

APPENDIX

APPENDIX A

OFFICIAL NOTICE FROM COURT OF
CRIMINAL APPEALS OF TEXAS
P.O. BOX 12308, CAPITOL STATION,
AUSTIN, TEXAS 78711

7/2/2025

COA Case No. 01-23-00263-CR
ODEKU, CHRISTOPHER
Tr. Ct. No. 1485915
PD-0312-25

On this day, the Appellant's petition for discretionary review has been refused.

Deana Williamson, Clerk

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* DELIVERED VIA E-MAIL *

APPENDIX B

2025 WL 1129131

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WITHDRAWAL.

Court of Appeals of Texas, Houston (1st Dist.).

Christopher ODEKU, The appellant

v.

The STATE of Texas, Appellee

NO. 01-23-00263-CR

Opinion issued April 17, 2025

Discretionary Review Refused July 2, 2025

Synopsis

Background: Defendant was convicted in the 208th District Court, Harris County, of sexual assault, and was sentenced to confinement for ten years, suspended, and placed on community supervision for ten years. Defendant appealed.

Holdings: The Court of Appeals, Morgan, J., held that:

statement made by victim of other assault committed by defendant during sexual assault exam was non-testimonial, and thus, admission of nurse's records from that exam did not violate defendant's rights under Confrontation Clause, although victim of other assault was unavailable to testify at trial;

similarities between defendant's sexual assault of victim and other assault committed by defendant supported admission of evidence of the other assault; and

probative value of evidence of other assault committed by defendant was not substantially outweighed by danger of unfair prejudice.

Affirmed.

**On Appeal from the 208th District Court,
Harris County, Texas, Trial Court Case No.
1485915**

Attorneys and Law Firms

Sean Teare, Jessica A. Caird, Bridget W. Holloway, for Appellee.

Stephen Aslett, for Appellant.

Panel consists of Justices Guerra, Caughey, and Morgan.

OPINION

Clint Morgan, Justice

***1** A jury found the appellant, Christopher Odeku, guilty of sexual assault, assessed punishment at confinement for ten years, and recommended that he be placed on community supervision. The trial court sentenced the appellant the appellant consistent with the jury verdict, suspended the sentence, and placed him on community supervision for 10 years.

On appeal, the appellant contends the trial court violated the Confrontation Clause rights under the federal and state constitutions and Texas Rules of Evidence 403 and 404, by admitting extraneous-offense evidence from sexual assault nurse examiner

(SANE) records about another alleged sexual assault.

We hold that the trial court did not err in admitting the evidence and affirm.

Background

Sexual assault of the complainant

The complainant testified that in June 2015, she was a college student in her senior year at University of Houston-Downtown. A year earlier, she met the appellant, who was using the alias “Christopher English,” on a dating website. They chatted online “a little bit.” They did not meet in person, but became Facebook “friends” and “occasionally exchanged brief greetings.” In the meantime, the complainant began dating someone else and deleted her profile from the dating site.

In May 2015, the appellant messaged the complainant on Facebook. She informed the appellant that she was single again. They resumed chatting online and made plans to meet on the complainant’s school campus in late May, but the appellant did not show up and told her that his “ride never showed.”

On the evening of June 5, 2015, the complainant was studying for the Graduate Record Exam (GRE) at her studio apartment in a four-unit building near campus. The appellant had messaged her earlier that day, asking how she was doing. She told him that she was studying for the GRE, was not dressed to leave her apartment, and had “a lot going on.” The appellant responded that he “would really like to see [her].” He sent her another message, and she told

him again that she was “busy” and “focused on studying.”

The appellant then video-called the complainant. He repeated that he “would like to see [her]” and asked if she could “get dressed up” so he could come see her. The complainant refused, telling the appellant that she was not going to get dressed up and was still studying.

The appellant said again that he would like to see her, and she responded that if he was going to see her right then, she was going to be studying. The appellant told her that he was also studying for grad school and asked to “come by and study” with her. The complainant told the appellant that he could come by later that evening and they could get coffee at a nearby shop.

At about 5:00 p.m., the appellant sent the complainant a text message that he was on her street. She met him on her front lawn because she “was hesitant to meet him in person anywhere that wasn’t public.” They stood outside and talked for about an hour. The appellant told her a little about his life, and he petted a neighbor’s dog. The complainant thought that the appellant seemed like a “charming individual.”

***2** As it got later in the evening, mosquitoes became active, and the complainant suggested that they go get coffee. The appellant said, “Well, I have to study and you have to study. Why don’t we go up to your apartment?” The complainant hesitated but thought that the appellant “seem[ed] like a nice guy,” so she decided to let him into her apartment. They sat on her futon sofa and talked. After a little while, the complainant pulled out her study materials and

asked the appellant “well, where are you going to study?” The appellant pulled out an iPad but kept trying to talk to the complainant.

When the appellant started rubbing her shoulders and started to cuddle her, the complainant was “okay with that at the time.” She had previously told the appellant that she didn’t want “anything physical” with him because of “bad relationship experiences.” She thought that they might “hug or kiss” but she first wanted to get to know him as a person.

The appellant kissed her and she was “okay” with that; they kissed for a little while but then he “started looking at her a certain way.” She pulled away from him and reminded him several times that she didn’t “want anything physical” with him, that she just wanted to study. But then, the appellant grabbed the complainant around the hips and pulled her closer, began “making out” with her and had his hands all over her, “overwhelming” her. After a while, she “was just making out with him so he would calm down and get off of her.

Eventually, the appellant got up from the sofa. He took off his shirt, showed her a scar on his back, and told her about it. The complainant asked the appellant to put his shirt back on. He refused, then unzipped his pants and pulled out his penis. The complainant repeated that she didn’t want to have sex with the appellant, reminded him that she had told him that “multiple times,” and said again that she was not interested.

The appellant then tried to rub his penis against her and she protested again, telling him that she was not comfortable and was going to make him leave. The appellant pulled the complainant’s hand down to his

penis, and she repeated that she didn't want to have sex with him and if he didn't stop, she would make him leave. The appellant started to put his penis back in his pants, and the complainant told him that he needed to put all his clothes back on, but he refused, saying that it was "too hot."

The appellant then lay down between the complainant and the back of the futon sofa with his legs and arms across her. The appellant then said that he wanted to see the complainant's scars, and he "kind of manhandle[d]" her. He reached up into her shirt, and she felt him pull on her bra until it came undone. The complainant told him, 'No. I don't want to take my [b]ra off.' The appellant said, "well, I know you have scars."¹ Then he pulled the complainant's pants down and penetrated her vagina with his penis from behind.

The complainant explained that she had previously told the appellant that she had surgical scars on her legs.

Next, the appellant pulled the complainant's tank top and grabbed her hair. Her head, hair, and arms became stuck in her shirt; the neckline was wedged under her neck, and the complainant couldn't move her arms. She felt like she was in shock. The appellant held onto the complainant's hair and her shirt and continued to penetrate her vagina from behind.

¹ The complainant explained that she had previously told the appellant that she had surgical scars on her legs.

The complainant felt the appellant let go of her hair a bit and she managed to push the shirt out of the way and pull her head out. She was able to free one arm and pull her head out of the shirt. She noticed a poster on her wall with her picture from an HIV advocacy event she had participated in, and said to the appellant, "Well, you're playing Russian roulette now." The appellant saw the poster and asked her, "What do you mean?" "What do you have?" and then pulled off of her.

*3 The complainant ran to her kitchen and began crying. The appellant followed her, asking her, "Oh honey, what is wrong? Oh, are you okay?" He was "acting like nothing happened." She told him that she was "just shook up" and said, "let's go back to the living room." She was in shock and didn't know what to do. They sat for a bit, then she asked the appellant, "Can you get a ride?" but the appellant kept petting her hair and calling her sweetie. She kept passing out because of the shock, and every time she woke up from passing out, the appellant "would be laying there with his iPad" either taking photos of her or just pointing it at her. Eventually, a car came for the appellant, and he left.

The complainant woke up early the next morning and texted a friend. The friend called the complainant's mother, who called 9-1-1, drove to her daughter's apartment, then accompanied her to the hospital, where the complainant was examined by a nurse and medical doctor.

Extraneous evidence of another sexual assault by the appellant

The State proffered evidence of another alleged sexual assault by the appellant to go to the issues of

lack of mistake and intent in response to the appellant's argument that the complainant consented to have sex with the appellant. After hearing argument, the trial court admitted the evidence through the testimony of Houston Police Department (HPD) Detective A. Agravante and SANE Lori Long.

In January 2018, Detective Agravante of HPD's Adult Sex Crimes Unit was assigned to investigate a sexual assault reported by Mary Smith.² The morning of January 25, 2018, emergency medical services (EMS) brought Smith to Memorial Hermann Memorial City Hospital for examination and treatment.

According to EMS records, Smith stated she was out drinking the night before with some friends. She took a drink out of some guy's flask and didn't remember anything until she woke up. The guy with the flask had a British accent. She woke up with no pants or underwear on and two black guys were asking her to perform sex acts on them. Smith called 911 when she got to her apartment. She was advised to go to the emergency room to be evaluated.

² We use a pseudonym for this assault victim, as nothing would be gained by using her full name in this opinion. See Tex. Const. art. I, § 30(a)(1) ("A crime victim has the ... right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process."); see also Tex. R. App. P. 9.8 cmt. (recognizing appellate court's authority to disguise identities in appropriate circumstances).

The triage records from the emergency room, which were also admitted, were largely consistent with the EMS records. Smith also reported that she eventually went home with the man who had given her some drink and recalled declining sexual advances from him, but was unable to remember.

Other medical records identified “Christopher English” as the alleged suspect. Agravante’s investigation led her to identify the appellant as a possible suspect based on HPD records. Agravante obtained an arrest warrant for the appellant and took a DNA sample from him. She later learned that Smith had died from a drug overdose.

Long testified that she has been a practicing SANE for the Memorial Hermann Healthcare System since 2015. She explained that when conducting a SANE exam, the first thing she did after obtaining consent from the patient was to “get a history of what brought them into the emergency room” so that the patient could receive comprehensive care, including “things like medication to prevent pregnancy, diseases, sexually transmitted infections, HIV, as well as advocacy services to address any subsequent psychological and mental health results that they may have as an impact.” As a SANE, Long also did a head-to-toe physical assessment, a “detailed genital assessment,” and then did evidence collection.

***4** On January 25, 2018, Long conducted a SANE exam of Smith. Long explained that she wrote down Smith’s history of the assault verbatim as Smith told her what happened. Long then read what she had written to the jury.

According to Long’s notes, Smith stated that the night before, she was at a club in Montrose with two

coworkers. Smith had two drinks and a shot. A little before 2:00 a.m., a black man with a strong English accent, whom Smith later identified as “Christopher,” came up to her and said, “I’ve been watching you all night. You are so beautiful.” He asked if she wanted to go smoke a cigarette, and they went outside. He pulled out a flask, said it was bourbon, and asked Smith if she wanted a drink. Smith took it and drank “like a shot.” She thought it tasted like bourbon.

