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STATE OF MICHIGAN
IN THE 8TH DISTRICT COURT – NORTH LOCATION
FOR THE COUNTY OF MARQUETTE

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff,

v.

Case No.: 151067-FY

Thomas Miller

Defendant.

_____ /

PRELIMINARY EXAMINATION
BEFORE HONORABLE JANE ROE, DISTRICT JUDGE
Marquette, Michigan – **Wednesday, August 26, 2015**

APPEARANCES:

For the People:

John Doe (P999999)
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For the Defendant:

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Recorded By:

Lisa Smith (CER 1212)
Certified Electronic Recorder

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1 Marquette, Michigan

2 Wednesday, August 26, 2015 at 2:04 p.m.

3 THE COURT: All right.

4 We are on the record in the matter of the State of Michigan as to Thomas
5 Miller. File 151067FY. Counsel, please state your appearances for the record.

6 Mr. Doe: Good afternoon, Your Honor. John Doe appearing on
7 behalf of the People.

8 Mr. Blanchard: Good afternoon, Your Honor. Josh Blanchard on behalf of
9 Mr. Miller.

10 The court: And the record should also reflect that Mr. Miller is also
11 present.

12 Good afternoon, sir.

13 Mr. Miller: Hello.

14 The Court: This is the date and time scheduled for preliminary
15 examination on three counts.

16 Count one alleging that on or about July the 9th of 2015 in the City of
17 Marquette, County of Marquette, and State of Michigan that you did engage in sexual
18 penetration, that being penile vaginal with Melissa Jones under circumstances
19 involving the commission of another felony an assault by strangulation.

20 That is a felony offense punishable by life or any term of years,
21 Mandatory electronic monitoring, mandatory AIDS and STD testing, and DNA would
22 be taken upon arrest. It is also a Tier Three offense under the Sex Offender Registration
23 Act.

24 Do you understand the charge?

25 Mr. Miller: Yes.

1 The Court: In Count Two the Complaint alleges that on or about July the
2 9th of 2015, in the City of Marquette, County of Marquette, and State of Michigan you
3 Did engage in sexual penetration, that being penile vaginal with Melissa Jones, the
4 Defendant and victim being related by blood or affinity to the third degree.

5 That is a felony offense, It is punishable by 15 years in prison,
6 Mandatory AIDS/STD testing and, again, DNA would be taken upon arrest. This
7 Too is a Tier Three offense under the Sex Offender Registration Act.

8 Do you understand the charge?

9 Mr. Miller: Yes.

10 The Court: Do you also understand the potential penalty for the
11 charge?

12 Mr. Miller: Yes.

13 The Court: And, finally, in Count Three, the Complaint alleges that on or
14 about
15 July 9th of 2015, in the City of Marquette, County of Marquette, and State of Michigan,
16 you did engage in sexual penile vaginal with Melissa Jones and that you and she
17 were related by blood or affinity to the third degree.

18 Again, a felony offense, punishable by 15 years in prison, mandatory
19 AIDS and STD testing, and DNA would be taken upon arrest. It is also a Tier Three
20 Offense under the Sex Offender Registration Act.

21 Mr. Miller, do you understand that charge?

22 Mr. Miller: Yes.

23 The Court: Do you also understand the potential penalty for the
24 charge?

25 Mr. Miller: Yes.

1 THE COURT: And, Mr. Doe, are the People prepared to proceed?
2 MR. DOE: We are, Your Honor.
3 THE COURT: Okay.
4 And, Mr. Blanchard, on behalf of Mr. Miller?
5 MR. BLANCHARD: Yes, Your Honor.
6 THE COURT: Okay
7 Are there any preliminary matters?
8 MR. DOE: Not for the People.
9 MR. BLANCHARD: Not from the defense.
10 THE COURT: Okay.
11 And, Mr. Doe, any opening statement?
12 MR. DOE: No, Your Honor, unless defense objects.
13 MR. BLANCHARD: Nope.
14 THE COURT: Okay, then we'll go forward. You may call your first witness.
15 MR. DOE: Thank you, Your Honor. The People call Melissa Jones.
16 THE COURT: Good afternoon, Ms. Jones. Will you raise your right hand for me?
17 Do you solemnly swear or affirm that the testimony you're about to give will be
18 The truth and nothing but the truth?
19 MS. JONES: Yes, ma'am.
20 THE COURT: Go ahead and be seated.
21 Please state your full name and spell both your first and last name for the record.
22 THIS WITNESS: Melissa Ann Jones. M-E-L-I-S-S-A. J-O-N-E-S.
23 THE COURT: Thank you.
24 Go ahead, Mr. Doe.
25 MR. DOE: Thank you.

1 MELISSA ANN JONES

2 (At 2:08 p.m., sworn as a witness, testified as follows)

3 DIRECT EXAMINATION

4 BY MR. DOE:

5 Q Ms. Jones, are you familiar with some named Thomas Miller?

6 A Yes.

7 Q How do you know Thomas Miller?

8 A He's my maternal uncle.

9 Q you have your mother—or you have a grandmother in town, is that correct? Your mother
10 and his mother were half-siblings?

11 A His—My mother is his sister.

12 Q Okay, how long have you known Mr. Miller?

13 A My entire life.

14 Q What kind of relationship have you had with Mr. Miller your entire life?

15 A Pretty much normal relationship uncle, nice. He changed my diapers when I was little.

16 Q Would you recognize him if you saw him?

17 A Yes.

18 Q Can you describe what he is wearing?

19 A An orange jumpsuit with orange slippers.

20 MR. DOE: May the record reflect identification of the Defendant?

21 THE COURT: Any objections, Mr. Blanchard?

22 MR. BLANCHARD: Not for the purposes of preliminary examination, only.

23 THE COURT: Okay.

24 The record will reflect the identification of Mr. Miller.

25 BY MR. DOE:

1 Q Did you see Mr. Miller on July 9th of this year?
2 A Yes, ma'am.
3 Q Where did you see him?
4 A At his residence.
5 Q And that's in?
6 A Yes, ma'am.
7 Q Did you go to his residence?
8 A Yes, ma'am.
9 Q Why were you there?
10 A I was helping my grandmother complete restoration on the home.
11 Q Was Mr. Miller present the entire time you were there?
12 A No, ma'am.
13 Q So, you were there and then, at some point, he came to the residence?
14 A Yes.
15 Q And, at some point, you tow ended up in—at a direct location?
16 A Yes.
17 Q How did that happen?
18 A At first, he asked if I wanted to come back later and have some drinks and barbeque. And
19 I said, yeah. I had had a really bad day. I just wanted to relax so I had said yeah. And
20 before all that happened he came back down and said, hey, would you like to go to the
21 hot tubs.
22 Again, I wanted to relax, so I was like, absolutely, sure. So, he made the reservations at –
23 I believe it's the Hot Tub House, and he drove over there. I rode with him over there to
24 the hot
25 tubs.

1 Q Do you know where that's located?
2 A Huron Street or something.
3 Q Do you know what city of county it's located in?
4 A I know it's in Marquette.
5 Q Okay. Whose car did you go in?
6 A His.
7 Q Did you stop anywhere on your way to the hot tub place?
8 A We got lost, but then right before we went to turn onto the proper street we stopped
9 a liquor store that's kind of caddy cornered from-
10 Q Do you know the name of the liquor store?
11 A It was a green building.
12 Q Okay
13 A I have no idea
14 Q Did you go into the liquor store?
15 A No, ma'am.
16 Q Did he go into the liquor store?
17 A Yes.
18 Q Before he went—before you went to the liquor store, had you been drinking?
19 A Yes.
20 Q Would you say you were drunk at this point?
21 A I was somewhat inebriated, yes.
22 Q After the liquor store, where did you go?
23 A Right to the hot tubs.
24 Q Whose name was the reservation on?
25 A It was under my maiden name.

1 Q All right. Did you make the reservation?
2 A No.
3 Q Who paid for the hot tub?
4 A I paid for it with my debit card, and then he gave me \$20.00 cash, because he said he
5 didn't have enough cash to pay for it, because he had bought the drinks at the liquor
6 store.
7 Q The reservation under your maiden name, what was your maiden name?
8 A Williams. W-I-L-L-I-A-M-S.
9 Q What happened next?
10 A They made us sign a piece of paper with all the rules and whatever. We were late to our
11 appointment, so they switched our appointment time. And then we went back into the hot
12 tub. I believe it was room number eight. I can't really remember, but I think it was eight.
13 It was all the way at the very end of the hallway to the right after you walk in.
14 Q What time was your appointment originally scheduled for?
15 A I believe it was seven o' clock.
16 Q And what time was it when you got there?
17 A About quarter after.
18 Q So you were in a room at the end of the hall. I'm assuming in the room is a hot tub, is that
19 correct? There's a hot tub in the room?
20 A No, it's outside.
21 Q Okay.
22 A It's like a room and the room has a bathroom, a shower, and a change like part –
23 Q Okay.
24 A -an open changing room, and then the hot tub was actually outside of the facility.
25 Q All right. Di you change at all?

