

1 THE WITNESS: Thank you.

2 MR. WAKEFIELD: Your Honor, at this time,
3 the State calls Nurse Tessia Winnfield.

4 THE BAILIFF: Your Honor, this witness has
5 not been sworn.

6 (Whereupon the witness is sworn by the
7 Court.)

8 **TESSIA WINNFIELD,**

9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 BY MR. WAKEFIELD

12 Q. Good morning.

13 A. Good morning.

14 Q. Would you please introduce yourself to the
15 jury?

16 A. My name is Tessia Winnfield.

17 Q. Ms. Winnfield, can you explain to the jury what
18 you do for a living?

19 A. I'm a supplemental forensic nurse at the Harris
20 County Hospital District, now known as Harris Health
21 System.

22 Q. Can you explain to the jury what your job is?

23 A. Okay. A forensic nurse is a nurse whose
24 specialty is involving provisional care to victims of
25 crime, such as sexual assault, physical assault, elder

1 abuse, child abuse, as well as collecting evidence and
2 certain types of death investigations.

3 Q. Now, to become one of those, do you have to be
4 a nurse?

5 A. Yes, you do.

6 Q. Now, when did you become a nurse?

7 A. I became a nurse in 2003.

8 Q. What kind of education -- I'm sorry. What kind
9 of education do you need to become a nurse?

10 A. Well, originally, I graduated with my
11 associate's degree from San Jacinto College in 2002. I
12 became certified through the State Board of Texas in 2003.
13 In 2010, I became a bachelor's degreed nurse. I got my
14 bachelor's. In order to become a forensic nurse, you have
15 to have your bachelor's degree.

16 Q. How long have you been employed as a nurse?

17 A. I've been employed as a nurse since 2003. So,
18 years -- I mean 10 years. Sorry.

19 Q. Was all the time with Harris Health or where
20 else?

21 A. Originally, my first year of nursing, I started
22 as an emergency center nurse at East Houston Regional
23 Medical Center. I stayed there from 2003 to 2007. 2007
24 is when I went to Harris County Hospital District and I've
25 been there ever since.

1 Q. When you said that you passed your state
2 boards, explain to the jury what that process is, being a
3 board certified nurse.

4 A. Okay. To pass your state board examination, we
5 go through two years of nursing school, which is what I
6 did, associate's degree. Then I have to petition the
7 State Board of Texas in order to take an exam to be
8 certified as a nurse.

9 Q. Now, when you came to the Harris Health System
10 -- explain to the jury what the Harris Health System is?

11 A. The Harris Health System is a system of
12 different hospitals and clinics. We comprise of three
13 hospitals, which consist of LBJ, Ben Taub, and Quinton
14 Mease, and several clinics throughout the Harris County
15 area.

16 Q. These hospitals, do they just handle special
17 cases like with forensic nurses or do they handle any kind
18 of cases?

19 A. They handle any and all cases.

20 Q. Now, to become a forensic nurse, what kind of
21 specialized training and education do you get?

22 A. The training that I receive for forensic
23 nursing, I went through 80 hours of didactic training.
24 After that training, I went through six months of clinical
25 orientation.

1 Q. All right. And when you're working as a
2 forensic nurse, what kind of cases do you see?

3 A. We see sexual assault, we see physical assault,
4 domestic violence, child abuse, elder abuse, some death
5 reports.

6 Q. What is the function of a forensic nurse versus
7 a standard nurse that you see in a doctor's office?

8 A. The difference of a nurse that you see in a
9 doctor's office is we are specially trained to take care
10 of victims of crime.

11 Q. What kind of specialized things do you do to
12 take care of those victims?

13 A. We are trained to properly handle evidence, to
14 collect any evidence, shall I say. And we are trained to
15 deal with patients with psychosocial issues as well and to
16 be able to get them to communicate with us more than a
17 typical nurse.