Smith’s coworkers were ready to leave by 2:00 a.m., but Smith was tipsy and wasn’t ready to go. Christopher, who “was being so polite,” invited her to go with him to an afterparty at another club. He got them an Uber to the club and told her that two girls would be meeting them there.

After they arrived at the next club, Smith drank about a half a cup of light beer, but she was uncomfortable because “[e]veryone was in the unisex bathroom doing drugs,” so Christopher got another Uber, this time to what he said was his friend’s home. Christopher told her that “a bunch of people were coming,” but when they arrived, no one else was there.

Christopher pulled his penis out and put his hand on the back of Smith’s head and said “Come suck it. You make me horny. You’re so beautiful.” Smith responded, “No, I’m not here for that.” Smith had a headache and her mouth was dry, so she asked for ibuprofen and a bottle of water. She got dizzy after she drank the water, and her memory was faulty after that. She remembered a “flash” of being naked from the waist down in the apartment and Christopher was behind her with his penis in her

vagina. She also remembered seeing another black man in the room with a large iPad. She asked, “Who is here?” and Christopher responded, “No one.” Then Smith blacked out again, then recalled seeing Christopher leave the apartment. She was in her bra and shirt searching for her jeans and underwear. Another guy in the apartment tried to get her to suck his penis, and she told him “Where is Chris? Get the fuck away from me.” When Christopher didn’t return, she got an Uber to her apartment. Smith got home about 7:30 a.m. and called 9-1-1.

Discussion

A. Admission of the SANE’s Testimony Did not Violate the Confrontation Clause

In his first, second, and third issues, the appellant asserts that the admission of Long’s testimony about Smith’s statements recorded in the SANE report, the EMS records, and other medical records violated his constitutional right to confront witnesses against him guaranteed by the United States and Texas constitutions. See U.S. Const. amend. VI; Tex. Const. art. I, § 10. The appellant cannot now raise an argument that the Texas constitution provides different or greater protection than the federal constitution because he did not raise that argument in the trial court. See *Pena v. State*, 285 S.W.3d 459, 464 (Tex. Crim. App. 2009) (holding argument that Texas constitution provided greater protection than federal analogue must be raised in trial court to be preserved for appeal).

*5 Under the Sixth Amendment’s Confrontation Clause, testimonial statements made by a non-testifying witness are inadmissible unless the witness is unavailable to testify and the defendant

has had a prior opportunity for cross-examination. Consistent with this constitutional right, out-of-court statements offered against the accused that are “testimonial” may be excluded unless the prosecution shows that the declarant is unavailable to testify in court and the accused had a prior opportunity to cross-examine the declarant. *Ohio v. Clark*, 576 U.S. 237, 243, 135 S.Ct. 2173, 192 L.Ed.2d 306 (2015); *Langham v. State*, 305 S.W.3d 568, 575–76 (Tex. Crim. App. 2010).³

Whether an out-of-court statement is testimonial is a question of law. *Langham*, 305 S.W.3d at 576. “Although we defer to the trial court’s resolution of credibility issues and historical fact, we review *de novo* the ultimate constitutional question of whether the facts as determined by the trial court establish that an out-of-court statement is testimonial.” *Id.*

In our review, we consider “whether ‘the surrounding circumstances objectively indicate that the primary purpose of the interview or interrogation is to establish or prove past events potentially relevant to

³ The appellant spends part of his brief arguing that current Supreme Court interpretation of the Sixth Amendment is less restrictive than the Sixth Amendment’s original meaning at the time of its adoption. But “[w]hen we decide cases involving the United States constitution, we are bound by United States Supreme Court case law interpreting it.” *State v. Guzman*, 959 S.W.2d 631, 633 (Tex. Crim. App. 1998); see also *Ex parte Argent*, 393 S.W.3d 781, 784 (Tex. Crim. App. 2013) (“[W]hen a state court chooses to address the merits of a federal claim, its decision to grant or deny relief must accord with federal law.”).

later criminal prosecution.’ ” *Id.* (quoting *De La Paz v. State*, 273 S.W.3d 671, 680 (Tex. Crim. App. 2008)). The “primary purpose” is the “first in importance’ among multiple, potentially competing purposes” for a statement. *Id.* at 579. “In the end, the question is whether, in light of all the circumstances, viewed objectively, the primary purpose of the conversation was to create an out-of-court substitute for trial testimony.” *Clark*, 576 U.S. at 245, 135 S.Ct. 2173 (internal quotation omitted). “Where no such primary purpose exists, the admissibility of a statement is the concern of state and federal rules of evidence, not the Confrontation Clause.” *Id.* at 245–46, 135 S.Ct. 2173 (internal quotation omitted).

Medical reports created for treatment purposes are usually non-testimonial. *Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 312 n.2, 129 S.Ct. 2527, 174 L.Ed.2d 314 (2009); *Berkley v. State*, 298 S.W.3d 712, 715 (Tex. App.—San Antonio 2009, pet. ref’d); see also *Clark*, 576 U.S. at 246, 135 S.Ct. 2173 (“[S]tatements to individuals who are not law enforcement officers ... are much less likely to be testimonial.”); *Davis v. State*, 169 S.W.3d 660, 667 (Tex. App.—Austin 2005) (Onion, J.) (“A statement is more likely to be testimonial if the person who heard, recorded, and produced the out-of-court statement at trial is a government officer.”), *aff’d*, 203 S.W.3d 845 (Tex. Crim. App. 2006).

The appellant argues that the statement recorded by Long is testimonial because 1) Smith specifically requested the exam in the presence of the police and told the emergency room physician that she would be filing a police report; 2) the patient education packet given to Smith before the SANE exam explained the

examination process, told Smith that samples would be taken from her body “for evidence” that “may be used if you choose to take legal action (press charges) at a later time”; 3) in signing the consent form, Smith expressly consented for Long to perform a “medical forensics examination” and “collection of evidence,” and authorized the hospital to release copies of the SANE report to a law enforcement agency. Consistent with other Texas courts of appeals that have considered the issue, though, this Court has already concluded that when a patient gives a verbal history to a SANE or other medical professional during a sexual assault exam for the purpose of receiving medical treatment, the history is not considered testimonial. See *Kirkman v. State*, No. 01-18-00978-CR, 2020 WL 2026372, at *3, *5 (Tex. App.—Houston [1st Dist.] Apr. 28, 2020, pet. ref’d) (mem. op., not designated for publication).⁴

⁴ When this Court decided *Kirkman*, it observed that five other Texas courts of appeals had already held that doctors’ and nurses’ observations and notes recorded in a SANE medical record are not testimonial because they are for the purpose of diagnosis and treatment. See *DeLeon v. State*, No. 13-18-00480-CR, 2019 WL 4200297, at *2 (Tex. App.—Corpus Christi-Edinburg Sept. 5, 2019, pet. ref’d) (mem. op., not designated for publication); *Metoyer v. State*, No. 13-18-00573-CR, 2019 WL 3331634, at *2 (Tex. App.—Corpus Christi-Edinburg July 25, 2019, pet. ref’d) (mem. op., not designated for publication); *Garrett v. State*, No. 12-15-00208-CR, 2017 WL 1075710, at *3 (Tex. App.—Tyler Mar. 22, 2017, no pet.) (mem. op., not designated for publication); *Urias v. State*, No. 08-12-00090-CR, 2014 WL 1259397, at *5 (Tex. App.—El Paso Mar. 26, 2014, pet.

None of the arguments raised by the appellant shows that Smith's SANE exam should be treated differently. A person undergoing a SANE exam provides a verbal history to a medical professional for the primary purpose of obtaining medical treatment, whether or not the person intends to report the sexual assault to the police and even though the exam creates evidence that might be used in a prosecution.

*6 Here, the record supports the same conclusion we reached in *Kirkman*. Before testifying from her notes on her examination of Smith, Long explained that a SANE exam has both forensic and medical components. The SANE first takes a history from the patient about what brought the patient into the emergency room and “document[s] verbatim” what the patient says “for the purposes of diagnosis and treatment.” Long explained that she did not interview Smith; an interview was “a whole different

ref'd) (mem. op., not designated for publication); *Chin v. State*, Nos. 04-13-00242-CR & 04-13-00243-CR, 2013 WL 6869905, at *4 (Tex. App.—San Antonio Dec. 31, 2013, pet. ref'd) (mem. op., not designated for publication); *Berkley v. State*, 298 S.W.3d 712, 715 (Tex. App.—San Antonio 2009, pet. ref'd). Since *Kirkman* was issued, two more Texas courts of appeals, relying on *Kirkman* among other cases, have reached the same conclusion. See *Trollinger v. State*, No. 11-22-00089-CR, 2023 WL 5622111, at *3 (Tex. App.—Eastland Aug. 31, 2023, no pet.) (mem. op., not designated for publication); *Franklin v. State*, No. 02-21-00088-CR, 2022 WL 3651972, at *3 (Tex. App.—Fort Worth Aug. 25, 2022, pet. ref'd) (mem. op., not designated for publication).

forensic process" for "somebody else" to do. Long obtained a history from Smith "specifically for the purposes of diagnosis and treatment as a healthcare provider." Any questions Long asked while Smith was recounting events were just to clarify things that Smith said, like what she had to drink or which bar Smith was at when the events she described took place.

For these reasons, we conclude that Smith's statement to Long was non-testimonial. As a result, we hold that the trial court did not err in ruling that the admission of the evidence through Long did not violate the Confrontation Clause.

We overrule the appellant's first, second, and third issues.

B. The Admission of the Extraneous-Offense Evidence Did not Violate Texas Rules of Evidence 403 and 404(b).

In his fourth, fifth, and sixth issues, the appellant argues that the trial court reversibly erred in admitting evidence of the sexual assault described by Smith because it was not "sufficiently similar" to the sexual assault described by the complainant to prove intent and any probative value was substantially outweighed by the danger of unfair prejudice and confusing the issues.

We review a trial court's ruling on whether to admit extraneous-offense evidence for an abuse of discretion. *De La Paz v. State*, 279 S.W.3d 336, 343 (Tex. Crim. App. 2009). We will not reverse a trial court's evidentiary ruling unless it falls outside the zone of reasonable disagreement. *Id.* at 343–44. If the trial court's ruling can be justified on any

applicable theory of law, we will not disturb it. *Id.* at 344.

Extraneous-offense evidence is admissible under both Rules 403 and 404(b) if 1) the extraneous-offense evidence is relevant to a fact of consequence in the case aside from its tendency to show action in conformity with character, and 2) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice. *Page v. State*, 213 S.W.3d 332, 335 (Tex. Crim. App. 2006). If the accused is given reasonable notice of the State's intent to introduce extraneous-offense evidence, it is admissible to prove "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Tex. R. Evid. 404(b); *Lauderdale v. State*, No. 01-13-00539-CR, 2014 WL 6679634, at *7–8 (Tex. App.—Houston [1st Dist.] Nov. 25, 2014, no pet.) (mem. op., not designated for publication). Extraneous-offense evidence may also be admissible to rebut a defensive theory, but it must be similar to the charged offense. *Moses v. State*, 105 S.W.3d 622, 626 (Tex. Crim. App. 2003); see *Plante v. State*, 692 S.W.2d 487, 492–93 (Tex. Crim. App. 1985). Whether extraneous-offense evidence has relevance apart from character conformity is a question for the trial court. *Moses*, 105 S.W.3d at 627.

