the vacant house was and that they were  
8 walking near the corner. But he was unable to clarify  
9 when this was, if it was the day of the rape, the day  
10 after the rape, what time period it was. We attempted  
11 to clarify this several times to determine if it really  
12 was the victim, if he was saying that he actually saw  
13 her in the vacant house, if he actually knew the  
14 victim, and we were unable to get clarification from  
15 him.

16 Q. And during these two interviews was Mr. Brown able to  
17 provide an alibi for the day of and time of the crime?

18 A. Mr. Brown's alibi was that he was at a drug dealer's  
19 home on the day of the crime. He's unsure of the exact  
20 time that he was there and he did provide names of five  
21 individuals for that day, but they are only first names  
22 of the individuals.

23 Q. Did the Commission try to identify or locate these five  
24 individuals --

25 A. We did.

1 Q. -- with the information that we had?

2 A. We actually took him around and had him show us where  
3 the homes were and where those people might live today.  
4 We did make attempts to locate these individuals,  
5 however, for the most part, we were unable to do so.

6 Q. And was the Commission able to substantiate Mr. Brown's  
7 alibi?

8 A. Unfortunately, we couldn't, given the time frame with  
9 these individuals. He stated that he knew it was in  
10 the afternoon because when he was there, he saw a  
11 school bus go by and he saw a police car go by going to  
12 the crime scene. Since the Commission was unable to  
13 locate the individuals who were in the drug house, we  
14 couldn't ask them about their recollection of the day  
15 of the crime. And then based on the fact that  
16 Mr. Brown stated all of them were using drugs on that  
17 day, the crime was in 2008, it's unlikely that they  
18 would have provided a credible and reliable alibi for  
19 such a short window of time anyway.

20 Q. During your interview with Mr. Brown did you have a  
21 chance to speak with Mr. Brown's mother, Geraldine  
22 Battle?

23 A. Briefly.

24 Q. And what did she say about Mr. Brown's mental health?

25 A. She indicated that her son had graduated high school in

1           1989, and that prior to that he was okay. She stated  
2           that a year after he graduated high school he began to  
3           see things, and at that time she sent him to New York  
4           to stay with relatives. While there he was diagnosed  
5           with schizophrenia. She stated when he's on his  
6           medication, he does fine, but when he's off of it she  
7           can tell.

8           Q. Does Mr. Brown also state that he graduated high  
9           school?

10          A. He does.

11          Q. Did Mr. Brown's mother say anything else regarding  
12          Mr. Brown's guilt or innocence?

13          A. She stated that her son has always told her that he did  
14          not commit the crime.

15                        MS. GUICE SMITH: Commissioners, do you all  
16          have any questions for Ms. Stellato regarding the  
17          interviews that the Commission staff conducted with  
18          Mr. Brown?

19                        MR. GRACE: I want to get back to the  
20          question I asked earlier. If on 1/25 the crime was  
21          committed and the victim was unable to identify who  
22          committed that crime, how then was Rickey able to tell  
23          Mr. Brown the next day that he was being talked about  
24          for the crime?

25          A. She didn't identify him on 1/25, she identified him on



1 1/26.

2 MR. GRACE: But that was after he, Rickey had  
3 come to him and said, they're saying you raped this  
4 girl, you need to go get your face right?

5 A. Huh-uh (no). She identifies him right, she identifies  
6 him minutes after Rickey -- it's Rickey who tells him  
7 that, and he walks over there because of Rickey.

8 MR. GRACE: I understand that. My question  
9 is, how does Rickey know that he's been identified as  
10 the victim of the crime when the victim didn't  
11 identify?

12 Q. Ms. Stellato.

13 A. Yes.

14 Q. Did Rickey live with Jamal Johnson?

15 A. Yes.

16 Q. And was the victim on her way to Jamal Johnson's when  
17 she saw Knolly Brown on the drug dealer's porch?

18 A. Yes.

19 Q. And do we know exactly what happened between when the  
20 victim saw Knolly Brown on the porch and when Rickey  
21 went to that house and asked Knolly Brown to get his  
22 face straight?

23 A. No. But we know that Rickey was in a relationship with  
24 Jamal's grandmother.

25 JUDGE WAGONER: Did you say grandmother?

1 A. (Witness nods head affirmatively.)

2 JUDGE WAGONER: How old is Rickey?

3 A. (Witness does not respond.)

4 JUDGE WAGONER: I'm just -- okay, Jamal is in  
5 a relationship -- is this correct, that --

6 A. Rickey is in a relationship -- was, was in a  
7 relationship with Jamal's grandmother. Rickey lived  
8 with Jamal. The victim is on the porch of Jamal's  
9 house when she sees Knolly Brown. Then she leaves  
10 there and is coming home. Rickey goes wherever he goes  
11 to see Knolly Brown and says, you got to get your face  
12 straight.

13 MR. BRITT: Is Jamal's house the drug house  
14 he says he was at on the day of the crime?

15 A. No.

16 MR. BRITT: Where is that house in  
17 relationship to the scene of the crime?

18 MS. GUICE SMITH: If I can put this map back  
19 up, Ms. Stellato can point that out.

20 JUDGE WAGONER: That's part of our handouts,  
21 correct?

22 A. Uh-huh (yes).

23 MR. BRITT: That's Handout 3.

24 Q. The crime scene is not going to be on there, Sharon,  
25 but --

1 A. Right.

2 Q. -- you know where it's at on here.

3 A. B.

4 MR. HEARD: So that's Barry's house,  
5 that's -

6 JUDGE WAGONER: Okay, Ms. Thompson, do you  
7 want to ask a question before they go further?

8 MS. THOMPSON: Yes. I want to make sure I  
9 understand this. She sees Mr. Brown on the porch and  
10 she doesn't have a reaction, but then several minutes  
11 later she's walking in the street and Rickey goes and  
12 tells her to get -- tells him to get his face straight.  
13 I mean, is it -- is this all happening when she sees  
14 him on the porch, get your face straight, and then  
15 everybody kind of converges onto the street; is this  
16 happening within like --

17 A. Minutes.

18 MS. THOMPSON: So she doesn't react when she  
19 sees him on the porch?

20 A. We don't know if she reacts or not because we don't  
21 have that information. But she reacts enough that  
22 people are, you know, that Jamal is there, the  
23 grandmother is there, the people are coming together in  
24 some sort of scene.

25 MS. THOMPSON: But she bursts out crying?

1 A. Jamal says that she does react on the porch in our  
2 interview with him. Jamal says she does react, I was  
3 there when she saw him. So -

4 MS. THOMPSON: We don't know what that really  
5 means.

6 A. No.

7 MS. THOMPSON: I mean, she blinked or -- I  
8 mean, but she bursts out crying when they're in the  
9 street?

10 A. Uh-huh (yes).

11 MS. THOMPSON: And the mother says --

12 A. Right.

13 JUDGE WAGONER: Okay. Mr. Heard and then  
14 Mr. Britt.

15 MR. HEARD: And we really have no information  
16 about whether or not Rickey or Jamal have any contact  
17 with each other between the time of the crime and the  
18 time of the identification?

