

J. Wilson - Direct

1

1 MARCH 8, 2017

2 NEW YORK STATE SUPREME COURT

3 COUNTY OF WESTCHESTER : PART TJR

4 NOELLE FELDMAN, Plaintiff,

5

6 -against-

7

8 WILLIAM KNACK, Defendant.

9 INDEX NUMBER: 69747/2014

10 CONTINUED: TRIAL

11 BEFORE: HON. TERRY JANE RUDERMAN,

12 Justice of the Supreme Court

13

14 APPEARANCES: Same as previously noted.

15

16 (The sworn jury enters the courtroom and take their
17 seats in the jury box.)

18 THE COURT: Call your next witness.

19 MR. HARRINGTON: Plaintiff calls Detective Wilson.

20 J A M E S M. W I L S O N, James M Wilson. Poughkeepsie, New
21 York, called as a witness on behalf of the Plaintiff, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HARRINGTON:

25 Q Good morning, Detective. Are you currently employed?

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1 A Yes, I'm currently employed. Not as a police officer.

2 Q When did you retire from being a police officer?

3 A May of 2016.

4 Q From where?

5 A New Castle Police.

6 Q How long were you employed by the New Castle Police
7 Department?

8 A Roughly 24 years.

9 Q When were you hired?

10 A February of '91 or '92. '91, I believe.

11 Q When you joined the force what rank did you have?

12 A I joined as a patrolman.

13 Q At some point did you change rank?

14 A Yes, I did.

15 Q When was that?

16 A In 1998 I was promoted to Detective.

17 Q Did your rank change again after that?

18 A Yes, in 2005 I was promoted to patrol sergeant.

19 Q Is that a uniformed position?

20 A Yes, sir, it is.

21 Q And how long did you hold that position?

22 A Roughly a year, year and a half.

23 Q And then did you obtain a different rank?

24 A Detective Sergeant.

25 Q When was that?

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1 A 2007, I believe.

2 Q And how long did you have the rank of Detective
3 Sergeant?

4 A From 2007 until I left in May of 2016.

5 Q As a Detective Sergeant, what were your duties and
6 responsibilities?

7 A Supervision of the Detective Bureau. I also worked on
8 criminal cases.

9 Q And how many detectives did you supervise when you were
10 Detective Sergeant?

11 A When I first became Detective Sergeant it was myself
12 and three others and then it was reduced to myself and two
13 others.

14 Q And as a Detective before you became Detective
15 Sergeant, what were your duties and responsibilities then?

16 A As a Detective?

17 Q Yes.

18 A Criminal investigations. Investigations.

19 Q Approximately how many criminal investigations were you
20 personally involved in while with the New Castle Department?

21 A For my whole career? Hundreds if not thousands.

22 Q Did you have any claims involving sexual assault during
23 that time?

24 A Yes, sir, I did.

25 Q How many?

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1 A Dozens.

2 Q Were you involved in an investigation concerning Noelle
3 Feldman and William Knack?

4 A Yes, sir I was.

5 Q What was that investigation about?

6 A It was a sexual abuse possible as it came in
7 originally.

8 Q How did you become involved personally in that
9 investigation?

10 A I had received a phone call from a subject by the name
11 of Thomas Wade. He told me he had a friend that he'd like --
12 that was having some issues and seeing a doctor and he wanted --
13 she was looking for some help.

14 Q Did he tell you the name of that person?

15 A Originally, no.

16 Q At some point?

17 A At some point, yeah.

18 Q What did he tell you?

19 A Actually he came in and I met him and he came in with
20 Miss Feldman.

21 Q Did you meet Miss Feldman more than once?

22 A Yes.

23 Q How many times did you meet her?

24 A Half a dozen times at least.

25 Q Did you speak with her on the phone?

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1 A Yes, sir, I did.

2 Q Did you have some e-mail communication with her?

3 A Yes, I did.

4 Q And when you communicated with Noelle either on the
5 phone or in person, did you take notes?

6 A Yes, I did.

7 MR. HARRINGTON: I'd like to mark this, please.

8 (Marked Plaintiff's 2 for identification.)

9 Q Before I talk to you about that, was it your policy to
10 take notes when you spoke with someone during the course of an
11 investigation?

12 A I mean it was during the course of the investigation we
13 take notes.

14 Q That was my question. Did you maintain the notes?

15 A Yes.

16 Q Where would you maintain your notes?

17 A Your notes would be contained in a case folder.

18 Q For this particular investigation, did you create a
19 case folder?

20 A Yes, I did.

21 Q I want to show you what is marked for identification as
22 Plaintiff's Exhibit 2. Do you recognize that document?

23 A Yes.

24 Q What is it?

25 A These are my notes.

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1 Q Concerning the Knack investigation?

