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CASE NO. C\*11952/

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
COUNTY OF CLARK, STATE OF NEVADA

\* \* \*

COPY

THE STATE OF NEVADA, )  
 )  
 ) Plaintiff, )  
 )  
 ) vs. )  
 )  
 ) CURTIS LUNDY DOWNING, )  
 )  
 ) Defendant. )

Case No. 93F08611X

REPORTER'S TRANSCRIPT OF  
PRELIMINARY HEARING

BEFORE THE HONORABLE JAMES M. BIXLER, JUSTICE OF THE PEACE

THURSDAY, APRIL 7, 1994  
9:00 o'clock a.m.

APPEARANCES:

For the State: GARY GUYMON, ESQ.  
Deputy District Attorney

For the Defendant: KEVIN V. WILLIAMS, ESQ.  
Deputy Public Defender

Reported by: DIANA M. GREEN, C.S.R., Certificate No. 264

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I N D E X

WITNESSES FOR THE STATE:

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E X H I B I T S

(None)

1 LAS VEGAS, CLARK COUNTY, NEVADA, THURSDAY, APRIL 7, 1994

2  
3 9:00 o'clock a.m.

4  
5 \* \* \*

6  
7 P R O C E E D I N G S

8  
9  
10 THE COURT: State of Nevada versus Curtis  
11 Downing, 93F-8611. Curtis Downing.

12 MR. WILLIAMS: We invoke the exclusionary rule.

13 THE COURT: Any other witnesses or potential  
14 witnesses present in the courtroom in this case, the State of  
15 Nevada versus Curtis Downing, step in the hallway, have a seat  
16 and don't discuss any of your testimony while waiting outside  
17 in the hallway.

18 Are any of those people potential witnesses?

19 MR. GUYMON: One, Your Honor. I ask to have her  
20 excused.

21

22 (The witness left the courtroom.)

23

24 THE COURT: Don't discuss anything while waiting  
25 outside the courtroom. Don't talk to yourself.



DIRECT EXAMINATION

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BY MR. GUYMON:

Q. Tami, directing your attention to January 18th of 1993 at about 8:00 p.m. in the evening, do you remember where you were at and who you were with?

A. Yeah. I was walking a friend home, Tera and I was and Angie, we were walk ago friends home.

Q. What is Tera's last name?

A. Tera Annunzito.

Q. Spell that.

A. A-n-n-u-n-z-i-t-o. I don't know.

Q. What is Angie's last name?

A. Vaughan.

Q. Spelled?

A. V-a-u-g-h-a-n.

Q. Now, do you remember what area you were walking at?

A. Yeah. I was walking past Clark High School, cutting through it.

Q. All right. Now, as you were cutting through Clark High School, did you see someone you see here in court today?

A. On my way back, yeah.

Q. On your way back. About what time was it when

1 you were on your way back?

2 A. About 8:30. 9:00

3 Q. In the evening time?

4 A. Yeah.

5 Q. Were you still with Tera and Angie?

6 A. Angie. Just Angie.

7 Q. Just Angie. So you already dropped Tami (sic) Tera  
8 off then?

9 A. Yeah.

10 Q. All right. Now, at about 8:30 when you were  
11 coming back through Clark High School, could you point to the  
12 individual you said you saw there at the Clark High School  
13 area?

14 A. (Witness indicating.) Him.

15 Q. Would you describe an article of clothing the  
16 person is wearing that you just pointed to so the judge knows  
17 who we're talking about?