18 Q. Is there such a thing as a certified forensic
19 nurse?

20 A. Yes, there is.

21 Q. Explain to the jury how one becomes certified
22 in forensic nursing.

23 A. One becomes certified after being a forensic
24 nurse for two years. You have to be a forensic nurse for
25 two years, and then you petition the State board again.

1 And you have two different options. You can go through
2 the International Association of Forensic Nurses and take
3 a certification exam or you could go through the Medical
4 Examiner's Office here.

5 Q. Now, when you are doing your job as a forensic
6 nurse, where do you conduct your examinations?

7 A. We conduct our examinations in private exam
8 rooms within the emergency center at one of our hospitals.
9 And it's the main hospitals, usually at Ben Taub or LBJ.
10 If a patient is an in-patient and if they have their own
11 private room, we will perform an exam in their own private
12 room.

13 Q. Explain to the jury what is done during a
14 forensic exam on a sexual assault patient.

15 A. What is actually done, a procedure we take --
16 we actually obtain consent from the patients. We make
17 sure that the patients are alert and able to consent.
18 Once those consents are done, we actually inform a patient
19 of everything that -- the whole entire procedure that is
20 going to take place from beginning to end. We take
21 pictures, if there are pictures to be taken. We collect
22 evidence, if there's any evidence to be collected. We
23 also get a chance to talk to the patient and document all
24 the information that the patient gives us.

25 Q. All right. Now, were you working as a forensic

1 nurse on August 22nd of 2011?

2 A. Yes, I was.

3 Q. As you're working as a forensic nurse in that
4 capacity, did you have an occasion to meet Dominique
5 Withoff?

6 A. Yes, I did.

7 MR. WAKEFIELD: Your Honor, at this time, I
8 offer State's Exhibit 71. This is with a Business
9 Records Affidavit and this is the medical report
10 that's been on file for over 14 days.

11 (State's Exhibit No. 71 offered.)

12 MR. ANDERSON: He's going to remark the
13 exhibit. He tore off the page that had the exhibit
14 sticker.

15 MR. WAKEFIELD: It was the Business Records
16 Affidavit, Judge. Any objection?

17 MR. ANDERSON: Let me look at it first. I
18 do object because the contents of State's Exhibit No.
19 71 contains what looks like handwritten --
20 handwritten notes, but it appears to be a statement
21 of the complaining witness. I'd object to the
22 hearsay as to that coming in.

23 MR. WAKEFIELD: May I prove it up, Judge?

24 MR. ANDERSON: Do you want us to show it to
25 you?

1 THE COURT: Let me see what you're talking
2 about.

3 (Whereupon counsel approached the
4 bench out of the hearing of the jury.)

5 THE COURT: This was a statement by the
6 complainant?

7 MR. WAKEFIELD: It was her notes that she
8 wrote as the complainant was talking to her. It was
9 her handwritten notes, the nurse's handwritten notes
10 while the complainant was talking to her. It's for
11 the purpose -- it's for the purpose of treatment and
12 medical diagnosis.

13 THE COURT: Prove it up.

14 MR. WAKEFIELD: Okay.

15 (Whereupon the following proceeding is
16 held in the hearing of the jury.)

17 MR. WAKEFIELD: Judge, for the Court's
18 verification, I accidentally tore off the Business
19 Records Affidavit attached to this exhibit. With
20 your permission, I want to reattach it and resubmit
21 it as State's Exhibit 71.

