

North Carolina Innocence Inquiry Commission Brief

State v. Knolly Brown Jr.

Edgecombe County – 08 CRS 50309

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I. Format for Brief and Hearing

On December 9-10, 2015, the North Carolina Innocence Inquiry Commission (“Commission”) will conduct a hearing in this case. Currently, this hearing is closed to the public.¹ A court reporter will be present at the hearing and if the Commission decides to refer the case to a three-judge panel, all documents considered by the Commission and the transcript of the proceedings shall become public record once filed with the Clerk of Superior Court in Edgecombe County.²

This brief is submitted to the Commissioners prior to the hearing with the request that each Commissioner carefully review it in preparation for the hearing. The brief covers information about the case available prior to the investigation by the Commission staff. The hearing will focus on evidence uncovered during the Commission’s investigation. The Commission has subpoenaed witnesses for this hearing.

This brief is formatted to be read from start to finish with the attachments inserted directly into the body of the brief.

The Commission will be asked to consider the following options:

1. Conclude that there is sufficient evidence of factual innocence to merit judicial review and refer the case to a three-judge panel pursuant to N.C.G.S. § 15A-1468(c).

¹ N.C.G.S. § 15A-1468(a) and NCIIC Rules and Procedures Article 6(E).

² N.C.G.S. § 15A-1468(e) and NCIIC Rules and Procedures Article 6(K).

2. Conclude that there is not sufficient evidence of factual innocence to merit judicial review and close the investigation pursuant to N.C.G.S. § 15A-1468(c). Evidence favorable to the convicted person would be disclosed to him and his attorney pursuant to N.C.G.S. § 15A-1468(d).
3. Direct the staff to conduct further investigation into this case and continue the hearing to a later date.

II. Hearing Witnesses

The following individuals are expected to be called to testify at the December 9-10, 2015

hearing:

- Knolly Brown Jr., Claimant
- Meghan Clement, DNA Expert
- Sharon Stellato, Commission Associate Director

III. Introduction to Case

On January 25, 2008, the Victim, 12-year old Keyona Mercer, was walking home from school when she was grabbed and forced into an abandoned home in Rocky Mount, NC. The perpetrator vaginally penetrated the Victim. After the rape, the perpetrator ran from the abandoned house and the Victim got up and walked home. When she arrived home, she told her mother about the rape. The police were called and the Victim was taken to the hospital where a rape kit was performed and the Victim's clothing was collected.

The day after the crime, the Victim saw the man she believed was the perpetrator on the porch at a house across the street from her friend's house. The man was later identified as the defendant, Knolly Brown. That same day a show up was conducted. The Victim identified the defendant as the man she had just seen and as the man who had raped her.

A hair from the Victim's pubic hair combings was deemed by the NC State Bureau of Investigation Crime Laboratory (SBI Crime Lab) to be consistent with the hair of Knolly Brown. It was later DNA tested by the Connecticut Department of Public Safety Forensic Science Laboratory (CT DPS Lab) and determined to be that of the Victim or her maternal relatives. No additional testing was conducted during the original investigation.

On October 14, 2009, Knolly Brown pled no contest to Second Degree Forcible Rape. He was released from prison on June 27, 2013 and is now serving a five-year term of post-release supervision.

The Commission has conducted extensive DNA testing in this case. The results of the DNA testing, along with the Commission's investigation, will be presented at the upcoming hearing.

IV. Timeline

Date and Time (if known)	Event / Description
January 25, 2008 ~2:45 PM	Victim, Brittany Mercer (Victim's sister), Devonte "Jamal" Johnson (Victim's friend), and others walk home from school.
January 25, 2008 ~2:55-3:00 PM	Victim's friends depart and then her sister departs while the Victim ties her shoe near the corner of E. Grand Avenue and Coleman Avenue. Victim is then pulled into an abandoned home (516 Coleman Avenue) and raped.
January 25, 2008 ~3:00 PM	Brittany Mercer (Victim's sister) arrives home from school.
January 25, 2008 ~3:20 PM	Victim arrives home and tells her mom about the rape. Victim's mother calls police.
January 25, 2008 ~3:30 PM	Officer Helper and Cpl. Walcott of the Rocky Mount Police Department (RMPD) respond to Victim's home in reference to the rape of Victim.
January 25, 2008 ~3:30 PM	Officer Helper and Cpl. Walcott speak with Victim's mother.
January 25, 2008 (afternoon)	Victim takes Cpl. Walcott to location of rape. Victim describes how she was taken into the home.
January 25, 2008 (afternoon)	Officer Helper conducts canvass of neighborhood for possible witnesses and suspects. During canvass, Officer Helper interviews Devonte "Jamal" Johnson (friend who was walking home with Victim). During canvass, Officer Helper interviews Antoine Michael Johnson as possible suspect.
January 25, 2008 (afternoon)	Officer Helper takes a photo of Antoine Johnson and makes a photo lineup. Cpl. Walcott shows photo lineup to Victim. Victim does not identify Antoine Johnson as the suspect.
January 25, 2008	Items are collected from crime scene. These include a condom, a condom wrapper, and a cast of a shoe print located at the crime scene.
January 25, 2008 (afternoon)	Cpl. Walcott takes Victim to the hospital. A rape kit is performed. Victim's clothing is collected. While at the hospital, Victim is interviewed by the admittance nurse, Jodi. Victim is also interviewed by the attending physician, Dr. Joe Haling.
January 25, 2008 (afternoon)	Cpl. Walcott interviews Victim's sister, Brittany Mercer.
January 25, 2008 (afternoon/evening)	Cpl. Walcott conducts a detailed interview of Victim while she is still at the hospital.
January 26, 2008 10:30 AM	Victim meets with Cpl. Walcott at RMPD. Victim is shown 2,612 photographs of individuals meeting the description "black male ages 15-30."

	Victim picks out five individuals who look like the perpetrator or have something similar that reminds her of the perpetrator.
January 26, 2008	Officer Helper responds to a call regarding Victim spotting the suspect in this case. When Officer Helper arrives he speaks to Victim.
January 26, 2008 3:15 PM	Cpl. Walcott receives a call from Officer Helper informing her that Victim saw the black male that raped her while she was on her way to her friend Jamal's house.
January 26, 2008 (afternoon)	Officer Helper conducts a show up with the Defendant, Knolly Brown (Brown). Victim confirms that Brown is the man that she had just seen a few minutes prior, as well as the same man that had raped her the day before.
January 26, 2008 (afternoon)	Brown is taken to station for questioning. He is read his rights and requests an attorney.
January 26, 2008 (afternoon)	Two search warrants are issued: one for the residence at which Brown is living (clothing he may have been wearing the day before); and one for a Suspect Evidence Collection Kit from Brown and the clothing Brown is wearing at that time.
January 26, 2008 (afternoon)	An arrest warrant is issued for Brown on the charges of 1 st Degree Statutory Rape and 1 st Degree Kidnapping.
January 26, 2008	Items are collected from Brown's residence. These include two pair of black jeans. Suspect Evidence Collection Kit is collected from Brown's person. Clothing and shoes are collected from Brown's person.
January 28, 2008	Cpl. Walcott re-interviews Victim. The focus of this interview is to determine how Victim identified Brown as her attacker.
January 28, 2008	Brown has his first appearance before a District Court Judge. Bond remains in the amount of \$175,000 secured. Attorney Lamont Wiggins is assigned as Counsel of record for Brown.
January 30, 2008 2:40 PM	Cpl. Walcott goes to Parker Middle School to walk home with Victim in an effort to get a timeline of the events and understand what occurred. Victim is released from school and walks with Cpl. Walcott on the route that she took the day of the crime. (Note: as they are cutting through the cemetery, Victim realizes that she did not take the shortcut through the cemetery the day of the crime. Cpl. Walcott estimates that it would have only taken an extra 2-3 minutes to walk the other route).
January 30, 2008 2:54 PM	Victim and Cpl. Walcott arrive at the corner of Coleman Avenue and East Grand Avenue (location where Victim's friends left her on the day of the crime)
April 7, 2008	Grand Jury returns Bill of Indictment for First Degree Kidnapping and First Degree Rape of a Child.
May 9, 2008	Items of evidence are submitted to the SBI Crime Lab for hair examination.
September 5, 2008	SBI Crime Lab issues report for examination of hair evidence. One pubic head fragment with Negroid characteristics is found to be microscopically similar to that of Brown. This hair is sent to the CT DPS Lab for mitochondrial DNA analysis.
September 11, 2008	Cpl. Walcott receives lab report dated 9/5/2008 from SBI Crime Lab.
September 11, 2008	CT DPS Lab receives request from NC SBI Crime Lab for mitochondrial DNA testing of hair.