18 A. White button-up shirt, brown pants.

19 THE COURT: That's fine.

20 MR. GUYMON: Let the record reflect  
21 identification of the defendant, Your Honor.

22 THE COURT: That's correct.

23 BY MR. GUYMON:

24 Q. Now then, how far away was the defendant from  
25 you when you first saw him?

1 A. About 40 feet, 30 feet.

2 Q. About?

3 A. Forty feet.

4 Q. And did the defendant continue to walk towards  
5 you and you to him?

6 A. Yes.

7 Q. Was there anyone else other than you Angie and  
8 the defendant in the immediate area?

9 A. No.

10 Q. Who were you focused on or what were you  
11 watching as the defendant approached you?

12 A. Him.

13 Q. What was the lighting like as he began to  
14 approach from that 40 feet?

15 A. It was dark, but there were street lights and  
16 some lights around the school.

17 Q. And were you actually on the school grounds?

18 A. Yeah.

19 Q. That is a yes?

20 A. Yes.

21 Q. Was there any hallway lighting that illuminated  
22 the area that you were looking from?

23 A. No.

24 Q. Just the street lamps in the area?

25 A. Yes, I think so.

1 Q. Did the defendant continue to approach until you  
2 were standing face to face with him?

3 A. Yes.

4 Q. Did you get a good look at him as you stood  
5 there face to face with him?

6 A. Yeah, for a second.

7 Q. As he reached your location, what did he do?

8 A. He grabbed my arm and grabbed Angie's arm.

9 Q. What happened after he grabbed the two of you?

10 A. And then he just -- I said something like, "What  
11 are you doing?" or something, and he just told us to shut up  
12 or he would kill us. And he walked us down the sidewalk to  
13 the bushes by the school, like at the corner of the school.

14 Q. Now, as he walked you, was he still grabbing  
15 ahold of you as he walked you to the bushes?

16 A. Yes.

17 Q. What happened when he got you to the bushes?

18 A. Then he pushed us down, told us to get down on  
19 our stomachs and he asked us if we knew a guy named Damien.  
20 And we said yeah. And he said, "What relation are you to  
21 him?" And we said we were friends with him. And he said,  
22 "Well, he's not a good person to be friends with. I'm going  
23 to kill him." And that was that.

24 Q. When you say we, are you talking about you and  
25 Angie?



1 A. Right.

2 Q. After he asked you about Damien, what happened?

3 A. Then he put my jacket over my head, put her  
4 jacket over her head, and she was on her stomach with her  
5 jacket over her head and I was on my back with my coat up over  
6 my head. And then he took my shoelaces out of my shoes and  
7 tied my hands together.

8 Q. With the shoelaces?

9 A. Right.

10 Q. Were your hands now above your head or behind  
11 your back? Where were your hands as he tied you up?

12 A. They were above my head.

13 Q. What happened after your hands were tied with  
14 the shoelaces above your head?

15 A. Then he just pulled up my shirt, and he took off  
16 my clothes, my pants, my shoes, my underwear and then he --  
17 well, then he put his tongue in my vagina.

18 Q. Were you naked from the waist down now as he did  
19 that?

20 A. Yes.

21 Q. All right. After he put his tongue in your  
22 vagina, what happened?

23 A. Then he put his penis in my vagina.

24 Q. What position was your body? Were you on your  
25 stomach or on your back as he did that?

1 A. I was on my back.

2 Q. You were laying on your back?

3 A. Right.

4 Q. And he put his penis inside your vagina?

5 A. Yes.

6 Q. Do you know if he ejaculated at that time?

7 A. Yes, he did. Yes.

8 Q. He did?

9 A. Yes.

10 Q. Inside of your vagina?

11 A. Yes.

12 Q. And will you create a time frame for me. From  
13 the time he laid you down in the bushes until he ejaculated,  
14 how much time transpired during that period?

15 A. About 20 minutes altogether.

16 Q. Where was Angie while he was doing these type of  
17 acts to you?

18 A. She was right next to me on her stomach with her  
19 coat over her head.

20 Q. Now, could you see her?

21 A. No, but I could hear her.

22 Q. Why didn't you see her?

23 A. Because I had my coat over my face, and I  
24 couldn't see.

25 Q. Now, after the defendant put his penis inside

1 your vagina and he ejaculated, what happened next?

2 A. Then he walked me over by some bushes, and it  
3 was raining that night and there was rainwater coming out of  
4 the gutters, and he washed me out with the rainwater.

5 Q. When you say he washed you out, what did he do?

6 A. Stuck his finger inside me to wash me out.

7 Q. Inside of?

8 A. The vagina.

9 Q. Took the gutter water, put the gutter water  
10 inside your vagina with his hand?

11 A. Yes.

12 Q. So his finger was inside your vagina?

13 A. Yes.

14 Q. What was he saying to you as he was doing that?

15 A. Then he said he didn't mean no harm by this, but  
16 Damien did that to his sister. And he didn't know we was  
17 friends with him. He said he seen me with him and was waiting  
18 for this a long time, that he's been watching me.