A defendant can raise a defensive theory and open the door to admission of extraneous-offense evidence during his opening statement, his cross-examination of the State's witnesses, or through evidence admitted in his case-in-chief. *De La Paz*, 279 S.W.3d at 344–45; *Fisher v. State*, No. 05-19-00851-CR, 2022

WL 2900968, at *8 (Tex. App.—Dallas July 22, 2022, pet. ref'd) (mem. op., not designated for publication).

When a defendant's intent is at issue, extraneous-offense evidence may be used to show intent if intent cannot be inferred from the act.⁵ *Duntsch v. State*, 568 S.W.3d 193, 222 (Tex. App.—Dallas 2018, pet. ref'd); *Jones v. State*, 716 S.W.2d 142, 161 (Tex. App.—Austin 1986, pet. ref'd). If the defendant raises the defensive theory of consent in a prosecution for sexual assault, he places at issue his intent to engage in the alleged conduct without the victim's consent. *Martin v. State*, 173 S.W.3d 463, 466 n.1 (Tex. Crim. App. 2005); *Fisher*, 2022 WL 2900968, at *8; see Tex. Penal Code § 22.011(a)(1), (b).

***7** The appellant does not dispute that he raised the issue of the complainant's consent throughout his case-in-chief but argues that the trial court erred in admitting, through Long, Smith's description of her sexual assault by the appellant because it was not sufficiently similar to the sexual assault that the complainant described in her testimony. He notes that in contrast to the sexual assault described by Smith, the complainant's description of her sexual

⁵ Extraneous-offense evidence may also be used when a defendant places identity at issue under the doctrine of chances, which applies when there is a similarity between the charged and extraneous offenses. See *De La Paz*, 279 S.W.3d at 347; *Pedraza v. State*, No. 01-19-00652-CR, 2020 WL 3866660, at *5 (Tex. App.—Houston [1st Dist.] July 9, 2020, pet. ref'd) (mem. op., not designated for publication).

assault by the appellant did not involve drinking or doing drugs, she and the appellant were previously acquainted, there was some consensual cuddling and kissing, the appellant remained after the sexual assault and “tried to console” the complainant, and the complainant continued to communicate with the appellant in the days that followed.

The appellant is correct that some similarity between the extraneous offense and the charged offense is required for the extraneous-offense evidence to be admissible. *Brown v. State*, 96 S.W.3d 508, 512–13 (Tex. App.—Austin 2002, no pet.). But if the defendant’s intent is the material issue, as it is here, the degree of similarity between the charged offense and the extraneous offense need not be as great as when identity is the material issue. See *Duntsch*, 568 S.W.3d at 222; *Brown*, 96 S.W.3d at 512–13.

The similarities between the appellant’s sexual assault of the complainant and that of Smith are greater in number and more significant than the differences identified by the appellant. Both women initially agreed to spend time with the appellant. The appellant introduced himself to both women by the alias “Christopher English.” Also, both assaults occurred late at night, shortly after the women met the appellant in person for the first time. Both times, the appellant pulled out his penis unexpectedly in front of the woman. Each woman rejected the appellant’s sexual advances, yet the appellant continued to pursue sex as if she hadn’t. And each described having had the appellant penetrate her vagina with his penis from behind. Further, the complainant testified that the appellant did not use a

condom and while Smith did not recall whether he had used a condom, testing after the SANE exam showed he had not. Finally, after both assaults, both the complainant and Smith recalled that they were photographed with an iPad. We conclude that these similarities support admission of the extraneous offense under Rule 404(b).

Even if evidence is relevant and is being offered for a permissible purpose under Rule 404(b), the trial court may still exclude it if its probative value is substantially outweighed by the danger of unfair prejudice. *Moses*, 105 S.W.3d at 626; *see Tex. R. Evid. 403*. But Rule 403 “should be used sparingly to exclude relevant, otherwise admissible evidence that might bear upon the credibility of either the defendant or complainant” in a “‘he said, she said’ case[].” *Hammer v. State*, 296 S.W.3d 555, 562–63 (Tex. Crim. App. 2009); *Bradshaw v. State*, 466 S.W.3d 875, 883–84 (Tex. App.—Texarkana 2015, pet. ref’d).

In applying Rule 403, we consider: 1) the evidence’s probative value; 2) its potential to impress the jury in some irrational yet indelible way; 3) the time needed to develop the evidence; and 4) the proponent’s need for it. *Colone v. State*, 573 S.W.3d 249, 266 (Tex. Crim. App. 2019). Here, because of similarities between the two sexual assaults, the evidence of Smith’s assault by the appellant had a high probative value.

As for the evidence’s potential to impress the jury “in some irrational but indelible way,” such as character conformity, that potential can be minimized by the use of a limiting instruction. *McGregor v. State*, 394 S.W.3d 90, 120–21 (Tex. App.—Houston [1st Dist.]

2012, pet. ref'd). After the extraneous-offense evidence was admitted and again in the charge, the trial court instructed the jury:

*8 that if there is any evidence before you in this case regarding the defendant's committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

We presume the jury followed this instruction. *Thrift v. State*, 176 S.W.3d 221, 224 (Tex. Crim. App. 2005).

The third factor contemplates "the time the proponent will need to develop the evidence, during which the jury will be distracted from consideration of the indicted offense." *State v. Mechler*, 153 S.W.3d 435, 441 (Tex. Crim. App. 2005). Here, the extraneous-offense evidence took up one day of a four-day trial. This amount of time is significant relative to the rest of the trial and thus weighs against admission, but given that the State otherwise had to rely principally on the testimony of the complainant to make its case, the proportion of time spent on it had more to do with the brevity of

the other evidence than any undue amount of extraneous-offense evidence.

The need for the extraneous-offense evidence was high because not only did the appellant raise the issue of consent as a defense, the complainant testified that she and the appellant had engaged in some consensual hugging and kissing before he assaulted her. In the absence of other witnesses, the extraneous-offense evidence helped the jury to decide whether the defendant or the complainant was more credible. See *Hammer*, 296 S.W.3d at 562–63.

We hold that the trial court did not err in concluding that the extraneous-offense evidence was admissible under Rules 403 and 404(b).

We overrule the appellant's fourth, fifth, and sixth issues.

Conclusion

We affirm the judgment of the trial court.

All Citations

--- S.W.3d ----, 2025 WL 1129131

APPENDIX C
JUDGMENT
COURT OF APPEALS
FIRST DISTRICT OF TEXAS
NO. 01-23-00263-CR
CHRISTOPHER ODEKU, Appellant
V.
THE STATE OF TEXAS, Appellee
Appeal from the 208th District Court of Harris
County
(Tr. Ct. No. 1485915)

This case is an appeal from the final judgment signed by the trial court on March 31, 2023. After submitting the case on the appellate record and the arguments properly raised by the parties, the Court holds that the trial court's judgment contains no reversible error. Accordingly, the Court **affirms** the trial court's judgment.

The Court **orders** that this decision be certified below for observance.

Judgment rendered April 17, 2025.

Panel consists of Justices Guerra, Caughey, and Morgan. Opinion delivered by Justice Morgan.

APPENDIX D

[*1] REPORTER'S RECORD

VOLUME 5 OF 10 VOLUMES

TRIAL COURT CAUSE NO. 1485915

COURT OF APPEALS CASE NO. 01-23-00263-CR

THE STATE OF TEXAS

vs.

CHRISTOPHER ODEKU

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

208TH JUDICIAL DISTRICT

JURY TRIAL

On the 27th of March, 2023, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Beverly D. Armstrong, Judge presiding, held in Houston, Harris, Texas.

Proceedings reported by oral shorthand.

[*2] APPEARANCES

FOR THE STATE:

SBOT NO. 24095480

MS. BETHANY BELISLE

SBOT NO. 24086206

MS. ASHLEA SHERIDAN

HARRIS COUNTY DISTRICT ATTORNEY'S

OFFICE
1201 Franklin Street, Suite 600
Houston, Texas 77002
(713) 274-5800

FOR THE DEFENDANT:
SBOT NO. 50511495
MR. THOMAS MARTIN
THOMAS MARTIN LAW FIRM
917 Franklin Street
Houston, Texas 77002
(713) 222-0556

[*44] [THE COMPLAINANT],
having been previously duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MS. BELISLE:

Q. Good afternoon, Ms. [Complainant].

A. Good afternoon.

Q. Could you state your name and spell it for the
court reporter?

A. [First name]. Do I have to say my full name?

Q. You can just say last name.

A. Okay. [Last name.]

Q. All right. And what do you do, Ms. [Complainant]?

A. I am a consultant. I currently have my own
company that I run.

Q. Okay. And back in July -- June 2015, what did
you do then?

A. I was a college student in my senior year in college.

Q. Okay. And where were you a college student?

22

A. The University of Houston Downtown.

Q. Okay. How old were you back in 2015?

A. 31.

* * *

[*116] CROSS-EXAMINATION

BY MR. MARTIN:

Q. Good afternoon, ma'am.

A. Good afternoon.

* * *

[*116] Q. Y'all connected finally on -- when I say you all, I mean Mr. Odeku and you, you'll connected on June the 6th; right?

A. Correct.

Q. And I mean connected, just to be clear, communicating?

A. Yes.

* * *

[*120] Q. Okay. Somehow through some social media connection, he connects with you, you connect with him, and you all basically come to an understanding that y'all going to get together and meet?

A. Correct.

Q. For the first time?

* * *

[*131] **Q.** Okay. Just so the ladies and gentlemen of the jury understand, the cuddling -- mutual cuddling and the kissing, those are romantic signals to you?

[*132]

A. Correct.

Q. And the cuddling and kissing, that's okay to you?

A. It was at the time.

Q. It was? Well, I didn't hear exactly what you said. It was okay or was not okay?

A. It was at the time.

[*1] REPORTER'S RECORD

VOLUME 6 OF 10 VOLUMES

TRIAL COURT CAUSE NO. 1485915

COURT OF APPEALS CASE NO. 01-23-00263-CR

THE STATE OF TEXAS

vs.

CHRISTOPHER ODEKU

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

208TH JUDICIAL DISTRICT

JURY TRIAL

On the 28th of March, 2023, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Beverly D. Armstrong, Judge presiding, held in Houston, Harris, Texas.

Proceedings reported by oral shorthand.

[*2] APPEARANCES

FOR THE STATE:

SBOT NO. 24095480

MS. BETHANY BELISLE

SBOT NO. 24086206

MS. ASHLEA SHERIDAN

HARRIS COUNTY DISTRICT ATTORNEY'S
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1201 Franklin Street, Suite 600

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FOR THE DEFENDANT:

SBOT NO. 50511495

MR. THOMAS MARTIN

THOMAS MARTIN LAW FIRM

917 Franklin Street

Houston, Texas 77002

(713) 222-0556

[*169] THE COURT: Okay. Mr. Martin?

MR. MARTIN: Yes. I've got both legal reasons and factual distinctions as to why I submit to you that this is extraneous should not be admitted during guilt/innocence. And I do understand that if you do decide to let it in, of course I would object, and then I'd be asking for a limiting instruction. I have no doubt you would give one. But I do believe it'd be improper to do.