November 17, 2008	CT DPS Lab issues Trace Evidence report. The pubic hair fragment is forwarded to the mitochondrial DNA section of the CT DPS Lab for further analysis.
March 30, 2009	CT DPS Lab issues Mitochondrial DNA Report. Brown is excluded as a source of the DNA from the hair from the Victim's pubic hair combings. The Victim and her maternal relatives cannot be excluded as a source of this DNA.
March 30, 2009	CT DPS Lab returned evidence to Cpl. Walcott at RMPD via UPS Next Day Air.
May 27, 2009	Brown writes letter in Edgecombe County Clerk's file asking that he be appointed a new attorney because he wants to fire Attorney Wiggins. Brown says that Wiggins failed to respond to him, visit him, or update him on his case.
June 24, 2009	An Order is issued allowing Attorney Lamont Wiggins to withdraw as Counsel of record for Brown. Attorney Matthew Sperati is assigned as Counsel of record for Brown.
October 13, 2009	Officer M.T. Lewis meets with Victim and shows her a photograph of a black male. Victim views the photograph and states she has never seen the black male before.
October 14, 2009	Brown pleads no contest to the reduced charge of Second Degree Forcible Rape.
May 4, 2010	Letter from Brown to NC Innocence Inquiry Commission (Commission) requesting review of innocence claim.
May 28, 2010	Commission receives Brown's questionnaire.

V. Law Enforcement Investigation

Agencies and Officers

This case was investigated by the Rocky Mount Police Department (RMPD). Cpl. Renee Walcott was the lead investigator. Officer R.A. Helper responded to the scene and conducted follow-up investigation.

The North Carolina State Bureau of Investigation Crime Laboratory (SBI Crime Lab) conducted forensic analysis in the case. Additionally, the Connecticut Department of Public Safety Forensic Science Laboratory (CT DPS Lab) conducted Mitochondrial DNA analysis in the case.

The Commission received files from RMPD, the SBI Crime Lab, the Edgecombe County Clerk's office, and the Edgecombe County District Attorney's office. A review of those files is the basis for the summary of the original investigation, outlined below.

Initial Investigation

On January 25, 2008, at approximately 3:30 PM, Cpl. Renee Walcott and Officer R.A. Helper of RMPD responded to the home of the Victim in reference to a rape. The Victim described her attacker as a black male wearing a coat with fur around the hood, a black hoodie, a white t-shirt, black jeans, and black sneakers. She described the male as being in his 20's and approximately 5' 10" in height and having a short afro.³

³ RMPD File, RMPD Supplementary Investigation Reports, 1/26/2008 & 1/29/2008, Bates Stamp pgs. 4-5 & 19-25.

The Victim took Cpl. Walcott to the abandoned home where the rape occurred and described that she had been taken into the house through the back door. Cpl. Walcott identified two different sets of foot prints in the dirt near the back door. According to Cpl. Walcott, one set of prints appeared to match the tennis shoes that the Victim was wearing. The second set appeared to be larger than the Victim's. The crime scene was secured and evidence technicians were contacted to photograph the prints.⁴

The Victim was transported to Nash General Hospital to have a physical exam and rape kit completed. The Victim told the nurse that she "was walking home from school with her sister, a friend, and her sister's friend. While she was at the corner, she fixed her shoe and they kept walking. A man pulled her and dragged her into a house. The man then pulled her pants down and stuck his penis in her vagina."⁵ The Victim also informed the nurse that she had never had sex before. The Victim then told a consistent story to the attending physician. The Victim provided additional details of the crime to Cpl. Walcott in a follow-up interview.⁶

Cpl. Walcott also interviewed the Victim's sister, Brittany Mercer (age 14). Brittany stated that the Victim was walking with two girls and a boy named Jamal. The last time that Brittany saw her sister was when she was turning the corner from Coleman Avenue to East Highland Avenue. At that time her sister was near the main road (East Grand Avenue and Coleman Avenue). As Brittany was turning the corner, she told the Victim to come on home.

⁴ RMPD File, RMPD Case Supplemental Reports, Bates Stamp pgs. 19-20.

⁵ Id. at pg. 20.

⁶ Id. at pgs. 21-22. This report is provided in its entirety beginning at pg. 20 of the Commission brief.

The Victim did not come and Brittany went home. Brittany did not see or hear anything the rest of the way home.

Alternate Suspects

On the day of the crime, Officer Helper canvased the neighborhood for possible witnesses and suspects. The first person he spoke with was Devonte “Jamal” Johnson. Johnson had been walking home with the Victim from school that day. After leaving the Victim on the corner of Coleman Avenue and East Highland Avenue, Johnson walked home. While walking back to his house, he noticed a black male walking from behind 516 Coleman Avenue towards Woodland Avenue. He described the individual as wearing a black jacket, dark colored hoodie, and black jeans. Johnson said he was about 5’10” in height and weighed about 160 pounds.⁷

After speaking with Johnson, Officer Helper noticed an individual walking down the 400 block of Coleman Avenue that matched the suspect description. The individual was identified as Antoine Michael Johnson. After speaking with Antoine Johnson, Officer Helper noted that he was in the area at the time of the crime. Antoine Johnson agreed to have his photograph taken. The photograph was used in a photo lineup that was shown to the Victim. The Victim did not identify Antoine Johnson as the suspect and he was released.⁸

The following day, the Victim met with Cpl. Walcott at RMPD. Cpl. Walcott entered a search for black males ages 15-30 years old into a RMPD database. The system produced 2,612 photographs. The Victim was shown these photographs and ultimately picked out five

⁷ RMPD File, RMPD Supplementary Investigation Report, 1/26/2008, Bates Stamp pg. 5.

⁸ Id. at pg. 5.

individuals whom she believed looked like or had something similar that reminded her of the suspect. These individuals were Emmanuel Maurice Battle, James Lamar Brinkley, Benjamin Christopher Gadson, Thomas Lee Battle, and James Luther Andrews. The Victim was not certain that any of these individuals was the man who raped her.⁹

Property reports indicate that shoes belonging to Aaron Delaney Atkins were collected on the day of the crime. The property report indicates that Atkins was a suspect.¹⁰ There is no additional information contained in the case file provided to the Commission by RMPD or in the copy of the RMPD file that Cpl. Walcott provided to the Commission.

Additional investigation surrounding the alternate suspects was conducted by the Commission and will be presented at the Commission hearing on December 9-10, 2015.

Knolly Brown

Around 3:15 PM on January 26, 2008, Cpl. Walcott received a call from Officer Helper. Officer Helper indicated that the Victim saw the black male that raped her while she was going to her friend Jamal's house. The Victim began crying and the black male ran. He was chased by neighbors to a home. When officers arrived they detained the black male and identified him as Knolly Brown. A show up was conducted and the Victim identified Brown as the man that she had seen while walking to her friend's house as well as the man that raped her the day before. A warrant was obtained for Brown's person in order to collect a Suspect Evidence Collection Kit and the clothing he was wearing at the time of arrest. A warrant was also obtained for Brown's

⁹ RMPD File, RMPD Case Supplemental Reports, Bates Stamp pgs. 22-23.

¹⁰ Property and Evidence Voucher as provided to the Commission by RMPD on 2/13/2013.

home to locate clothes that he may have been wearing during the crime. On that same day, Brown was arrested for First Degree Statutory Rape and First Degree Kidnapping.¹¹

On January 28, 2008, Cpl. Walcott met with the Victim to discuss how the Victim had identified the man who raped her. The Victim indicated that she was walking to a friend's house. When she arrived at Devonte "Jamal" Johnson's house, she saw the man that raped her on a porch of a drug dealer's house. The Victim stated that the man was wearing the same clothes. When she saw him, the Victim told Jamal's uncle and Jamal's uncle then brought the man back to the Victim's house for her to identify. When the Victim walked around the corner toward her home, the man took off running. Officer Helper brought the Victim to the train station to identify the man in custody. The Victim said that the man was the man she saw while she was on Jamal's porch and that she was 100% sure that he was the man who raped her.¹²

Investigative reports, handwritten notes and crime scene photographs¹³ from the RMPD file are included below.

¹¹ RMPD File, RMPD Case Supplemental Reports, Bates Stamp pg. 23.

¹² Id. at 24.

¹³ The first photograph is of the front of the house where the crime occurred, taken by RMPD during the initial investigation of the crime. The second photograph is of the back door of the house, taken by RMPD during the initial investigation of the crime. Photographs of the home taken during the Commission's investigation will be presented at the Commission hearing.