2 A Yes.

3 Q Did you make these notes in the ordinary course of your
4 duties as a New Castle Police Department Detective?

5 A Yes.

6 Q Did you put those notes in the case folder that you
7 created for the Knack investigation?

8 A Yes, sir, I did.

9 Q Is it the policy of the New Castle Police Department to
10 keep notes such as this in the case folder of a particular
11 investigation?

12 A Yes.

13 Q Were those notes made at or around the time of the
14 events reflected on those notes?

15 A Yes.

16 MR. HARRINGTON: I offer Exhibit 2 into evidence.

17 MR. BROPHY: No objection.

18 Q Detective, in addition to making handwritten notes, did
19 you make any other documents during the course of the Knack
20 investigation?

21 A Yes, a police report.

22 Q I'm showing you now Exhibit H in evidence. Do you
23 recognize that document?

24 A Yes.

25 Q Is that your police report that you just referred to?

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1 A Yes, a version of my police report.

2 Q And does it concern the Knack investigation?

3 A Yes.

4 Q Did you prepare this report in the regular course of
5 your duties as a Detective?

6 A Yes, sir.

7 Q Does the report contain various entries on different
8 dates?

9 A Yes.

10 Q Were those entries prepared at or around the time of
11 the events recorded?

12 A Yes. I would do my report off notes sometimes, so it
13 wouldn't be right --

14 Q Sometimes they are based off the notes we just admitted
15 into evidence like Exhibit 2?

16 A Yes.

17 Q Did you maintain that report in the normal course of
18 your duties?

19 A Yes, I did.

20 Q Did that also go in the case folder?

21 A It's a computer system. So it's typed in the computer
22 system and printed out and goes into the case folder.

23 Q Is it the policy of the New Castle Police Department to
24 make police reports such as that?

25 A Yes, sir.

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1 Q During your work as a Detective, did you ever have
2 occasion to record phone conversations?

3 A Yes, sir, I did.

4 Q Approximately how many times in your career have you
5 done that?

6 A Several times.

7 Q On those occasions were you personally involved in the
8 making of the recordings?

9 A Yes, some I was present and some yes.

10 MR. BROPHY: I'm sorry.

11 THE COURT: What did you just say?

12 THE WITNESS: Was I personally involved, yes.

13 MR. HARRINGTON: I can pose the question.

14 Q On the occasions that you were involved in
15 investigations with regarded calls were you personally involved
16 in making them?

17 A Yes.

18 Q During the course of the Knack investigation, did the
19 idea of making recorded calls between Noelle Feldman and Dr.
20 Knack come up?

21 A Yes, sir, it did.

22 Q How did the idea of creating recorded calls between
23 Noelle Feldman and Dr. Knack come up?

24 A It came up in a meeting with the District Attorney's
25 office.

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1 Q Is there a term used for this type of call?

2 A Controlled phone calls.

3 Q Did Noelle Feldman consent to a controlled call being
4 made in this case?

5 A Yes, she did.

6 Q What technology did the New Castle Police Department
7 have in 2014 to do controlled calls?

8 A We use a digital voice recorded made by Olympus.

9 Q Does it have a model number?

10 A Yes, it does.

11 Q Do you know what it is?

12 A WS-100, I believe.

13 Q Were you knowledgeable in how to use that equipment?

14 A Yes, I was.

15 Q And how did you come by that knowledge in how to use
16 the equipment?

17 A It came through using it and also the owners manual.

18 Q Did you ultimately record any calls between Noelle
19 Feldman and Dr. Knack?

20 A Yes, I did.

21 Q How many?

22 A There was two actual phone calls and one phone call was
23 placed but was not answered.

24 Q Where were the calls made from?

25 A Made from an office within the New Castle Police

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1 Department.

2 MR. HARRINGTON: Your Honor, may he refer to his
3 report for the next question.

4 THE COURT: Sure.

5 Q The first call, can you refer to your report and tell
6 me when that was made. And I don't mean the call where you
7 didn't make contact. The first call where you did make contact?

8 A Okay. That was the 18th of June.

9 Q And you used the Olympus equipment to make that call?

10 A Yes, sir.

11 Q To record that call, I should say?

12 A Correct. Yes.

13 Q And after that call was complete, did you listen to it?
14 You can refer to your report to refresh your recollection.

15 A Yes, I did.

16 Q Did you save that recording after you listened to it?

17 A Yes, it was a digital system so it was downloaded on to
18 a computer.

19 Q Did you listen to that call in preparation for your
20 testimony today?

21 A Yes, I have.

22 Q When did you listen to it?

23 A I heard it yesterday.

24 Q Where?

25 A In this court building in the records room, I believe.

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1 Q Again referring to your report, was there another call
2 that was recorded in this investigation?