I also understand that if Mr. Odeku is found guilty on this current case-in-chief ... I completely understand that at punishment, this case does come in without objection. I understand that. **[*170]**

First, the legal matters. One is the confrontation clause. Ms. [Smith] has passed. You heard the detective say he's not laying it at the feet of my client. My client had nothing to do with her passing. We don't have the ability to cross-examine whatever she says.

* * *

[*175] THE COURT: All right. We're going to have the jury come back at 11 o'clock. Have all three of your witnesses prepared to be here, again, by 11 o'clock. But when y'all get here in the morning, about 9:30, when I first take the bench, I'll have you approach and I'll give you my decision.

* * *

[*1] REPORTER'S RECORD
VOLUME 7 OF 10 VOLUMES
TRIAL COURT CAUSE NO. 1485915
COURT OF APPEALS CASE NO. 01-23-00263-CR
THE STATE OF TEXAS

vs.

CHRISTOPHER ODEKU
IN THE DISTRICT COURT
HARRIS COUNTY, TEXAS
208TH JUDICIAL DISTRICT

JURY TRIAL

On the 29th of March, 2023, the following proceedings came on to be heard in the above-

entitled and numbered cause before the Honorable Beverly D. Armstrong, Judge presiding, held in Houston, Harris, Texas.

Proceedings reported by oral shorthand.

[*2] APPEARANCES

FOR THE STATE:

SBOT NO. 24095480

MS. BETHANY BELISLE

SBOT NO. 24086206

MS. ASHLEA SHERIDAN

HARRIS COUNTY DISTRICT ATTORNEY'S
OFFICE

1201 Franklin Street, Suite 600

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FOR THE DEFENDANT:

SBOT NO. 50511495

MR. THOMAS MARTIN

THOMAS MARTIN LAW FIRM

917 Franklin Street

Houston, Texas 77002

(713) 222-0556

[*5] PROCEEDINGS

(Open court, defendant present, jury not present.)

THE COURT: This is Cause Number 148591, the State of Texas versus Christopher Odeku. Let the record reflect that the State's attorney is present, defendant is present, defense attorney is present.

The jury panel -- the jury members are not present in the courtroom at this time.

On yesterday, we had a presentation outside the presence of the jury with regards to the State's request to admit extraneous offenses in the guilt and innocence phase of the trial under Rule 404(b) to address or to counter defense's theory of consent, correct.

I, perhaps -- so requested case law. Case law was presented by both sides; argument was presented by both sides. I do have one other question, though, before that. I think the State told me -- can you hear me -- the State told -- told me that there would be a SANE exam, medical records, and DNA, but we did not hear any evidence in the -- outside the presence yesterday about the DNA.

MS. BELISLE: Yes, Your Honor.

THE COURT: Can you tell me the results of [*6] that?

MS. BELISLE: Yes, Your Honor. Just for the record, the DNA analyst has since moved out of state; and so, she was flying in last night, which is why she wasn't here for that hearing. Let me grab the --

THE COURT: The results?

MS. BELISLE: -- results. This is previously marked as State's Exhibit 46. It's the DNA lab in the case where [Mary Smith] is the complainant in the extraneous offense.

THE COURT: Based on the -- based on the evidence that we heard outside the presence of the jury on arguments of counsel and case law review, I find that the extraneous evidence is admissible under Rule 404(b) as it relates to the issue of consent. The question is the prejudicial value of this particular

evidence. The reason the balancing test that has been provided in the case law by the higher courts. I find that this evidence is more probative than prejudicial, and I'm going to allow it at this time.

So, make sure you get your witnesses in here, and we will -- the jury will be here at 11:00 o'clock, and we will start with that.

MS. BELISLE: Yes, Judge. Thank you. [*7]

THE COURT: I will give the limiting instructions after this -- after the testimony is given, and also in the jury charge.

MS. BELISLE: I believe the -- the copy of the jury charge we've got; we had requested that. So it's okay.

THE COURT: Okay. I believe it was. I believe I've talked about that. So I'll look at that and make sure.

MR. MARTIN: If I may, Judge? I'm not trying to change your ruling, but I would like to enter my objections formally into the record.

THE COURT: Yes.

MR. MARTIN: Okay.

THE COURT: Thank you.

MR. MARTIN: Okay. We understand that the Court has decided to admit the evidence of the extraneous. We do object to that.

We object to it on the following grounds: Fifth Amendment of the United States Constitution; that defendant not be deprived of life, liberty, or property without due process of law.

Sixth Amendment to the U.S. Constitution on the Confrontation Clause; to be confronted with the witnesses against him. As you recall from the

testimony [*8] yesterday, the complaining witness in this case is deceased through no action or fault of my client, according to the investigating officer.

* * *

[*10] Then my last item is, I will request a running objection to the entire introduction of the extraneous offense by the State -- all three witnesses -- so I don't have to constantly get up and be like a Jack-in-the-Box and be objecting all the time.

* * *

[*11] THE COURT: ... Your request to -- for the running objection, I'll grant that.

[*14] ALEXIS AGRAVANTE

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. BELISLE:

* * *

[*27] Q. Okay. On the next page, there is a section of documents labeled Emergency Department Triage. And the date that that was entered is what date?

A. January 25, 2018, 8:43 a.m.

* * *

[*28] Q. Okay. And at the bottom of that page, we see -- it's labeled ED Medical Forensic Examination; is that correct?

A. That is correct.

Q. And is that in reference to the SANE examination?

A. It is.

Q. Okay. And what time was that examination entered?

A. Says here, January 25, 2018, 14:57.

Q. Okay. And so 14:57 -- you were in the Marine Corps, so what time is that in terms of how I read time?

A. 2:57 p.m.

Q. Okay. 2:57 p.m. So they arrived around 8:00 in the morning, and then this isn't entered until 2:57 p.m.?

A. That's correct.

Q. Okay. And that was performed by Lori Long, it looks like.

A. Yes.

* * *

[*62] Lori Long,

having been first duly sworn, testified as follows:

THE COURT: You may begin.

MS. BELISLE: Thank you, Your Honor.

[*63] DIRECT EXAMINATION

BY MS. BELISLE:

[*68] Q. Okay. And so walk the jury through what you have to do to become a certified SANE?

A. So a SANE, a Sexual Assault Nurse Examiner, is just one portion of being a forensic [sic]. In order to achieve that specialty, you have to be a licensed **[*69]** registered nurse for at least two years, and then you can go through the classroom training. The classroom training is 40 hours of didactic classroom

experience, and then you have clinical experience where you learn how to do pelvic exams on females, and then you go through the process of learning how to do evidence collection and package evidence. Coupled with that, you have to maintain your nursing license and continue to achieve academic milestones along the way.

Once you practiced for a year and you've seen -- and I'm not certain of the number of patients -- you're eligible to do two different things in the State of Texas. You can apply to the Attorney General's office for a certificate that shows that you've met criteria to function as a sexual assault nurse. It's not required or mandatory, but it's just something that the Attorney General does to recognize that achievement. Then the next thing you can do is sit for the board exam as either an adult/adolescent sexual assault nurse or pediatric sexual assault nurse or both.

Q. Okay. So you sat for that exam?

A. For both.

* * *

[*70] Q. And so, have you testified before as an expert in sexual assault nurse examinations?

A. Yes.

* * *

[*73] Q. Okay. So let's talk a little bit about the physical exam. Is the patient wearing clothing when they do their physical exam?

A. Well, initially, they -- it depends on how a person presents to the emergency room. They have to be medically screened and stable.

* * *

[*76] **Q.** So on January 25th of 2018, did you come into contact with a person by the name of [Mary Smith]?

A. Yes.

Q. Okay. And you performed a SANE examination on her?

A. Correct.

* * *

[*78] **Q.** Okay. And then you get a history of the assault; is that right?

A. Correct.

Q. And so when you take the history of the assault, you said you take it verbatim?

A. Yes.

Q. And so as she's -- as the patient's saying what happened, you're taking it down word for word?

A. Yes.

Q. Okay. And I'm going to go ahead and read it to you and make sure that this is what she said to you on January 25th.

So, "Patient states about 11:00 o'clock last night I geta text from two coworkers, Alexander and Mark, to go to a gay club in Montrose called Bayou City. Mark drove [*79] us. I had two whiskey/Coke singles, Star Fucker shot of fruit juice and vodka. Alex insisted on leaving by 2:00 a.m. A little before that, this black male with a very strong English accent came up to me and said 'I've been watching you all night. You are so beautiful.' He asked if I

wanted to smoke a cigarette, and we went outside. He pulled out a flask and said it was bourbon and asked if I wanted a drink. I took, like, a shot. It tasted like bourbon. At this point, I was tipsy. It's now 2 o'clock, and I wasn't ready to go. He was being so polite and said, 'We're going to --" and then it continues on to the next page. "--an after party at a bar called Diddy's. Do you want to go?" At this point, my memory gets hazy, but Christopher got us an Uber to Diddy's and said these other two girls were meeting us. I ordered a cup of Bud Light, I drank half. Everyone was in the unisex bathroom doing drugs. It made me feel uncomfortable, so Christopher got us and Uber to his friend, Ty's, house. Christopher said a bunch of people were coming, but when we got there no one else was there. Christopher pulled his penis out and put his hand on the back of my head and said 'Come suck it. You make me horny. You're so beautiful.' I said no -- "No, I'm not here for that." My mouth was dry and I had a headache. I asked for a bottle of water [***80**] and Advil. After I drank the water, I got dizzy. The next thing I remember is a flash of me being naked from the waist down in that apartment, and Chris was behind me having sex. His penis in my vagina. I don't know if he had a condom on, it was just a flash. Another flash was a black man in the room with a large iPad. I saw the light and heard the recording sound. I said, 'Who is here?' Chris said, 'No one.' But I saw a figure of a person, and I think it was thank you [sic] recording us. I blacked out again, and the next flash is Chris is going and I'm in my bra and shirt searching all over for my jeans and my underwear. There is a black guy who was trying to get me to suck his penis and let me -- let him give me

oral sex. I said, 'I don't know you are. Where is Chris? Get the fuck away from me.' Chris didn't come back, and he had promised to give me a ride home. The black guy said, 'If you let me fuck you, I'll take you home, but I'm not doing it for free.' I started crying, grabbed my stuff, and went outside. I called and Uber and got home around 7:30. When I got home I called 9-1-1."

So Ms. Long, is that the history of what happened that the patient gave you that day?

A. Yes.

Q. Okay. And just to clarify: when she tells you [***81**] that, you take it down word for word?

A. Yes.

Q. Okay. Okay. So we see here the – some evidence collection questions. And in this case, why do you take note of all of these things that are under that section of the SANE?

A. So the checkboxes that are related to the statement prior to evidence collection, things that the patient could have done, such as, go to the bathroom, wipe, wash, smoke, eat, drink, throw up, you know, those kinds of things, changes the recovery of DNA because of those things all lead to, like, wiping or interfering with the presence of DNA actually existed for extended periods of time.

Q. Okay. So you made note of those items in a SANE exam so that -- just basically information surrounding evidence collection?