CONTINUATION PAGE

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1. Agency: Rocky Mount Police Department	2. ORI: NC 0330100	3. CONTINUATION TO: <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> OPS REPORT	4. OCA FILE NO.: 2008-000931
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On 1-25-08, I responded to a rape call at 707 E. Highland Avenue. I spoke with the victim, Keyona Mercer when I arrived on scene. She was upset and crying when I saw her. I was able to talk with her and get her name and a description of the suspect. The description she gave me was a black male wearing a black coat, black jeans, and a white t-shirt under the coat. The suspect was a younger male in his 20's about 5'10 in height.

The victim advised me that this occurred while she was walking home from school. She said she could point the house out to me where the offense occurred. During that time Cpl. Walcott arrived on scene and Keyona rode with her to show her the house. Keyona's mother also rode with Cpl. Walcott.

I spoke with Keyona's mother, Kate Mercer prior to them going to the crime scene. Kate could only advise me that her daughter Keyona arrived home later than normal and was upset. It was at this time that Keyona told her mother that she had been raped. I also spoke to Keyona's sister Britany and she advised me that Keyona was walking home with a boy named Jamal and another female. During my canvassing of the neighborhood I was able to identify Jamal as Devonte Johnson. Keyona and Devonte were behind Britany and her group of friends. According to Kate Britany arrived home at approximately 1445 hours and Keyona did not get home until about 1515 hours.


I followed Cpl. Walcott and the victim to the crime scene. After driving around the block the victim pointed out the house located at 516 Coleman Avenue as the place of offense. Keyona explained to Cpl. Walcott that the suspect took her to the back of the house and forced her inside then raped her. The evidence technicians were called out and they arrived on scene to process it. The scene was secured by Officer C.B. Whichard. While they were processing the crime scene I was canvassing the neighborhood for possible witnesses and suspects.

One of the first people I talked to was, Devonte Johnson. Johnson lives at 819 E. Grand Avenue and according to Keyona's sister he was walking home with her and another girl. Devonte said that he walked Keyona to the corner of Coleman Avenue and E. Highland Ave. He stated that when he was walking back to his house he noticed a black male subject walking from behind 516 Coleman Avenue towards Woodland Avenue. He said the subject was wearing a black jacket, dark colored hoodie, and black jeans. He also said the subject was about 5'10 in height and weighed about 160 pounds.

After talking with Devonte, I noticed a subject walking down the 400 block of Coleman Avenue that matched the suspect description. I approached the subject and identified him as Antoine Michael Johnson. Antoine was accompanied by his step father and they both advised that they just came from 716 E. Highland Ave. There was no photograph in our pistol records system of Johnson and he volunteered to come to the station so that I could take one. While on the way to the station Johnson talked to me about what he was doing today and said he didn't know anything about what was going on.

While talking with Johnson I learned that he arrived at 716 E. Highland Avenue around 1200 hours and left about 1500 hours and went to the store on E. Grand Avenue. He said he bought some drinks and chips and was only gone for about ten to fifteen minutes. He went straight back to 716 E. Highland Avenue and took his sister a bag of chips. According to the time line of when Keyona was walking home this would put Johnson in the area at the time of the crime. I made a photo lineup using Antoine's photo and five other photos that were very similar. That lineup was taken to Cpl. Walcott by Lt. McGrath and she went over it with the victim. The victim did not identify Antoine as the suspect and when I received that information he was released.


The victim was at the hospital with Cpl. Walcott receiving treatment at the time of this report. The investigation is being handled by Cpl. Walcott I have no further information at this time.

Officer Name / ID: RA Nepler 1323	Officer Signature: 	Date / Time Submitted: 1-26-08 / 0830	Page of 2
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CONTINUATION PAGE

1. Agency: Rocky Mount Police Department	2. ORI: NC 0330100	3. CONTINUATION TO: <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> NARRATIVE <input type="checkbox"/> OPS REPORT	4. OCA FILE NO.: 2008-000931
<p>Keyona told me that she saw the man who raped her yesterday. Keyona was walking over to her house from Devonte's house and noticed the suspect on Highland Avenue by her residence. Keyona turned very emotional when she saw the suspect and told the people in the area that the man standing by her house was the same man that raped her. That man was identified as Knolly Brown Jr.</p> <p>Officer Whichard took Knolly Brown to the area between the bus station and train station for a show up. This was to make sure that the subject Whichard had was the same guy that Keyona identified as the suspect. As we approached Mr. Brown I could see that Keyona was getting upset. She started to cry and she told me that Brown was the guy that raped her.</p> <p>I confirmed the information to Officer Whichard and he transported Brown to the station. I transported Keyona and her mother back to their house on Highland Avenue. While on the way back to Keyona's house, I asked her how sure she was that the man she saw was the one that raped her and she said on a scale of one to two it was a ten. There was no doubt in Keyona's mind that Brown was the same guy that took her into the house and raped her just a day earlier.</p> <p>I made contact with Cpl. Walcott and informed her of the situation and she responded to the station to interview the suspect. Brown refused to make any statements without a lawyer present. According to information from Officer Whichard Brown attempted to make his way into 515 Carolina Avenue prior to being taken into custody. Brown confirmed that he did stay at 515 Carolina Avenue. The pants that Brown had on at the time of his arrest were not the same ones that he was described as wearing the day before. I asked him for consent to go get his pants from yesterday out of his house and he denied me getting same. Based on the information we had from the victim and the fact that we knew he stayed at 515 Carolina Avenue, Cpl. Walcott wrote a search warrant to obtain clothing that belonged to the suspect so it could be collected as evidence. That warrant was signed and approved by magistrate R. Mitchell.</p> <p>After the warrant was signed I went and did a search of 515 Carolina Avenue. I searched Knolly Brown Jr's bedroom and I located two pair of black jeans. The one pair had several small white stains on the front right pant leg. The pants were collected and turned into evidence. They will be sent to the SBI lab so DNA testing can be done.</p> <p>He was charged with second degree statutory rape and kidnapping. He was also taken to the Nash County Jail for evidence collection pursuant to a search warrant that Cpl. Walcott wrote. He was then transported to the Edgecombe County Jail, where he was being held on a \$175,000.00 bond. His first appearance was set for 1-28-2008.</p> <p>See Cpl. Walcott's supplement for further information.</p>			
Officer Name / ID: R.A. Hepler / 3623	Officer Signature: 	Date / Time Submitted: 01-28-2008	Page of 2 2

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: **CLOSE/CLEARED**Case Mng Status: **CLEARED BY ARREST**

Occured: 01/25/2008

Offense: **RAPE**Investigator: **WALCOTT, R. L. (2865)**Supervisor: **MOSELEY, D. H. (2002)**

Date / Time: 01/29/2008 16:26:47, Tuesday

Contact:

Supervisor Review Date / Time: 01/29/2008 16:27:07, Tuesday

Reference: *Followup*

2008-000931

01/25/2008

1st Degree Statutory Rape

1st Degree Kidnapping

Victim: Keyona Ashaunti Mercer

707 E. Highland Avenue

Rocky Mount, NC 27801

About 5ft in height, 90-100lbs

DOB: 01/21/1996 (12)

FEB 05 2008

Mother: Kate Francis Mercer

No phone

Mother's Boyfriend: Keith Preston

707 E. Highland Avenue

Rocky Mount, NC 27801

DOB: 09/19/1964

On 01/25/2008 at about 1530hours, I responded to 707 E. Highland Avenue in reference to a rape of Keyona Mercer, a twelve year old female juvenile. Prior to my arrival patrol gave out a description of the suspect as a dark skinned black male wearing a black coat with fur around the hood, black pants and a short afro. Upon my arrival patrol units were talking with the victim and circulating the area for the suspect.

Keyona agreed to take me to the location that the rape occurred with her mother, Kate Mercer. While on the way to the location the rape occurred, I asked Mrs. Mercer how late Keyona was returning home from school. Mrs. Mercer stated that Keyona usually arrives home right at 3pm some times a bit sooner. Today Keyona did not arrive home until about 3:20. Mrs. Mercer thought something was wrong because her other daughter Brittany returned home on time, about 20 minutes prior to Keyona.

Keyona brought me to the address of 516 Coleman Avenue. 516 Coleman Avenue is a boarded up vacant residence. When I pulled up in front of the house Keyona pointed out that her book bag was sitting to the right of the drive way near the sidewalk of 508 Coleman Avenue. I brought her the bag and asked her if that is where she dropped it. She

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: **CLOSE/CLEARED**Case Mng Status: **CLEARED BY ARREST**

Occured: 01/25/2008

Offense: **RAPE**Investigator: **WALCOTT, R. L. (2865)**

said she didn't think so because she thought she had it when he forced her into the vacant house. When Keyona ran out of the house she did not have her bag with her. She said that the suspect must have dropped it there.