1 A No, I was already wearing my bathing suit. I went home and gotten ready and changed
2 into my bathing suit at home.

3 Q So, did you get right into the hot tub?

4 A Yeah, I did.

5 Q Did Mr. Miller get into the hot tub?

6 A He took his clothes off down to his underwear and then got into the hot tub.

7 Q Were you two continuing to drink at this point?

8 A He had bought like min—I guess they're called shooters or something. They're like little
9 bottles of alcohol. There was four of those bottles. Two for each of us.

10 Q You said that you had been drinking. Had he been drinking?

11 A I don't know.

12 Q Okay. So what happened when you were in the hot tub?

13 A At first we just got in the hot tub and we were talking. Just normal conversation. Nothing,
14 you know, out of the ordinary. We then had the first set of shots, which I believe were
15 called Kinky Pinkies.

16 Q Mmm-hmm.

17 A I don't know what kind of alcohol it is, but they were pink—some kind of pink alcohol.
18 And then we were talking—I'm pretty open about my sexuality. We were talking about
19 like a porn site that we both visited.

20 MR. BLANCHARD: I'm going to object to narrative form, Your Honor. I mean, I
21 think we ought to have a question and answer here.

22 BY MR. DOE:

23 Q After you were talking-

24 THE COURT: Hang on a second, do you have any response to that?

25 MR. DOE: I can ask more questions.

1 THE COURT: I'll sustain the objection for now then.

2 BY MR. DOE:

3 Q So, you're talking about the porn site.

4 A Uh-huh.

5 Q What happened next?

6 A I was talking about another porn site that I had registered on when I was like 22 or 23.

7 It was like right after I got married—or after I got divorced from my marriage. And I

8 was talking about the picture that I have on there, but it's of my chest.

9 Q So, this is a site where you had posted a picture of yourself?

10 A Yeah, it's an adult site.

11 Q Okay.

12 A I was recently divorced so, you know.

13 Q And that would have been how long ago?

14 A 2007, I believe.

15 Q Okay. So, when you told him about that picture, what happened next?

16 A He said he was curious to see what they looked like, and then—my top was pretty much;

17 just floating up, so I just finished, and he said, yeah, they're pretty perfect. He swam

18 across and touched them.

19 Q When you say them-

20 A My chest. My breasts.

21 Q Okay.

22 A I put my top back down and grabbed the other shot to try to, you know, stop that part of

23 it. Got the other shot and gave him his, and then he went back to the other side of the hot

24 tub where here was originally sitting.

25 Q So, at this point, are you tow on opposite sides of the hot tub?

1 A Yes.

2 Q Are you facing each other?

3 A I guess we're not really total opposites. I was facing a wall and he was like facing my
4 side. It was on a different side, like far enough away, because I was up by the stairs-

5 Q Okay.

6 A -but we were on different sides of the hot tub.

7 Q Okay. About how far apart were you in feet.

8 A I have no idea. Approximately five or six feet. I don't know. I don't know big of a hot tub
9 it is.

10 Q And, at this point, you have your bathing suit on?

11 A Yes, ma'am.

12 Q And what is he wearing?

13 A He had on blue underwear.

14 Q Did those stay on?

15 A Nope.

16 Q What happened?

17 A He took those off. He said, that doesn't bother you does it? I said, no, not really, you're
18 staying under the water, you know, so I couldn't really see anything. I wasn't bothered
19 by it.

20 Q At what point did he take those off? Was it before or after you did that second round
21 shots?

22 A I want to say before.

23 Q So, you grabbed those shots to try and change the subject. What happened next?

24 A Actually—I know—it's so bits and pieces of everything. I was pretty inebriated at
25 that point. I know at one point he stood up and showed me his penis.

1 Q Did he say anything when he did that?

2 A Yeah.

3 Q What did he-

4 A He said I'd never see another one like his, because it's like three-quarters of a
5 circumcision. It's not a full circumcised penis, so he has a flap of skin on the bottom
6 of it that's still there.

7 Q Did you look?

8 A Yes.

9 Q Was there something like that there?

10 A Yep, there sure was.

11 Q After he showed you that, what happened next?

12 A He sat back down. Again, we just went back to our regular conversation about things that,
13 you know, normal things. Things we seen on the internet or, you know, stuff like that.
14 It wasn't anything sexual at that point.

15 Q Did it become sexual at some point?

16 A Yeah.

17 Q Do you remember how that started?

18 A I remember somehow my top came back off.

19 Q Do you not know how that happened?

20 A I don't—I don't really recall.

21 Q Okay.

22 A I'm sure—I mean, it's—I don't really recall right now.

23 Q Okay.

24 A Sorry.

25 Q So, your top is off again. What happened next.

1 A He made an advance at me. Well, actually, we were talking about the jets in the tub—in
2 the tub—in the hot tub, and he was trying to tell me how each—how each seat had a
3 different part that it would help massage or whatever. So, I was actually rotating around.
4 When I got to the spot where he was originally sitting—of course, he was moving
5 as I was moving. When I got to the spot where he was originally sitting to begin with, he
6 swam across and he put his penis against me. At that point it was erect.

7 Q What did you do?

8 A I didn't do anything. I didn't do anything or say anything. I didn't stop it.

9 Q Why didn't you say anything?

10 A I didn't know how I was going to get home. I was stuck in a weird place. I didn't
11 even know where I was at. I just knew I was in Marquette. So, I was scared I was going
12 to be stuck there.

13 Q Did he kiss you at all?

14 A He tried but I kept turning my head away.

15 Q When you would turn your head away what would he do?

16 A Nothing. He would still try to kiss me.

17 Q What happened next?

18 A He—He put his penis inside of me.

19 Q Inside of you where?

20 A In my vagina.

21 Q What way were you—what way were each of you facing? Were you facing each other?
22 Was one of you facing away?

23 A No, we were facing each other. I couldn't—I really didn't having anything to hold on to.
24 He pulled me towards him. It could be because he was closer to the middle of the hot tub.
25 So, I really wasn't even on like a seat or anything.

1 Q What did you do?

2 A I just sat there and took it.

3 Q Did he do anything else?

4 A He put his hands around my throat, and squeezed and said, why won't you—it was, yeah,
5 it was something like that. Why won't you come or how long before you're going to
6 come. It was something about coming.

7 Q Did you say anything to him?

8 A No.

9 Q Could you breathe at that point with his hands around your throat?

10 A No. very little.

11 Q Did you feel like you were going to pass out?

12 A No. He didn't leave it around my throat very long, because I tried to turn to get, you
13 know, to try to get away. At the point when I turned he grabbed me and started-he
14 again inserted his penis into my vagina and started to go at me from behind.

15 Q So, when you started to turn, you kind of got away from him? You did not? You're
16 shaking your head?

17 A No, I was—no, I was basically in a corner. I was up against the side of a the hot tub-

18 Q Okay.

19 A -part, so I couldn't really go anywhere. He was in the middle of the hot tub, and we were
20 on the far side, so there was no steps or anything for me to get to, to try to get away.

21 Q Okay, So, you couldn't get away, but you just turned?

22 A Yeah.

23 Q And while you were turning was he still inside you?

24 A No.

25 Q Why did you turn away from him?

1 A I just didn't want to look at this face anymore. I knew I was stuck where I was at.
2 There was nothing I could do.

3 A And, so, you said at that point, he penetrated you again?

4 A Yes.

5 Q All right. Was this again vaginally?

6 A Yes.

7 Q But you were facing away from him?

8 A Yes.

9 Q So, at this point, you had done two shots while you were at the hot tub place? Is that a
10 yes?

11 A Yes. I'm sorry.

12 Q And you had been drinking before that?

13 A Yes, ma'am.

14 Q What—What did you drink before that?

15 A I had a—like a large 22 ounce watermelon mimosa.

16 Q Okay. Where did that come from?

17 A He purchased it. I offered to give him my debit card to buy a drink, and he told me, no,
18 Don't worry about it, he had it.

19 Q Where was that?

20 A That was at his home.

21 Q Was that all you had to drink that day?

22 A Yes, but I was on medications, as well.

23 Q What sort of medication?

24 A Phentermine and Vicodin.

25 Q So, you indicated that you were pretty intoxicated at the hot tub facility?

1 A Yes, ma'am.

2 Q Do you remember everything that happened?

3 A Not everything.

4 Q What parts—are there points that you black out? Or how do you know you don't

5 remember?

6 A From what I was told there's evidence that was at the hot tub that I don't remember.

7 MR. BLANCHARD: Object at to foundation. Hearsay.

8 BY MR. DOE:

9 Q Okay.

10 THE COURT: Hang on a second.

11 Are you going to responded to the objection?

12 MR. DOE: I think her question was—I think her response was hearsay. I'm trying

13 to redirect.

14 THE COURT: I do too.

15 I'll sustain the objection.

16 BY MR. DOE:

17 Q There isn't any particular point where you realize that you were blacked out it's just that

18 you may have learned things later?

19 MR. BLANCHARD: I would object to the leading nature of the question.

20 MR. DOE: I'm trying to clarify without eliciting hearsay, Your Honor.

21 THE COURT: I'm going to allow it for now.

22 Thank you.

23 I'll overrule that objection.

24 BY MR. DOE:

25 A I—I honestly—that could be everything.

1 Q Okay.

2 A I'm not sure.

3 Q There's-

4 A There's not any points that I remember blacking out-

5 Q Okay.

6 A -or anything like that. But it is a bit—I don't remember that conversation going home. I

7 don't remember once I got home eating dinner with my children.