A. Yes.

Q. Okay. And so it could explain why DNA is or isn't present?

A. Correct.

* * *

[*83] Q. Okay. That makes sense. And then here you also make note of the most recent sexual contact that the patient had. And why do you do that?

A. We asked them if they haven't had any reason -- sex in the last, I usually say seven to 10 days because the chances of me recovering DNA from that person exists.

Q. Okay. And so that's to, you know, explain also the evidence collection?

A. Correct.

Q. So if an unknown profile shows up or something like that, that could possibly explain that?

A. Yes.

* * *

[*90] Q. Okay. Now, moving on to evidence collection, I'm going to go back a page. Did you collect evidence in this case?

A. I did.

Q. Okay. And you talk a little bit earlier about the 120 hour rule, I believe? **[*91]**

A. Yes.

Q. When this was -- when this case was pending, was there a different standard that y'all followed?

A. It could have been 96 hours. It was very close to the time that we transitioned from the Texas Evidence Collection Protocol, that is a collaboration of crime lab at the Attorney General's office guide the entire State of Texas evidence collection. And as

advancements in science occurred and different things, we've been able to expand the time.

When I started in 1996, it was 72 hours. We're now at 120 hours. So it could have been when we were at 96, or it fits right around here, so...

Q. Okay. But the general idea of that is what?

A. Well, it's based on the limitations of science and technology being able to say statistically that they can or cannot retrieve DNA after a certain period of time, regardless of those things that we check that people can do, right? Whether they were swimming or sitting in a jacuzzi, took a bath, 15 showers, changed their clothes 12 times, we still, within that timeframe, would attempt to do the swabs to collect evidence.

* * *

[*93] **Q.** Okay. And so you did take swabs in this case?

A. Yes

* * *

Q. Okay. If that makes sense. All right. So I'm going to approach you with what's been previously marked as State's Exhibit 34. Do you recognize this? And you can take a minute to look at it?

A. This is the sexual assault evidence kit that is for [Mary Smith] that is signed and sealed by me.

Q. Okay. And so that's your signature on there?

A. Correct.

Q. And so when you get the swabs, you seal them into this cardboard box? [*94]

MR. MARTIN: Excuse me, Judge. Ms. Belisle dropped a glove.

MS. BELISLE: Thank you.

THE WITNESS: Well, we have a stand that we place all the swabs in so that while we're doing the charting we use this dryer to dry the swabs. And then there are these little cardboard tubes that we kind of manually construct. We put the number of tubes that -- the number of swabs that are indicated into the little cardboard box, and it has a hole to allow for, like, additional drying. Then we put those patient labels that you see that are on the charts with the -- from the hospital with a barcode.

We put that on each side then I initial those, then I put those into an envelope that indicates that area. And then that is sealed with a patient and then sealed with evidence tape, and now I initial it. And that is done for each area, and it goes into this kit with a copy of that paperwork. And then I seal the kit with those red stickers, and then sealed with evidence tape and then it's initial and signed. And then it gets locked into this secure -- where we lock evidence until it's released to maintain the chain of custody between the collector and law enforcement, who we release it to and takes it to the crime lab.

* * *

[*104] Q. Okay. And so you explained the process of getting those swabs. Once you dry them out and put them in those bags and lock it away in the locker, what's the next step for you?

A. Well, for our team, per se? [*105]

Q. Yes.

A. Well, when we log it into the evidence cabinet, there's a member of the team -- there's a few of us that release, so we have scheduled release due to the volume of patients that we see, and it stays locked in a location that has very few people having access to. And then the chain of custody form is filled out when law enforcement arrives, and then we turn it over to them and it either gets locked into their secure location or taken directly to the crime lab whatever the chain of custody form shows next.

Q. Okay. And so at that time, your portion of the exam is done unto maybe you come here to testify?

A. Pretty much. I'd lock it up and then get a subpoena.

* * *

CROSS-EXAMINATION

BY MR. MARTIN: [*106]

Q. Before we get to the SANE report, this is not your first rodeo in terms of testifying. You've testified before?

A. Correct.

Q. About how many times, ballpark?

A. A hundred-ish.

* * *

[*120] **Q.** Now, in your -- still back on State's 33. When you were chatting -- well, that's my word, chatting. When you were interviewing Ms. Fisher -- you were not interviewing Ms. Fisher?

A. No, sir. We don't do interviews. That's a whole different forensic process.

Q. Okay. What word would you use to describe your conversations with her if it's not an interview?

A. So I obtain a history from her specifically for the purposes of diagnosis and treatment as a healthcare provider. The interviewing is asking a lot of, even often leading, questions. I only ask clarifying questions like I was drinking, what did you drink, we went to a bar, what bar. So I can clarify, like, who, **[*121]** what, where, when, but I don't interview. That forensic interview is somebody else.

[*1] REPORTER'S RECORD
VOLUME 8 OF 10 VOLUMES
TRIAL COURT CAUSE NO. 1485915
COURT OF APPEALS CASE NO. 01-23-00263-CR
THE STATE OF TEXAS

vs.

CHRISTOPHER ODEKU
IN THE DISTRICT COURT
HARRIS COUNTY, TEXAS
208TH JUDICIAL DISTRICT

JURY TRIAL

On the 30th of March, 2023, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Beverly D. Armstrong, Judge presiding, held in Houston, Harris, Texas.

Proceedings reported by oral shorthand.

[*2] APPEARANCES

FOR THE STATE:

SBOT NO. 24095480
MS. BETHANY BELISLE
SBOT NO. 24086206
MS. ASHLEA SHERIDAN
HARRIS COUNTY DISTRICT ATTORNEY'S
OFFICE
1201 Franklin Street, Suite 600
Houston, Texas 77002
(713) 274-5800

FOR THE DEFENDANT:

SBOT NO. 50511495
MR. THOMAS MARTIN
THOMAS MARTIN LAW FIRM
917 Franklin Street
Houston, Texas 77002
(713) 222-0556

[*22] CHRISTOPHER ODEKU,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION **[*23]**

BY MR. MARTIN:

Q. Good morning, Christopher?

A. Good morning.

* * *

[*92] Q. So you -- so the oral sex stopped?

A. Yes, sir.

Q. Okay. What happened next?

A. I suggested we go to the bedroom.

Q. Okay. And did -- did [Mary Smith] accompany you to the bedroom?

A. Yes, she did.

Q. Is she still fully clothed at this time?

A. Yes, sir.

Q. Did she express any reluctance or reservation about going to bedroom with you?

A. No. [*93]

Q. And you're going to the bedroom with your pants down around your ankles, right?

A. I wouldn't be able to do that. So when I got off the couch, I pulled my pants and my boxers on and then proceeded to the bedroom.

Q. Okay. Were you all holding hands and being grabby going from the living room into the bedroom?

A. Yes.

Q. Or did you just walk together, or what?

A. We were actually giggling when we were going.

Q. Okay. Now, you get into the bedroom -- and that's not a long walk from the living room; is it?

A. No, sir. It's not.

Q. You get into the bedroom, and what happens next?

A. She gets on the bed, kneels on the bed, and faces me while I'm still standing.

Q. Okay. And what did you do next, if anything?

A. We continue from where we had left off in the living room.

Q. Okay. And how can that happen if you've now pulled up your pants and your boxers?

A. I dropped my pants and boxers down again and she continued.

Q. Okay. And so the oral sex episode continues [*93] but this time in bed?

A. Yes, sir.

Q. Okay. Then what do you observe her doing next, if anything?

A. I do remember her request of me being told to put something inside of her.

Q. Well, that's a real broad statement. So it's your understanding that she wanted you to do what?

A. She wanted me to put my penis in her vagina.

* * *

[*96] **Q.** Okay. What happens next?

A. At -- at this point, her jeans and her panties were no longer on her person. She had taken -- taken them off. She still had her top and her bra on, I believe, and then I penetrated her vagina.

Q. Now, you say that you penetrated her vagina. You penetrated her vagina with what?

A. I penetrated her vagina with my penis.

* * *

[*120] **Q.** Is it a correct statement that you did have sexual intercourse with [Mary Smith]?

A. 100 percent, yes.

Q. Okay. Did you sexually assault [Mary Smith]?

A. No, I did not.

[*168] **Q.** Okay. So [the complainant] spreads her legs for you?

A. Yes.

Q. And did that appear to you to be a voluntary action?

A. Absolutely.

Q. Okay. And was there any reluctance or reservation in her doing that?

A. No, sir.

Q. Did she say or evidence saying, "Well, I've now stroked your penis, I'm spreading my legs giving you a good view, you know, that's it, that's all that's going to happen"?

A. No, sir. I do have to say that at this point she had pulled her pants, like, further down. She was just holding one leg in her pants and the other leg was hanging free.

[*169] **Q.** Okay. What happens next?

A. I started rubbing my penis on her vagina.

Q. Okay. So you're now rubbing your penis on her vagina, and is this an action that she appears to accept?

A. There's still no -- no complaints, no...

Q. Okay. And by her body movements, does it appear she accepts it?

A. Yes, sir.

Q. What happens next? [*170]

49a

A. Then I entered her vagina with my penis.

50a

APPENDIX E

SANE report
(State's Exhibit #33)

Personal identifying information has been redacted
to comply with Supreme Court Rule 34.6.

Cause No.

Vs.

AFFIDAVIT

Before me, the undersigned authority appeared JAMIE FERRELL, who being duly sworn by me, deposed as follows:

My name is JAMIE FERRELL, I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am custodian of the Forensic Examination records of Memorial Hermann Hospital. Attached hereto are 9 pages of Forensic Examination records from Memorial Hermann Hospital pertaining to the examination and/or treatment of ████████████████████. These said 9 pages of Forensic Examination records are kept by Memorial Hermann Hospital in the regular course of business, and it is in the regular course of business of Memorial Hermann Hospital for an employee or representative, or a physician on the medical staff of Memorial Hermann Hospital, with personal knowledge of the act, event or condition recorded to make the memorandum or record or to transmit information thereof to be included in such memorandum or record and the memorandum or record was made at or near the time of the act, event or condition recorded or reasonably soon thereafter. The records attached hereto are exact duplicates of the original as filed, and it is a rule of Hermann Hospital not to permit the originals to leave the facility.

Jamie Ferrell MBA, RSN, PA
Custodian of Forensic Examination Records
Memorial Hermann Hospital

SUBSCRIBED TO AND SWORN BEFORE ME ON THE 13 DAY OF February 2018, TO CERTIFY WHICH WITNESS MY HAND AND OFFICIAL SEAL.



Laurencia Ann Riles
Notary Public in and for The State of Texas
My commission expires: 02-01-2022



STEP 2 SEXUAL ASSAULT EXAMINATION FORENSIC REPORT FORM

Please print legibly. To be filled out with medical information gathered from the patient. Please inform the patient that, should the case go to court, it may be necessary to gather additional evidence at a later time. Please fill all spaces with information or N/A.