I asked Keyona how she got into the house and she told me through the back door. I then walked to the back door with patrol units and we immediately noticed two different sets of foot prints in the dirt near the back door. Patrol then blocked off the yard so no one could contaminate the foot prints. Evidence Technician Wester and Edwards were contacted to photograph the prints. I retrieved one of Keyona's sneakers and brought it to the back of the residence to compare with the foot prints found in the dirt to her shoe. I located several prints that matched Keyona's shoes and another set of foot prints with a different pattern. The second set of prints appeared to be larger than Keyona's.

Once the location of the rape was identified, I transported Keyona and her mother to Nash General Hospital to have a rape kit completed and a physical exam. When we arrived at Nash General Hospital, Keyona was admitted to emergency room E-19. Her admittance nurse Jodi asked her what happened. Keyona said that she was walking home from school with her sister, a friend, and her sister's friend. While she was at the corner she fixed her shoe and they kept walking. A man pulled her and dragged her into a house. The man then pulled her pants down and stuck his penis in her vagina. Keyona told the nurse that she had not changed her clothes or gone to the bathroom. She had never had sex before or been to see a gynecologist. Keyona's last menstrual cycle was at the first of the month and she thought that since this had happened this afternoon that she had started bleeding.

Once the nurse had gathered the basic information about the incident, the attending physician Dr. Joe Haling spoke with Keyona. Talking with Dr. Haling, Keyona said that when school releases the car riders leave first. Next, the walkers are called to leave between 2:45 or 2:50pm. Keyona continued to tell Dr. Haling that she left school and walked with her sister and some friends. Her friends went home and she bent down to fix her shoe lace. Her sister continued walking home and was already ahead of her. Dr. Haling asked Keyona if her sister saw the man or heard her yelling. Keyona said she didn't know and thought that if she did that maybe her sister thought it was one of her friends playing around with her. She then said that her sister was already around the corner when he dragged her around the house. Dr. Haling asked if the suspect threatened her and she said he did not threaten her or say anything to her. Keyona said that the male didn't say anything to her the entire time. He pulled her behind the house and forced her inside. The suspect then took her pants off and put his penis in her vagina. She told Dr. Haling that she thought she was bleeding and complained of pain in her stomach. Again, Keyona said she had never had sex before and the suspect did not use a condom.

Next, I interviewed Keyona's sister, Brittany Mercer DOB 6/15/1993 707 E. Highland Avenue Rocky Mount, NC. I spoke with Brittany in the lobby of the hospital near the snack machines. Brittany said that Keyona was walking with two little girls and a boy named Jamal. The last time Brittany saw her sister was when she was turning the corner from Coleman Avenue to E. Highland Avenue. At that time Keyona was near the main road (E. Grand Avenue and Coleman Avenue). As Brittany was turning the corner she told Keyona to come on home. Keyona didn't come and Brittany continued home. She stated that she did not see or hear anything the rest of the way home.

I then went back into Keyona's room to conduct a detailed interview of what happened. Keyona stated that she is released from class at 2:30pm. The school calls the car riders to leave first and then at about 2:45 - 2:50pm walkers are

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: **CLOSE/CLEARED**

Case Mng Status: **CLEARED BY ARREST**

Occured: 01/25/2008

Offense: **RAPE**

Investigator: **WALCOTT, R. L. (2865)**

released from school. Keyona says that she left school when the walkers were called and headed straight home. She walked home with her friend Jamal, Jamal's brother and Jamal's cousin. She was not able to tell me their names during the interview.

The route Keyona said she walked home was down the street that the school is on, cut through the grave yard and turn right at the red and white apartments around the corner from the grave yard. Walk down the street the apartments are on and cross the big street to the house that she showed me, 516 Coleman Avenue.

Through my knowledge and familiarity of the area, I know that Keyona walked West on East Virginia Street toward Martin Luther King Junior Park. She then cut through Unity Cemetery, turned right on to Moore Street, turned left onto Coleman Avenue and continued walking until she reached East Grand Avenue and Coleman Avenue. Before Keyona crossed East Grand Avenue from Coleman Avenue she stated that her friends went home a couple of houses down the street on East Grand Avenue. At that time her sister Brittany was with her. She crossed the street and bent down to fix her shoe laces for about 4-5 seconds. Keyona's sister kept walking and the last time she saw Brittany she near the corner of East Highland and Coleman Avenue when she finished fixing her shoe laces. Brittany told Keyona come on home. Keyona told her to go on because she was fixing her shoe lace.

After fixing her shoes, Keyona started walking home again and a second or two later she was grabbed by a black male. She stated that the black male grabbed her right coat sleeve and arm. The unknown male then pulled her between 516 and 510 Coleman Avenue and forced her in through the back door of 516 Coleman Avenue. Keyona said that she kept screaming and telling him to let go of her while he was pulling her in between the two houses. She never fell while he was pulling her, she was able to stay on her feet the entire time. When he tried to force her into the back door of the house she hooked her feet on the stairs with the top of her shoes by her toes. The black male turned her around to unhook her feet from the stairs. While she was trying to stop from going into the house she called for her Mother and Jamal to help. She was also crying and yelling for him to get off of her and let her go. She said that no one came to help her.

The black male then forced her into the first bedroom to the left across from a bathroom once she entered the house. Keyona described the room as having a brick on the floor and a lot of glass. The male then held her up against the wall to the right when you enter the room. He closed the room door and held it shut with his foot. Next, he took Keyona's pants off while holding her against the wall and removed his pants also. The male pulled her pants down to her ankles. Keyona said that his pants were also at his ankles. He then put her on the floor and put his penis in her vagina and it popped out the first time. He then put his penis back in four to five more times. Keyona said that it was painful and was still complaining of pain. I asked Keyona if he ejaculated inside of her, and she said thought he did ejaculate inside her. During our interview I used the term semen. Keyona asked me what semen was. I explained that semen was the same as sperm and that is what comes out of the penis when a man ejaculates during sexual intercourse. Keyona seem to understand what I was telling her but clearly had a limited knowledge of sex and the male genitalia.

Keyona described the males underwear as white briefs and said he did not use a condom. She said that while he was raping her it hurt badly and she continued to complain of stomach pain, discomfort and bleeding in her vaginal area

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

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Case Status: CLOSE/CLEARED

Case Mng Status: CLEARED BY ARREST

Occured: 01/25/2008

Offense: RAPE

Investigator: WALCOTT, R. L. (2865)

while we talked. I asked Keyona how he left and she said that when he was done he stood up and put his foot on her chest to hold her down. While he was holding her down he pulled up his pants and ran out the back door with her book bag. Keyona could not tell me where he went or what direction he ran. Keyona said that he left her inside the house and ran. Keyona stood up, pulled her pants up and ran home screaming and crying for help. As soon as she got home her Mother went to her neighbor's house and called the Police.

I asked Keyona to describe the black male again. She said that he was dark skinned, short afro, in his late twenty's. He was wearing a black jacket with fur on the hood, a black hoodie, a white shirt underneath, big black pants and black sneakers. I asked Keyona if the jacket was the same as the black flight jackets with the orange lining inside. She said she thought it did have orange lining but was not 100% sure. She was 100% sure of the black coat, black hoodie, black pants and black shoes.

After I finished talking with Keyona, Nurse Leeann Brown completed the entire Sexual Assault Kit and Dr. King conducted the physical and pelvic exam. Nurse Brown used an ultra violet light on the outer portion of Keyona's person and did not locate any semen. Dr. King reported that Keyona had an abrasion on her right labia.

I asked Keyona for consent to check her over for any bruising or cuts and she agreed. The only two marks I noticed was a small amount of blood on her left knee cap from what appeared to be a small scrape and a light scrape on her right shin. The scrape only showed that something brushed up against the front of her shin and removed a very light layer of skin and did not bleed.

Keyona did not appear to be outwardly upset during our interview about what had happened; it appeared that she had not processed the incident. While she was waiting to be examined she was extremely quiet and was hard to engage in any type of small conversation. When her mother brought her dinner at about 7pm she did not want to eat because she felt sick and complained of stomach and back pain. Her mother attempted to force her to eat because the last time she had eaten was at about 11am in school. Keyona tried to eat some of her hamburger but could not finish it.

At about 7pm, I asked Mrs. Mercer if they could make arrangements to meet me at the Police Department for Keyona to review the mug shot book once the sexual assault kit was complete. Mrs. Mercer agreed and said that they would come to the station. At about 8:30 the nurse was still collecting evidence for the sexual assault kit. Keyona appeared to be exhausted from the stress of the entire incident and then having the sexual assault kit completed.