19 Q. Did he say anything to you about telling anyone  
20 what he had done to you?

21 A. Yes. He said if I told anybody that he would  
22 kill me, he would find me before the cops found him.

23 Q. Now then, after he placed this gutter water  
24 inside your vagina to wash your vagina out, what happened?

25 A. Then he walked me back over where my clothes

1 were. I still couldn't see. He put my clothes back on me.

2 Q. Why couldn't you see at that time?

3 A. Because I still had my jacket over my face, and  
4 I couldn't see. He had it over me.

5 Q. Did you ever try to move the jacket off your  
6 face?

7 A. I don't think so. He wouldn't let me.

8 Q. Did the defendant say anything to you about  
9 taking the jacket off your face or look at him?

10 A. Yeah, just don't look at me. Don't look at me.  
11 That's why he put it over me. Don't look at me or I will kill  
12 you.

13 Q. Once you were back over at the bushes with  
14 Angela, what happened?

15 A. After he got me dressed and everything, then he  
16 said -- he put me back on the ground on my stomach with our  
17 coats over our heads and said to count to a hundred, and we  
18 could get up and leave.

19 Q. Were your hands still tied above your head?

20 A. Yes.

21 Q. With the rope?

22 A. Yes.

23 Q. That's a yes?

24 A. Yes.

25 Q. Did the defendant then leave after he laid you

1 back down and told you to count to a hundred?

2 A. Yes.

3 Q. How much time transpired before you and Angela  
4 then got up and looked at each other?

5 A. About a minute.

6 Q. From there, did you run home and talk to your  
7 mother?

8 A. Yup. We walked on home, and then when I went  
9 home, I told her I got in a fight because I was all muddy. I  
10 didn't tell her at first because I didn't want to go tell the  
11 cops and everything.

12 Q. Why didn't you want to tell the police, the cops  
13 immediately?

14 A. Because I really believed he knew where I was at  
15 and how to find me.

16 Q. As a result of talking to your mother, did you,  
17 in fact, go to U.M.C. Medical Center and have a physical  
18 examination done where a sexual assault kit was performed?

19 A. Yes.

20 Q. Did you talk to a nurse and doctor at the  
21 hospital?

22 A. Yes.

23 Q. Did the nurse and doctor take samples vaginally,  
24 swab samples of your vagina, anus and mouth?

25 A. Yes, but not my anus.

1 Q. They also drew blood?

2 A. Yes.

3 Q. Did you also talk to the police that evening  
4 there at the U.M.C. Medical Center about what happened?

5 A. Yes.

6 Q. Now then, do you remember the articles of  
7 clothing the defendant was wearing as he approached you that  
8 night?

9 A. Yeah. He was wearing a black jacket, white  
10 baggie pants and a hat. He had a beanie on.

11 Q. A hat like a baseball hat or ski beanie?

12 A. A ski beanie.

13 Q. How far down did the beanie go to?

14 A. Right to his eyebrows, like covering his  
15 eyebrows.

16 Q. And can you describe anything about the  
17 defendant's voice that you heard that night?

18 A. Yeah. He had a Mexican accent.

19 Q. He spoke in a Mexican accent?

20 A. Yes.

21 Q. And did these things happen -- you mentioned  
22 Clark High School. Is that a high school located in Clark  
23 County, Las Vegas, Nevada?

24 A. Yes.

25 MR. GUYMON: No more questions on direct, Your

1 Honor.

2 THE COURT: Cross.

3 MR. WILLIAMS: Thank you, Your Honor.

4

5

CROSS-EXAMINATION

6

7 BY MR. WILLIAMS:

8 Q. Tami, what time did this occur?

9 A. About 8:30 p.m.

10 Q. How dark was it?

11 A. It was kind of dark. It was dark.

12 Q. It was dark. You said you at that time were  
13 walking across the campus of Clark High School?

14 A. Yes.

15 Q. Is that a wooded area there?

16 A. No.

17 Q. By wooded, are there trees there?

18 A. Oh, yeah.

19 Q. You said that you and a friend of yours were  
20 walking back from her house, I think her house?

21 A. No. Me and a friend were walking a friend home.  
22 We were walking back from her house.

23 Q. You were coming back to your house?

24 A. Yes.

25 Q. As you were coming back to your house, you said

1 you first saw my client just walking towards you?