19 A. No. We know that Rickey and Jamal live together, and  
20 the grandmother. We know that Rickey, Jamal, and  
21 Cynthia Johnson lived together, and we know that Jamal  
22 and Cynthia are in the road together when the  
23 identification, official identification, I guess, takes  
24 place.

25 MR. HEARD: Okay. What I'm trying to get at

1 is whether or not Pressley has had a chance to -- if he  
2 is the one with the information, has communicated this  
3 to them in some fashion?

4 A. We have no idea because police don't know about that.  
5 No.

6 MR. BRITT: You said that when you  
7 interviewed Mr. Brown trying to verify his alibi, he  
8 took you either to or by a house where he says he was  
9 the day of the rape.

10 Q. Ms. Stellato, is that house there anymore?

11 A. Correct. That -- he took us to the location where the  
12 house was. That house has been torn down.

13 MR. BRITT: What was the location?

14 A. The house was on the corner of Coleman, East Grand.

15 JUDGE WAGONER: Could you point to it with  
16 your finger, show us where it is on that?

17 A. Yes. It's right -- Lindsey, you're going to have to  
18 help me. Is it right here?

19 Q. That's correct.

20 A. It's right next to Barry's. It looks like where Barry  
21 lives, but it's really not.

22 JUDGE WAGONER: Next door to where?

23 MR. BRITT: Next door to the letter B.

24 A. Right. So it's, it's just not there anymore, it's tore  
25 down. But the vacant lot, he took us to it.

1 Q. Ms. Stellato, is the vacant lot on the corner of  
2 Woodland and East Grand Avenue?

3 A. Yes.

4 Q. And is that where Barry's house was at the time?

5 A. Correct.

6 Q. And was that address 722 East Highland -- East Grand  
7 Avenue?

8 A. Yes.

9 Q. And is Jamal's house indicated on this map with the  
10 letter A?

11 A. Correct.

12 Q. And was that address 817 East Grand Avenue?

13 A. Correct.

14 Q. And is the victim's house on this map where the letter  
15 C is located?

16 A. Correct.

17 Q. And that is on East Highland Avenue?

18 A. Uh-huh (yes). Correct.

19 Q. And was the victim, based on law enforcement reports,  
20 was the victim walking from her house toward Jamal's  
21 house when she saw her attacker on the porch of a drug  
22 dealer's house across the street from Jamal's house?

23 A. Correct. And law enforcement goes back to the same  
24 location and verifies that they can see from one  
25 location to another.

1 JUDGE WAGONER: If I recall, she was walking  
2 by herself, or somebody was with her? Or she was  
3 walking to Jamal's house.

4 A. She was walking to Jamal's house.

5 JUDGE WAGONER: By herself?

6 A. (Witness does not respond.)

7 JUDGE WAGONER: Was there someone with her?  
8 That's what I'm trying to figure out.

9 Q. Is there anything in the report that indicates that  
10 anyone was with her?

11 A. The report doesn't indicate that.

12 JUDGE WAGONER: The day after she was raped  
13 she was walking sort of the same route by herself?

14 A. The report doesn't indicate.

15 MR. HEARD: I thought there was somebody with  
16 her.

17 A. Jamal ends up with her. She ends up telling Jamal.  
18 But the report doesn't indicate who is with her.

19 MR. HEARD: But she's walking alone in the  
20 same route the day after by herself?

21 A. It's actually one block over.

22 MS. SURGEON: Was there something in the  
23 report that she was going to a party the next day?

24 Q. Ms. Stellato, if you will turn to page 25 of the brief.

25 A. (Witness complies.) Uh-huh (yes).

1 Q. And if you'll look at the first full paragraph on that  
2 page, I believe you can answer Ms. Surgeon's question.

3 A. XXXXXX stated she was going to a friend's house to get  
4 her to come to a birthday party. When she arrived at  
5 Jamal's house she saw the same man that raped her on a  
6 porch of a drug dealer's home.

7 Q. Will you keep going?

8 A. Uh-huh (yes). She said that she had -- that he had on  
9 the same clothes. When she saw him she told Jamal's  
10 uncle. Jamal's uncle then brought the man she pointed  
11 out back to XXXXXX's home for her to identify. At that  
12 time XXXXXX still had not arrived home from Jamal's  
13 house.

14 MR. HEARD: Rickey is Jamal's uncle?

15 JUDGE WAGONER: Yes.

16 Q. Can you tell the Commissioners whether or not the  
17 Commission staff tried to ascertain who Jamal's uncle  
18 was?

19 A. We did.

20 Q. And did we do that by speaking with Jamal Johnson?

21 A. We did.

22 Q. And what did he say about that?

23 A. He said that -- we tried to determine if Rickey was his  
24 uncle, and then he said Rickey was actually his  
25 grandmother's boyfriend.



1 Q. Did he say whether or not it would have been Rickey or  
2 his uncle who went with --

3 A. He said it was Rickey who went with -- who was there  
4 that day.

5 Q. Can you also flip to page 26 of your brief?

6 A. (Witness complies.)

7 Q. And on that one paragraph on page 26, begin with the  
8 sentence, XXXXXX then pointed out the house, and read  
9 that for the Commissioners.

10 A. XXXXXX then pointed out the house where she saw Knolly  
11 Brown on the porch when she was going to Jamal's on  
12 Saturday, 1/26/2008. The address he was seen at is  
13 722 East Grand Avenue. The house is about three houses  
14 down on the opposite side of the street from Jamal's  
15 house. From Jamal's house I could clearly see the  
16 porch of 722 East Grand Avenue.

17 Q. And based on your familiarity with that area, Jamal's  
18 house, and 722 East Grand Avenue, does this appear to  
19 be an accurate description?

20 A. You mean Jamal's house and where Barry's house used to  
21 be?

22 Q. Correct.

23 A. Yes.

24 Q. You were able to see where Barry's house used to be  
25 from Jamal's house at that time?

1 A. Correct.

2 MS. GUICE SMITH: If I may approach.

3 Q. Someone had asked about ages for Rickey Lynch and  
4 Ms. Johnson. I'm going to hand you some reports that  
5 can assist you with their date of births.

6 A. (Witness examines document.) Rickey was born in 1968;  
7 Ms. Johnson passed away, she was born in 1953.

8 Q. And was the Commission able to speak with Ms. Johnson?

9 A. No.

10 Q. And is that because she is deceased?

11 A. Correct.

12 MS. GUICE SMITH: Any other questions?

13 (NO RESPONSE.)

14 JUDGE WAGONER: Thank you.

15 Q. Ms. Stellato, you may step down.

16 A. (Witness complies.)

17 \* \* \* \* \*

18 MS. GUICE SMITH: At this time we would be  
19 ready to call Mr. Brown to testify. But if you all  
20 wanted a break, now would be probably an appropriate  
21 time for a quick bathroom break.