8 Q Okay. You said that you don't remember how your bath suit top came off the second

9 time.

10 A Right.

11 Q You had a bathing suit top on?

12 A Yes.

13 Q Was it a two-piece bathing suit? Separate top and bottom?

14 A Yes.

15 Q Do you know how the bottoms came off?

16 A No.

17 Q Were your bottoms all the way off?

18 A I think so. I'm going to say yes-

19 Q Okay.

20 A -but I'm sure-

21 Q Do you know whether he used a condom?

22 A No, I do not.

23 Q Do you know whether he ejaculated?

24 A Yes, he did.

25 Q So, we kind of left off at the point where you were facing away from him. What

1 happened after that?

2 A He finished. He ejaculated. And then as soon as he did that he went onto the other side
3 of the hot tub, and the phone rang to tell us that the time was up. And he got out of the
4 hot tub. I was still in the hot tub because he went to answer the phone. I was still in the
5 hot tub trying to find my clothes. And then he came back out and said we had like, I
6 believe, 10 minutes is what the phone call said. He went in and used the bathroom and
7 got dressed. I went in and ran water over me in the shower and then put my other clothes
8 on—my dry clothes on. I left my bathing suit top on, but I put my dry shorts on.

9 Q Okay. And at that point, did you leave the hot tub place?

10 A Yes.

11 Q Did you immediately report this to the police?

12 A No.

13 Q How long was it before you reported it?

14 A The next day.

15 A Honestly, I was scared and didn't want to hurt my grandmother.

16 Q Your grandmother is his—is the Defendant's mother?

17 A Yes.

18 Q At the point which you eventually reported this, you went and had an examination at the
19 YMCA?

20 A Yes, ma'am.

21 Q Did you have, that you ever noticed personally, any injuries or soreness after this?

22 A Yeah, I was extremely sore afterwards. My muscles were extremely sore. Vaginally, no.
23 I just know that my—I don't know if it was from the stress or from the actual act, but
24 my muscles were extremely sore.

25 Q What muscles?

1 A Around my shoulders and my neck.
2 Q Did you ever had any marks on your neck from when he had his hands around you?
3 A Not that I noticed. They did take pictures, but-
4 Q Okay.
5 A -I never noticed any.
6 Q Who's they?
7 A The YMCA, I believe.
8 Q Okay.
9 A She did tell me that I had a mark on-

10 MR. DOE: You can't tell what other people told you –

11 THE WITNESS: Okay.

12 MR. DOE: -because that's hearsay.

13 Thank you.

14 I don't have any further questions for you. Thanks.

15 THE COURT: Mr. Blanchard?

16 MR. BLANCHARD: Thank you, Your Honor.

17 Good afternoon.

18 THE WITNESS: Hi.

19 CROSS- EXAMINATION

20 BY MR. BLANCHARD:

21 Q You spoke with a police officer related to this event, right?

22 A Yes, I did.

23 Q That was the Detective Cole from the Marquette City Police Department? Is that
24 accurate?

25 A That was the second detective I spoke with. Yes.

1 Q And you spoke with her about this incident though, correct?
2 A Yes.
3 Q Okay. And you told her the truth?
4 A Yes.
5 Q And you didn't leave anything out?
6 A Not that I know of.
7 Q Okay. And the events that occurred you're saying occurred on July 9, correct?
8 A It was the eighth or the ninth. I can't remember the exact date. It was the eighth or ninth,
9 whatever.
10 Q And-
11 A I know I spoke to somebody on the ninth, I believe.
12 Q You spoke to the police officers relatively close in time to when this occurred, or when
13 you say it occurred, correct?
14 A Officer Palmer I did. I spoke to him the next day. He took my statement.
15 Q And then you spoke to the detective about a week later?
16 A Yes.
17 Q Okay. The events were fresher in your mind back then than they are today, correct?
18 A It's possible.
19 Q You have used more than one name over the course of your life, true?
20 A Yes.
21 Q You've gone by Melissa Jones?
22 A Yes.
23 Q You've gone by Melissa Williams?
24 A Yes.
25 Q You've gone by Melissa Jones-Williams?

1 A No.

2 Q Never gone by Melissa Jones-Williams

3 A My Facebook is hyphenated Jones-Davis

4 Q Okay.

5 A But that's not a legal name. I've never used it legally.

6 Q And you've gone by Melissa Davis, correct?

7 A No. That's just a Facebook name. I'm getting ready to be married.

8 Q Okay. So, you've—you've used that name on Facebook, correct?

9 A On Facebook at this point, yes.

10 Q To identify yourself, correct?

11 A Yes.

12 Q Okay. So, you're saying that you were at your grandmother's house on July 9th?

13 A Yes.

14 Q Around 5:30 in the evening, correct?

15 A Yes.

16 Q And you—it's your version that Thomas came home, correct?

17 A Yes.

18 Q And that's where Thomas is staying?

19 A Yes.

20 Q And when I say Thomas, I'm referring to Mr. Miller? You understand that, right?

21 A Yes. (Inaudible – garbled).

22 Q Okay. And he told you that he was going to the store?

23 A Yep.

24 Q And he asked if you wanted anything, correct?

25 A No. He said he was going to get a couple of drinks and I asked him if he would get me

1 something, and I offered to get him my debit card so that he could get me something.

2 Q Thank you. So, you—you—he told you that he was and you asked him to also get you

3 something, correct?

4 A Yes.

5 Q And when we're talking about something we're talking about alcohol, correct?

6 A Yes.

7 Q You said that he invited you back for barbeque and beer, is that correct?

8 A Yes.

9 Q It's barbeque and beer at that house that you were at, correct?

10 A Yes.

11 Q The house that belongs to your grandmother?

12 A Yes.

13 Q His mother?

14 A Yes.

15 Q Sometime prior to barbequing and drinking beer, the plans changed to go to the hot tubs,

16 is that true?

17 A Yes.

18 Q Now, you testified on direct that you were having a "really bad day", correct?

19 A Yes.

20 Q Why were you having a really bad day?

21 A My fiancé and I were not getting along that day.

22 Q What do you mean by not getting along that day?

23 A We had been arguing. We weren't getting along.

24 Q You called the police on him, correct?

25 A The night before, yes.

1 Q And had him arrested for domestic violence the night before, correct?
2 A Yes.
3 Q As a result of your call to the police?
4 A Yes.
5 Q And you agreed to go to the hot tubs with Mr. Miller?
6 A Yes.
7 Q And you didn't find that to be weird?
8 A No, he's my uncle. Why would I?
9 Q Right. You testified that you drank some alcohol that day?
10 A Yes.
11 Q And you also took some prescription medications, correct?
12 A Yes
13 Q You took Phentermine?
14 A Phentermine, yes.
15 Q That was in the morning, correct?
16 A It was about noon when I took it.
17 Q You didn't tell the detective you took it around nine in the morning?
18 A I take several doses a day.
19 Q Okay. So, you're saying you take several doses a day?
20 A Yes.
21 Q And you take one of them at noon?
22 A I take them every four hours, so I probably took one at nine and one at noon.
23 Q Okay. And you took a Vicodin, correct?
24 A Yes.
25 Q You took that around 4 p.m.?

1 A Yep.

2 Q And Mr. Miller came to the house around 5:30, correct?

3 A Yes.

4 Q About 90 minutes later?

5 A Yes.

6 Q You're prescribed the Vicodin I assume?

7 A Yes.

8 Q By a doctor?

9 A Yes.

10 Q And they gave you direction on how to take it, correct?

11 A Yes.

12 Q Do you take it as directed?

13 A Yes.

14 Q Do you take more than directed?

15 A No.

16 Q So, that day you took it as prescribed, correct?

17 A Yes.

18 Q How much were you prescribed to take?

19 A I'm allowed four to six capsules every—or two to six—capsules every four to six hours.

20 Q So you took two capsules at four?

21 A I took one.

22 Q You took one capsule at 4 p.m.

23 A I take it every four hours.

24 Q But I'm asking about this day.

25 A Yes.

1 Q Did you take one capsule at 4 p.m?.

2 A Yes.

3 Q And what dosage is a capsule?

4 A 7.5 milligrams.

5 Q So, it's 7.5 milligrams of Vicodin.

6 A At 325 of the (inaudible – garbled). It's called Norco. The medication is Norco-

7 Q Right.

8 A -also known as Vicodin.

9 Q Right. And, so, it's a seven and a half of the—and—of the opiate-

10 A Yes.

11 Q -and 325 of the Tylenol, correct?

12 A Yes.

13 Q This isn't the first time you've accused somebody of raping you?

14 MR. DOE: Objection. Relevance.

15 MR. BLANCHARD: She's made-

16 THE COURT: Counsel?

17 MR. BLANCHARD: She's made prior false allegations.

18 THE WITNESS: They were not false allegations.

19 THE COURT: Yeah, I think that's—I'm going to sustain the objection for now.

20 MR. BLANCHARD: Thank you.

21 BY MR. BLANCHARD:

22 Q You talked to the police office about a conversation that you had with Mr. Miller via text

23 message, correct?