22 Q. (By Mr. Wakefield) Ms. Winnfield, when you met
23 with Dominique, did she come to you for an examination?

24 A. Yes, she did.

25 Q. Was that examination in the hospital?

1 A. Yes, it was.

2 Q. Did she know that she was going to be having an
3 examination for her health and medical diagnosis?

4 A. Yes, she did.

5 Q. When she took this examination, was she
6 examined physically by you?

7 A. Yes, she was.

8 Q. Does that -- did that include her body and her
9 genitals?

10 A. Yes.

11 Q. And during the course of that examination, did
12 she make statements to you?

13 A. Yes, she did.

14 Q. Were those statements for the purpose of your
15 medical examination and your medical diagnosis?

16 A. Yes.

17 MR. WAKEFIELD: I'll reoffer State's
18 Exhibit 71, Judge.

19 MR. ANDERSON: May I take the witness on
20 voir dire?

21 THE COURT: Yes.

22 MR. ANDERSON: Just as to this area, Your
23 Honor.

24

25 VOIR DIRE EXAMINATION

1 BY MR. ANDERSON

2 Q. As far as your discussing -- discussions with
3 Ms. Withoff, do you do any diagnosing of the patient, Ms.
4 Withoff?

5 A. Do I?

6 Q. Yes, ma'am.

7 A. No, I do not make diagnoses.

8 Q. So, you getting this information wasn't done
9 for your purpose of doing any type of a diagnosis,
10 correct?

11 A. No, I do not make a diagnosis.

12 Q. All right. You were just performing the
13 examination of Ms. Withoff; is that correct?

14 A. Correct.

15 Q. And directing any evidence that you may deem to
16 be relevant, correct?

17 A. Correct.

18 MR. ANDERSON: Your Honor, I re-urge my
19 objection. She wasn't doing any type of diagnosing.

20 THE COURT: I'm going to sustain the
21 objection to that portion.

22 MR. WAKEFIELD: May I ask a follow-up
23 question, Judge?

24 THE COURT: No. I mean, you can ask a
25 question, sure, but I'm telling you under the

1 circumstances as to that portion of the document, I
2 will sustain the objection. Everything else is
3 admitted.

4 MR. WAKEFIELD: If I may, Judge, there's a
5 couple of follow-up questions I want to revisit if I
6 can.

7 THE COURT: You can ask the questions all
8 you want.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. WAKEFIELD

11 Q. Was the purpose of your examination also to
12 treat her?

13 A. Yes.

14 Q. Was it for her treatment?

15 A. Yes, it was.

16 Q. Did she know that this examination was for her
17 treatment that you were going to administer?

18 A. Yes.

19 Q. And when you -- and when you were doing this
20 examination, did you, in fact, tell her how to follow up
21 after this examination --

22 A. Yes.

23 Q. -- for her treatment?

24 A. Yes.

25 Q. All right.

1 MR. WAKEFIELD: Your Honor, at this time --

2 THE COURT: Overruled.

3 MR. WAKEFIELD: Okay.

4 THE COURT: Just to that portion.

5 Everything else is submitted.

6 (Whereupon State's Exhibit No. 71 is
7 admitted into evidence.)

8 MR. WAKEFIELD: May I approach the witness,
9 Judge?

10 THE COURT: Sure.

11 Q. (By Mr. Wakefield) I'm going to show you
12 State's Exhibit 71. Is this the document that you
13 prepared when you were doing the examination?

14 A. Yes, it is.

15 Q. Now, what kind of examination were you
16 performing on Ms. Dominique Withoff?

17 A. I did a physical exam, which consisted of the
18 type of case which she came in with complaints of.

19 Q. What kind of case was that?

20 A. A sexual assault.

21 Q. Okay. Whenever she came in -- and let's go
22 through it step-by-step. I will put it on the speaker
23 [sic]. You can actually see it on that little screen
24 right there.

25 A. Okay.

1 Q. Now, this is -- at the top here that I'm
2 pointing at, is that your name right there?

3 A. Yes, it is.

4 Q. As we go down here, whose name is this?

5 A. That's the patient's name.

6 Q. Okay. Is this her other identifiers and
7 addresses?

8 A. Yes, it is.

9 Q. Now, can you read that?

10 A. Yes, I can.

11 Q. Now, when you were going through this
12 information, what kind of contact was reported?

13 A. The type of contact that was reported from the
14 patient was that there was no penis-to-vagina, no
15 penis-to-anus, but there was digital penetration of the
16 vagina.