A short time later the nurse completed the assault kit and turned all of the evidence over to me. I explained to Mrs. Mercer that I was going to bring the evidence to the station and she looked at the clock to see what time she would be at the Police Station. At that time it was almost 9pm. She first said that she would be to the station by 10pm and then decided that Keyona needed to get some rest. I agreed and we set up an appointment for Saturday morning, 01/26/2008 at 9am.

On 01/26/2008, I met with Keyona at the Police Department at 10:30am. I entered the physical description of the black male she had given the day earlier. In the system I entered black male ages 15-30. Our pistol system produced 2612 pictures. When Keyona arrived at a picture of Emanuel Maurice Battle she immediately point him out and said that is

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

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Rocky Mount Police Department

OCA: 2008000931

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Case Status: CLOSE/CLEARED

Case Mng Status: CLEARED BY ARREST

Occured: 01/25/2008

Offense: RAPE

Investigator: WALCOTT, R. L. (2865)

him. I asked her how sure on a scale of 1-10 and she said she was not certain it was him but he looked very similar. I continued going through the pictures and a short time later she picked out James Lamar Brinkley. Again she said that he favored the suspect but was not 100% certain.

Keyona continued through all of the pictures and picked out three other people that had something similar that reminded her of the suspect. The three others she picked out were Benjamin Christopher Gadson, Thomas Lee Battle and James Luther Andrews. When Keyona continued picking people out she was not at all certain that they were the man who raped her. All the photos Keyona identified as possible suspects were entered into evidence and attached to this supplement.

On the same day at about 3:15pm, I received a phone call from Officer Hepler informing me that Keyona saw the black male that raped her while she was going to Jamal's house. When she saw the suspect she started crying and yelling that he was the man who raped her. The suspect took off running and neighbors in the area chased him. While they were chasing him he ran into 515 Carolina Avenue. When Officer's arrive to the area the neighbors pointed the suspect out. Officer's detained the suspect from 515 Carolina Avenue and identified him as Knolly Brown. Officer Hepler then conducted a show up with the suspect to confirm that Knolly Brown was the suspect she had just seen while walking to her friend's house. Keyona confirmed that it was the same man she had just seen a few minutes prior as well as the same man that raped her one day earlier.

After talking with Officer Hepler, I went to the Police Department to interview Knolly Brown. Upon my arrival at the police department at about 4:15pm I was informed by Lt. McGrath and Sgt. Carlton that Brown had been read his rights and he requested an attorney. At that point I looked at the suspect through the window interview room one and noticed that he appeared to be wearing the same clothes Keyona described just after the incident. However, she did not describe his pants as having stripes down the legs; she described them as being only black.

Next, I typed a search warrant on Knolly Brown Jr. to complete a SBI - subject evidence collection kit for DNA (a known blood and hair sample) to compare with the sexual assault kit obtained from Keyona Mercer. The search warrant was for the person of Knolly Brown Jr. a black male, DOB: 08/23/1970 (37), height: 601, weight: 220, SSN: 067-58-9064 and NCDL#: 7660650.

I typed a second search warrant for the residence of 515 Carolina Avenue, Rocky Mount, NC 27801. The residence Knolly Brown ran to and told Officer's he lived. The second search warrant was typed to locate other clothes that he may have possibly been wearing during the incident. It appeared that Knolly Brown was not wearing the same pants as described from the day prior. While at the station Brown was wearing fitted jogging pants with two stripes that ran down the full length of the out side of each leg. Brown also told Officer's that he had changed the pants he was wearing from the day prior.

After typing both search warrants, I obtained warrants on Knolly Brown for first degree statutory rape and first degree kidnapping. Magistrate Mitchell found probable cause for both the warrant and the search warrants.

Knolly Brown was held under a bond of \$175,000 and given a first appearance in Edgecombe County District Court in

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

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Case Status: *CLOSE/CLEARED*

Case Mng Status: *CLEARED BY ARREST*

Occured: 01/25/2008

Offense: *RAPE*

Investigator: *WALCOTT, R. L. (2865)*

Tarboro on 01/30/2008. Brown was turned over to Officer's Bunt and Stallings for service of the DNA search warrant. He was first taken to Nash County Jail where the Nash County Nurse completed the evidence collection. He was then transported to Edgecombe County Jail by both Officers.

On 1/28/2008, I went to 707 E. Highland to speak with Keyona and her mother. Keyona was home from school and still complained of back pain. She other wise seemed to be doing well. I spoke to Keyona about how she identified the man who raped her. Keyona stated that she was going to a friend's house to get her to come to a birthday party. When she arrived at Jamal's house she saw the same man that raped her on a porch of a drug dealer's house. She said that he had on the same clothes. When she saw him she told Jamal's Uncle. Jamal's Uncle then brought the man she pointed out back to Keyona's house for her to identify. At that time, Keyona still had not arrived home from Jamal's house.

While Jamal's Uncle approached the male Keyona pointed out and some how convinced black male to walk to Keyona's house with him. When they arrived at Keyona's house, Jamal's Uncle told Mrs. Mercer and her boyfriend, Keith Preston DOB: 9/19/1964 that the man he brought to the house was the man Keyona described. The man told them that he did not do anything and Keith told the man that if he did not do anything then he would not mind sticking around for Keyona to come home. A short time later they were out in front of the house waiting for Keyona. When she walked around the corner, the man saw Keyona and he took off running. Keyona again identified the same man. Keith stated that he ran after the man and saw him run into the residence of 515 Carolina Avenue. He asked several people in the neighborhood that he had told about the incident to help him and watch the house while he went to call the Police. He went to the store and called the Police. When the Police arrived, the man Keith had chased to 515 Carolina Avenue was outside on the porch and Police detained him for questioning in this case. Officer Hepler then brought Keyona to the train station to identify the man they had in custody. Keyona said that the man they had is the man that she saw while she was on Jamal's porch and she was 100% sure he was the man who raped her.

On 1/30/2008 at 2:30pm, I went to Parker Middle School to walk home with Keyona. When I arrived I saw her mother, Kate Mercer and Keyona's younger brothers waiting for both Keyona and Brittany to be released from school. My reason for walking with Keyona was to get a time line of the events and understand exactly what occurred.

At 2:40pm Keyona and Brittany were released from school. We all walked the same way Keyona had described the day of the rape. While we were walking through the cemetery Keyona said she forgot the day of the rape that they had walked straight down East Virginia Street to Coleman Avenue and then straight on Coleman Avenue. Normally, they go home the way she first explained. I estimated that would have only taken her an extra 2-3 minutes walking a few extra blocks. It took the six of us walking and talking with two young toddlers until 2:54pm to arrive at the corner of Coleman Avenue and East Grand Avenue.

I noticed that while we were walking many of the children walked faster than us and it was not long after leaving the school that we were the only people walking in the area. When we arrived at the corner we waited for traffic and crossed the street. I stopped and asked Keyona to show me where on the block she was when she fixed her shoe lace. She showed me between the house on the corner of Grand and Coleman and 516 Coleman. In between those two houses is a vacant lot.

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CASE SUPPLEMENTAL REPORT

Printed: 02/04/2008 11:08

Rocky Mount Police Department

OCA: 2008000931

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Case Status: CLOSE/CLEARED

Case Mng Status: CLEARED BY ARREST

Occured: 01/25/2008

Offense: RAPE

Investigator: WALCOTT, R. L. (2865)

I timed how long it took us to walk from where she fixed her shoe to the place she was grabbed. It took about 3-4 seconds. Next, I timed how long it took for me to walk from where Keyona tied her shoe to the corner of Coleman Avenue and Highland Avenue. It took me about 50 seconds to turn the corner on to E Highland Avenue. Keyona then pointed out the house where she saw Knolly Brown on the porch when she was going to Jamal's on Saturday 1/26/2008. The address he was seen at is 722 E. Grand Avenue. That house is about 3 houses down on the opposite side of the street from Jamal's house. From Jamal's house I could clearly see the porch of 722 E. Grand Avenue.

Case closed / Cleared by arrest

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000025

Bond 675,000 1/24/08 First App 1/31/08

S-101
1/25/08

2008-000931

1521
707 E Highland Ave

occurred
512 Coleman Ave

48

B/M 50.9 (Fat) heavy set, tall about 508

Black Coat Black Pants white shirt

Fur on coat Dark Skinned Black Shoes Short Afro

Walking home from Parker Middle School

245 leave
School 15 mins

Kayona Ashanti Mercer

wearing white shirt, red coat
black pants

"Kay" or "kiki" Jan 21, 1996 (12)

707 E. Highland Ave

Nurse Toddi

mom Kate Mercer

had period 1st of the month

H: none

lit. falling
w/ nurse

Walking home from school w/ sister friend & friend p. p.