24 A Yes.

25 Q And you—you guys had conversed throughout the day, true?

1 A Not via text, no.

2 Q But both in person-

3 A Person-

4 Q -and via text, correct?

5 A Yes.

6 Q Did you tell the officer the entire truth about what your conversations via text message
7 with Mr. Miller were?

8 A As much as I remember of it. Yes.

9 Q You have these text messages on your cell phone, correct?

10 A I did, yes.

11 Q And your cell phone was wiped, or cleared, or reset before the police had an opportunity
12 to look at it, correct?

13 A I haven't wiped my phone. No.

14 Q You didn't delete any of the text messages?

15 A I deleted them but my phone has not been wiped.

16 Q So, you deleted the text messages before the police were able to look at them?

17 A Yeah, I deleted them that night.

18 Q Why would you delete text messages from somebody who you say raped you?

19 A I didn't want my fiancé to see them.

20 Q You told your fiancé, right?

21 A I told him the next day.

22 Q He was the first person you told, right?

23 A Yes.

24 Q And you deleted the text message before you could even show them to him?

25 A At that point, I was still intoxicated and I didn't know what to do. I even text messaged

1 not to say anything to anybody, because I didn't want my grandmother to find out and be
2 hurt by all of this.

3 Q So, you—you texted him not to say anything, correct?

4 A Yes.

5 Q And that—that's the thing to which he responded asking you what you were talking
6 about, right?

7 A Yeah.

8 Q To which you said, exactly, right?

9 A No, he said exactly.

10 Q You're saying he said exactly?

11 A Yeah.

12 Q Do you remember saying to him, glad we could chat, I feel better?

13 A No. That doesn't mean that it didn't happen, but like I said, I don't remember anything
14 from when I got home that night. I don't even remember having dinner with my children.

15 Q So, you may have said to him, glad we chatted, I feel better?

16 A It's possible.

17 Q After you say you were raped by him?

18 A Yes.

19 Q So, after you say this rape occurred in the hot tub, you—a phone call came from the front
20 desk for something, right?

21 A Yes

22 Q You got out of the hot tub?

23 A I—Yes.

24 Q And you went and took a shower, correct?

25 A I rinsed off in the shower, yes.

1 Q When you rinsed off in the shower you also shampooed your hair, correct?

2 A Just my hair, yes.

3 Q So, you shampooed your hair?

4 A Yes.

5 Q And Thomas was still in the room, correct?

6 A He was in the bathroom.

7 Q Okay, Thomas was in the bathroom while you were shampooing your hair?

8 A Yes.

9 Q And you're saying that Thomas had just raped you, correct?

10 A Yes.

11 Q Why didn't you go to the front desk and ask for help?

12 A I just wanted to go home. You can pick at me all you want, but I just wanted to go
13 home and have it be over with, and be in a place where I could be comfortable.

14 Q And you wanted to go home and have Thomas drive you home?

15 A I didn't have a choice. I didn't know where I was at. I was intoxicated.

16 Q Well, let—let's talk about the intoxication. You said that you drank what Thomas
17 brought you, correct?

18 A Yes.

19 Q And you say that Thomas brought you a single beverage, correct?

20 A No, he bought me two-

21 Q I'm sorry.

22 A -at the hot tubs and one at his home.

23 Q Yeah. That was a poor question. When you're at this house you say he brought you—
24 purchased for you one alcoholic beverage, correct?

25 A Yes, A 22 ounce watermelon mimosa Smirnoff.

1 Q Right. That's a wine cooler type thing, correct?

2 A Yes.

3 Q And you drank that in its entirety, correct?

4 A Yes.

5 Q In addition to that you're saying you drank two shooters, correct?

6 A Yes

7 Q Those are like that little maybe two inch bottles?

8 A Yes.

9 Q The ones you see by check-outs at gas stations and that sort of thing?

10 A I guess. Yes.

11 Q Okay. And one of those was something called a Kinky Pinky, and then there was

12 another one, correct?

13 A Yes. It was like Chata Rum or something. It was a rum in a white bottle with gold

14 letters.

15 Q Like Rum Chata?

16 A Yeah, maybe that's what it's called. I'm not sure.

17 Q Okay. And you drank that, correct?

18 A Yes.

19 Q And that's all the alcohol you had that night, correct?

20 A Yes.

21 Q You are in your 30's, correct?

22 A 33.

23 Q And how tall are you?

24 A Five, five.

25 Q And how much do you weigh?

1 A 285.

2 Q And you're saying that you got so intoxicated that you couldn't remember everything
3 based off one 22 ounce Smirnoff and two shooters?

4 A Yes. I don't drink.

5 Q Well, wait a minute. You said you don't drink and then you said you normally don't
6 drink.

7 A I very rarely drink. The last time I drank was my birthday which was in April and I was at
8 Home with my fiancé. I don't drink on a regular basis. I have a very low tolerance for
9 alcohol.

10 Q Okay. I want to be clear on the timeline for the drinking. You said that you had the
11 Smirnoff at the house that Mr. Miller was at?

12 A Yes.

13 Q Sometime around 5:30, is that right?

14 A It was between the time that he bought it and the time that I left to take my kids back
15 home, so, yes.

16 Q Okay. And then—so you had that and then there was a break until you got to the hot tubs,
17 correct?

18 A Yes.

19 Q And then at the hot tubs is where you had these two shooters, correct?

20 A Yes.

21 Q And that would have been —you left the hot tubs a little bit after eight, correct?

22 A It would have been a total of maybe two hours later—that-

23 Q So, you're saying that three—the three drinks over two hours go you like blackout
24 drunk?

25 A I didn't say I was blackout drunk. I just said that I was highly inebriated. So, yes-

1 Q Were you-

2 A -I was intoxicated.

3 Q Were you drunk enough that you shouldn't have been driving?

4 A Yes, I was. And I didn't drive.

5 Q When you're at this hot tub place there's a shower near the hot tub, correct?

6 A Yes.

7 Q And that's the shower that you reference when you say you were shampooing your hair,

8 correct?

9 A Yes. It's in the other room outside of the hot tub.

10 Q And that's separate from the bathroom, correct?

11 A Yes.

12 Q And, so, when you're in there showering and you say Mr. Miller's in the bathroom, you

13 could have gone out and he wouldn't have noticed, correct?

14 A Gone out where?

15 Q Out to the lobby.

16 A It's possible, yes.

17 Q So, you have been at this house that you say Mr. Miller was living at doing work for his

18 grandmother, correct?

19 A For my grandmother.

20 Q Excuse me. Yes, for your grandmother, for his mother, correct?

21 A Yes.

22 Q And that work was painting work, correct?

23 A Yes.

24 Q You left that place around six o'clock right?

25 A Yes.

1 Q And you drove from that place to your home, correct?

2 A Approximately six minutes away, yes.

3 Q Your children were at this mother's house, correct?

4 A They were. I took them home with me at six o'clock.

5 Q Okay. And you say you live six minutes away?

6 A Approximately,

7 Q Do you live within Marquette?

8 A No, we weren't in Marquette. That house is in Harvey.

9 Q Okay. So, you drove from there to?

10 A My house-

11 Q Your house.

12 A -is in Harvey.

13 Q How long were you at your house?

14 A Maybe a half hour tops.

15 Q What did you do while you were at your house?

16 A I showered and got a bathing suit.

17 Q And then you returned to that house?

18 A Yes.

19 Q From there—well, let me be clear. At the point that you come back you said you felt

20 tipsy, correct?

21 A Yes.

22 Q So, when you drove your kids to your house and when you drove back you felt

23 intoxicated?

24 A Yes.

25 Q After you got back to this house that Thomas was at, he drove to the hot tubs-

1 A Yes.

2 Q -is that—that’s where you stopped and you got the alcohol shooters, correct?

3 A Yeah.

4 Q And then you arrived at the hot tub place at about 7:11 p.m., is that correct?

5 A About quarter after seven, yes.

6 Q So, when we talk about the shooters, the little alcoholic shooters that you drank, you

7 said that you had two of them before you say the sex occurred, correct?

8 A Yes.

9 Q And you drank those while you were having “normal conversation”, right?

10 A Yes.

11 Q That’s how you characterized the conversation, right?

12 A Yes.

13 Q And that was prior to any sexual contact, correct?

14 A Yes.

15 Q You were discussing pornography, correct?

16 A Yes.

17 Q And websites where you could get pornography, correct?

18 A Yes.

19 Q And you told Mr. Miller about your use of a site called Adult Friend Finder, correct?

20 A Yes.

21 Q Now, it’s your position that then Thomas asked you if he could see your breasts, correct?

22 A Yes

23 Q And you showed them to him?

24 A My top was pretty much already off, and yes, I showed them to him.

25 Q What do you mean your top was already pretty much off?

1 A I have—it was a tankini so it was floating up in the water.

2 Q And-

3 A A tankini is like a bikini, but it's got a flap that covers your stomach and it was already
4 floating up in the water.