3 A Yes, sir, there was.

4 Q What's the date of that call?

5 A That was on the 17th of July.

6 Q Was that also made from the New Castle Police
7 Department?

8 A Yes, sir, same office.

9 Q And using the same equipment referred to earlier, the
10 Olympus?

11 A Yes.

12 Q After that call was complete, did you listen to it?

13 A No, I did not actually listen to it. The next day on
14 the 18th.

15 Q After you listened to it, did you save it?

16 A Yes, sir.

17 Q To the system you just referred to?

18 A Correct.

19 Q Did you listen to that call in preparation for your
20 testimony today?

21 A Yes, sir, I did.

22 Q Yesterday?

23 A Yesterday, yes, sir.

24 Q Same place?

25 A Same place, yes.

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1 Q Now during a portion of that call, July 17th call, are
2 you unable to hear Dr. Knack's voice?

3 A On the July -- yes. You don't hear it and towards the
4 middle or towards the end you hear his voice.

5 Q Can you hear Noelle Feldman's voice throughout that
6 call?

7 A Yes, you do.

8 MR. HARRINGTON: Can we mark this.

9 THE COURT: Exhibit 3.

10 (Marked Plaintiff's Exhibit 3 for identification.)

11 Q Detective, I'm showing you a computer disc marked
12 Plaintiff's Exhibit 3, have you seen this particular disc
13 before?

14 A Yes, this was the one from yesterday.

15 Q The one you listened to?

16 A Yes.

17 Q From the subpoena records room?

18 A Yes.

19 Q What does that disc contain?

20 A It contains three phone calls, the two that were
21 connected when that conversation took place and one where a call
22 was made and there was no answer.

23 Q Was that disc produced to this courthouse pursuant to
24 subpoena served upon the New Castle Police Department?

25 A Yes.

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1 Q Does that disc contain true and accurate copies of the
2 recordings you made on June 18, 2014 and July 17, 2014 in
3 connection with the Knack investigation?

4 A Yes, sir. What I heard yesterday was the same from
5 those two dates, June and July.

6 MR. HARRINGTON: I offer Exhibit 3 into evidence.

7 MR. BROPHY: Very brief voir dire.

8 THE COURT: Sure.

9 VOIR DIRE EXAMINATION

10 BY MR. BROPHY:

11 Q Detective Wilson, you prefer to be called that?

12 A Mr. Wilson is fine.

13 Q I just want to make sure I understand when these calls
14 were placed you weren't listening to the call, the two sides of
15 the call as it was being made?

16 A No, sir. I didn't hear the phone call, no.

17 Q And as I remember in your report you stated --
18 withdrawn.

19 Did you state in your report how long either of those
20 telephone calls were? Take your time and look at your report.

21 A The length of the calls?

22 Q Yes, sir.

23 A Just on the 17th it said the call lasted several
24 minutes.

25 Q 17th of July. How long?

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1 A On my report it says the call lasted several minutes.

2 Q I'm sorry, Mr. Wilson. Can you be more precise than
3 several minutes as to how long that call lasted?

4 A It lasted -- I don't know how long it lasted. I can't
5 give you an exact time.

6 Q Now you know how long it lasted, right?

7 A Well, I listened to it yesterday.

8 Q When you listened to it yesterday, how long was it?

9 A I believe exactly --

10 Q As close as you can tell me.

11 A I believe it was around seven minutes, the second call.

12 MR. HARRINGTON: Your Honor, with respect, the call
13 is as long as it is, and it's sitting right there.

14 Q And you told us a moment ago some portion of the second
15 call, that you couldn't hear what Dr. Knack was saying, can you
16 be -- can you tell me with some precision how much time on that
17 tape you couldn't hear his voice?

18 MR. HARRINGTON: Objection, Your Honor. This is
19 cross, not voir dire.

20 THE COURT: Sustained.

21 MR. BROPHY: That's all the voir dire, Your Honor.

22 MR. HARRINGTON: I now offer the Exhibit 3 into
23 evidence.

24 MR. BROPHY: I previously made my objection, Your
25 Honor.

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1 THE COURT: This was discussed in chambers. I want
2 to add that I had said that we could consider redacting the
3 part where Dr. Knack is not heard on the recording and Mr.
4 Brophy you said you would prefer it either came in it's in
5 it's entirety rather than any redaction.

6 MR. BROPHY: If it comes in, my application is the
7 whole thing comes in.

8 THE COURT: So Exhibit 3 is received into
9 evidence.

10 MR. BROPHY: Note my exception, Your Honor.

11 (Marked Plaintiff's Exhibit 3 in evidence.)