17 Q. Can you explain to the jury what you mean by
18 digital penetration of the vagina?

19 A. Digital penetration means like with your
20 fingers.

21 Q. Okay. Could it also be any other objects?

22 A. The foreign object would be other objects, yes.

23 Q. Where it says "use of foreign object," is that
24 checked yes?

25 A. Yes, it is.

1 Q. Is that because she explained to you that the
2 defendant had used a foreign object?

3 A. Yes.

4 Q. All right. Over here, can you tell us what
5 that says right there?

6 A. At the point where it asks was there a foreign
7 object used, I checked "yes." And it says, "If yes, what
8 type? Attempted barrel of the gun to the anus and/or
9 vagina."

10 Q. Did she explain to you how that happened?

11 A. Yes, she did.

12 Q. All right. Now, as we continue with the
13 examination hearing -- and we will get to the physical
14 examination in a moment, but did she mention that she was
15 injured during the assault?

16 A. She mentioned that she wasn't sure of any
17 injuries. That's the reason why we do a physical exam.

18 Q. Okay.

19 A. Upon my physical exam -- I think it's in the
20 report as well.

21 Q. We will get there in a moment. Did she mention
22 whether a tampon was present during the assault?

23 A. Yes, she did.

24 Q. And she said there was?

25 A. Yes.

1 Q. Did she mention if she was menstruating at the
2 time of the assault?

3 A. Yes, she did.

4 Q. All right. Now, since the time of the assault
5 and your examination -- right here I'm looking at "did the
6 patient." Can you explain to the jury what this is?

7 A. Actually, on that area of the documentation we
8 document what the patient did after the assault, and she
9 confirmed that she took a shower, she changed her
10 clothing, she did eat, and she did have something to
11 drink.

12 Q. Now, when you did your examination of her, did
13 you have -- talk to her about what happened?

14 A. Yes, I did.

15 Q. Those conversations you had, was that for the
16 purpose of your diagnosis and also for your treatment?

17 A. Yes, it is.

18 Q. Now, did you take notes of those things?

19 A. Yes.

20 Q. Would it help your testimony today if you could
21 just refer to those notes?

22 A. Yes.

23 Q. When describing what happened to her, what did
24 she tell you?

25 MR. ANDERSON: Objection, Your Honor.

1 Hearsay.

2 THE COURT: Sustained.

3 MR. WAKEFIELD: If I may, Judge. The
4 document -- she's not reading from the document.
5 She's only talking about the statements --

6 THE COURT: It's still hearsay. You have a
7 business record. A portion of that business record
8 is hearsay. It's just not admissible.

9 MR. WAKEFIELD: Okay.

10 THE COURT: You have other ways to get that
11 other evidence in.

12 Q. (By Mr. Wakefield) After she explained to you
13 about the sexual assault, what happened? Did you do a
14 physical examination?

15 A. Yes.

16 Q. All right. Let's begin with that. At that
17 point, did she complain of pain?

18 A. Yes, she was.

19 Q. Did she explain to you what kind of pain it
20 was?

21 A. She told me it was abdominal pain.

22 Q. Now, during your physical examination, did
23 there appear to be any injuries to the abdomen?

24 A. Not that I could tell, no.

25 Q. Based on your experience and training, what

1 could be causing that abdomen pain based on what she told
2 you?

3 MR. ANDERSON: Objection, Your Honor.
4 Speculation.

5 THE COURT: Ask the question again.

6 Q. (By Mr. Wakefield) Based on your medical
7 knowledge and expertise, and based on what she told you
8 about the pain, what did that appear to be to you?