22 JUDGE WAGONER: He is going to testify?

23 MS. GUICE SMITH: He is going to testify.

24 JUDGE WAGONER: And how long will that  
25 probably take?

1 MS. GUICE SMITH: I don't have a lot of  
2 questions. We're going to go through mostly the same  
3 questions that we've gone with him before, gone through  
4 with him before.

5 JUDGE WAGONER: Tomorrow we do victim impact?

6 MS. GUICE SMITH: We're moving much more  
7 quickly than we anticipated, so it may be that we get  
8 to that today.

9 MR. GRACE: Madame Chair, could I ask for  
10 just a five-minute break?

11 JUDGE WAGONER: Sure.

12 (WHEREUPON, A SHORT RECESS WAS TAKEN FROM  
13 2:53 P.M. THROUGH 3:11 P.M.)

14 MS. GUICE SMITH: I call Knolly Brown to the  
15 stand, to the table.

16

17 **Knolly Brown, having first been duly sworn,**  
18 **testified as follows:**

19

20 **EXAMINATION BY MS. GUICE SMITH**

21 Q. Can you please state your name for the Commissioners?

22 A. Knolly Brown, Jr.

23 Q. And how old are you, Mr. Brown?

24 A. 45.

25 Q. I'm going to ask you several questions, okay, and you

1 need to tell the truth. Many of those questions will  
2 be questions that the Commission staff has asked you  
3 before. If you don't remember something, just say that  
4 you don't remember. If you don't know the answer to a  
5 question, just say that you don't know. When I am done  
6 asking you questions, all of the Commissioners here  
7 around this table will have an opportunity to ask  
8 questions of you.

9 When we, when Ms. Stellato and I met with you  
10 a few weeks ago you told us that you were taking Haldol  
11 shots. Are you still taking those?

12 A. Yes.

13 Q. And when did you get your last one?

14 A. 3rd of December.

15 Q. December 3?

16 A. Yes.

17 Q. Okay. So that was just a few days ago?

18 A. Yes.

19 Q. What have you been convicted of?

20 A. Second degree rape.

21 Q. Any other convictions?

22 A. And --

23 Q. Not related to this, but any other convictions?

24 A. Larceny; let's see, drinking underage; attempt to sell  
25 to an undercover cop; possession of a stolen vehicle.

1 Q. Okay. With respect to the case that we're here for  
2 today, the rape of XXXXXX XXXXXX, did you rape  
3 Ms. XXXXXX?

4 A. No, I didn't.

5 Q. Did you have sex, consensual sex with Ms. XXXXXX?

6 A. No, I didn't.

7 Q. What do you recall about the day of the crime?

8 A. Well, I was going to church; I was going to church. I  
9 was in, I was in college. I played a, I played a  
10 number at a store. I played a lottery at the store, I  
11 remember that. I remember sleeping at Carolina,  
12 Carolina Avenue. And I also remember smoking, smoking  
13 a blunt with a girl, two girls, I think two girls, two  
14 guys. And a police was coming down the street one way,  
15 and I saw a school bus.

16 Q. Do you remember when you saw that school bus that that  
17 was in the morning or in the afternoon?

18 A. I don't know what time it was. I know, I know it, I  
19 know what time it was. It was -- I don't, I don't know  
20 what time it was.

21 Q. Okay. And you said you were with two girls and two  
22 guys. Do you know their names?

23 A. One name was Ashley, Ashley, the other one's Tiara, and  
24 there were three guys. One guy name was Frank, other  
25 guy name was Ron, and the other guy name was Charles.

1 Q. And do you know any of those individuals' last names?

2 A. I think Ashley and them, I think her last name was  
3 Bryant. And Tiara, I don't know what Tiara last name.

4 Q. And did you, when Ms. Stellato and I were with you a  
5 few weeks ago, did you take us around to various  
6 locations where you thought those individuals might  
7 live or might have lived?

8 A. Yes.

9 Q. Okay. When you say you saw a police car, what do you  
10 remember about that police car?

11 A. It was just kind of strange. It was just, it was just  
12 coming down the street with the lights on. I said,  
13 look, everybody look. I was like, hey, what's going  
14 on? We -- just -- smoking a weed. And after that I  
15 seen a school bus go by. I'm like, I don't know, I'm  
16 saying, I don't --

17 Q. What do you recall about the day after the crime?

18 A. Day after the crime having to the store, having to the  
19 store. Coming to -- I just remember, I say what I  
20 remember. I remember going to the store that night and  
21 this --

22 Q. When you say that night, what night? The night of the  
23 crime or the day after the crime?

24 A. I can't know. I think it was the day of the crime.

25 Q. And what do you remember about the store?

1 A. I went to the, I went to the store, and the girl said,  
2 there's a girl, Katie, said, she said, she said, they  
3 saying you raped that girl. I was like, what girl?  
4 She said, that girl right there. So I like, what? I  
5 say, I didn't rape no girl. And so there -- she was in  
6 the store and her dad was in there, everybody. So I  
7 run out the store. I was like, I was like, I raped  
8 her? I said, I -- what -- like, like, like, why she --  
9 well, I didn't do nothing then, know what I'm saying?  
10 So I, I understand that one. So I had, I had -- then I  
11 remember going to a house on Woodland, Woodland Avenue  
12 to get some blunts for Ken and Thomas.

13 Q. Whose house was that?

14 A. That was Barry and them house on Woodland Avenue. And  
15 I came back. Ken, Ken Tom as on the phone. He said  
16 the girl that got raped said was you. I said, what?  
17 So I say, I say, I say I raped no girl. So then  
18 everybody in the house at Lisa Johnson, everybody,  
19 everybody say, go straighten your face. And dude named  
20 Jamie, I call him Pie Face, said, go, go straighten  
21 your face, go by straighten your -- so I went around  
22 and straighten my face. I think it was Rickey. So we  
23 were walking around there. Her, the girl, Ann Johnson,  
24 Ann Johnson, they come up the street. And the girl  
25 point at me, busted out crying. Her dad was right

1           there, Keith was right there coming out the house. I  
2           think another girl was there, too. A -- girl, I know  
3           her mom's at work.

4                        But anyway, he chase me down the street all  
5           the way to Carolina with a butcher knife. And I had a  
6           knife on me that was saving. And more and more -- kid  
7           chased me on the bike. And then I -- so I ran -- then  
8           that's when Keith called the police. He said, he  
9           called 911, said I, said I raped his, said I raped his  
10          daughter. I kept saying I didn't rape his daughter, I  
11          kept saying I'm going to swim in everything. Called  
12          the police, the police came on Carolina, Carolina while  
13          I was standing there with my grandmother and like they  
14          was going to shoot me and everything. So I got down.  
15          I had, I had told Boo Boo, Ashley's sister, to go get  
16          grandma, grandma her wallet, because I knew something  
17          strange. So I asked her to get my, give them my  
18          wallet. And then how did she -- she made -- house,  
19          grandma got her wallet. And that's when, that's when  
20          the police, everybody came up, arrest me like that.

21                       And they, and then there are -- it took me  
22          down, took a -- told me to get out the car. At the  
23          police station when I get out the car I look this way,  
24          this way, and all this and that. And so after that, I  
25          went down there. I was still waiting and waiting.