12 MR. HARRINGTON: Your Honor, at this time I would
13 like to play the calls in their entirety for the jury. I'm
14 not finished with Mr. Wilson.

15 MR. BROPHY: I would prefer to cross examine the
16 witness before we listen to the calls. That's my request.

17 THE COURT: It's his witness. He can play the
18 tapes whatever time he wants in the testimony.

19 MR. HARRINGTON: I have a technician here, Roy
20 Campos, who can play the calls.

21 THE COURT: There have been several reference to
22 tape calls, it's really a digital recording. It's one in the
23 same.

24 MR. HARRINGTON: I failed to offer these into
25 evidence. Exhibit 2. Detective Wilson's notes.

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1 MR. BROPHY: I thought they were and I didn't
2 object, Your Honor.

3 (Plaintiff's Exhibit 2 in evidence.)

4 (Digital recordings playing for the jury in open
5 Court.)

6 MR. HARRINGTON: Your Honor, the second call is
7 right behind this. I'd like to play this now.

8 THE COURT: Sure.

9 (Digital recording playing for the jury in open
10 Court.)

11 DIRECT EXAMINATION CONTINUED

12 BY MR. HARRINGTON:

13 Q Detective, when you first had contact with Noelle
14 Feldman, did she tell you right away that Dr. Knack raped her?

15 A No, she did not.

16 Q At some point did she tell you? You can refer to your
17 report?

18 A Yes.

19 Q According to your report, when for the first time did
20 she tell you that, that she had been raped?

21 A It's dated April 21 on my report.

22 Q Would that have been the third time you spoke with her?

23 A Yes, it appears so.

24 Q Did you ask her why she hadn't told you she was raped
25 the first time you met?

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1 A In that particular phone call -- I'm just reviewing my
2 report. She stated that she was embarrassed and didn't know how
3 to tell me.

4 Q Is it often the case with witnesses in an investigation
5 that you don't get the whole story right away?

6 MR. BROPHY: Objection.

7 THE COURT: Overruled. You can answer the
8 question.

9 A I'm sorry. Can you repeat that.

10 Q Is it typical in cases when you interview witnesses
11 that the story you get is not one hundred percent the first time
12 you talk to them?

13 MR. BROPHY: Objection. Different question.

14 MR. HARRINGTON: I can have it read back, the prior
15 question, if that was good.

16 MR. BROPHY: I objected to the first one. I was
17 overruled. And counsel asked another question.

18 THE COURT: Let's go back to the first question.

19 (Read back by the court reporter.)

20 A Yes, that does happen, yes.

21 Q After the recorded calls were made, did you ever speak
22 directly with Dr. Knack?

23 A On the telephone, yes.

24 Q How many times?

25 A I believe once.

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1 Q Take a look at your report?

2 A I left a message for him on August 13th. And then he
3 called me on the 15th.

4 Q Did you tell him why you were calling?

5 A I explained to him that I wanted to talk to him about
6 Miss Feldman.

7 Q At any time that you spoke to Dr. Knack, did Dr. Knack
8 tell you that Noelle Feldman sexually assaulted him?

9 A Not that I recall, no.

10 Q If Dr. Knack did tell you that, would you have made a
11 note of it in your report?

12 A Yes, sir.

13 Q That would be relevant to your investigation, right?

14 A Yes.

15 Q Did you ever speak with an attorney who told you he
16 represented Dr. Knack?

17 A Yes. Mr. Squirrel.

18 Q David Squirrel?

19 A Yes, sir.

20 Q Did Mr. Squirrel ever tell you that Dr. Knack had been
21 sexually assaulted by Noelle Feldman?

22 A No, he did not.

23 Q If he had told you that, would you have made a note of
24 it?

25 A Yes, sir.

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1 Q Because that would be highly relevant to this
2 investigation, correct?

3 A Correct.

4 Q So at any time during your investigation of Dr. Knack,
5 did anyone ever tell you that Dr. Knack had been sexually
6 assaulted by Noelle Feldman?

7 A No, sir.

8 Q So when was the first time you heard that? From me?

9 A Yeah, the first time I heard it was from you.

10 Q A few weeks ago, right?

11 A Yes.

12 MR. HARRINGTON: Thank you, Detective. No further
13 questions.

14 THE COURT: Mr. Brophy.

15 CROSS EXAMINATION

16 BY MR. BROPHY:

17 Q At the point that you contacted Dr. Knack, had the
18 District Attorney already advised you that they did not feel
19 they could go forward with the case? I call your attention to
20 page four of your report.

21 A Yes, sir.

22 Q The answer is yes, you were advised that the District
23 Attorney didn't want to go forward with the case?

24 A I had already spoken with the District Attorney,
25 according to my report, I discussed it with her. Well, she

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1 stated she was going to speak to someone else in her office
2 about this case.