Fixed shoe shoe kept walking

a man pulled me and dragged me into a house
and in the house he pulled on my pants and
pulled them down and stuck his penis in my vagina

hadn't charged or gone to the bathroom

First time someone had sex

never been to a female doctor

First degree Stat Rape

14-27.2 B1

First degree kidnapping

14-39 C

Knolly Brown Jr. 8/23/70 - 87

515 Carolina Ave 601 220
Dm, NC 442-0493 000049

for
Dr. Halting

Talking
to Dr. Halting

School calls walkers at 245-280 after car
riders they can leave

Sister thought the man pulling her was her friend
didn't do anything but walk home. because she
didn't see him pull on her.

didn't threaten, pulled her pants off
was bleeding after it happened.

never had sex before

he ran out of the house & threw book bag

Did not use condom

Sister was already around the corner when
he dragged her around the house



Kiki - Sister interview at hospital

^{8th} Brittany Mercer June 15, 1993 (14)

Walking with two little girls and a boy named Jamel
last time saw sister was when she turned the corner. B/M slim 5'6"
the corner. Kiki was near the main Road.

if it happened it happened.

Brittany was with her friends and when she turned
the corner told Keyona to come let's go home. She didn't
Keyona come. Kept walking in the road. She was by the
main road when Brittany turned the corner.

2:30 out of class

Walk home 2:45-2:50

• Walked home w/

Sister, Jamal, Jamal's Brother, Jamal's Cousin
route walked from school

• Walk down Virginia St towards park,
through ~~past~~ the graveyard,

(Coleman Ave) turn right at apartments ^{Red + white around corner from graveyard} brick apartments

• Keep straight on Coleman Ave

• Cross big street E. Grand Ave

• Before crossing the street all friends went home
+ Sister was with me.

• Cross St. tie shoe ^{Fixed the laces} at corner of 4-5 second
Coleman + Grand

• Sister kept walking + was at the corner
of E. Highland when finished ^(fixing laces) tying shoe

• Sister said Keyona come on home, told her
go on I'm trying to tie my shoe

• about a second later a man grabbed me
on my coat ^{Right} sleeve and arm.

• I was screaming and kept trying to pull away from him

• Kept pulling me down the side of the house
by my right arm. I was walking, trying
to pull away

• Got to the back of the house + I hooked
my feet on the stairs, yelling - ~~Off~~ for Mom,
Jamal, get off of me + crying.

• No one came over to help

• Hooked feet with toes + he turned me around

000052

nurse
510
Coleman
Ave



wall he held
me against and held door
w/ foot

52

So he could get my foot off the steps

• Then he brought me into the room on the left across from the bathroom. First room

• Room looked like - a lot of glass on floor & a brick

• he pulled down my pants while he held me up against the wall inside wall near door.

• Pulls pants w/ both hands all the way to ankles.

• Then pulled down his pants to his ankles had foot on door so couldn't get out

undid pants no belt had on white Hanes briefs

• He then put me on the floor - glass on floor bare bottom - no cuts.

• Did see penis - no condom

• Put Penis in and it popped out the first time

• & then 4-5 times more & ejaculated inside.

• He put his foot on chest & pulled up pants and ran away with book bag.

down from where he ran.

(I located book bag at 501 Coleman Ave on right side of driveway near side walk.)

• He left me inside the house & ran

(did not show any emotion during interview w/ nurse, dr., me or Forensic nurse. Shock?)

2008-000931

53

Small scrape on left knee
Small scrape on Right Shin

Rafe Kit Nurse LeAnn Brown
Pelvic Exam - Abrasion on Right Labia

Dr. King
Dr. Halting - physical
Ultra Violet light no seaman on outer body

5/1/08

000054

Lamar-Tone 54
2008-000931

B/M 15-30 2612
104/2612 Emanuel Battle - ~~BB~~ Top row middle
Maurice 1/7/83

James Lamar Brinkley
8/10/82 05

Benjamin Christopher Hadron
12/01/81

Thomas Ke Battle
7/27/978

James Luther Andrews
4/3/77

000055

1/29/08

Jamals uncle brought Brown Back to the house.

Saw him from Jamals Porch at a drug dealers house
had on same clothes.

Seen Knolly around at Jmest
Keith Preston - 9/19/1904

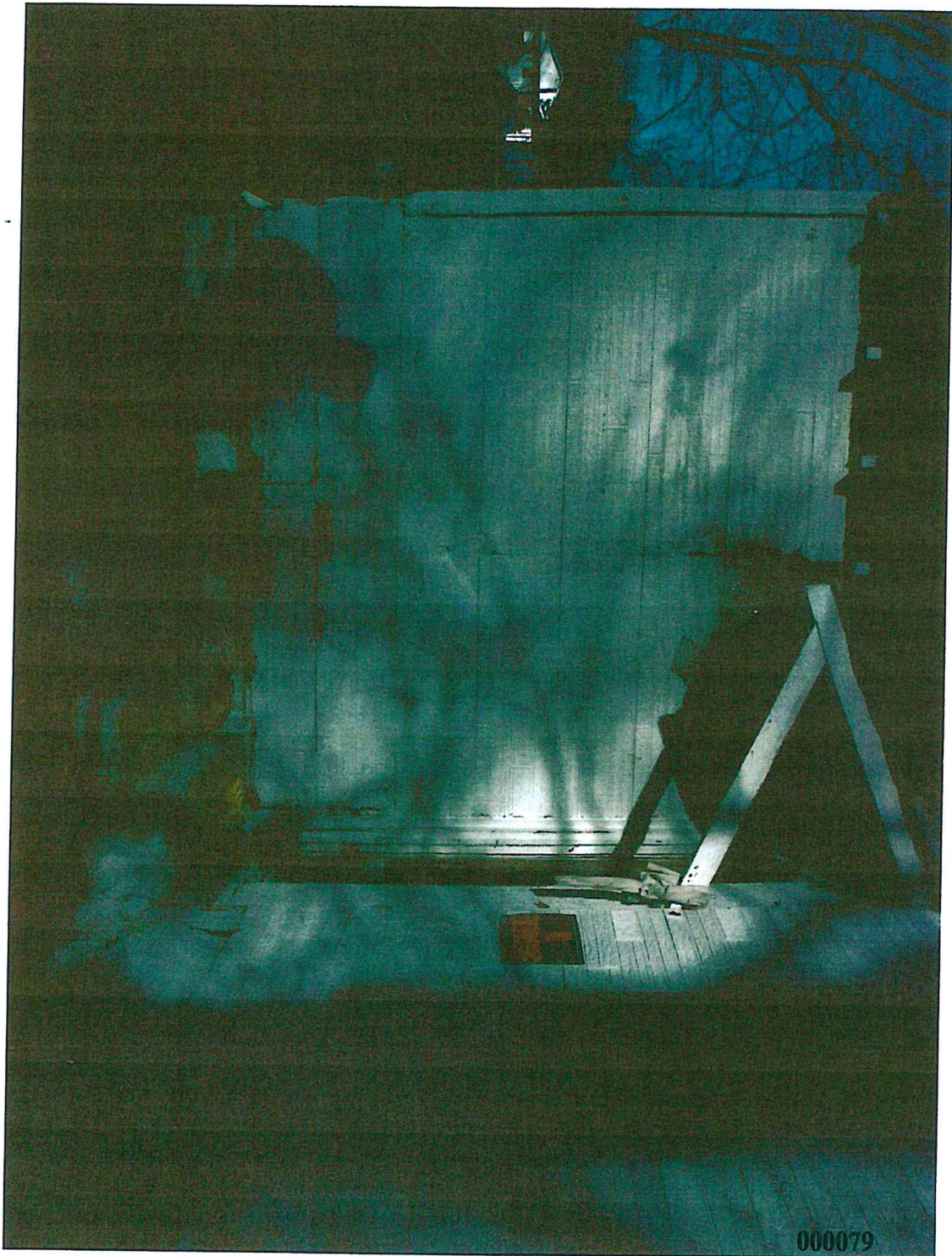
Jamals uncle ^{brought him back to house} said this is the man
Keyona describe. (Keyona was around the corner)
Keith told him if you didn't do anything
then you wont mind waiting till she could hear
Knolly saw Keyona come around the corner and
he took off running. Keith followed him to
515 Carolina ave & When police arrived
he was on the porch.