Name: [REDACTED] DOB: [REDACTED] 79 Sex: Female Race: Caucasian
 Address: [REDACTED] Phone: [REDACTED]
 Patient Brought in by: HFD Ambulance #69 / Margo Agency or Relationship of Escort: EMS / Aunt
 Hospital Number: 046451554-7500 Law Enforcement Case Number: 0104289-18
 Exam Date: 01/25/2018 Beginning Time of Exam: 11:00
 VITAL SIGNS: Time 08:32 Temp 98.3 Pulse 87 Resp 20 B/P 131/70
 Known Allergies: NKDA
 Current Medications: Orthotriptycine, Zoloft, Xanax, Lisinopril

HISTORY OF ASSAULT: (Patient's description of pertinent details of the assault—if known by patient, such as: orifice penetrated, digital penetration or use of foreign object, oral contact by assailant, oral contact by patient)

Patient states "About 11 o'clock last night, I got a text from two co-workers, Alexandra and Mark, to go to a gay club in Montrose called Bayou City. Mark drove us. I had two whiskey coke singles starfucker shot of fruit juice and vodka. Alex insisted on leaving by 2am. A little before that his black male with a very strong English accent came up to me, and said 'I've been watching you all night. You are so beautiful.' He asked if I wanted to smoke a cigarette and we went outside. He pulled out a flask and said it was bourbon and asked if I wanted a drink. I took like a shot. It tasted like bourbon. At this point I was tipsy. It's now 2 o'clock and I wasn't ready to go. He was being so polite and said 'We're going to' Continued

Date of Assault: 01/25/18 Time of Assault: Between 2am-7am Number of Assailants: Multiple

Prior to evidence collection, patient has:

Douched Wiped/Washed Bathed Showered Urinated Defecated Vomited
 Had Food or Drink Brushed Teeth or Used Mouthwash Changed Clothes Smoked
 Other None of the Above

At time of assault, was:

Contraceptive foam or spermicide present? Yes No Unknown
 Lubricant used by assailant? Yes No Unknown

What kind?

Condom used by assailant? Yes No Unknown

Tampon present during assault? Yes No Unknown

Patient menstruating?

Yes No Unknown

Assailant injured during assault?

Yes No Unknown

If known, where

Was there penetration? Oral Female Sexual Organ Anus Unknown

Did ejaculation occur? Oral Female Sexual Organ Anus Unknown

Did ejaculation occur? Other (specify)

At time of exam, was tampon present? Yes No

Menstruation at time of exam? Yes No

When was the patient's most recent sexual contact with a male up to 1 week prior to the assault? None

Race of that individual? N/A

If the response is less than 48 hours, inform the patient of the possibility that blood and fluid samples may be requested from that individual at a later time.

Signature of Examiner

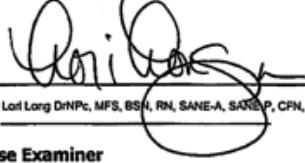
46451554-7500 ADM: 01/25/18
 DOB: [REDACTED] 38 Years F SER: EMR
 EDMC /WRMN

Memorial Hermann [REDACTED]
 Forensic Nursing Services

Memorial Hermann Hospitals
Forensic Nursing Services

Patient History (continued): page 2

"an after party at a bar called DiDi's. Do you want to go?" At this point my memory gets hazy but Christopher got us an Uber to DiDi's and said these other two girls were meeting us. I ordered a cup of Bud Lite. I drank half. Everyone was in the unisex bathroom doing drugs. It made me feel uncomfortable so Christopher got us an uber to his friend Ty's house. Christopher said a bunch of people were coming but when we got there no one else was there. Christopher pulls his penis out and put his hand on the back of my head and said 'Come suck it. You make me horny. You're so beautiful.' I said 'No, I'm not here for that.' My mouth was dry and I had a headache. I asked for a bottle of water and advil. After I drank the water, I got dizzy. The next thing I remember is a flash of me being naked from the waist down in that apartment and Chris was behind me having sex, his penis in my vagina. I don't know if he had a condom on. It was just a flash. Another flash was a black man in the room with a large IPad. I saw the light and heard the recording sound. I said 'Who is here?' Chris said 'No one' but I saw a figure of a person and I think it was Ty recording us. I blacked out again and the next flash is Chris is gone and I'm in my bra and shirt searching all over for my jeans and underwear. There is a black guy who is trying to get me to suck his penis or let him give me oral sex. I said 'I don't know who you are. Where is Chris? Get the fuck away from me.' Chris didn't come back and he had promised to give me a ride home. The black guy said 'If you let me fuck you, I'll take you home, but I'm not doing it for free.' I started crying, grabbed my stuff and went outside. I called an Uber and got home around 7:30. When I got home I called 911."

Signature: 
 Print Name : Lori Long DrNPs, MFS, BSN, RN, SANE-A, SATCP, CPN, AFN-BC
 Forensic Nurse Examiner
 Date of Assessment: 1/25/18

MEMORIAL
HERMANN

Forensic Nursing
Record

706573 14 16



46451554-7500 ADM: 01/25/18
 DOB: 12/19/1979 38 Years F SER: EMR
 EOMC /WRMN

STEP 2 SEXUAL ASSAULT FORENSIC EXAMINATION
Page 2

46451554-7500 ADM: 01/25/18
DOB: 1979 38 Years F SER: EMR
EDMC IWRMN


Significant Past Medical History:

Last normal menstrual period: December 2017 Vaginal tampons used in past? Yes

Contraceptives used: Birth control pills

Genital surgical procedures: LEAP Procedure for Stage1 Cervical Cancer in 2012.

General Appearance: (behavior, affect) Maintains eye contact while relating history limited by memory loss,

Intermittently tearful, cooperative throughout assessment.

Body Surface Injuries: (Include all details of trauma: i.e. abrasions, bitemarks)

No body surface injuries noted.



Body Surface Diagrams: Document injuries and observations on the attached body diagrams.

Genital Examination: Tanner Stage 1 2 3 4 5

Labia Majora No injury noted

Labia Minor 2 cm horizontal red linear abrasion at 9 o'clock; 1cm bleeding tear to the posterior fourchette at 6 o'clock.



Hymen 0.5 cm x 0.5 cm purple bruise at 5 o'clock.



Vagina No injury noted



Cervix No injury noted



Perineum No injury noted



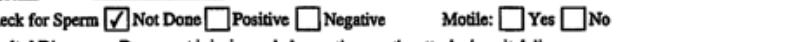
Anus No injury noted



Penis N/A



Scrotum N/A



Check for Sperm Not Done Positive Negative Motile: Yes No

Genital Diagrams: Document injuries and observations on the attached genital diagrams.

Document all diagnostic tests and treatment on medical record.

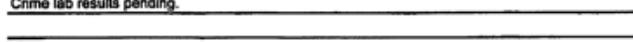
Ending Time of Exam: 12:35

Impressions From Exam: Patient history of alcohol ingestion, memory loss, and sexual assault.

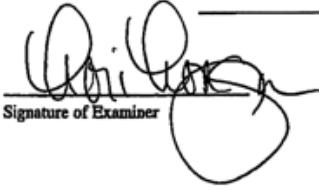
No injury on physical assessment.

Injury noted on genital assessment

Crime lab results pending.



Signature of Examiner



Memorial Hermann Healthcare System
Forensic Nursing Services

STEP 2 SEXUAL ASSAULT FORENSIC EXAMINATION
Page 3

46451554-7500 ADM: 01/25/18
DOB: 01/1979 38 Years F SER: EMR
EDMC /WRMN

EVIDENCE ITEMS INCLUDED IN KIT

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Oral Swabs (4) | <input type="checkbox"/> External Penile Swabs (2) | <input type="checkbox"/> Fingernail scrapings |
| <input type="checkbox"/> Oral Smear (1) | <input type="checkbox"/> External Penile Smear (1) | <input type="checkbox"/> Head Hair Combing & Comb |
| <input checked="" type="checkbox"/> Vaginal Swabs (4) | <input checked="" type="checkbox"/> Saliva Swabs (2) <i>DUPLICATE</i> | <input type="checkbox"/> Pulled Head Hair Standards |
| <input type="checkbox"/> Vaginal Smear (1) | <input type="checkbox"/> Purple Blood Tube | <input type="checkbox"/> Foreign Matter |
| <input type="checkbox"/> Dried Body Fluids | <input type="checkbox"/> Tampon, diaper, sanitary pad, sponge | |
| <input type="checkbox"/> Pubic Hair Combing & Comb | <input checked="" type="checkbox"/> Panties (if they fit in box) | |
| <input type="checkbox"/> Pulled Pubic Hair Standards | <input checked="" type="checkbox"/> Other <i>Outer labia majora swabs (2)</i> | |
| <input checked="" type="checkbox"/> Anal Swabs (4) <i>Peri-Anal</i> | <input type="checkbox"/> <i>Inner labia majora/ labia minor swabs (2)</i> | |
| <input type="checkbox"/> Anal Smear (1) | <input type="checkbox"/> Left neck swabs (2) | <input type="checkbox"/> Right neck swabs (2) |

Left neck swabs (2) Right neck swabs (2)

Left breast swabs (2) Right breast swabs (2)

EVIDENCE ITEMS NOT INCLUDED IN KIT

0 # of paper bags Photographs X-Rays Other Toxicology Kit (blood and urine) (Specify)
(Available)

(Please list clothing or miscellaneous items)

Article	Description (tears or stains)
Patient declined clothing collection.	

PATIENT FOLLOW-UP CARE/LEGAL CHECKLIST:

GYN/Medical/STD follow-up appointment

Yes No

Sexual assault counseling referral given

Yes No

Written and verbal information given to patient

Yes No

Medical facility received permission to contact patient by telephone by mail permission not obtained