3 Q After that you were told by Detective Vargas, who is
4 one of your detectives, that he had spoken to her and the case
5 could not go forward with the information that you had, correct?

6 A That's in my report, correct.

7 Q And that was before you tried to call Dr. Knack?

8 A Well, I believe that -- in my report it does state that
9 Detective Vargas did speak with the ADA and stated the case
10 could not go forward. And in my report it is before I reached
11 out to Dr. Knack.

12 Q I take you don't have any present recollection to this
13 stuff?

14 MR. HARRINGTON: Objection. Characterizing.

15 THE COURT: Sustained.

16 Q Do you have any present recollection of being told by
17 Detective Vargas about this conversation with ADA Lopez?

18 A I do recall that, yes.

19 Q In the usual way you keep your report a notation
20 precedes a date, that means it happened before that date? You
21 tell me.

22 A Correct, yes.

23 Q So it was on the 15th of July that you received a call
24 from Dr. Knack. According to your report?

25 A I'm sorry?

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21

1 Q My mistake. On the 15th of August, 2014, Dr. Knack
2 returned your call, correct?

3 A Correct.

4 Q He didn't give you any information?

5 A Correct.

6 Q Was he obligated to?

7 A No.

8 Q Same question regarding his lawyer, when his lawyer
9 talked to you, was he obligated to give you any information?

10 A No, sir.

11 Q And did you ever make any efforts to obtain a copy of
12 Dr. Knack's records?

13 A No, sir. Well, what kind of records?

14 Q It was your understanding that he had been rendering
15 treatment as a psychologist?

16 A Correct.

17 Q Would it have been your expectation that there would
18 have been records?

19 A Some sort of records, yes.

20 Q And if you had wanted those records you could have
21 asked Noelle Feldman to get those for you?

22 A I could have, yes.

23 Q But you didn't?

24 A Well, I asked for a calendar, I believe.

25 Q Why did you want a calendar?

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1 A Just to look at dates.

2 Q And in fact you asked her repeatedly for a calendar?

3 A I did ask a couple of times, yes, sir.

4 Q She never produced it?

5 A I never received a calendar.

6 Q As a matter of fact when you are investigating an
7 allegation of a crime, dates are really important, fair to say?

8 A Fair to say.

9 Q Before you can go forward -- well, I guess there are
10 some crimes you don't know what happened, if you find a body in
11 the woods you don't know when the crime happened?

12 A Sometimes dates can be difficult.

13 Q But dates are important, and you want a date if you can
14 get one.

15 A Yes.

16 Q For example -- well, okay. And you want times, times
17 are important if there is a time period involved in a particular
18 incident?

19 A Yes, sir.

20 Q As a Detective, you are all about facts, correct?

21 A Correct.

22 Q People may have strong feelings but you are trained to
23 try to get through those feelings and get some facts?

24 A Correct.

25 Q As specific as possible?

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1 A Correct.

2 Q Noelle Feldman never gave you a date when any alleged
3 -- the first set of allegations she made, she didn't give you
4 any specific dates at all, did she?

5 A No, sir.

6 Q She claimed the last date she saw Dr. Knack was on the
7 12th of November, 2013, that's what was in your report?

8 A The 12th or the 13th.

9 Q Okay. I got November of 2013?

10 Q And as a matter of fact one of the questions you ask in
11 the initial interview after she related various types of sexual
12 misconduct that she was alleging, you asked her if anything else
13 happened. Do you remember that?

14 A Yes.

15 Q And she told you unequivocally, no?

16 A Yes.

17 Q And it was your obligation to write that down, wasn't
18 it?

19 A Yes, sir.

20 Q Now right in the beginning did Miss Feldman give you
21 some contact information for her psychiatrist?

22 A She gave me a number for a particular doctor, yes.

23 Q A Dr. Shander?

24 A Yes, sir.

25 Q And what did she tell you that Dr. Shander could help

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1 with, if anything?

2 A She had told me that she had confided in Dr. Shander
3 and I believe that Dr. Shander helped her write that e-mail that
4 she had sent to Dr. Knack.

5 Q So you thought Dr. Shander would be a person worth
6 talking to?

7 A Yes, sir.

8 Q And eventually by the time you did catch up with her,
9 Noelle had already told you about the alleged rape; is that
10 correct?

11 A Correct.

12 Q And did you have a conversation with Dr. Shander?

13 A A brief conversation, yes, sir.

14 Q To the best of your recollection, what did you say to
15 her and what did she say to you? You can refer to your report,
16 if you don't recall.