1           Then they charged me, they charge me with second degree  
2           rape and they charge me with first degree kidnapping.  
3           That's what I remember.

4           Q.    Okay.  Had you seen the victim before the crime?

5           A.    You know what?  It seem like I have, but it seem like,  
6           it seem like I have.

7           Q.    Mr. Brown, you pled no contest to this crime.

8           A.    Yes.

9           Q.    Which is essentially a guilty plea.  Why -- you've told  
10           the Commission today that you didn't rape Ms. XXXXXX.  
11           Why did you take that plea?

12          A.    Well, because my lawyer said, he said they was going to  
13           give you 30 years.  He said, it was her word against  
14           your word.  He said, there was, there was exchanging  
15           money under the table to the jury.  And he said, the  
16           DNA didn't match.  And he said, he said, they didn't  
17           have no physical evidence.  He said -- so I didn't know  
18           nothing about no Innocence Committee.  I was -- it was  
19           -- he was like, the best thing to do is -- he asked me  
20           what I want to do.  I had, I had to take a plea.  I  
21           couldn't, I couldn't do 30 years.  My mother is 72  
22           years old.  I couldn't sit in there and wait, prove my  
23           innocence or whatever because I didn't know nobody,  
24           Innocence Committee, know what I'm saying?  The dude,  
25           the dude in prison, just, having to just -- I've ran

1 across him and got with the Innocence Committee.

2 That's the reason why, because I want, I want, I want  
3 to still see my mother while she was living and see my  
4 kids.

5 Q. You're telling the Commission today that you did not  
6 rape Ms. XXXXXX, is that correct?

7 A. I did not rape Ms. XXXXXX.

8 MS. GUICE SMITH: Commissioners, any  
9 questions for Mr. Brown?

10 JUDGE WAGONER: I might have a question. I  
11 think you talked about somebody named Boo Boo.

12 A. Boo Boo?

13 JUDGE WAGONER: Maybe I wrote it down wrong.  
14 Who is Boo Boo?

15 A. Oh, that's, that's Ashley sister.

16 JUDGE WAGONER: Ashley's sister?

17 A. Yes, ma'am.

18 JUDGE WAGONER: And she's one of the ones who  
19 was with you in the house smoking a joint maybe?

20 A. No, she wasn't there.

21 JUDGE WAGONER: Ashley was?

22 A. Ashley was there.

23 JUDGE WAGONER: Okay. And did you know Mr.  
24 -- what is the step-father's name?

25 MR. BRITT: Pressley.

1 JUDGE WAGONER: Did you know the step-father  
2 of this girl who was raped, did you know him very well?

3 A. I knew of him.

4 JUDGE WAGONER: Mr. Pressley?

5 A. I knew of him, but not like, not like that, not like,  
6 you know what I'm saying? I knew, I knew of him.

7 JUDGE WAGONER: Okay. Anybody else?

8 MS. SURGEON: How long had you lived in that  
9 neighborhood?

10 A. Since the third grade. Moved from New York City.

11 JUDGE WAGONER: Well, I'll ask you another  
12 question.

13 A. Okay.

14 JUDGE WAGONER: Okay. I believe you said  
15 that Katie, you were in the store and Katie said  
16 something about you've raped that girl. Do you  
17 remember that?

18 A. Yeah. I think she said, I think she said they were  
19 saying that I raped that girl.

20 JUDGE WAGONER: Okay, they were saying. Now,  
21 who was in that store when Katie said that? Do you  
22 remember who was there when she said that?

23 A. I think the girl was in the store.

24 JUDGE WAGONER: The girl they say you raped?

25 A. Yeah, she was in the store.

1 JUDGE WAGONER: Okay.

2 A. Her dad was in the store, Keith was in the store. All  
3 I know is, I think, I think it was Willie, Willie and  
4 his wife was in the store working. I'm not sure about  
5 that.

6 JUDGE WAGONER: Well, I'm just curious, did  
7 the girl or her father, were they standing close enough  
8 to Katie to hear what Katie said, do you think, about  
9 they're saying you raped that girl?

10 A. (Witness does not respond.)

11 JUDGE WAGONER: Were they standing close by  
12 to Katie?

13 A. Well --

14 JUDGE WAGONER: If you can remember.

15 A. No, because Katie was right, Katie was like -- it's a  
16 small store and Katie was at, like, at the counter.  
17 And they was like, like, on the, like, on the, like on  
18 the, by the beer, by, by the, by the -- this side. It  
19 was like a small -- I don't know. I don't know.

20 JUDGE WAGONER: Okay. That's all right.

21 MR. HEARD: There were several other persons  
22 who had been mentioned, some of whom you mentioned  
23 before that we have been told about. We were told  
24 about Rickey and Jamal in addition to Katie.

25 A. Yeah.

1 MR. HEARD: Do you know whether or not Keith  
2 Pressley was good friends with any of them?

3 A. I don't know.

4 MR. HEARD: So you don't know if they hung  
5 out together or had known each other for any length of  
6 time or anything like that?

7 A. (Witness shakes head negatively.)

8 MS. THOMPSON: Mr. Brown, when you saw the  
9 girl in the store, was this the day of the crime or the  
10 next day of the crime?

11 A. I think it was the day of the crime.

12 MS. THOMPSON: And when you saw her and she  
13 saw you, did she cry? Did she look surprised? Did she  
14 look like she was afraid of you? Did she walk by and  
15 stare at you? Did Mr. Pressley say anything? Did he  
16 get angry at you when he walked by? Or did they just  
17 walk out of the store?

18 A. All the above.

19 MS. THOMPSON: So she did look surprised?  
20 She was afraid of you?

21 A. I don't really know. I mean, it's just like, it's  
22 like, it's like they didn't, like they didn't, like  
23 they didn't even recognize I was in the store. Like, I  
24 don't know. I don't know.

25 MS. THOMPSON: So they didn't, they didn't?

1 A. Yeah, I don't, I don't know. I don't know what. I  
2 don't know.

3 MS. THOMPSON: She didn't cry when she looked  
4 at you?

5 A. No; no.

6 MS. THOMPSON: She just walked right by you?

7 A. Yeah; yes.

8 MR. HEARD: I understand that you were being  
9 brought, you were going back to their house so that she  
10 could see you.

11 A. Yes.

12 MR. HEARD: And you met the girl and her  
13 step-father and her mother on the way to their house?

14 A. I had -- I was -- me and Rickey walked towards their  
15 house, and Ms. -- the girl was coming down the street.  
16 And that's when the girl point at me and I think Rickey  
17 said, that's him, or something. And she busted out  
18 crying. Then Keith -- that was down the street, mine,  
19 that was down the street. And, and Keith chased me  
20 with a big, chased me with a butcher knife, and Jamal  
21 and a light-skinned dude chase me on the bike all the  
22 way back to, to Carolina Avenue.