Yes No

Authorization for Release of Evidence to Law Enforcement Agency completed

Yes No

Law enforcement/Children's Protective Services notified if suspect child abuse

Yes No N/A

Signature of Examiner

Lori Long, RN

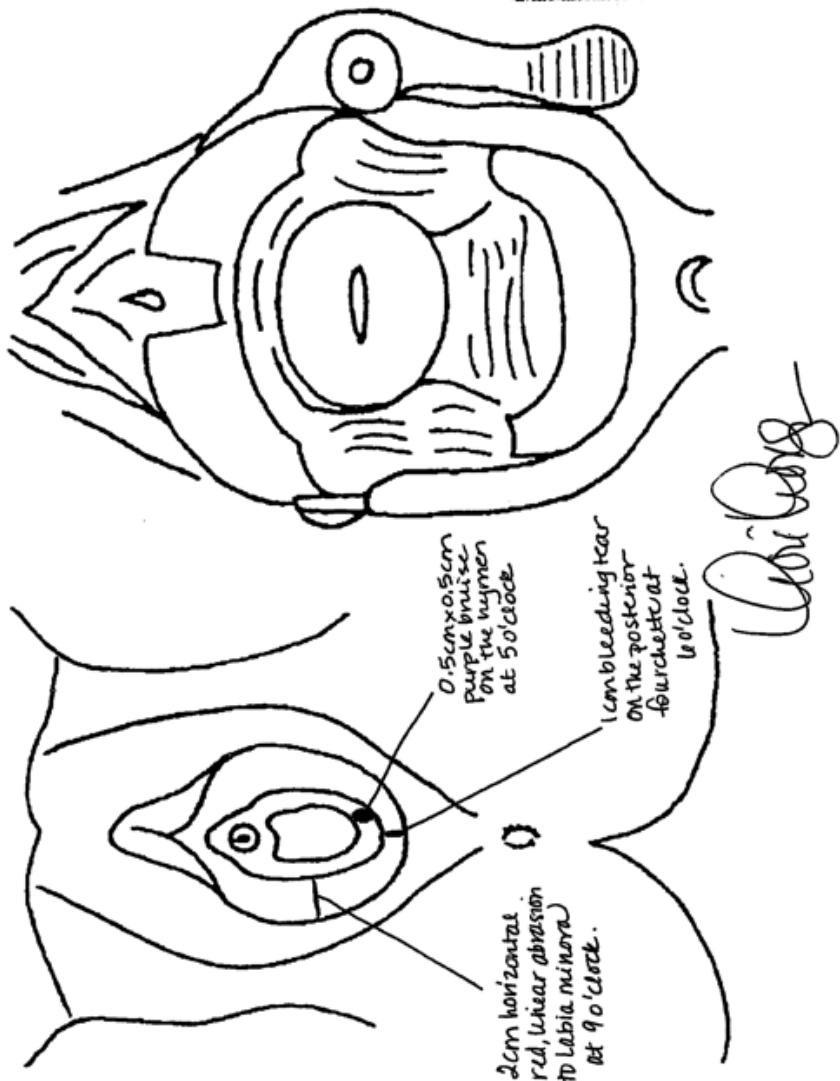
Printed Name of Examiner

Memorial Hermann Healthcare System
Forensic Nursing Services

STEP 2

BODY DIAGRAMS

46451554-7500 ADM: 01/25/18
DOB: [REDACTED] 1979 36 Years F SER: EMR
EDMC WRMN



Clinical Forensic Toxicology Assessment Form

Case #: 01 04289-18	MRN: 46451554-7500	Today's date: 1-25-18
Law enforcement agency: HPD	Hospital: MHHS - MC	Suspected time/date of ingestion: 1-25-18 around midnight
Date/time of assault: 1-25-18 between 0200-0700	Date/time patient voided for collection: 1-25-18 @ 1237	# of hours from ingestion to urine collection: ~12 hours
Time of first void of urine after suspected time of ingestion: UNKNOWN	Date/time of blood collection: 1-25-18 @ 1240	# of hours from ingestion to blood collection: ~12 hours

SYMPTOMS

Please check: A = History

B = Assessment

A and B = Both

Fill in blank areas with symptoms from history or assessment that are not listed.

CONSCIOUSNESS	MEMORY IMPAIRMENT	NEUROLOGICAL	PSYCHOPHYSIOLOGICAL	GI/GU
Drowsiness <input checked="" type="checkbox"/> A <input type="checkbox"/> B	Confusion <input checked="" type="checkbox"/> A <input type="checkbox"/> B	Muscle Relaxation <input type="checkbox"/> A <input type="checkbox"/> B	Excitability <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Neusea <input checked="" type="checkbox"/> A <input type="checkbox"/> B
Sedation <input checked="" type="checkbox"/> A <input type="checkbox"/> B	Memory Loss <input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> B	Dizziness <input checked="" type="checkbox"/> A <input type="checkbox"/> B	Aggressive Behavior <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Vomiting <input type="checkbox"/> A <input type="checkbox"/> B
Stupor <input type="checkbox"/> A <input checked="" type="checkbox"/> B		Weakness <input checked="" type="checkbox"/> A <input type="checkbox"/> B	Sexual Stimulation <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Diarrhea <input type="checkbox"/> A <input type="checkbox"/> B
Loss of Consciousness <input type="checkbox"/> A <input checked="" type="checkbox"/> B		Slurred Speech <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Loss of Inhibitions <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Incontinence Urine/Feces <input type="checkbox"/> A <input checked="" type="checkbox"/> B
		Paralysis <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Hallucinations <input type="checkbox"/> A <input checked="" type="checkbox"/> B	
		Seizures <input type="checkbox"/> A <input checked="" type="checkbox"/> B	Dissociation <input type="checkbox"/> A <input checked="" type="checkbox"/> B	
		Pupil Size <input type="checkbox"/> A <input checked="" type="checkbox"/> B		
		Headache <input checked="" type="checkbox"/> A <input type="checkbox"/> B		

How long was the patient unconscious? **UNKNOWN**Prior to urine collection, how many times did patient void after time of suspected ingestion? **UNKNOWN**How much alcohol did the patient consume? **2 whiskey coke singles, a shot of star pucker**Type of alcohol? **Liquor, Beer** **a shot of bourbon, half a beer**

NAME OF DRUGS TAKEN (RECREATIONAL, PRESCRIPTION OR OVER-THE-COUNTER)	LAST DOSE: DATE AND TIME
Xanax	1-24-18
Birth Control Pills, Zoloft, Lisinopril	1-23-18 at night

COMMENTS: Patient states "After I drank what I thought was bourbon from a flask some guy just had me give me, I don't remember. I had some drinks before that but I can't remember liquor. My memory gets hazy and then the rest of the night just comes back to me in these random flashbacks."

FORENSIC NURSE (PRINT): **LORE LONG, RN** DATE: **1-25-18**SIGNATURE: **LORE LONG** TIME: **1330**

46451554-7500 ADM: 01/25/18

DOB: **1979** 38 Years F SER: EMR
EDMC /WHRMHMemorial Hermann Health System
Forensic Nursing Services

STEP 15

RECEIPT OF INFORMATION

46451554-7500 ADM: 01/25/18
[REDACTED]
DOB: 1979 36 Years F SER: EMR
EDMC /WRMN

I have received the following items (check those which apply):

- One sealed evidence kit
 - # of sealed clothing bag(s)
 - X-rays or copies of X-rays
 - Photographs
 - Other Toxicology Kit (blood and urine)

Name of person releasing articles:

~~ABORTION IS A CRIME~~ Angela Statton 1/26/18 10:25
Signature Printed Name Date Time

Received by: hyl T.H.NGUYEN 1-26-18 10:25 A.M
Signature 7829 Printed Name HPD Date _____ Time _____
ID Badge# _____ Agency _____

STEP 16 AUTHORIZATION FOR EXAMINATION AND PAYMENT

I hereby authorize Memorial Hermann Memorial City to perform a sexual examination and request payment for this forensic evidence examination from the law enforcement jurisdiction to which the crime was reported.

46451554-7500 ADM: 01/26/18
DOB: 1979 38 Years F SER: EMR
EDMC /WRMN

 Printed Name of Patient

01/25/2018
Date of Examination

Case # 0104289-18

Note: Once form is signed, it should be sent to the law enforcement jurisdiction for authorization of payment.

Houston Police Department

Law Enforcement Agency


Authorized Signature of Law Enforcement Official

1-26-18 Date 10:25 Am Time

T. H. NGUYEN
Printed Name of Law Enforcement Official

Note: Please return this form to the hospital within 10 days. Texas Civil Statute Article 44471 requires that law enforcement agencies pay for evidence collection examinations in the case of reported sexual assault.

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APPENDIX F

Patient education packet
(Excerpted from State's Exhibit #30)

Personal identifying information has been redacted
to comply with Supreme Court Rule 34.6.

Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT CLINICAL SUMMARY**

if you have any new or worsening symptom

With:
Follow up with primary care provider
Comments:
for reassessment

Address:
Within 1 to 2 Days

With:
Please follow up with your PCP as you will need reassessment after starting new medications. Also follow up as directed by the forensic nurse

Address:
When:

EMERGENCY DEPARTMENT PATIENT EDUCATION

Emergency Dept Patient Education
Mental and Behavioral Health

Sexual Assault

Sexual assault is any unwanted sexual activity that occurs without clear permission (*consent*) from both individuals. Sexual assault is never the victim's fault. No one has the right to have sexual contact with you without your consent. Various forms of sexual assault include:

- Rape. Sexual assault is called rape if penetration has occurred (vaginal, oral, or anal).
- Incest.
- Human sexual trafficking.
- Unwanted touching.
- Sexual harassment.
- Any form of sexual activity that occurs when a person is unable to give consent.

Sexual assault can happen to a person of any age, gender, or race. It can be committed by a stranger or by someone you know. It can include force, threats, or pressure to be involved in sexual activity that you do not want.

Sexual assault may cause health problems for the person who was assaulted, including:

- Physical injuries in the genital area or other areas of the body.
- Unwanted pregnancy.

Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT PATIENT EDUCATION**

- STDs (*sexually transmitted diseases*).
- Psychological problems, such as:
 - 46 Anxiety.
 - 46 Depression.
 - 46 Post-traumatic stress disorder (PTSD).

What should I do after sexual assault?

It is important to get medical care as soon as possible after a sexual assault. Your health care provider may:

- Perform a physical exam.
- Test for infections.
- Test for pregnancy, if this applies.

You can decide whether you want to have evidence collected from your body. This evidence may be used if you choose to take legal action (*press charges*) at a later time. If you choose to have evidence collected, it is best to have it done as soon as possible. You may be able to ask for the evidence to be held by local authorities until you decide about taking legal action.

You should use a condom with your sexual partner, if this applies, until all of your STD tests are negative. This is usually for 3–6 months after the sexual assault.

What happens during a physical exam after sexual assault?

It is important to know your options for the sexual assault exam. You can accept or decline any part of the exam. Your health care provider can answer any questions that you have before, during, or after the exam.

During your physical exam, your health care provider may:

- Ask you questions about what happened during the sexual assault.
- Check your body for injuries or areas of pain.
- Collect samples to test for STDs.
- Collect samples from your body for evidence, if you choose to have this done. These samples may include:
 - 46 Swabs.
 - 46 Clothing.
 - 46 Blood.
 - 46 Urine.
 - 46 Hair.
 - 46 Material or debris that is found on or in your body.

Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT PATIENT EDUCATION**

- Take photographs for documentation, if you might take legal action at a later time.
—46 Photographs will not be taken unless you give your consent.
- 46 If photographs are taken, they will be kept safe, along with other samples that you may choose to have collected for evidence.

What medical treatment should I have after sexual assault?

In addition to performing a physical exam, your health care provider may:

- Offer you emergency birth control (*contraception*) if you are at risk for pregnancy.
- Prescribe medicines to treat or prevent STDs. You may need to have additional evaluation and testing for STDs over a period of 3–6 months after the assault.
- Give you immunizations. You may need to continue to get immunizations for several months after the assault.

What types of support are available after sexual assault?

You may choose to work with a sexual assault advocate. This person may be able to provide:

- Information about crime victim assistance.
- Information on filing Orders for Protection and Harassment Restraining Orders.
- Emotional support.

You may also choose to have counseling after a sexual assault. Your health care provider or a sexual assault advocate may be able to recommend a counselor.

Contact a health care provider if:

If you develop any of the following symptoms after you are treated for sexual assault, see your health care provider as soon as possible:

- More discharge from your penis or vagina.
- A bad smell coming from your vagina, if this applies.
- Burning when you urinate.
- A feeling of pressure when you urinate.
- Sores or blisters on your genital area.
- Pain during sex.
- Swelling in your neck (*lymph nodes*).