17 A I asked Dr. Shander if she knew about Miss Feldman and
18 Dr. Knack. She stated yes. That Miss Feldman had told her about
19 inappropriate touching by Dr. Knack. She stated yes. I asked her
20 if she knew anything about Dr. Knack raping her and she stated
21 no.

22 Q In addition your report says she said no, that Miss
23 Feldman never told her anything about being raped?

24 A Correct.

25 Q That's what Dr. Shander said to you?

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25

1 A Yes.

2 Q And after she said that to you did she give you any
3 more information?

4 A No, she didn't want to talk any more.

5 Q And she wasn't obligated to talk any more, was she?

6 A No, she wasn't.

7 Q Now, the District Attorney's office -- you report to
8 the District Attorney's Office concerning ongoing
9 investigations; is that correct?

10 A Yeah, we work together in conjunction, correct.

11 Q And the District Attorney's Office has access to
12 something called a Grand Jury; is that right?

13 A Correct.

14 Q So if the District Attorney's Office, correct me if I'm
15 wrong, believes there is probable cause that a crime may have
16 been committed do they have subpoena power?

17 MR. HARRINGTON: Objection, Your Honor.

18 THE COURT: Sustained.

19 Q Does the District Attorney's Office have the power to
20 compel witnesses, not parties necessarily, witnesses to talk
21 that you don't have?

22 MR. HARRINGTON: Objection. Not the right witness
23 for this testimony.

24 THE COURT: Sustained.

25 Q Let's talk about these recorded phone calls. Whose

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1 telephone, if you know -- did you provide a telephone for Noelle
2 Feldman to use to call Dr. Knack?

3 A No, I did not.

4 Q She had a phone that she used?

5 A She used her cell phone.

6 Q Would you explain to me how your recording equipment
7 would work in conjunction with this cell phone that she had?
8 Can you give me a picture of the set up.

9 A Yeah. It's a small recorder, digital recorder. You have
10 a wire that has an ear piece, a listening and a mic all
11 together. The ear piece goes in your ear and then you hold the
12 cell phone, whatever phone, to that particular ear and it has
13 both a mic, so it records both sides of the phone call.

14 Q So the recording -- I'll hold up a phone. So the
15 recording from the phone goes to a microphone in between the ear
16 and the phone?

17 A Yes, sir.

18 Q And then goes right into the recorder?

19 A Correct.

20 Q You don't hear it?

21 A No. The equipment I had that day, no.

22 MR. HARRINGTON: Objection. Vague and ambiguous.

23 Who hears it?

24 THE COURT: Sustained.

25 Q You couldn't hear it because it was the type of

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1 equipment you were using?

2 A Right. I didn't have a particular device to do that.

3 Q And that was true in both of the phone calls, correct?

4 A Correct, yes.

5 Q Now was there any equipment that you had like an
6 oscilloscope, you know what an oscilloscope is? It shows a wavy
7 line when a signal is passing through a machine. You are
8 familiar with that?

9 A Vaguely.

10 Q Is it fair to say there wasn't any oscilloscope or
11 anything associated with the recorder that could tell you
12 whether it was picking up the whole conversation or not?

13 A No, I believe it has a red light that it's on, it's
14 working. That's it.

15 Q Now that we know how this worked, if Noelle Feldman
16 wasn't holding the phone right up to the microphone could that
17 explain why the microphone might not pick up the signal?

18 A Yes, that could happen, yes.

19 Q So actually whether the microphone was picking up
20 everything Dr. Knack said was under the control of Noelle
21 Feldman?

22 MR. HARRINGTON: Objection. I think he talked about
23 technology which could also been flawed.

24 THE COURT: Sustained.

25 Q If Noelle Feldman for whatever reason wasn't holding

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1 the phone close enough to her ear would it be possible the
2 microphone might not pick up what was coming in?

3 A I guess that would be possible.

4 Q Do you have any other explanation for why for a portion
5 of the second recording it is not possible to hear what Dr.
6 Knack is saying?

7 A Unless he switched ears with the phone.

8 Q Unless she switched ears?

9 A Right.

10 Q You've had the opportunity to listen here in court to
11 the recordings. Did you make any effort to actually like look at
12 your watch or time the duration that you couldn't hear?

13 A I'm sorry, sir. I did not.

14 Q Let me ask you this --

15 THE COURT: Mr. Brophy, do you have much more?

16 MR. BROPHY: It's hard to say.

17 THE COURT: We will break for lunch. You may have
18 redirect.

19 MR. HARRINGTON: Very brief.

20 MR. BROPHY: I do some more. We have to get to the
21 notes. I have ten or fifteen minutes.

22 THE COURT: We are going to break for lunch.

23 Jurors, please do not discuss the case, and no research. We
24 will see you back at two o'clock.

25 (The sworn jury exits the courtroom for a luncheon

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1 recess.)