23 MR. HEARD: But Keith was with her, with her  
24 when she pointed you out?

25 A. (Witness nods head affirmatively.)

1 MR. HEARD: Who else was with her, do you  
2 recall?

3 A. Jamal.

4 MR. HEARD: Jamal?

5 A. And a light-skin dude, and Rickey, and I think a light-  
6 skin lady.

7 MR. HEARD: So Rickey was with you walking  
8 toward them?

9 A. Yeah.

10 MR. HEARD: And they were all walking toward  
11 you?

12 A. Yeah.

13 MR. HEARD: Okay. And you said that you  
14 basically decided to take a plea based on the advice of  
15 your attorney?

16 A. (Witness does not respond.)

17 MR. HEARD: Is he the one who convinced you  
18 to take the plea?

19 A. Well, I didn't -- I mean, after he said I could get 30  
20 years, say her word against my word, and they were  
21 paying the jury under the table and all of that, I was  
22 like, anything push to shove, was already against me.  
23 That girl go there and start, burst out crying, it  
24 would have been over for me with all that going on, you  
25 know what I'm saying? So like I said, I want, I want

1 to still see my mother. I last seen my mother 72 years  
2 old right now. I still want to see my kid. Like I  
3 say, I didn't really know no about Innocence Committee  
4 or nothing, so I, I did what was best for me at that  
5 moment, you know.

6 MR. HEARD: But what did your attorney advise  
7 you? What advice did he give you? Did he specifically  
8 give you advice?

9 A. I can't really recall.

10 MR. HEARD: He didn't say, well, my  
11 suggestion to you or my advice to you is that you do --

12 A. Yeah, take --

13 MR. HEARD: Take the plea?

14 A. Yeah; I think so, yeah.

15 MR. HEARD: Okay. Thank you.

16 JUDGE WAGONER: But when you pled no contest,  
17 your lawyer or somebody had told you that the DNA did  
18 not match, is that right? You knew that?

19 A. Yes.

20 JUDGE WAGONER: But you still wanted to go on  
21 and do the no contest anyway?

22 A. Yes, ma'am.

23 JUDGE WAGONER: Okay.

24 MR. BRITT: Mr. Brown, you said a couple of  
25 times that the jury was being paid under the table.



1 A. That's what magistrate ready told me.

2 MR. BRITT: And were you all actually picking  
3 the jury to hear your case when you entered your plea?

4 A. I don't know. I don't even know about that one. It  
5 was happening so fast, I can't -- I don't, I don't know  
6 what to tell you about that one, sir.

7 MR. BRITT: Let me ask you this. You never  
8 got out of jail, did you, from the time you were  
9 arrested?

10 A. I don't think so.

11 MR. BRITT: When you were in court and  
12 entered your plea, were you wearing clothes like you  
13 are today or were you wearing a jail jumpsuit?

14 A. I don't know. I think I had on street clothes; I had  
15 on street clothes.

16 MR. BRITT: Did you always wear street  
17 clothes when you went to court?

18 A. I don't know.

19 JUDGE WAGONER: Do you remember if your mama  
20 brought you clothes to wear to court that day you plead  
21 no contest?

22 A. I think so.

23 JUDGE WAGONER: She brought you some clothes,  
24 you think?

25 A. Yeah.

1 MS. SURGEON: Mr. Brown, what was your  
2 understanding as to how many years you could be going  
3 to prison if you did not take a plea?

4 A. I was just, I was just thinking about doing, having to  
5 do the 30 years, and that, that's all I thought about,  
6 really.

7 MS. SURGEON: And what were you told would be  
8 the amount of time you could possibly spend in prison  
9 if you took a plea?

10 A. I think, I think -- I don't know.

11 MS. SURGEON: Was it your understanding that  
12 you would get less time if you took a plea?

13 A. Ma'am?

14 MS. SURGEON: Was it your understanding that  
15 you would be in prison for a shorter period of time  
16 than 30 years?

17 A. Yes.

18 MS. SURGEON: Were you told how much time you  
19 would be going to prison if you took a plea?

20 A. I think I had got a letter. I think it was one letter,  
21 I can't really remember, but I think one, one people  
22 like, like, he said, like, put down -- Lamont, Lamont  
23 Wiggins was on the case, too. See, first he had said  
24 it match, said DNA match. And then, and then he was  
25 saying about five years, ten years. And I really, I

1 really didn't understand what he was talking about  
2 because I, because I didn't do it. So I just, I just  
3 tell the truth. I didn't, I didn't, I didn't know, I  
4 didn't know really, really, really what was going on  
5 really.

6 MS. SURGEON: Thank you.

7 JUDGE WAGONER: I'm just curious, do you have  
8 to register? Do you remember if you have to register  
9 as a sex offender and live in the same place, but  
10 you've done all that, right?

11 A. Yes.

12 JUDGE WAGONER: Okay. Other questions?

13 (NO RESPONSE.)

14 MS. GUICE SMITH: Okay. Mr. Brown, you may  
15 step down and leave the room.

16 JUDGE WAGONER: Thank you very much, sir.

17 A. Thank you all.

18 JUDGE WAGONER: You have a good night.

19 A. You have a good day.

20 JUDGE WAGONER: You do, too.

21 A. I appreciate it, you all.

22 (MR. BROWN EXITS THE HEARING ROOM.)

23 \* \* \* \* \*

24 JUDGE WAGONER: Anything further for this  
25 afternoon?

1 MS. GUICE SMITH: Not for this afternoon.

2 JUDGE WAGONER: All right, then we will  
3 adjourn.

4 \* \* \* \* \*

5 (WHEREUPON, THE HEARING ADJOURNED AT  
6 3:40 P.M. ON DECEMBER 9, AND RESUMED AT 9:08 A.M. ON  
7 DECEMBER 10.)

8 \* \* \* \* \*

9 JUDGE WAGONER: I'm going to call us to order  
10 again. Before we go any further and have the victim  
11 impact statement, there were some portions of testimony  
12 yesterday in which two minors' names who were potential  
13 victims came out in testimony. I'm going to order the  
14 court reporter to redact those individuals' names. And  
15 if you have any questions, you can probably get with  
16 staff and they can tell you exactly which ones. This  
17 will become public record and we don't want those young  
18 peoples' names coming out.

19 Anything further?

20 MS. GUICE SMITH: I don't think so.

21 JUDGE WAGONER: Now, does anybody have any  
22 questions about anything so far?

23 (NO RESPONSE.)

24 JUDGE WAGONER: Okay. We will now proceed  
25 with the victim impact statement.

1 MS. GUICE SMITH: Prior to doing that, I'm  
2 going to have Ms. Stellato go to the stand, and if any  
3 Commissioners had any outstanding questions that you  
4 want to ask, now would be the time to do that.

5 JUDGE WAGONER: And again, if you have any  
6 questions, she does the victim impact statement,  
7 something comes up, we can ask them then.

8

9 **Sharon Stellato, having first been duly**  
10 **sworn, testified as follows:**

11

12 EXAMINATION BY MS. GUICE SMITH

13 MS. GUICE SMITH: If there are no questions,  
14 Ms. Stellato is going to provide a statement from the  
15 victim. Your Honor, I would ask that this portion of  
16 the hearing be closed to the public and only staff be  
17 present, staff and Commissioners be present.