5 Q And, so, you—is it your testimony that you showed him your breasts because it was
6 floating up so, you know, why not?

7 A No, I don't have any problem with my sexual nature. I'm not a shy person. He's my
8 uncle. I have nothing to hide. I'm open with my sexuality.

9 Q So, you—you showed him your breasts because he's your uncle and you have nothing to
10 hide?

11 A Yeah. I looked at his penis too. I wasn't really too—it's a penis. I wasn't offended by it,
12 or thinking that anything sexual was going to happen. I'm a medical assistant. I'm very
13 open with my body.

14 Q Okay. So, you were more comfortable showing your breasts to your uncle because you're
15 a medical assistant?

16 A I work in the medical field. I see it every day. It's not anything that I'm sure he hasn't
17 seen.

18 Q Can we agree that exposing your own breasts to an uncle is different than what happens
19 in a medical setting?

20 A It's a little different. I did find it a little odd. But, again, I'm not going to no—I have
21 nothing to hide.

22 Q So, you want me-

23 A I felt comfortable. He's a family member. I didn't think he was going to take it anywhere.

24 Q Okay. So, you exposed your breasts to him by lifting your top, correct?

25 A Yes.

1 Q And you did that so that your uncle could see your breasts?
2 A Yes.
3 Q You testified that after you showed your breasts to Thomas you say he moved across the
4 hot tub, correct?
5 A Yes.
6 Q So, before you exposed your breasts he was on different side of the hot tub than you
7 were?
8 A Yes.
9 Q And then when you exposed your breasts you say he came across the hot tub?
10 A Yes.
11 Q The hot tub was full of water, right?
12 A Yes.
13 Q So, he had to sort of float across?
14 A He could touch the bottom. He walked across, I guess. I—I don't know.
15 Q Okay. But he couldn't have reached you from where he was sitting, correct?
16 A No.
17 Q And when you exposed yourself, you could still see Thomas, correct?
18 A Yes.
19 Q And you could see him moving towards you, correct?
20 A Yes.
21 Q And when you saw him moving towards you, you didn't put your top back down?
22 A No. When he touched me I put my top back down, and I grabbed the shooter.
23 Q Right. But you saw him coming towards you when you had your breasts exposed,
24 correct?
25 A Yes.

1 Q Okay. And you didn't put the top back down?

2 A No.

3 Q You didn't climb out of the hot tub?

4 A No.

5 Q You didn't say don't touch me?

6 A No.

7 Q And you say you pulled your top down after he touched your breasts, correct?

8 A Yes.

9 Q After you pulled the top down, you said you reached over and grabbed two shooters, and

10 you gave him some more alcohol?

11 A I gave him one and I took one.

12 Q Okay. So, in order to get him to stop this you gave him more alcohol?

13 A It was his alcohol. He wanted to drink it.

14 Q Well, you handed it to him, right?

15 A Yes.

16 Q After you gave him the alcohol you didn't say anything to him about stopping, correct?

17 A He left me alone. He went back to his own side of the hot tub.

18 Q You didn't say anything to him?

19 A No, I didn't feel I needed to.

20 Q Now, you testified that when Thomas got in the hot tub he took his underwear off,

21 correct?

22 A After he was in the hot tub, yes.

23 Q Right. And that—to be clear from you version of events, that occurred prior to any

24 sexual contact, correct?

25 A Yes.

1 Q Prior to discussing any of the sexual stuff, correct?

2 A Yes.

3 Q In fact, you told him that you didn't mind?

4 A Again, I'm perfectly normal. He's my uncle. Don't really see any concern. He was under
5 the water. And he was on the other side of the hot tub.

6 Q You didn't have any—you didn't think there was anything odd about sitting in a hot
7 tub naked with your uncle who was naked, correct?

8 A No.

9 Q Okay. So, you said that there was a time where you saw Thomas's penis, correct?

10 A Yes.

11 Q And you said that was because he stood up and showed it to you?

12 A Yes.

13 Q And then sat back down?

14 A Yes.

15 Q And after he sat back down you had normal conversation again?

16 A We were still talking about things that we were talking about before with the porn sites
17 stuff like that. It was not anything to do sexually between him or I.

18 Q Okay, So I want to be clear. When you—Like when you tell the detective you were
19 having normal conversation, are you referring to conversation about porn sites, or
20 conversation about the weather, or something else?

21 A His conversation with me was about how he still has feelings in it, and that the
22 intensity of how it is when his wife or whoever else is touching him or anything like
23 that.

24 Q Is that normal conversation?

25 A It's normal conversation. It's about a penis. Like I said, I'm a medical assistant. I don't

1 find that stuff to be abnormal.

2 Q Okay. So, I just want to be clear so I understand what we're talking about though. When

3 Q You say that after he sat down you had a normal conversation, you mean you had a

4 conversation about his penis?

5 A Yes.

6 Q About your uncle's penis.

7 A Yes.

8 Q Now, this time when you say you spotted his penis that occurred after you say he

9 touched your breasts, correct?

10 A Yes. And I didn't spot it. He showed it to me.

11 Q Okay, After you saw the penis that occurred after the —the—you say he touched your

12 breast, correct?

13 A Yes.

14 Q Now, I asked you specifically about when you say he was touching your breast. But, at

15 any point during this process, did you ever tell him to stop?

16 A No.

17 Q Did you ever say no?

18 A No.

19 Q Did you ever say this is gross?

20 A No, I didn't-

21 Q Did you ever say-

22 A -say anything.

23 Q Other than the normal conversation, right?

24 A Other than the conversation that we were having. I didn't tell him to stop, no.

25 Q Well, you talked about a website where you posted your breasts, correct?

1 A Yes, but we also talked about working on house, we also talked about him working
2 as a police officer, we also talked about a lot of other things. It wasn't all about sex.
3 Q Okay. But I want to be clear. Parts of the normal conversation you had included you
4 posting pictures of your breasts, correct?
5 A Yes.
6 Q On the internet?
7 A Yes.
8 Q You talked about his penis, correct?
9 A He talked about his penis, yes.
10 Q Well, you had the conversation about it, right?
11 A I guess. (Inaudible – Mr. Blanchard talking over witness).
12 Q You had a conversation about-
13 A He was telling me what it was like to be three-quarters of the way circumcised.
14 Q You had a conversation about him not wearing underwear? Just being completely naked,
15 right?
16 A We didn't have a conversation about it. He asked me if it bothered me and I told him no.
17 Q Okay. You told your fiancé about this the next day, correct?
18 A Yes.
19 Q What prompted you to tell him?
20 A Because I felt really dirty and I don't lie to him.
21 Q You don't like to him at all?
22 A No.
23 Q Not about anything?
24 A No.
25 Q Ever?

1 A No.

2 Q Now, I'm—I guess I want to be clear. The—The person you told the next day, is that the
3 same person you had arrested the day prior?

4 A The day prior to the actual incident, yes.

5 Q You had him arrested on July 8?

6 A Yes, I believe that's the date. It was the day prior to the incident, yes.

7 Q And you told him about this on July 10?

8 A The day that I reported it, yes.

9 Q You had him arrested for domestic violence, right?

10 A No. He was arrested because I asked him to leave, and the police had arrested him
11 because he had no place else to go. So, they took him to jail and they drop—they
12 dropped all the charges. The police officer said that was the only option that he had
13 because he had no place else to go for the night.

14 Q You didn't tell the police that he had physically abused you?

15 A No, I did not.

16 Q You didn't tell the police that you got in an argument and that he had hit you in the face?

17 MR. DOE: Objection. Relevance?

18 MR. BLANCHARD: She had taken the position that she didn't have him
19 arrested. It's a prior inconsistent statement.

20 THE WITNESS: I did have him arrested.

21 THE COURT: Hang on a second, ma'am. I'm going to need to make a
22 ruling on the objection first.

23 The basis of the objections first is?

24 MR. DOE. That it's irrelevant to what happened between her and her
25 fiancé the day before this incident.

1 THE COURT: Mr. Blanchard?

2 MR BLANCHARD: Yeah, I mean, the issue is—I've got the incident
3 report from when she reported it, and she made allegations of domestic violence against
4 him that day. That's—And, so, we've got a prior inconsistent statement here. She's
5 taking the position she didn't accuse him of domestic violence, and she told the police
6 that she did. And, so, I think that I get to ask her about the question so that I can later
7 impeach her with the police officer's testimony.

8 MR. DOE: On an ancillary case at preliminary examination, Your
9 Honor, this just seems really far afield.

10 THE COURT: Well—And that's kind of what I'm getting at.
11 Why is that relevant to the incident that we're here for today?

12 MR. BLANCHARD: I think People v Kevorkian and Yost say that it's
13 incumbent upon the examining magistrate to assess credibility of the complainant at the
14 examination, and I think it goes to her credibility.

15 THE COURT: Okay.

16 I'm going to—I'm going to overrule the objection. I'm going to allow it,
17 But let's not dwell on this. That's not why we're here.