2 THE COURT: Are you going to have Dr. Greenfeld?

3 MR. HANNIGAN: He is here. He will testify whenever
4 we are done with this witness.

5 THE COURT: All right. Two o'clock.

6 (Case adjourned for a luncheon recess to 2:00
7 o'clock.)

8 A F T E R N O O N S E S S I O N

9 THE COURT: One of the jurors mentioned to the
10 court officer that he recognized Detective Wilson from the
11 town and he's the one who gave his father the ticket. He
12 thought he should mention it.

13 MR. HANNIGAN: Not having spoken to him myself, I
14 don't have any problem with it.

15 MR. BROPHY: No problem here.

16 THE COURT: Well, it's hearsay.

17 MR. HANNIGAN: I have no objection to the hearsay.

18 MR. BROPHY: No objection here.

19 THE COURT: Let's bring the jury in.

20 (The sworn jury enters the courtroom and takes
21 their seats in the jury box.)

22 (Witness Detective Wilson resumes the witness
23 stand.)

24 THE COURT: Mr. Brophy, you have more questions.

25 MR. BROPHY: Can we have the last question and

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1 answer before lunch.

2 THE COURT: Yes.

3 (Read back by the court reporter.)

4 Q Getting back to your report, Detective Wilson, bottom
5 of page four I'm going to read you a sentence and ask you a
6 couple of questions about it. Let me know when you are ready,
7 sir.

8 A Okay.

9 Q I was contacted by an attorney John Hannigan who was
10 retained by Miss Feldman after I had advised her that there were
11 no criminal charges. Does your report reflect when you were
12 contacted by Mr. Hannigan?

13 A Well, there is no date when that was written.

14 MR. BROPHY: Your Honor, could the witness please be
15 provided with Plaintiff's Exhibit 2, which are his notes.

16 THE WITNESS: I have them.

17 MR. BROPHY: Do you have Defendant's Exhibit H which
18 are Miss Feldman's notes?

19 THE WITNESS: No.

20 MR. BROPHY: It's not H. It's L. Defendant's L in
21 evidence I will let you have that as well.

22 Q First please flip through Plaintiff's Exhibit 2. This
23 is something you've identified already.

24 A Yes.

25 Q Are all the notes in Plaintiff's Exhibit 2 in your

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1 handwriting, sir?

2 A Yes, sir.

3 Q And was it your custom and practice when you
4 interviewed a complainant -- is that the right word?

5 A Yeah. Victim.

6 Q To make notes as the person was telling their story?

7 A Yes.

8 Q And the notes of the story that you heard initially
9 from Miss Feldman on the pages that are numbered -- may I
10 approach?

11 THE COURT: If necessary. But if not, stay back.

12 THE WITNESS: Okay, yes.

13 Q Is the answer a yes?

14 A Can you repeat the question.

15 Q Are those pages one, two and three?

16 A Yes.

17 Q When you take down information from someone making a
18 complaint in a potential criminal case, do you take pains to
19 accurately record what they tell you?

20 A I try to, yes.

21 Q If it says started seeing 2010, is that date something
22 that you have taken particular attention to be accurate about?

23 A Yes.

24 Q Is that true of all the dates that you hear from
25 someone who is making a complaint?

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1 A Yes.

2 Q And here towards the bottom of page two there is a
3 statement page 22, raped in NYC, not reported. Is that something
4 Miss Feldman told you?

5 A Yes.

6 Q NYC is an abbreviation for New York City?

7 A Correct.

8 Q And there is a notation right thigh has mole. Referring
9 to whom?

10 A Coming from Miss Feldman referring to Dr. Knack.

11 Q And the top of page three there is a statement March
12 2011, first time. What is that referring to. If you can help us
13 out.

14 A I'm sorry. Repeat that.

15 Q Top of page three, March 2011, first time. Can you tell
16 what that was referring to?

17 A Can I refer to my report?

18 Q Absolutely. Take a look at anything you need.

19 A I believe that's referring to when she started to see
20 him after coming back -- when she first started seeing him after
21 returning from treatment.

22 Q From where?

23 A From treatment.

24 Q From a hospital?

25 A Yeah.

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1 Q Going to the page after page three, there is a date on
2 the top of the page. Date of August 5, '14?

3 A Correct.

4 Q What does it say after that?

5 A It's timed 2:15 p.m., it's Bleakly Platt attorney Mr.
6 John Hannigan.

7 Q Does that note record when you were first contacted by
8 Mr. Hannigan?

9 A I believe so, yes.

10 Q Was it then or later that Mr. Hannigan came to listen
11 to the recordings, if you can tell me?

12 A I'm not sure. I believe -- I'm not sure, sir.

13 Q Going back to the face page with the sticker on it. I'm
14 going to read to you -- why don't you read to me after what is
15 written thereafter the telephone number 914 874-3455.