000056

Walked home w/ Keyona + mom
1/30/08 2:30 Arrived at Parker
Keyona left school at 2:40pm
arrived at E. grand & Coleman @ 2:54pm
Keyona fixed shoe Between corner house
& Sile Coleman. Sister kept walking.
Took me 50 seconds to walk from ~~the~~
Place Keyona tied shoe to Coleman & E. Highland
Keyona Pointed out the home she saw
Knolly at on Saturday. 722 E. grand. Ave.

000057





VI. Forensic Testing

RMPD submitted the Victim's Sexual Assault Kit and the Suspect Evidence Collection Kit to the SBI Crime Lab on May 8, 2008.¹⁴ An August 15, 2008 SBI Crime Lab Report indicates that the Victim's panties, vaginal swabs, and vaginal smears were subjected to blood and semen analysis. Examination of the panties gave chemical indications for the presence of blood. Examination of the vaginal swabs and panties failed to reveal the presence of semen. Microscopic examination of the vaginal smears and a slide prepared from the panties failed to reveal the presence of spermatozoa.¹⁵

¹⁴ SBI Lab File, SBI-5 Request for Examination of Physical Evidence, Bates Stamp pgs. 14-15.

¹⁵ SBI Lab File, SBI Laboratory Report, 8/15/2008, Bates Stamp pgs. 5-6.

North Carolina
State Bureau of Investigation
Department of Justice
Raleigh
Laboratory Report

TO:	R. L. Walcott Rocky Mount Police Department One Government Plaza Rocky Mount, NC 27802	DATE:	August 15, 2008
		SBI LAB NO.:	R200809884
		SBI FILE NO.:	
		AGENCY FILE NO.:	2008000931
LOCATION:	Edgecombe County	EXAMINED BY:	Jody H West
TYPE OF CASE:	Rape	DATE OF OFFENSE:	January 25, 2008
		TRACKING NO.:	
SUBJECT(S):	Knolly Brown, Jr.	Keyona Mercer (Victim)	

ITEM(S) SUBMITTED BY R. S. DEW ON MAY 9, 2008:

Item # 1:	SBI Sexual Assault Evidence Collection Kit from Keyona Mercer (Your Item 3)
Item # 1-1:	Known bloodstain from Keyona Mercer
Item # 1-2:	Two vaginal smears
Item # 1-3:	Vaginal swabs
Item # 1-4:	Panties
Item # 1-6:	Pubic hair combings
Item # 1-8:	Known head hair sample
Item # 2:	SBI Subject Evidence Collection Kit from Knolly Brown Jr (Your Item 12)
Item # 2-1:	Known bloodstain from Knolly Brown Jr.
Item # 2-2:	Known cheek scraping
Item # 2-3:	Pubic hair combings
Item # 2-4:	Known pubic hair sample
Item # 2-5:	Known head hair sample

TYPE EXAMINATION REQUESTED:

Blood and Semen

RESULTS OF EXAMINATION:

The known bloodstains from Keyona Mercer (Item 1-1) and Knolly Brown Jr. (Item 2-1) and known cheek scraping (Item 1-5 and 2-2) were not analyzed.

Examination of the panties (Item 1-4) gave chemical indications for the presence of blood.

Examination of the vaginal swabs (Item 1-3) and panties (Item 1-4) failed to reveal the presence of semen.

Microscopic examination of the vaginal smears (Item 1-2) and a slide prepared from the panties (Item 1-4) failed to

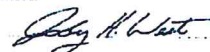
I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

COPIES TO:
H. S. Boney, DA

This report represents a true and accurate result of my analysis on the item(s) described.


Robin Pendergraft, Director


Jody H West
Forensic Biologist I

Confidential: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

000005

reveal the presence of spermatozoa.

DISPOSITION OF EVIDENCE:

Items 1-5 through 1-8 and 2-2 through 2-5 were transferred to S/A K. Crawford of the Trace Evidence Section on 8/6/2008 for further analysis.

Items 1 through 1-4, 2 and 2-1 are being retained for pickup.

000006

A September 5, 2008 SBI Crime Lab Report indicates that hairs from the Victim's pubic hair combings were microscopically compared to the pubic hair standard of Knolly Brown. Examination of the pubic hair combings from the Victim revealed the presence of one (1) pubic hair fragment with Negroid characteristics that was found to be microscopically similar to the pubic hair standard from Knolly Brown. A slide containing this hair, along with three other hairs from the Victim's pubic hair combings, was sent to the CT DPS Lab for Mitochondrial DNA analysis.¹⁶

¹⁶ SBI Lab File, SBI Laboratory Report, 9/5/2008, Bates Stamp pg. 38. Cheek scrapings and known pubic hairs from both the Victim and Knolly Brown were also sent to CT DPS for analysis.

North Carolina
State Bureau of Investigation
Department of Justice
Raleigh

Laboratory Report

TO:	R. L. Walcott Rocky Mount Police Department P. O. Box 1180 Rocky Mount, NC 27802	DATE:	September 5, 2008
		SBI LAB NO.:	R200809884
		SBI FILE NO.:	
		AGENCY FILE NO.:	2008000931
LOCATION:	Edgecombe County	EXAMINED BY:	Kristen M. Crawford
TYPE OF CASE:	Rape	DATE OF OFFENSE:	January 25, 2008
		TRACKING NO.:	
SUBJECT(S):	Knolly Brown, Jr.	Keyona Mercer (Victim)	

ITEM(S) SUBMITTED BY R. S. DEW ON MAY 9, 2008:

Item # 1-5:	Known cheek scraping collected from Keyona Mercer.
Item # 1-6:	Pubic hair combings collected from Keyona Mercer.
Item # 1-7:	Known pubic hair collected from Keyona Mercer.
Item # 1-8:	Known head hair collected from Keyona Mercer.
Item # 1-9:	Slide containing hair from the victim's pubic hair combings (Item #1-6).
Item # 2-2:	Known cheek scraping collected from Knolly Brown, Jr.
Item # 2-3:	Pubic hair combings collected from Knolly Brown, Jr.
Item # 2-4:	Known pubic hair collected from Knolly Brown, Jr.
Item # 2-5:	Known head hair collected from Knolly Brown, Jr.

TYPE EXAMINATION REQUESTED:

HAIR

RESULTS OF EXAMINATION:

Examination of Item #1-6 (pubic hair combings from Keyona Mercer) revealed the presence of one (1) pubic hair fragment with Negroid characteristics that was found to be microscopically similar to Item #2-4 (pubic hair standard from Knolly Brown Jr). This hair was submitted for mitochondrial DNA analysis.

DISPOSITION OF EVIDENCE:

Items #1-6, #1-8, #2-3 and #2-5 are being retained for pickup.

Items #1-5, #1-7, #1-9, #2-2 and #2-4 were sent to the Connecticut Department of Public Safety for mitochondrial DNA analysis via UPS.

I, Roy Cooper, Attorney General of the State of North Carolina, hereby certify that the form identified as: North Carolina State Bureau of Investigation, Department of Justice, Laboratory Report is a form approved by me for the purpose stated in G.S. 90-95(g) and approved by me in compliance with the said statute.

THIS REPORT IS TO BE USED ONLY IN CONNECTION WITH AN OFFICIAL CRIMINAL INVESTIGATION.

COPIES TO:
H. S. Boney, DA

This report represents a true and accurate result of my analysis on the item(s) described.


Robin Pendergraft, Director


Kristen M. Crawford

Confidential: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

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A November 17, 2008 CT DPS Lab Report indicates that a human Negroid-type pubic hair fragment was located in submission #3 (slide containing unknown hair), but due to the insufficient length of this hair fragment, no microscopic hair comparison was conducted. The standards for the Victim and Brown, along with the hair fragment were forwarded to the Mitochondrial DNA section of the Lab for further analysis.¹⁷

¹⁷ SBI Lab File, CT DPS Forensic Science Laboratory Trace Report, 11/17/2008, Bates Stamp pg. 40.



Deborah Messina
Director

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF SCIENTIFIC SERVICES
FORENSIC SCIENCE LABORATORY



Lieutenant David E. Rice
Commanding Officer

MITOCHONDRIAL DNA SECTION
TRACE REPORT

LABORATORY CASE #: ID-08-003185
SUBMITTING AGENCY: North Carolina State Bureau of Investigation
AGENCY CASE #: R2008-09884
TOWN OF INCIDENT: Rocky Mount, NC
DATE OF REQUEST: 09/11/2008
DATE OF REPORT: 11/17/2008
REPORT TO: Chief of Police

EVIDENCE SUBMITTED:

2. Known pubic hair – victim (#1-7)
3. Slide containing unknown hair (#1-9)
5. Known pubic hair – suspect (#2-4)

RESULTS OF EXAMINATION:

1. A human Negroid-type pubic hair fragment was located in submission #3 (slide containing unknown hair).

Due to the insufficient length of this human Negroid-type pubic hair fragment, no microscopic hair comparison was conducted.
2. Submissions #2 (known pubic hair – victim) and #5 (known pubic hair – suspect) were not examined at this time.
3. The human Negroid-type pubic hair fragment from submission #3 was forwarded to the Mitochondrial DNA section of the Laboratory for further analysis.