18 MR. BLANCHARD: Thank you, Your Honor.

19 THE COURT: I mean, I understand her credibility is at issue-

20 THE WITNESS: Can I answer the question-

21 THE COURT: - (inaudible – talking over witness) case.

22 Let him ask the question again if you would please, Mr. Blanchard and
23 then yes, you may, answer the question.

24 THE WITNESS: Thank you.

25 BY MR. BLANCHARD:

1 Q Isn't it true that you told the police officers that your fiancé had physically assaulted you?
2 A No. I told the office that my fiancé had threw something, and that it hit me in the face,
3 And that my nose—he had either gotten me with his fingernail, and that my nose was
4 bleeding. The officer asked him to leave for the night, and he had not place to go, so he
5 was asked if he went to jail that night he was released the next day on bond.
6 Q So, you told-
7 A And the case was dropped.
8 Q Okay. So, you told the police officer that he threw something at you and cut your nose?
9 A That his fingernail got my nose. Yes, that is what I told the officer.
10 Q Okay. There was some discussion between the Prosecutor when she was asking you
11 questions and yourself about whether a condom was used, right? Do you remember that?
12 A Yes.
13 Q Okay. And I think—what was your answer to the Prosecutor?
14 A I don't remember the exact question. What—I don't remember there being a condom
15 being used.
16 Q Okay. Do you remember having a conversation with a detective about that point?
17 A About there being a condom?
18 Q About whether or not there was?
19 A I don't remember if I did or not. I don't think—I know that I told her I don't believe
20 there was a condom used.
21 Q Do you remember telling her you were certain that there was not?
22 A No, I did not say I was certain. I said I was unsure of whether or not there as one used.
23 But I don't remember there being one there.
24 Q But you're positive you didn't say to Detective Cole that you were certain there wasn't
25 a condom used?

1 A I did not say that.

2 Q So-

3 A I said I was almost positive that there wasn't. I don't remember there being one used.

4 I don't remember that part. And I remember telling Detective Cole that I do not

5 remember there being a condom present.

6 Q You say that Thomas put his hand on your neck, correct?

7 A He put both of his hands around my neck.

8 Q But he didn't cut off your airway?

9 A He squeezed hard enough to cut it off a little bit.

10 Q A little bit?

11 A Yes.

12 Q You could still breathe?

13 A I could still breathe.

14 Q You didn't say anything when he was doing this?

15 A How am I suppose to talk when somebody is squeezing your neck? You can't really talk.

16 He squeezed hard enough where I could just breathe, but just barely.

17 Q So, you're saying he grabbed your neck and squeezed hard enough that you couldn't

18 talk, but not hard enough that you couldn't breathe?

19 A Yes, And I told you that I didn't say anything to him the entire time he was doing it.

20 Q I understand.

21 A I didn't say a word to him.

22 Q I want to have a lot of clarity about this. You understand-

23 A I'm being very-

24 Q -this is a big deal, right?

25 THE COURT: Hang on.

1 I can have one person talking at a time. If you're going to ask a question
2 afford her full opportunity to answer, and while you're answering, don't interrupt his
3 question. Okay? I want the record to be very clear.

4 MR: BLANCHARD: Thank you, Your Honor.

5 THE WITNESS: Yes, ma'am.

6 BY MR. BLANCHARD:

7 Q You understand this is a big deal, right?

8 A Yes, I do.

9 Q You understand the penalties are really severe, correct?

10 A Yes, I do.

11 Q Okay. So, while you say he's got his hand on your neck-

12 A Hands.

13 Q Hands on your neck.

14 A Yes.

15 Q Did you say anything?

16 A No, I couldn't.

17 Q Did you hit him?

18 A No.

19 Q Did you push him?

20 A No.

21 Q Did you try to get away?

22 A I didn't do anything?

23 Q You just sat there?

24 A Yes.

25 Q Your reaction to being choked is to just sit there?

1 A Yes. That was my reaction to the entire incident.

2 Q Now, Thomas never hit you?

3 A No.

4 Q He never did anything else violent to you?

5 A No.

6 Q He didn't say anything violent?

7 A The only thing he said was "why won't you come?"

8 Q Okay. But he didn't threaten you with anything, right?

9 A No.

10 Q He didn't threaten you with harm?

11 A No.

12 Q He didn't say anything mean to you?

13 A No.

14 Q He didn't say anything to you while you say he's got his hands on your neck, right?

15 A I just told you what he said while his hands—with his hands around my neck. "Why

16 won't you come?"

17 Q You're saying that happened while his hands were around your neck?

18 A Yes.

19 Q So, this—this time that you're saying you had sex, you believe it lasted 10 minutes,

20 correct?

21 A I don't know how long it lasted.

22 Q Well, you told a detective previously how long you thought it lasted, right?

23 A Approximately probably 10 minutes. I don't know exactly. I didn't have a watch. There

24 was not clock. I wasn't watching a clock.

25 Q You told the detective you though it lasted 10 minutes.

1 A Approximately 10 minutes. Yes, I told a detective that.

2 Q Well, was it the truth when you told the detective that?

3 A That's approximately how long I thought it lasted.

4 Q And you told the detective that you thought—well, how long do you think his hand was
5 around your neck, or his hands were around your neck?

6 A I honestly don't know. Long enough for him to say that. And then I turned and tried to
7 get away. I just turned away from him, and when I did he grabbed me and started going
8 at me from behind.

9 Q So, it—it-he just had his hand on your neck long enough for him to say the words?

10 A "Why won't you come?"

11 Q So, we're talking less than five seconds, probably?

12 A Five to 10 seconds, I guess, yeah.

13 Q Well, why won't you come? That's probably not 10 seconds, right?

14 A I guess. He put his hand around my neck before he said it.

15 Q So, you think five to 10 seconds is how long it was there?

16 A Approximately. I don't know. Like I said, I didn't have a clock. I wasn't timing
17 everything.

18 Q What sort of clothing were you wearing when you arrived at the hot tubs?

19 A A tankini, and bathing suit bottoms, and a pair of shorts.

20 Q Okay. You didn't have another shirt, correct?

21 A No. I wore the tankini home.

22 Q You wore it there and home, correct?

23 A Yes.

24 Q So, when you leave the hot tub area, you have to walk out by the front desk, right?

25 A Yes.

1 Q And you carried towels out there with you when you walked out, correct?
2 A No.
3 Q You don't remember that?
4 A No.
5 Q Okay.
6 A There wasn't even anybody at the front desk when we left.
7 Q My question wasn't-
8 A I didn't have any towels. I didn't carry any towels out that I remember. No.
9 Q Do you remember Thomas carrying any towels?
10 A No. He was behind me. I don't know what he had.
11 Q Okay. Are you aware that there's video from the lobby?
12 A I'm sure there is. So, yes.
13 Q My question is, are you aware?
14 A No, but I'm sure there is. Yes.
15 Q So, you haven't watched the video?
16 A No.
17 Q After you left the hot tub place you drove?
18 A No.
19 Q You told the detective you drove.
20 A No, I did not.
21 Q Okay.
22 A He drove. It was his vehicle.
23 Q We talked about whether he said anything to you during this—this sex.
24 A Yes.
25 Q He didn't say anything to you threatening afterwards, correct?

1 A Not that I recall, no.

2 Q You said you don't remember all of the details, correct?

3 A I've given all the ones that I do remember.

4 Q Well I understand, but listen to my question, ma'am.

5 A That's correct.

6 Q Thank you. You don't remember all the details?

7 A That's correct, I guess. I'm not sure. I've given you what I know. What I remember. That

8 could be all of them. It could not. I'm not sure. Like I said, I was highly inebriated.

9 Q You've also stated before that you have mental health issues, correct?

10 A Yes.

11 Q You've stated on Facebook that you're mentally unstable, correct?

12 A No.

13 Q You've never written on Facebook that you're mentally unable?

14 A I don't write on Facebook I'm mentally unstable. I might write on Facebook that I'm

15 upset, or that I have PTSD or something, but my Facebook statements don't have

16 anything to do with this.

17 MR. BLANCHARD: May I approach the witness, Your Honor?

18 THE COURT: Mmm-hmm. Yes.

19 MR. BLANCHARD:

20 Q I'm going to show you an excerpt of some Facebook (inaudible – scraping on

21 microphone). Sorry. Is your name on Facebook Melissa Ann Wilkerson?

22 A It is now. Yes.

23 Q Are those some of the things you've written on Facebook?

24 A This is statements that I have written about my fiancé and I.

25 Q Right. And in one of those statements you wrote?

1 A I am mentally unstable. I have PTSD. So, yes, I have PTSD.
2 Q And you've also written on Facebook that you're mentally unstable, correct?
3 A Apparently. I don't remember writing that but apparently.
4 Q Have you tried to get money as a result of these allegations?
5 A No.
6 Q Have you tried to get money in any way related-
7 A No.
8 Q -to these allegations?
9 A No.
10 Q Are you familiar with a website called Go Fund Me?
11 A Yes.
12 Q Did you set up a Go Fund Me page?
13 A Yes, I did. I set it up for me and my cousin.
14 Q Okay. Go Fund Me—the purpose of Go Fund Me is to raise money, correct?
15 A Yes. But it wasn't to get money for myself. It was actually for my cousin.
16 THE COURT: They usually just mark them straight in number
17 order.
18 MR. BLANCHARD: Thank you.
19 BY MR. BLANCHARD:
20 Q I'm showing you what's been marked for identification as Defendant's Exhibit 1. I've
21 provided a copy to counsel.
22 A Yes.
23 Q Do you recognize that?
24 A Yes.
25 Q What is it?