18 JUDGE WAGONER: All right. I want to ask,  
19 unless you are staff or a Commissioner, ask that you  
20 please vacate the room. Anybody?

21 Yes, ma'am, and if you would speak up a  
22 little bit.

23 A. Of course. Sorry. As I told you yesterday, we spoke  
24 to the victim on the phone on November 30, 2015. She  
25 stated that she may or may not attend the hearing

1           today. I asked her if she did not attend the hearing,  
2           if there was anything she would want the Commissioners  
3           to know. Prior to that, I asked her if she was  
4           confident today in her identification of Mr. Brown.  
5           She stated yes. I asked her, after her identification  
6           if she had ever had any doubts or saw anyone that she  
7           believed could have been the individual who raped her.  
8           She answered no. I stated we were trying to make sure  
9           that she stood by her identification and I asked her if  
10          she were to come to the hearing, I want to make sure  
11          that her position is properly relayed to the  
12          Commissioners. I asked her would her position be that  
13          she was confident that he is the man who raped her.  
14          She stated yes.

15                 She stated she had never seen Mr. Brown from  
16          the neighborhood prior to the rape. Again, she stated  
17          that Mr. Keith Pressley was her step-father for a  
18          period of time. She did confirm that there were sex  
19          abuse charges taken out against him, but that he did  
20          not abuse her in any way, sexual or otherwise.

21                 I asked her just in case she cannot attend  
22          the hearing, what would she like relayed to the  
23          Commissioners other than she is confident in her  
24          identification of Mr. Brown. She stated, if it is not  
25          him, then I want you guys to continue to check on the

1 DNA testing because I know for sure that it was him.  
2 Could you guys just continue to look over the DNA and  
3 see what it could have been or who it could have been?

4 MS. GUICE SMITH: Does that conclude the  
5 victim impact statement?

6 A. Yes, ma'am.

7 MS. GUICE SMITH: Are there any questions?

8 JUDGE WAGONER: I have two questions. First,  
9 this was a telephone interview, correct?

10 A. It was. We attempted to interview Ms. XXXXXX in  
11 person. Again, she was underage for quite some time  
12 during our investigation. She's now 19 years old. We  
13 did go to her home, we know she lived there. She was  
14 at work when we went there. She did not respond to our  
15 request to interview her in person, just over the  
16 phone.

17 JUDGE WAGONER: Do you know who was present  
18 with her when she was interviewed by phone?

19 A. She does not live with her mother anymore. I don't  
20 know if it's a roommate situation. She lives with  
21 someone, it's a female, and she has a child, she lives  
22 with the child, her child. And I know that a woman  
23 answered the phone who is not her mother, so there was  
24 another woman present and a child present. I don't  
25 know if they were --

1 (WHEREUPON, THERE WAS A POWER FAILURE IN THE  
2 ROOM AND THE PROCEEDINGS WENT OFF THE RECORD.)

3 JUDGE WAGONER: Do we know one way or another  
4 if a photograph of Mr. Brown was among the 2,000 photos  
5 that were shown to her?

6 A. Let me correct something I just said. The photographs  
7 were shown to her the day after the rape.

8 JUDGE WAGONER: Okay.

9 A. So it was the next day. And we do not believe that a  
10 photograph of Mr. Brown was shown to her because  
11 Mr. Brown was over the age of 30, and the information  
12 that the officer put in was, she put in, Detective  
13 Walcott put in black males between the ages of 15 and  
14 30, and those are the searches that came back.

15 JUDGE WAGONER: And Mr. Brown was over 30 --

16 A. He was over 30.

17 JUDGE WAGONER: -- at the time of this --

18 A. Correct.

19 MR. BRITT: Did she look at those photographs  
20 before or after the show-up occurred with Mr. Brown?

21 A. Prior to the show-up. That's when she identified the  
22 five individuals that we discussed yesterday.

23 MR. GRACE: Is there a report available from  
24 the attending nurse at the hospital?

25 A. One moment. (Witness examines document.) Your Honor,



1           may I get something out of the file?

2                         JUDGE WAGONER: Certainly.

3     A.   (Witness continues to examine documents.) On page 21  
4           of your brief there's a police report that, on the  
5           third paragraph that starts with, once the location of  
6           the rape was identified, it discusses that I  
7           transported XXXXXX and her mother to Nash General  
8           Hospital to have a rape kit completed and a physical  
9           exam. And then it talks about what happened at the  
10          hospital. We also have her medical records. There is  
11          under description of the incident, and this is written  
12          by the hospital, it says, brief account of the assault.  
13          Walking home from school with sister and friends.  
14          Stopped to tie her shoe and a man grabbed her and  
15          pulled her into an abandoned house. Took her to a room  
16          across from the bathroom. Took her pants down first,  
17          then his pants. Held her down and there was penile  
18          penetration.

19                         And I can pass this around if you'd like to  
20           see it.

21                         MR. GRACE: But we don't have the sane  
22           nurse's notes.

23     A.   That's what this is.

24                         MR. GRACE: I'd like to have that made a part  
25           of this record.

1 A. I can copy --

2 JUDGE WAGONER: All right.

3 A. I can -- actually, let me have the staff copy, and then  
4 we will have -- we will give everyone a copy.

5 JUDGE WAGONER: This is not part of our  
6 brief?

7 A. It is not, no, ma'am.

8 JUDGE WAGONER: I will order that the nurses  
9 notes, ER room notes be made a part of the record.

10 MS. GUICE SMITH: Your Honor, these are  
11 medical records for a victim who is under age, so we  
12 would request that these remain a confidential, a part  
13 of the confidential Commission file and not made a  
14 public record.

15 JUDGE WAGONER: All right. The Commissioners  
16 can look at them, and then we'll pass them back and  
17 they will not become a part of the official record, but  
18 will be --

19 MR. HEARD: Information for the Commission,  
20 but not for the record.

21 JUDGE WAGONER: Yes, it's just for us.

22 MR. GRACE: And a follow-up. The sane nurse  
23 didn't do a separate report?

24 A. No, not in the records that we were provided.

25 MR. GRACE: Thank you.

1 JUDGE WAGONER: I have a question about, and  
2 I believe it was the DNA expert who testified about  
3 this, the shoes.

4 A. Yes, ma'am.

5 JUDGE WAGONER: Could you believe the  
6 testimony was that they could not establish what size  
7 the shoe was, the shoe print, is that right?

8 A. I testified about that.

9 JUDGE WAGONER: Okay.

10 A. And I can go back to that, if you'll just give me one  
11 second.

12 JUDGE WAGONER: If you don't mind.

13 A. Sure. (Witness examines document.) We had a shoe  
14 print expert examine the impression of the shoe cast  
15 and he was able to exclude Knolly Brown's Pony shoes,  
16 not Aaron Atkins' shoes. And he could not determine  
17 the size of the shoe print.