9 A. It could have possibly --

10 MR. ANDERSON: I object --

11 THE COURT: I will let her answer the
12 question.

13 A. It could have possibly been menstruation cramps
14 because she was on her cycle.

15 Q. (By Mr. Wakefield) Now, proceeding forward on
16 your examination. Now, the first thing I'm pointing
17 towards at the top, you say, "Alert and oriented times
18 three." What does that mean?

19 A. That she was aware of who she was, where she
20 was, and the time it was.

21 Q. Are there different levels of awareness and
22 orientation?

23 A. Yes. Some people can be alert but not oriented
24 to where they are, what time of year it is, or who they
25 are, but she was all three. Those are the only three you

1 can be, of time, place, and person.

2 Q. The next one I want to point to, because it
3 says, "Bruising of left elbow and wrist," explain to the
4 jury what that is.

5 A. Bruising is like redness that was noted on the
6 outer portion of the wrist.

7 Q. Do you remember what that bruising looked like?

8 A. To be honest with you, right now I sure don't.

9 Q. All right. As we move down, did you -- when
10 you examined her buttocks, was that important to your
11 examination?

12 A. That was the genital exam when I was doing the
13 buttocks.

14 Q. All right. Now, let me ask you this. During
15 the course of your examination, did you notice any
16 redness, swelling, or any kind of irritation to either the
17 vagina or the buttocks?

18 A. No.

19 Q. All right. Now, let me ask you about that.

20 A. Okay.

21 Q. Is it possible for a person to have been
22 sexually assaulted digitally and not show any signs of it
23 on their vagina if they came to you days later?

24 A. Yes.

25 Q. Explain to the jury why that is.

1 A. Well, one reason is because the genital area is
2 a very forgiving organ. Sometimes something can occur,
3 they can report in 30 minutes, as soon as something
4 occurs, and we absolutely see nothing at all. Some people
5 you will, but it's not definitive that, no, nothing didn't
6 happen, or, yes, something did.

7 Q. Is -- would you say the vagina and the anus
8 actually heal very quickly?

9 A. They do.

10 Q. Do they heal more quickly than like a bruise to
11 your arm or something?

12 A. Yes.

13 Q. So, when you say that the vagina can heal very
14 rapidly, can you still have -- be sexually assaulted and
15 have no irritation or no damage to your vagina or your
16 anus?

17 A. Yes.

18 Q. Would it be true to say that no sign of any
19 injury is consistent with reporting of a sexual assault?

20 A. Yes, it is.

21 Q. Now, in this bottom portion here, is this the
22 portion of the examination of the genitals?

23 A. Yes, it is.

24 Q. During your examination of the genitals, were
25 there any signs of injury or redness?

1 A. No, not to the naked eye.

2 Q. Okay. When you say "not to the naked eye,"
3 what do you mean?

4 A. What I mean by that is during our exams, we
5 also do digital exams, which are photos. Once we encrypt
6 those photos and put them in raw form in a computer, they
7 are blown up to a really large size to where you may see
8 something on those raw films that you could not see with
9 the naked eye.

10 Q. Now, as I'm going through here, is this the
11 continuation of the genital examination?

12 A. Yes, it is.

13 Q. And, again, no signs of any redness or injury?

14 A. No.

15 Q. But like you said before, that's still
16 consistent with a sexual assault?

17 A. Yes, it is.

18 Q. Now, the last one I want to go to is the
19 discharge, patient discharge. It mentions that you told
20 her to do a medical follow-up. Can you explain to the
21 jury why you asked her to do that?

22 A. All patients that we see within our forensic
23 program, we refer them to do a follow-up with a clinic,
24 one of the clinics of their choice if they have one, or we
25 refer them to a clinic if they do not have one of their

1 choice. The reason why is because all patients of
2 different types go through different things, and if we --
3 we also do certain tests sometimes. We need to give them
4 results within 24, 48 hours. We help them psychosocially,
5 as well as trying to help them out with other issues that
6 they may be going through emotionally.