1 A This is the Go Fund Me Victim's Rape Fund that I set up for my cousin and I.
2 Q Okay. And that's a—that's an accurate representation of the website that you set up,
3 correct?

4 A It looks like the same one, yes.

5 MR. BLANCHARD: I'd move the admission of Defendant's 1.

6 THE COURT: Any objection?

7 MS SANFORD: No objection.

8 THE COURT: The Court will receive Exhibit 1.

9 MR. BLANCHARD: Thank you.

10 BY MR. BLANCHARD:

11 Q The purpose of that page is to—to raise money, correct?

12 A Yes, it was for my cousin.

13 Q Your cousin and you, right?

14 A The money is for my cousin.

15 Q That's not what the website says-

16 A But, yes-

17 Q -right?

18 A I understand what the website says. I don't need money. She's 16. She needs the help.

19 Q My question for you is, is that what the website says that it's for-

20 A I can read you what the website says if you would like.

21 Q Why don't you do that.

22 A It says "Two women has their lives invaded by a man they thought they could trust. Now
23 these two females are alienated from their family and friends as well as struggling
24 through everyday life. Please let's show them support can come from anywhere. The
25 Michigan's Victims Fund won't help unless they miss two weeks of work. They don't

1 deserve to be mistreated by friends and family. Let's show them that they are loved.”

2 Q And, so, that was your request for money, right?

3 A It's a donation site. People don't have to donate to it if they don't want to.

4 Q Certainly. And nobody has yet donated to it, correct?

5 A No.

6 Q You said that you can't get money from the Crime Victim Rights Fund unless you've

7 missed work, correct?

8 A For two weeks.

9 Q Have you tried to get money from the Crime Victim Rights Fund?

10 A No, I have not.

11 Q In fact, you don't work, right?

12 A No, I'm disabled.

13 Q You're disabled

14 A Yes, I'm Disabled.

15 Q Well what's the nature-

16 A I receive disability from my job.

17 Q What 's the nature of your disability?

18 MR. DOE: Objection. Relevance?

19 THE COURT: Where are you going here?

20 MR. BLANCHARD: We've had a conversation about mental health. If

21 she's got a recognized disability that bears under mental health.

22 THE COURT: I'm going to overrule the objection. I'll allow it.

23 BY MR. BLANCHARD:

24 A My disability is because I'm having back surgery on September 1st.

25 Q Thank you. I'm going to show you what's been marked for identification as Defendant's

1 2. Do you recognize that?

2 A Yes.

3 Q And what is that?

4 A It's a statement that I wrote on WOODTV.com an alias.

5 Q And that's a request that people go to the Go Fund Me site and give you money, correct?

6 A It says, "Let's help his victims who have been secluded from their family and friends and
7 made victimized twice."

8 Q And it was a solicitation? It linked people over to the Go Fund Me site, correct?

9 A There is a link on it, but it doesn't say they have to go to the Go Fund Me site. It didn't
10 ask for money in there.

11 Q You put the link on it, but it doesn't say they have to go to the Go Fund Me site, right?

12 A If they want to.

13 Q And you put the Go Fund Me site up so people could give you money if they wanted to,
14 right?

15 A If they want to.

16 MR. BLANCHARD: I'd move to the admission of Defendant's 2.

17 MR. DOE: No objection.

18 THE COURT: The Court will receive Exhibit 2.

19 MR BLANCHARD: Thank you, Your Honor.

20 Can I have a moment, please?

21 THE COURT: Sure.

22 THE WITNESS: Do you need these back ma'am?

23 THE COURT: Thank you.

24 MR. BLANCHARD: I would pass the witness, Your Honor.

25 THE COURT: Okay. Any further questions, MR. DOE?

1 MR. DOE: Briefly.

2 REDIRECT EXAMINATION

3 BY MR. DOE:

4 Q These postings that you put up, they reference feeling alienated from family and friends?

5 A Yes.

6 Q Why is it that you feel alienated from family and friends?

7 A My whole entire family no longer speaks to me. My grandmother is now foreclosing on
8 my home. She used to work with me on things in my home, and now—she every chance
9 she gets she is sending me foreclosure papers. She has turned me into the City for
10 violations on my home to try and get—because she knows I don't have enough money to
11 get these things done that the City is asking, so she knows that I will be kicked out of my
12 home.

13 Q Okay. Defense counsel asked you if you ever told the Defendant no or to stop, and you
14 did not?

15 A No, I did not.

16 Q When he kissed you what did you do?

17 A I turned my head away from him.

18 Q All right. And when he initiated sex with you, what did you do?

19 A I didn't do anything. I didn't even touch him.

20 Q Did you try to get away from him?

21 A I did at the point where I turned away from him, and then he grabbed me and started
22 going from behind.

23 Q Did you ever in any way engage in him—engage with him sexually?

24 A No.

25 Q Never kissed him?

1 A No.

2 Q Why didn't you say anything to him?

3 A I was scared that I was going to be left in Marquette. I didn't want to be stuck over
4 there. I just wanted to go home and be with my kids. I wanted it to all just go away.

5 MR. DOE: I have no further questions.

6 Thank you.

7 THE COURT: Mr. Blanchard, anything further?

8 MR. BLANCHARD: No, Your Honor.

9 THE COURT: May this witness step down?

10 MR. DOE: No objection.

11 THE COURT: Thank you.

12 Thank you Ms. Jones.

13 (At 3:10 p.m., witness excused)

14 MR. DOE: Your Honor, for the purposes of preliminary
15 examination, I have no further proofs.

16 THE COURT: Okay.

17 Any proofs, Mr. Blanchard?

18 MR. BLANCHARD: Call Sherry Jones.

19 THE COURT: Good afternoon, ma'am. Will you raise your right hand for
20 me, please? Do you solemnly swear or affirm that the testimony you're about to
21 give will be the truth, the whole truth and nothing but the truth?

22 MS. JONES: Yes, I do.

23 THE COURT: Thank you.

24 You may be seated.

25 Please state your full name and spell both your first and last names for me.

1 THE WITNESS: Sherri Jones. S-H-E-R-R-I. J-O-N-E-S.

2 THE COURT. Thank you.

3 MR. BLANCHARD: Thank you.

4 SHERRI JONES

5 (At 3:11 p.m., sworn at a witness, testified as follows)

6 MR. BLANCHARD:

7 Q Ma'am, do you know Melissa Jones?

8 A Yes, I do.

9 Q How do you know Melissa Jones?

10 A She's my daughter.

11 Q Do you have an opinion about—well, if I asked you the question if you have an
12 opinion about her character for truthfulness, would you know what I meant by that?

13 A Yes.

14 Q Okay. Do you have an opinion about her character for truthfulness?

15 A I do.

16 Q And what is your opinion?

17 A She's not truthful. She fabricates many things.

18 MR. BLANCHARD: Okay.

19 That's all I have for this witness.

20 MR. DOE: No questions.

21 THE COURT: You may be excused, Ms. Jones

22 Thank you.

23 MR. BLANCHARD: I'd call Derrick Jones.

24 THE COURT: Good afternoon, Mr. Jones.

25 Raise your right hand, please.

1 Do you solemnly swear or affirm that the testimony you're about to give
2 will be the truth, the whole truth and nothing but the truth?

3 MR. JONES: Yes.

4 THE COURT: Thank you.

5 Please state your full name and spell your—both your first and last
6 names.

7 THE WITNESS: D-E-R-R-ICK. J-O-N-E-S.

8 THE COURT: Thank you.

9 DERRICK JONES

10 (At 3:13 p.m., sworn as a witness, testified as follows)

11 DIRECT EXAMINATION

12 MR. BLANCHARD:

13 Q Do you know Melissa Jones?

14 A Yes.

15 Q How do you know Melissa Jones?

16 A She is my sister.

17 Q So how long have you known her?

18 A 27 years.

19 Q Do you have an opinion about her character for truthfulness?

20 A Yes.

21 Q And what is your opinion?

22 A Not very truthful.

23 MR. BLANCHARD: Thank you.

24 MR. DOE: I have no questions for this witness.

25 THE COURT: Thank you.

1 You're free to step down, Mr. Jones.

2 Thank you.

3 (At 3:13 p.m., witness excused)

4 THE COURT: Any further proofs, Mr. Blanchard?

5 MR. BLANCHARD: I'd call Mike Jones.

6 THE COURT: Come right on up here, Mr. Jones.

7 And raise your right hand for me.

8 Do you solemnly swear or affirm that the testimony that you're about to
9 give will be the truth, the whole truth and nothing but the truth?