16 A It states sex in your office. Did he admit it. Did he
17 talk about sex. Then there wasn't -- I wasn't crossed out. I
18 came to you crossed out. At the very bottom you used your
19 position as, I believe that's doctor, supposed to be doctor.

20 MR. HARRINGTON: After sex in your office. There
21 are two words crossed out. Could you have the witness read
22 them, please.

23 THE COURT: Sure.

24 THE WITNESS: Sex in your office. Talk wife.

25 Q And the date on the top of that page is what?

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1 A July 17, 2014.

2 Q Time?

3 A 1:13.

4 Q Is 1:13 just before the call?

5 A I believe so, yes.

6 Q Are these notes notes of something that you discussed
7 with Miss Feldman before the call was placed, if you know?

8 A It was right as we were making the call. I believe
9 maybe even possible while she was making the call.

10 Q Please explain what you mean, how that transpired. I'm
11 not quite clear.

12 A Just trying to -- so she can ask certain questions on
13 the phone.

14 Q So if I understand correctly those are questions that
15 you wanted her to ask Dr. Knack?

16 A Correct.

17 Q Take a look at Defendant's Exhibit L. Do you recall --
18 on the second page -- I'm sorry. Let me start over.

19 The first page starts with the words he's done. I
20 nailed him. Is any of your handwriting on that page?

21 A No.

22 Q The second page that has the letter on top, is there
23 anything on the top of that page that you wrote?

24 A Yeah, it appears there are three lines or four lines to
25 be exact in my handwriting.

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1 Q What are they?

2 A Where did it happen. When did it happen. Need him to
3 admit what happened to have closure.

4 Q Those are questions that you wanted answered in the
5 course of that tape?

6 A Correct.

7 Q And the notations below that where it starts someone
8 else's handwriting, hi, it's Noelle. Blah, blah. You see that
9 on page two?

10 A Yes.

11 Q Did you see those notes before the June call was made?

12 A No, I don't believe so.

13 Q Same question regarding the notes on the first page of
14 Exhibit L. Where it says on top, he's done. I nailed him. There
15 are certain notes there. Did you see those notes prior to Noelle
16 placing that call?

17 A No.

18 Q Did you have any conversation with Noelle before she
19 placed the July call to the effect that it would be a good idea
20 for her to have some notes to work from?

21 A I believe she asked if she could write notes.

22 Q Prior to the call?

23 A Yes.

24 Q So did you have an understanding whether or not the
25 notes on the first page of Exhibit L are notes that she used

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1 during the call or notes that she made at some other time?

2 A No, they were during the call.

3 Q Do you know if the notes on the first page of Exhibit L
4 were notes that she made prior to the call, do you know one way
5 or the other?

6 A No, these I believe were during the call.

7 MR. BROPHY: Thank you for your time, Detective
8 Wilson. I have no more questions for you.

9 THE COURT: Redirect.

10 MR. HARRINGTON: Yes. Thank you.

11 REDIRECT EXAMINATION

12 BY MR. HARRINGTON:

13 Q I just want to clear up a few things, Detective. During
14 the control calls, were you able to hear Noelle Feldman's voice
15 during the entire time?

16 A Yes.

17 Q Did you ever think or did you ever believe at any time
18 that Noelle Feldman was in any way trying to manipulate the
19 technology used to make the phone calls?

20 MR. BROPHY: Objection.

21 THE COURT: Overruled.

22 Q Did you ever think that?

23 A No, I never thought that at all.

24 Q Did you ever give Noelle Feldman a script of what she
25 was to say on the calls?

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1 A A script, no, no. I just wrote some notes like we just
2 discussed.

3 Q To elicit answers from Dr. Knack?

4 A Yes.

5 Q And of course whatever Dr. Knack said you didn't give
6 him any guidance as to that, right?

7 A No, absolutely not.

8 Q You didn't give him those answers?

9 A No.

10 MR. HARRINGTON: Thanks.

11 MR. BROPHY: As you sit here today, do you have any
12 recollection during the call of Noelle moving from the phone
13 from one ear to the other or moving it away from her ear?

14 A I don't know, sir.

15 Q If you noticed her doing something like that would you
16 have cautioned her to in some way hold the phone?

17 A Yes, I would.

18 THE COURT: You were there the whole time,
19 correct?

20 THE WITNESS: Yes.

21 MR. HARRINGTON: Thank you.

22 THE COURT: Thank you, Detective.

23 (Witness excused.)

24

25