18 JUDGE WAGONER: And would I be correct in  
19 stating that without the eyewitness identification by  
20 Ms. XXXXXX of Mr. Brown, there would be nothing to tie  
21 him to this crime?

22 A. The case didn't go to trial so we -- you know, all of  
23 the evidence wasn't presented. But if you read the  
24 affidavit from his second trial attorney and through  
25 our conversations with the second trial attorney, it

1 was a victim witness identification case.

2 JUDGE WAGONER: That was it?

3 A. Yes, ma'am.

4 JUDGE WAGONER: Okay.

5 MR. BRITT: And really, this is for my  
6 knowledge, in the court file did either lawyer file a  
7 motion to suppress the identification?

8 A. Let me -- I have the court file. I don't recall that  
9 there was one, but let me just confirm that briefly.  
10 (Witness examines document.)

11 MS. GUICE SMITH: Your Honor, while  
12 Ms. Stellato reviews that, I'm going to pass around the  
13 portion of the North Carolina Sexual Assault Data Form  
14 that includes the notes about --

15 JUDGE WAGONER: Okay. Thank you.

16 A. No, sir, Mr. Britt, there is no motion.

17 JUDGE WAGONER: Do you have a copy of his  
18 transcript of his guilty, his no contest plea? It  
19 should be like four pages long or so.

20 A. (Witness examines document.) Yes, ma'am.

21 JUDGE WAGONER: Are there any comments as to  
22 what his plea arrangement is, exactly what does it say  
23 on the third page maybe?

24 A. It says, Defendant will plead no contest to the reduced  
25 charge of second degree forcible rape. Defendant will

1 be sentenced as a level two offender in the mitigated  
2 range for a class C offence of 60 to 80 months.

3 JUDGE WAGONER: And that's it?

4 A. Yes, ma'am. Would you like to review this?

5 JUDGE WAGONER: I'm fine. Anybody else have  
6 any questions thus far?

7 MR. GRACE: Ms. Stellato, as a 19-year-old,  
8 when you spoke with the victim, describe her demeanor,  
9 her affect, and if you could tell whether she's aware  
10 of her surroundings. Did she finish high school?

11 A. I don't know if she finished high school. She  
12 understands the process. She understands that she has  
13 a right to be here, that the Commission will pay for  
14 her hotel and her meals and things of that nature. She  
15 does understand we're a neutral fact finding agency.  
16 She understands the DNA. She's very young.

17 MR. GRACE: I understand she's young, and I  
18 understand this may call for a subjective opinion, but  
19 were there any obvious mental defects or shortcomings?

20 A. No, sir. I do want to follow up on a question,  
21 Mr. Grace, that you had just asked a moment ago. There  
22 are, there is one more portion of, in the medical  
23 records, typed notes from a nurse. This is just a  
24 nurse notes. It says, patient gave a description.  
25 Black male in his 20s, dark skin, fat, wearing a white

1 shirt, black coat with fur, black pants, black shoes,  
2 with an Afro. Patient states she has never been  
3 sexually active. Rocky Mount Police Department  
4 detective states this occurred at 516 Coleman Avenue.

5 JUDGE WAGONER: Could you please read the  
6 description again? I didn't hear one of the words.

7 A. Of course. Patient states -- excuse me, patient gives  
8 a description of the person. Black man in his 20s,  
9 dark skin, fat --

10 JUDGE WAGONER: Fat, f-a-t?

11 A. Fat, yes, f-a-t. -- wearing a white shirt, black coat  
12 with fur, black shoes, with an Afro. Patient states  
13 she has never been sexually active.

14 MS. THOMPSON: Did you say that the event  
15 happened at 5 o'clock?

16 A. No.

17 MR. GRACE: 516 -- I think it was the address  
18 was 516 --

19 MS. THOMPSON: Oh, I got you.

20 A. The address for the crime. She was seen at 4:45.  
21 Patient states a sexual assault occurred between  
22 3:00 p.m. and 3:30 this afternoon. She states she was  
23 grabbed by a man in his late 20s while walking home  
24 from school. States she was taken into a home and  
25 sexually assaulted. Quote, he put his penis in my

1 vagina. She denies oral or anal intercourse. Denies  
2 being struck or beaten. States has vaginal bleeding  
3 after assault. Denies being sexually active. No  
4 condom used.

5 JUDGE WAGONER: Further questions by any  
6 Commissioners?

7 (NO RESPONSE.)

8 JUDGE WAGONER: All right. Then I guess we  
9 will thank you and we will, in a moment, have a closed  
10 session and proceed to deliberations.

11 MS. GUICE SMITH: Ms. Stellato, you may step  
12 down.

13 A. (Witness complies.)

14 \* \* \* \* \*

15 JUDGE WAGONER: Do you all want these back  
16 before we -

17 MS. GUICE SMITH: Yes.

18 JUDGE WAGONER: Pass them that way.

19 (COMMISSIONERS COMPLY.)

20 MS. GUICE SMITH: Thank you, Commissioners,  
21 for your patience during this hearing. That will  
22 conclude the presentation of the case by the Commission  
23 staff. You are now asked to decide whether you  
24 conclude there is sufficient evidence of factual  
25 innocence to merit judicial review. Because this

1 conviction resulted from a plea, your vote will need to  
2 be unanimous in order to move the case forward. You  
3 may decide that there is sufficient evidence and the  
4 case will be referred to a three-judge panel. You may  
5 decide that there is not sufficient evidence and the  
6 case will be closed. Or you may instruct the  
7 Commission staff to continue its investigation and  
8 reconvene this hearing at a later date.

9 At this time I would request that - I'm  
10 sorry?

11 MS. COVER: Well, I think I need to exit at  
12 this point.

13 JUDGE WAGONER: Yes.

14 MS. GUICE SMITH: At this time I request that  
15 alternates who are not serving in the role of  
16 Commissioner, please exit. Yes, Mr. Britt?

17 MR. BRITT: During deliberations do we have  
18 access to your files?

19 MS. GUICE SMITH: You will have access to me  
20 and anything that we presented. If there's something  
21 that, if there is something that we presented that is  
22 in the file that you need, then I can, I can get that  
23 for you.

24 MR. BRITT: Madame Chair, I'd ask that we  
25 reopen that hearing for me to ask one question.



1 JUDGE WAGONER: Without objection, that's  
2 fine.

3 MS. COVER: So before you all proceed and  
4 before I exit, could I have one moment?

5 JUDGE WAGONER: Yes, ma'am. Except right now  
6 I have re-opened the hearing.

7 MS. COVER: Oh, you've re-opened, okay.

8 JUDGE WAGONER: And he wants to ask another  
9 question. Do you need Ms. Stellato or who?

10 MR. BRITT: I think either one. Is there a  
11 photograph of Knolly Brown at the time of his arrest in  
12 this case?