Anita M. Vailonis
Forensic Science Examiner 2

Mary Beth Raffin
Forensic Science Examiner 2

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A March 30, 2009 CT DPS Lab Report indicates that Mitochondrial DNA testing was conducted on the pubic hair fragment. The Mitochondrial DNA sequence obtained from the pubic hair fragment is the same as the sequence obtained from the Victim's reference sample. Therefore, the Victim, or other members of the same maternal lineage, cannot be excluded as the source of the DNA from the pubic hair fragment. The Mitochondrial DNA sequence obtained from the pubic hair fragment is different from the sequence obtained from Knolly Brown's reference sample. Therefore, Knolly Brown is excluded as the source of the pubic hair fragment.¹⁸ The remaining three untested hairs, along with the DNA standards, were returned to Cpl. Walcott at RMPD on March 31, 2009, via UPS Next Day Air.¹⁹

¹⁸ SBI Lab File, CT DPS Forensic Science Laboratory Mitochondrial DNA Report, 3/30/2009, Bates Stamp pg. 45-48.

¹⁹ CT DPS Forensic Science Laboratory Records for UPS Shipment.



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF SCIENTIFIC SERVICES
FORENSIC SCIENCE LABORATORY



Deborah Messina
Director

DNA SECTION
MITOCHONDRIAL DNA REPORT

Lieutenant David E. Rice
Commanding Officer

LABORATORY CASE #: ID08-003185
SUBMITTING AGENCY: North Carolina State Bureau of Investigaion
AGENCY CASE #: R2008-09884
TOWN OF INCIDENT: Rocky Mount, NC
DATE OF REQUEST: 09/11/08
DATE OF REPORT: 03/30/09
REPORT TO: Special Agent Kristen Crawford

EVIDENCE SUBMITTED:

#3-Z1 Human Negroid-type Pubic Hair Fragment
#1 Known Cheek Scraping from Victim (Keyona Mercer)
#4 Known Cheek Scraping from Suspect (Knolly Brown, Jr.)

RESULTS OF EXAMINATION:

1. DNA was extracted from item #3-Z1 and submissions #1 and #4. DNA was purified according to standard CT Forensic laboratory protocols.
2. Extracted material obtained from item #3-Z1 and submissions #1 and #4 was amplified and sequenced. The quality and quantity of the DNA obtained from each sample was analyzed according to standard CT Forensic laboratory protocols.
3. Mitochondrial DNA (mtDNA) sequences were obtained from item #3-Z1 (Human Negroid-type Pubic Hair Fragment) and submissions #1 [Known Cheek Scraping from Victim (Keyona Mercer)] and #4 [Known Cheek Scraping from Suspect (Knolly Brown, Jr.)]. The mtDNA sequences obtained from item #3-Z1 and submission #1 are the same. Therefore, Keyona Mercer (or another member of the same maternal lineage) cannot be excluded as the source of item #3-Z1.

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**RESULTS OF
EXAMINATION
CONTINUED:**

Searching the mtDNA population database (CODIS + mito Popstats version 1.4, 5071 v.5 containing 5071 individuals, at positions 16024 – 16365 and 73 – 340) the mtDNA sequence obtained from item #3-Z1 and submission #1 has been observed in African American, Caucasian, and Hispanic populations as follows:

Group	Number of Observations	Individuals in Group	Upper Bound Frequency Estimate
African-American	0	1148	0.26%
Caucasian	3	1814	0.35%
Hispanic	0	759	0.39%

The mtDNA sequences obtained from item #3-Z1 and submission #4 are different. Therefore, Knolly Brown, Jr. is excluded as the source of item #3-Z1 (Human Negroid-type Pubic Hair Fragment).

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mtDNA REPORT

**RESULTS OF
EXAMINATION
CONTINUED:**

4. The mtDNA sequencing results are detailed below. Results are listed as differences from the published revised Cambridge Reference Sequence (rCRS).

Item	#3-Z1 (Human Negroid-type Pubic Hair Fragment)	#1 [Known Check Scraping from Victim (Keyona Mercer)]	#4 [Known Check Scraping from Suspect (Knolly Brown, Jr.)]
Range (bp)	16000-16386	16004-16384	16006-16384
HV1	16126 C	16126 C	16209 C
	16192 T	16192 T	16223 T
	16294 T	16294 T	16278 T
			16311 C
Range (bp)	50-406	49-401	50-401
HV2	73 G	73 G	73 G
	263 G	263 G	89 C
	315.1 C	315.1 C	93 G
			146 C
			150 T
			182 T
			195 C
			198 T
			263 G
			315.1 C
			325 T

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Kristen
4/13/09

mtDNA REPORT

**RESULTS OF
EXAMINATION
CONTINUED:**

5. Item #3-Z1 was consumed in testing. Submissions #1 and #4 were returned to the submitting agency.

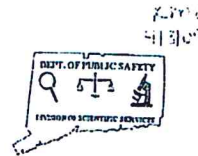
Kristin M. Sasinoski
Kristin M. Sasinoski
Forensic Science Examiner 1

Kristen A. Madel
Kristen A. Madel
Forensic Science Examiner 1

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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF SCIENTIFIC SERVICES
FORENSIC SCIENCE LABORATORY



Deborah Messina
Director

Lieutenant David E. Rice
Commanding Officer

Date: 03/30/09

To: R.L. Walcott
Rocky Mount Police Department
1 Government Plaza
PO Box 1180
Rocky Mount, NC 27802

Cc: S/A Kristen M. Crawford
NC State Bureau of Investigation
121 East Tryon Road
Raleigh, NC 27606

ADA Terry S. Orndorff
District Attorney's Office
PO Box 232
Rocky Mount, NC 27802

Dear Mr. Walcott,

Enclosed is a copy of the Mitochondrial Trace Section Report and the Mitochondrial DNA Section Report for ID08-003185. These reports were generated in response to a request for examination of evidence referenced by your agency case number R2008-09884.

Along with these reports, please note that the remainder of items submitted for examination are being sent back to you along with any corresponding extracts.

If possible, our agency requires at least four weeks notice prior to any testimony that may be needed.

If you have any questions regarding the enclosed report, please feel free to contact me at (203) 639-6400.

Thank you,

Kristin M. Sasinouski
Forensic Science Examiner I
Mitochondrial DNA Section
FBI Regional Mitochondrial Laboratory Program

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VII. Guilty Plea

On October 14, 2009, Knolly Brown pled no contest to the reduced charge of Second Degree Forcible Rape. He was sentenced as a Level II offender in the mitigated range for a Class C offense. His sentence was 60-81 months. Brown was released at the completion of his sentence on June 27, 2013. He is currently serving five years on post-release supervision. According to Brown, he has not applied to other agencies for post-conviction relief.

VIII. Application to Commission

The Commission received Knolly Brown's claim of innocence on May 28, 2010. On June 14, 2012, Brown's case was moved into formal inquiry and he signed a waiver of procedural safeguards and privileges with the assistance of his attorney, New Hanover County Public Defender, Jennifer Harjo. The Commission has conducted an investigation and extensive DNA testing in this case. The entirety of the Commission's investigation will be presented in a hearing to the Commissioners on December 9-10, 2015.

IX. Conclusion

A hearing will be conducted before the North Carolina Innocence Inquiry Commission on December 9-10, 2015. At that time, Commission staff will present the evidence uncovered during the Commission's investigation.

The Commission is charged with considering "credible, verifiable evidence of innocence that has not been previously presented at trial or considered at a hearing granted through postconviction relief."²⁰ In order for a claim that arose from a guilty plea to be considered by the Commission, there must be credible, verifiable evidence of innocence that was not reasonably available to the claimant at the time he pled guilty or scientific testing that was not completed.²¹ All rules relating to guilty pleas apply to pleas of no contest.²² At the conclusion of the hearing, each Commissioner shall determine whether "there is sufficient evidence of factual innocence to merit judicial review."²³

²⁰ N.C.G.S. § 15A-1460.

²¹ NCIIC Rules and Procedures Article 2(B).

²² NCIIC Rules and Procedures Article 2(C).

²³ N.C.G.S. § 15A-1468(c).