7 Q. Now, at the very back of this particular
8 exhibit there's a drawing. Did you make this drawing?
9 Did you mark this drawing?

10 A. Yes, I did.

11 Q. Okay. I'd like to focus -- did you make any
12 marks to this particular drawing?

13 A. Yes, I did.

14 Q. Where were those marks?

15 A. On the wrists.

16 Q. It looks like -- I'm looking at the center of
17 this picture. It looks like there are two marks, one to
18 each side.

19 A. Correct.

20 Q. Can you explain to the jury what those signify?

21 A. What those signify is in the exam, when I did
22 her physical exam, that's where I saw the bruising on her
23 wrists.

24 Q. Now, when -- you mentioned earlier that this
25 long after a sexual assault, the vagina may not show any

1 signs of bruising, correct?

2 A. Correct.

3 Q. Why is it that the wrists can still show
4 bruising of trauma from that long ago?

5 A. Well, for one, the body -- the extremities take
6 longer to heal. The blood builds up, it bruises, it takes
7 awhile for that blood to actually flow through the
8 interstitial spaces and go back to norm. So, it takes
9 awhile for them to heal and go back to normal. It could
10 take up to two, maybe three weeks, maybe 14 to 21 days;
11 whereas with the genital areas, in five or ten minutes
12 sometimes they can heal.

13 Q. Is that the conclusion of your examination of
14 this victim?

15 A. Yes, sir.

16 Q. And was everything that you saw during your
17 examination consistent with someone who had been sexually
18 assaulted?

19 A. Yes.

20 MR. WAKEFIELD: Pass the witness.

21 MR. ANDERSON: Just a few questions.

22 **CROSS-EXAMINATION**

23 BY MR. ANDERSON

24 Q. Ms. Winnfield, the examination that you
25 performed on August 22nd, that was the only contact that

1 you had with Ms. Withoff; is that correct?

2 A. Correct.

3 Q. Okay. And it occurred -- your examination
4 occurred approximately eight days after the alleged sexual
5 assault. In terms of examination, in terms of determining
6 if, in fact, a sexual assault occurred, would it have been
7 better, I guess, for lack of a better word, if the
8 examination had taken place right after the alleged event?

9 A. I'm going to say we have a window, which is 72
10 hours, to collect evidence. That's the reason why
11 collection of evidence was not done as far as doing a
12 sexual assault kit.

13 Q. So, I take it the answer to the question, in
14 terms of the examination, collection of possible evidence,
15 it would have been better to have that type of examination
16 that you performed done right after the event?

17 A. I'll say yes.

18 Q. Because at that point in time, there has been
19 no showering; is that correct?

20 A. Well, it all depends.

21 Q. Usually. I mean, that is what you'd expect or
22 you'd hope --

23 A. That's what we hope for, but sometimes we do
24 get patients that still shower immediately after.

25 Q. But as far as trying to retrieve evidence and

1 get evidence, it's better if there had been no showering,
2 or changing of clothing, or any alteration done to the
3 person's body that might interfere with the collection of
4 evidence?

5 A. Correct.

6 MR. ANDERSON: I'll pass the witness.

7 Thank you, ma'am.

8 MR. WAKEFIELD: Nothing further, ma'am.

9 THE COURT: You may step down.

10 Members of the jury, we are going to take a
11 short break. Please remember the instructions I've
12 given you, and we will call you back shortly.

13 (Brief recess.)

14 (Whereupon the following proceeding is
15 held outside the presence of the
16 jury.)

17 MR. WAKEFIELD: Judge, on the record I need
18 to -- Judge, for clarification, this Exhibit 71 that
19 I had originally admitted, I'm relabeling that
20 Exhibit 72. And the redacted version without that
21 documentation is going to be Exhibit 71.

22 (Whereupon State's Exhibit No. 72 is
23 admitted into evidence.)

24 THE COURT: Okay. Do you understand?

25 MR. ANDERSON: Yes.