13 MS. GUICE SMITH: Let me see if we have that  
14 right here with us. (Ms. Guice Smith examines  
15 documents.)

16 MS. STELLATO: We can very quickly pull one  
17 for you.

18 MR. BRITT: Is it his booking photograph?

19 MS. STELLATO: It will be a booking  
20 photograph.

21 JUDGE WAGONER: That would be helpful.

22 MS. GUICE SMITH: We'll just be at ease for a  
23 moment while she does that. Your Honor, if you like,  
24 we could go off the record for a moment for Ms. Cover  
25 to speak.

1 JUDGE WAGONER: Yes, okay. We'll go off the  
2 record and Ms. Cover has the floor.

3 (WHEREUPON, A DISCUSSION WAS HAD OFF THE  
4 RECORD WHICH WAS NOT REPORTED.)

5 MS. GUICE SMITH: Sharon is passing around  
6 copies of booking photos of Knolly Brown. She's  
7 putting it on the page that you, your attention should  
8 be directed to. It's the bottom right picture is his  
9 booking photo from January 26, 2008, which was the day  
10 he was arrested for this crime.

11 JUDGE WAGONER: The bottom right?

12 MS. GUICE SMITH: Correct. He's in an orange  
13 jumpsuit. Your Honor, I would ask that after the  
14 Commissioners look at this, this be taken back up.  
15 This is from CJLEADS, and our agreement with them  
16 requires that we not give this information out  
17 publicly.

18 JUDGE WAGONER: Okay.

19 (COMMISSIONERS EXAMINE DOCUMENT.)

20 JUDGE WAGONER: The information on the first  
21 page of the offender's summary, is that -- it states  
22 his weight. Is that as of the date that this offence,  
23 do we know?

24 MS. GUICE SMITH: Let me look at the --

25 JUDGE WAGONER: Most recent update, it says

1 11/13/2015.

2 MS. GUICE SMITH: That would be his weight,  
3 his most current weight in the system. I don't know  
4 when that weight would have been taken.

5 JUDGE WAGONER: Okay.

6 MS. GUICE SMITH: Likely while he was in DOC.  
7 CJLEADS pulls, for those who are not familiar, pulls  
8 information from various agencies, it pulls from all  
9 law enforcement agencies who participate in the state,  
10 it pulls from DPS, and other sources as well.

11 JUDGE WAGONER: Anyone need any more time  
12 with the photos?

13 (NO RESPONSE.)

14 JUDGE WAGONER: We will pass those back  
15 around then.

16 (COMMISSIONERS COMPLY.)

17 MS. GUICE SMITH: And Judge Wagoner, if you  
18 wouldn't mind just ordering that those not become a  
19 part of the public record?

20 JUDGE WAGONER: These photos will not become  
21 a part of the public record.

22 Okay. Before we go back into -- well, before  
23 I close this again, any other questions?

24 (NO RESPONSE.)

25 JUDGE WAGONER: All right, then we will

1 proceed to deliberations. The Chair -- no one in here  
2 except Commissioners and Ms. Smith, correct?

3 MS. GUICE SMITH: Correct.

4 (WHEREUPON, THE HEARING WAS CLOSED FOR  
5 DELIBERATION FROM 9:43 A.M. THROUGH 10:32 A.M.)

6 JUDGE WAGONER: All right, I'm going to call  
7 the hearing back to order. We are now in open session  
8 and the Commission has -- the following order. This  
9 matter coming on for hearing for the North Carolina  
10 Innocence Inquiry Commission on December 9 and 10th,  
11 2015, pursuant to North Carolina General Statute  
12 Sections 15A-1460-1475. After careful review of the  
13 evidence presented the Commission hereby makes and  
14 enters the following findings of fact. First, number  
15 one, on January 25, 2008 XXXXXX XXXXXX reported being  
16 raped in an abandoned house in Rocky Mount, North  
17 Carolina.

18 Number two, on January 26, 2008 Knolly Brown  
19 was arrested by the Rocky Mount Police Department and  
20 charged with first degree statutory rape and first  
21 degree kidnapping.

22 Three, on October 14, 2009 Knolly Brown pled  
23 no contest to second degree forcible rape. Pursuant to  
24 the plea agreement with the state, Brown was sentenced  
25 to 60 to 81 months. He was released at the completion

1 of his sentence on June 27, 2013. He is currently  
2 serving five years on post release supervision.

3 Four, on May 28, 2010 the Commission received  
4 Brown's claim of innocence. Brown asserted his  
5 complete factual innocence related to the rape of  
6 XXXXXX XXXXXX, and the Commission began an inquiry  
7 pursuant to Article 92, Chapter 15A of the General  
8 Statutes.

9 Number five, throughout the Commission's  
10 inquiry Brown has fully cooperated with Commission  
11 staff in accordance with NCGS 15A-1467(g).

12 Number six, on December 9 and 10, 2015 the  
13 Commission held a full evidentiary hearing in this  
14 matter pursuant to NC General Statute 15A-1468.

15 Number seven, during the hearing the  
16 Commission considered testimonial and documentary  
17 evidence. The evidence included, among other things,  
18 A, a 52-page brief provided by the Commission -- to the  
19 Commission by the staff before the hearing; B,  
20 supplemental documentation provided during the hearing;  
21 C, live testimony by Commission Associate Director  
22 Sharon Stellato, Meghan Clement, an expert in DNA  
23 testing, and Claimant Knolly Brown; D, affidavits from  
24 Attorneys Lamont Wiggins and Matthew Sperati, Senior  
25 Police Officer Jill Tyson of the Rocky Mount Police

1 Department, and former Rocky Mount Police Department  
2 Detective Renee Walcott.

3 Eight, after carefully considering the  
4 evidence, the Commission has unanimously concluded that  
5 there is sufficient evidence of factual innocence to  
6 merit judicial review. Wherefore pursuant to NCGS 15A-  
7 1468 and as Chairman of the Commission, the undersigned  
8 refers this case to the Honorable Milton F. Fitch, Jr.,  
9 Senior Resident Superior Court Judge for Judicial  
10 District 7B-C, and respectfully request that the Chief  
11 Justice of the North Carolina Supreme Court appoint a  
12 three-judge panel and -- commission to its members to  
13 convene a special session of the Superior Court of  
14 Edgecombe County to hear evidence relevant to the  
15 Commission's recommendation. This, the 10th day of  
16 December 2015, Anna Mills Wagoner, Senior Resident  
17 Superior Court Judge, Rowan County, Chairman of the  
18 North Carolina Innocence Inquiry Commission. It is so  
19 ordered.

20 Anything further?

21 MS. GUICE SMITH: No.

22 JUDGE WAGONER: All right. Then if there is  
23 nothing further for the Commission, I will adjourn the  
24 Commission at this time and thank every one for their  
25 attention and attendance, and that's it.

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

MR. HEARD: Do we have administrative matters?

JUDGE WAGONER: Huh?

MR. HEARD: Do we have administrative matters to deal with?

JUDGE WAGONER: And then we will -- I will adjourn this Commission for the purpose of hearing Mr. Brown's case. However, we will remain in session to deal with some administrative matters in closed session.

\* \* \* \* \*

(WHEREUPON, THE HEARING CONCLUDED AT 10:32 A.M.)

\* \* \* \* \*