2 A. Yes.

3 Q. Okay. Now, you described him having some kind  
4 of a beanie hat, one of those ski beanie-type hats?

5 A. Yeah.

6 Q. Uh-huh. That was pulled down to his eyebrow  
7 level you said?

8 A. Yes.

9 Q. And he had on a black jacket?

10 A. Yes.

11 Q. And you said he had on white jogging pants; is  
12 that correct?

13 A. Yes.

14 Q. Anything else about him?

15 A. No. He had a beard.

16 Q. He had a beard. Anything else?

17 A. No.

18 Q. How was this beard? Was it long?

19 A. A full beard, mustache.

20 Q. Full beard, mustache. Something like mine?

21 A. No, more full all the way.

22 Q. All the way around. Was it protruding out?

23 A. No, it was just to his face.

24 Q. To his face, okay. When you said in this  
25 particular area, were you guys near some trees when he



1 approached you?

2 A. Not when he approached us. We were just walking  
3 through the grass.

4 Q. What were the lighting conditions like in this  
5 particular area?

6 A. It was, you -- it was dark outside, but you  
7 could see because of the street lights. I could see him  
8 clear.

9 Q. Did you notice anything else about him, a limp  
10 or anything like that?

11 A. No, just walked real fast.

12 Q. Now, when he first approached you, you say he  
13 grabbed you?

14 A. Yes.

15 MR. WILLIAMS: Court's indulgence.

16

17 (Mr. Williams conferred with the defendant.)

18

19 BY MR. WILLIAMS:

20 Q. What were you wearing at that particular time?

21 A. I was wearing black pants, black shoes, black  
22 shirt with a brown and black flannel over it.

23 Q. What was your friend wearing that night?

24 A. I don't remember what she was wearing. White  
25 pants.

1 Q. White pants. Did you review any police reports  
2 before you came to court today?

3 A. Just the script and just a little bit of it.

4 Q. Go ahead. I can't quite hear.

5 A. Not the whole thing, just a couple pages.

6 Q. Just a couple pages. Out of curiosity, were you  
7 chewing gum at that time?

8 A. I don't know.

9 MR. WILLIAMS: It's in the report, Your Honor.  
10 I'm not trying to be funny.

11 Q. How do you know Damien?

12 A. Because I used to live next door to him.

13 Q. You used to live next door to him. Is Damien a  
14 Mexican?

15 A. Uh-huh. Yes.

16 Q. By that, just generally call it Hispanic?

17 A. Yeah.

18 Q. Did you ever see my client before then?

19 A. No. Before that night?

20 Q. Yeah, before that night?

21 A. No.

22 Q. How many times have you seen him since then?

23 A. Just at the other preliminary hearing that got  
24 canceled.

25 Q. At the other preliminary hearing that got

1 canceled. Okay. Okay. Now, you stated that after he grabbed  
2 you, he made you guys lay down on the ground?

3 A. Yes.

4 Q. That was facedown?

5 A. Yes, at first.

6 Q. At first. And he put your jackets over your  
7 heads?

8 A. Yes.

9 Q. So you really couldn't see what was going on?

10 A. No, not -- I knew what was going on, though.

11 Q. You couldn't see what was going on?

12 A. No.

13 Q. Do you remember seeing anybody else out there?

14 A. No.

15 Q. How long were you laying there with the jackets  
16 over your head before he started taking your shoes off and  
17 things like that?

18 A. Five minutes, ten minutes. About five minutes.

19 Q. Okay. After he took your shoes off you, you  
20 said he took your shoelaces to tie your hands above your head?

21 A. Yes.

22 Q. Did there come a time he flipped you on your  
23 back?

24 A. Yes. That was before he tied me up. I was on  
25 my stomach then he turned me over and then tied me up.

1 Q. Okay. After that you said that's when he  
2 sexually assaulted you?

3 A. Yes.

4 MR. WILLIAMS: Court's indulgence one second.

5 Q. Now, just to make it clear, you said that he at  
6 first -- did he at first place his mouth on your vagina area;  
7 is that correct?