10 MR. JONES: I do.

11 THE COURT: Thank you.

12 You may be seated.

13 Please state your full name and spell both your first and last name for me.

14 THE WITNESS: Michael M-I-C-H-A-E-L. John J-O-H-N. J-O-N-E-S.

15 THE COURT: Thank you.

16 THE WITNESS: And Junior.

17 THE COURT: Mr. Blanchard?

18 MICHAEL JOHN JONES, JR.

19 (At 3:14 p.m., sworn as a witness, testified as follows)

20 MR. BLANCHARD:

21 Q Do you know Melissa Jones?

22 A Yes, sir.

23 Q How do you know Melissa Jones?

24 A She is my sister.

25 Q And, so, how long have you known her?

1 A About 31 years. I'm 31, so.

2 Q Okay, Your entire life?

3 A Yes.

4 Q Okay. Do you have an opinion about her character for truthfulness?

5 A Yes.

6 Q And what is your opinion?

7 A Untruthful.

8 MR. BLANCHARD: Thank you.

9 MR. DOE: I have no questions for this witness.

10 THE COURT: Thank you.

11 May this witness be excused.

12 MR. BLANCHARD: No objection.

13 THE COURT: Thank you.

14 You're free to go, Mr. Jones.

15 Thank you.

16 (At 3:15 p.m., witness excused)

17 MR. BLANCHARD: And David Jones.

18 THE COURT: I'm sorry, what was his last name?

19 MR. BLANCHARD: Jones. J-O-N-E-S, I believe.

20 THE COURT: Thank you.

21 Mr. Jones, raise your right hand, please.

22 MR. JONES: Mmm-hmm.

23 THE COURT: Do you solemnly swear or affirm that the testimony you're
24 about to give will be the truth, the whole truth and nothing but the truth?

25 MR. JONES: I swear.

1 THE COURT: Thank you.

2 Please state your full and spell your name—both your first and last name
3 for the record.

4 THE WITNESS: David Jones. D-A-V-I-D. J-O-N-E-S.

5 THE COURT: Thank you.

6 DAVID JONES

7 (At 3:15 p.m., sworn as a witness, testified as follows)

8 DIRECT EXAMINATION

9 BY MR. BLANCHARD:

10 Q Do you know Melissa Jones?

11 A Yes.

12 Q How long have you known her?

13 A Ever since she was an infant, basically.

14 Q Okay. Do you have an opinion about her character for truthfulness?

15 A Yes.

16 Q And what is your opinion?

17 A I wouldn't trust her—a word that she says about anything.

18 MR. BLANCHARD: I would pass the witness.

19 MR. DOE: I have no questions for this witness.

20 THE COURT: Thank you.

21 May this witness be excused?

22 MR. BLANCHARD: No objection.

23 THE COURT: Thank you, Mr. Jones.

24 You're free to go.

25 MR. BLANCHARD: We don't have any additional proofs, Your

1 Honor.

2 THE COURT: Any rebuttal, counsel?

3 MR. DOE: NO.

4 Thank you, Your Honor.

5 THE COURT: Okay.

6 MR. DOE: At this point, I would move for bind over on the three
7 counts on the felony complaint.

8 THE COURT: Any closing, Mr. Blanchard?

9 MR. BLANCHARD: Yes, Your Honor.

10 Thank you.

11 I think, as I've indicated before, it's incumbent upon the examining
12 Magistrate to assess credibility.

13 And what we're looking at here is, Count One charges criminal sexual
14 conduct in the first degree with the allegation that a penetration occurred during
15 the commission of a felony, that being assault by strangulation.

16 She didn't make out facts for an assault by strangulation. One, she says
17 that this thing that occurred didn't cut off her ability to breathe, it happened
18 somewhere between five and 10 seconds, that she—there was no other assaultive
19 behavior that occurred around this thing she says that they're trying to elevate
20 this to a CSC one with.

21 I don't think the Court can make a finding here that there's probable cause
22 believe that an assault by strangulation occurred, and that Mr. Miller committed
23 it.

24 I think you also have to take into account her credibility when assessing
25 that and look at what she says happened. She says she's in a hot tub with this

1 guy, that she exposes her breasts, that she gives him alcohol, that he's in there
2 naked and she's okay with it. There's all of this, by her testimony, sexual stuff
3 going on that then somehow she says, well, but I didn't want this thing to happen.

4 Now, I understand as charged CSC three by incest, consent is not an issue.
5 I think it does, however, bear on her credibility for the Count One, the CSC one.

6 I don't think the Court can bind over on Count One. I think there's a real
7 credibility question, and I think the Court would be justified on not biding over
8 On Counts Two on Three either.

9 THE COURT: Anything further, Mr. Doe?

10 MR. DOE: Just briefly, Your Honor.

11 Assault by strangulation has three elements. Battery, which is
12 forcible, violent or offensive touching. That is was intentional and the battery was
13 committed by strangulation or suffocation. That means intentionally impeding
14 normal circulation of the blood or breathing by applying pressure on the throat. I
15 think—on the throat or neck. I think her testimony does establish that element,
16 and I would ask for bind over on all three counts as charged.

17 THE COURT: All right.

18 I'm going to take a few minutes to review my notes given the
19 extensive testimony over the last approximately almost two hours. I'm just going
20 to need a few minutes. I won't need long.

21 Whether or not he goes back to holding, he can stay here as far as
22 I'm concerned, as long as you limit his contact in accord with the policy.

23 I will hope to be back by about 3:30 or so.

24 And we can go off the record.

25 MR. BLANCHARD: Thank you, Your Honor.

1 THE COURT: Thank you.

2 (At 3:19 p.m., Court recessed)

3 (At 4:01 p.m., Court recessed)

4 THE COURT: Okay.

5 We are back on the record in the matter of the People of the State of
6 Michigan as to Thomas Miller. File 151067FY.

7 The Court had taken a recess to review not only the Complaint, but I did
8 also want to look closer at MCL 750.84 (10 (b) and, in particular, the definition of
9 strangulation or suffocation.

10 I wanted to review my notes.

11 I did take longer than I anticipated and I certainly appreciate everyone's
12 patience this afternoon while I carefully considered all the information that was gathered
13 here this afternoon.

14 The Court is going to find as to Court One that there is probable cause to
15 believe that the crime of criminal sexual conduct, first degree, in particular, that Mr.
16 Miller did engage in sexual penetration, that being penis vagina with Melissa Jones under
17 circumstance involving the commission of another felony, that being assault by
18 strangulation.

19 There was testimony that he did place his hands around her throat, that it
20 did impede her normal breathing, and that there was, again, an application of pressure on
21 her throat at least to the amount required that it was difficult for her to breathe.

22 So, I'm going to find probable cause that he did—that there was an
23 offense committed. Probable cause that he was the one who committed this offense.

24 Courts Two and Three with regard to the issues of probable case. I don't
25 want to say they were a little bit easier, but they were a little bit easier, because that

1 simply requires the sexual penetration, penis vagina between Mr. Jones and Mr. Miller,
2 given their relationship, because they are related by blood or affinity to the third degree.
3 Mr. Miller is Ms. Jones' maternal uncle, the brother of her mother.

4 So, I am going to find probably cause that the crime of criminal sexual conduct,
5 third degree, was committed in Count Two in that Mr. Miller did engage in sexual
6 penetration, that being penis vagina with Melissa Jones and, again that they were related
7 by blood or affinity to the third degree. Probably cause to believe that Mr. Miller was the
8 one who committed the offense.

9 And that would be the same as to Count Three given that there appeared to have
10 been at least two episodes of penis vagina sexual penetration.

11 So, Mr. Miller will be bound over to the Circuit Court given that these offense are
12 not cognizable by the District Court.

13 A date will be schedule for him to appear in—in the Circuit Court on the three
14 counts as charged.

15 Is there anything further, counsel?

16 MR. DOE: Nothing for the People.

17 Thank you, Your Honor.

18 MR. BLANCHARD: If I can just get clarification on the bind over decision.

19 The testimony I heard and I think the Court's findings was that there were two
20 episodes, you're binding over on three counts? Are you bidding over on Count Two as an
21 alternative to Count One, or are you binding over on three separate counts?

22 THE COURT: Three separate counts.

23 MR. BLANCHARD: Thank you.

24 THE COURT: The first one being the act of the sexual intercourse during the
25 commission of the strangulation—the assault by strangulation.

1 Count Two, the act of engaging in sexual intercourse while they were facing each
2 other given their relationship.

3 Count Three, the act of sexual intercourse we're to—I don't know how—from the
4 back as she said, or from behind and given their relation.

5 MR. BLANCHARD: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. DOE: Thank you.

8 THE COURT: Thank you.

9 MR. BLANCHARD: Is the Court setting an arraignment on the information
10 (inaudible – Court talking over Mr. Blanchard)-

11 THE COURT: I will not be.

12 MR. BLANCHARD: Okay

13 THE COURT: I know we do it a little bit differently when counsel's retained.
14 I don't know how soon, Mr. Blanchard, you will know that.

15 Any indication?

16 THE CLERK: He can go to the fourth floor clerk's office and get a date.

17 THE COURT: Oh, apparently, you can go straight upstairs today and know of
18 that date today.

19 MR. BLANCHARD: Great. Thank you, Your Honor.

20 THE COURT: Okay.

21 Thank you.

22 (At 4:06 p.m., proceedings concluded)

23

24 STATE OF MICHIGAN)

25)

26 COUNT OF MARQUETTE)