8 A. Yes.

9 Q. And then he had sexual intercourse with you, you  
10 said?

11 A. Yes.

12 Q. And finally you said that he washed your vaginal  
13 area out with gutter water; is that correct? Put his fingers  
14 on --

15 A. Yes.

16 Q. But during this entire time, your jacket was  
17 over your head; is that right?

18 A. Yes.

19 Q. Did you do -- prior to going to U.M.C., did you  
20 do anything? Did you take a bath or anything like that?

21 A. No.

22

23 (Mr. Williams conferred with the defendant.)

24

25 MR. WILLIAMS: I have no further questions.

1 THE COURT: Any redirect?

2 MR. GUYMON: Very, very briefly, Your Honor.

3

4 REDIRECT EXAMINATION

5

6 BY MR. GUYMON:

7 Q. Tami, you indicated that you read from a script,  
8 just part of the script before you testified today?

9 A. Yes.

10 Q. The script that you are referring to, is that  
11 the taped voluntary statement that you gave to the police  
12 officers?

13 A. Yes, I think so.

14 Q. And secondly, you indicated that the last time  
15 or the only time that you've seen the defendant since the  
16 sexual assault was at a prior preliminary hearing that was  
17 canceled?

18 A. Yes.

19 Q. That is the preliminary hearing in this case  
20 involving you as the victim?

21 A. Yes.

22 Q. And were you able to see the color of the ski  
23 beanie the defendant was wearing?

24 A. Yes, it was black.

25 Q. And lastly, you previously indicated that you

1 didn't see anyone else in the area where this sexual assault  
2 occurred, other than the defendant and your girlfriend. How  
3 many male -- once you had that jacket over your head, how many  
4 male voices did you hear?

5 A. One.

6 Q. Was there only one perpetrator of the crimes  
7 we're talking about today?

8 A. Yes.

9 MR. WILLIAMS: Calls for an assumption on her  
10 part. Pure speculation. She can only testify she heard one  
11 voice.

12 THE COURT: She can testify she saw one person  
13 after her head was covered.

14 MR. WILLIAMS: That's right.

15 THE COURT: Was it one voice all the time?

16 THE WITNESS: Yes.

17 MR. GUYMON: No further questions.

18 THE COURT: Tami, thank you very much for your  
19 testimony. I appreciate it. Wait in the hallway a couple  
20 minutes. We'll let you know as soon as we get done. Okay?

21 THE WITNESS: Okay.

22 THE COURT: State rest?

23 MR. GUYMON: Yes, Your Honor.

24 THE COURT: The defendant going to put on  
25 evidence?

1 MR. WILLIAMS: I informed him once, Your Honor.  
2 Your Honor, he's going to follow the advice of counsel and not  
3 put on any evidence.

4 THE COURT: Okay. Is there going to be any  
5 argument?

6 MR. GUYMON: State would submit it, Your Honor.

7 MR. WILLIAMS: Submit it.

8 THE COURT: It appearing to me from the  
9 Complaint on file herein and the evidence introduced at this  
10 preliminary hearing that crimes have been committed, to wit:  
11 Count I, II, III, Sexual Assault, and there appears to be  
12 sufficient cause to believe the defendant named herein, Curtis  
13 Lundy Downing, committed these offenses, I hereby order this  
14 defendant to be held to answer those charges in the Eighth  
15 Judicial District Court of the State of Nevada, in and for the  
16 County of Clark.

17 This case is assigned to District Court  
18 Department V.

19 THE CLERK: Next appearance date is April 21st,  
20 9:00 a.m., Department V.

21 THE COURT: He's at N.S.P.?

22 THE DEFENDANT: No, in custody here.

23 MR. WILLIAMS: He's getting ready to go to trial  
24 on another case, Your Honor.

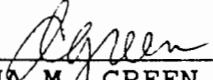
25 THE COURT: All right. Thank you.

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(Proceedings concluded.)

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ATTEST: Full, true, and accurate transcript.

  
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DIANA M. GREEN, C.S.R.  
Certificate No. 264