Memorial Hermann Emergency Department Report

EMERGENCY DEPARTMENT PATIENT EDUCATION

- Pain in your abdomen.

Where to find more information:

National Sexual Assault Hotline

- 1-800-656-HOPE (4673)
- www.online.rainn.org

The National Domestic Violence Hotline

- 1-800-799-SAFE (7233)
- www.thehotline.org

Office on Women's Health, U.S. Department of Health and Human Services

- www.womenshealth.gov/violence-against-women/types-of-violence/sexual-assault-and-abuse.html

This information is not intended to replace advice given to you by your health care provider. Make sure you discuss any questions you have with your health care provider.

Document Released: 11/28/2016 Document Revised: 08/12/2017 Document Reviewed: 07/22/2016
Elsevier Interactive Patient Education © 2017 Elsevier Inc.

**MEMORIAL
HERMANN**

Emergency Department
Departamentos de Emergencias

Southwest (713) 456-5151 TMC (713)704-4060 Katy (281) 644-7111 Northeast (281) 540-7999
Memorial City (713) 242-3070 Southeast (281) 929-6282 Pearland (713) 413-6500
Woodlands (713) 897-2525 Sugarland (281) 725-5150 Northwest (713) 867-3335
TW Emergency Center (281) 719-3333

Tardy to Work or School Form



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Memorial Hermann Emergency Department Report

EMERGENCY DEPARTMENT PATIENT EDUCATION

THIS PERSON OR PARENT OF THIS PERSON MAY BE EXCUSED FROM WORK/SCHOOL/SPORTS FOR
TWO DAYS INCLUDING TODAY

_____ (Caregiver's Signature)

_____ (Date)

Document Released: 03/09/2005 Document Re-Released: 03/14/2011
ExitCare® Patient Information ©2011 ExitCare, LLC

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APPENDIX G

Excerpt from Mary Smith's medical records
(State's Exhibit #30)

Personal identifying information has been redacted
to comply with Supreme Court Rule 34.6.

Medical Record-
DOB: /1979 - Request# 347453

AFFIDAVIT

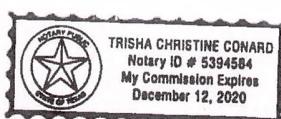
Before me, the undersigned authority appeared Mae Sta. Ana, who being duly sworn by me, deposed as follows:

"My name is Mae Sta. Ana, I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am custodian of the medical records for Memorial Hermann Memorial City Hospital. Attached hereto is a CD containing 61 pages of medical records from Memorial Hermann Memorial City Hospital pertaining to the examination and/or treatment of above named patient. These said 61 pages of medical records, are kept by Memorial Hermann Memorial City Hospital in the regular course of business, and it is in the regular course of business of Memorial Hermann Memorial City Hospital for an employee or representative, or a physician on the medical staff of Memorial Hermann Memorial City Hospital, with personal knowledge of the act, event or condition recorded to make the memorandum or record or to transmit information thereof to be included in such memorandum or record and the memorandum or record was made at or near the time of the act, event or condition recorded or reasonably soon thereafter. The records attached hereto are exact duplicates of the original as filed and it is a rule of Memorial Hermann Memorial City Hospital not to permit the originals to leave the facility."

Mae Sta. Ana
Custodian of Medical Record
Memorial Hermann Memorial City Hospital

SUBSCRIBED AND SWORN BEFORE ME BY THE SAID Mae Sta. Ana ON THIS,
THE 8th DAY OF February, 2018.



Onona Concur
Notary Public in and for
The State of Texas



Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT PROVIDER DOCUMENTATION****Sexual Assault *ED**

Patient: [REDACTED] MRN: [REDACTED] FIN: [REDACTED]
 Age: 38 years Sex: Female DOB: [REDACTED] 1979
 Associated Diagnoses: None
 Author: Odiari, Ebelechukwu Agaegbu MD

Alicia Matousek (01/25/2018 09:05) scribing for and in the presence of Dr. Ebelechukwu Odiari, MD.

Basic Information

Time seen: Date & time 01/25/2018 08:46.
 History source: Patient, EMS.
 Arrival mode: Ambulance.
 Additional Information: Chief Complaint from Nursing Triage Note : Chief Complaint
 01/25/2018 08:32 Chief Complaint Pt states was at bar last night with co workers met a guy had 2
 drinks and one shot, had a drink from a flask didnt know what it was doesnt remember much after that, woke up
 this am in a guys apt with no pants or underwear on with people around video tap. .

History of Present Illness

The patient presents following alleged sexual assault. The onset was last night. The location where the incident occurred was unknown. Circumstance: penetration: vaginal unknown number of assailants. Type of injury: none. The character of symptoms is pain. Risk factors consist of none. Prior episodes: none. Therapy today: none. Associated symptoms: pelvic pain. Additional history:

Patient presents for evaluation after an alleged sexual assault that occurred within past 6 hours. Reports she was partying with co-workers last night, and met an unknown male at the bar who offered her a drink. States she became drowsy at some point after having some drink offered by the man and eventually went home with man. Patient recalls declining sexual advances from the male but was unable to remember events after that. Patient states that she woke up in unknown bed this morning with no underwear or pants on. Reports there were two different unknown males in the apartment with her, who insinuated that they had already had sexual contact with her. Patient reports experiencing pelvic pain and small amount of vaginal bleeding, feels as if she was penetrated vaginally. Patient requests SANE forensic exam, prophylactic STD treatment and will file a police report. .

Review of Systems

Constitutional symptoms: No fever, no chills.
Skin symptoms: No rash,
Eye symptoms: Vision unchanged.
ENMT symptoms: No sore throat, no nasal congestion.
Respiratory symptoms: No shortness of breath, no cough.
Cardiovascular symptoms: No chest pain, no palpitations, no syncope, no diaphoresis.
Gastrointestinal symptoms: No nausea, no vomiting, no diarrhea, no constipation
Abdominal pain: Pelvic.
Genitourinary symptoms: Vaginal bleeding, vaginal pain, No dysuria,
Musculoskeletal symptoms: No back pain,
Neurologic symptoms: No headache, no dizziness.
Additional review of systems information: All other systems reviewed and otherwise negative.

Permanent Patient Record
 Memorial Hermann Memorial City Hospital

**MEMORIAL
 HERMANN**

Printed: 1/26/2018 16:10 CST

Page 1 of 6

Patient:	[REDACTED]	DOB/Age/Sex:	[REDACTED] 1979	38 years	Female
Attending:	Odiari, Ebelechukwu Agaegbu MD				
Account #:	[REDACTED]	CPI #:	[REDACTED]		
Encounter Type:	Emergency				
Location:	MC EDMC				
Admit Date:	1/25/2018	08:24 CST			
Discharge Date:	1/25/2018	15:23 CST			

Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT PROVIDER DOCUMENTATION****Health Status****Allergies:****Allergic Reactions (All)****Severity Not Documented**

NKDA- No reactions were documented..

Past Medical/ Family/ Social History**Medical history:**

Hypertension

Anxiety disorder

Herpes complex 1 & 2.

Surgical history: Negative.

Family history: Not significant.

Social history:**Social & Psychosocial Habits****Tobacco**

01/25/2018 Use: Current every day smoker

Exposure to Tobacco Smoke self

Cigarette Smoking Last 365 Days Yes

Reg Smoking Cessation Counseling Yes

Reviewed as documented in chart.

Physical Examination**Vital Signs**

ED-Vital Signs

01/25/2018 08:32

Temperature Oral	98.3 DegF Normal
Peripheral Pulse Rate	87 bpm Normal
Respiratory Rate	20 BRMIN Normal
SpO2 percent	100 % Normal
Systolic Blood Pressure	131 mmHg Normal
Diastolic Blood Pressure	70 mmHg Normal

General: Alert, no acute distress.**Skin:** Warm, dry, intact.**Head:** Normocephalic, atraumatic.**Neck:** Supple, trachea midline, no JVD.**Eye:** Pupils are equal, round and reactive to light, extraocular movements are intact, normal conjunctiva.**Ears, nose, mouth and throat:** Oral mucosa moist, no pharyngeal erythema or exudate.**Cardiovascular:** Regular rate and rhythm, No murmur, Normal peripheral perfusion, No edema.**Respiratory:** Lungs are clear to auscultation, respirations are non-labored, breath sounds are equal, Symmetrical chest wall expansion.**Chest wall:** No tenderness, No deformity.**Back:** No costovertebral angle tenderness,**Musculoskeletal:** No swelling, no deformity.**Gastrointestinal:** Soft, Nontender, Non distended, Normal bowel sounds.**Neurological:** Alert and oriented to person, place, time, and situation, No focal neurological deficit observed, normal speech observed.**Psychiatric:** Cooperative, appropriate mood & affect.**Medical Decision Making**

Memorial Hermann Emergency Department Report**EMERGENCY DEPARTMENT PROVIDER DOCUMENTATION**

Rationale: Pt presents after an alleged sexual assault. SANE was consulted. Police was at beside during my evaluation. Post counseling, she was given plan B and prophylaxis for STI including HIV. She has a PCP with whom she will f/u for routine blood checks while taking HIV PeP. She was discharged in stable condition with return precautions.

Documents reviewed: Emergency department nurses' notes, Vitals signs reviewed.

Orders Launch Order Profile (Selected)

Inpatient Orders**Ordered**

CDM ED HIV Post-Exposure Prophylaxis:
CDM ED Sexual Assault:

Completed

(STAT) HIV 3rd Gen:
(STAT) Hepatitis B Surface Antigen:
Complete Blood Count w/ Diff and Platelet:
Comprehensive Metabolic Panel:

Differential:

FNE Exam without colposcopy Charge:
FNE Facility Charge- Treatment Room:

FNE Sexual Assault Kit Charge:

FNE Speculum:

FNE Sterile Water/Evidence Tape:

FNE Toxicology Kit:

FNE Venipuncture Charge:

Flagyl: 2 gm, 4 tab, PO, ONCE

Hepatitis A Antibody IgM:

Hepatitis B Core Antibody IgM:

Hepatitis B Surface Antibody:

Hepatitis C Antibody:

Treponemal Screen w/ RPR if Indicated:

UA with culture if indicated:

Urine Drug Screen (7 Drugs):

azithromycin: 1,000 mg, 4 tab, PO, ONCE

cefTRIAxone: 250 mg, IM, ONCE

emtricitabine-tenofovir disoproxil 200 mg-300 mg oral tablet: 1 tab, PO, ONCE

hCG Total:

levonorgestrel: 1.5 mg, PO, ONCE

ondansetron: 4 mg, 2 mL, IVP, ONCE

ondansetron: 4 mg, IVP, ONCE

raltegravir: 400 mg, PO, ONCE

Prescriptions**Prescribed**

Diflucan 150 mg oral tablet: 150 mg, 1 tab, PO, ONCE, 1 tab, 0 Refill(s)

emtricitabine-tenofovir disoproxil 200 mg-300 mg oral tablet: 1 tab, PO, Daily, for 28 day, (Truvada); Please follow up with primary care provider., 28 tab, 0 Refill(s)

ondansetron 4 mg oral tablet, disintegrating: 4 mg, 1 tab, PO, BID, for 5 day, Dissolve tab under tongue,

PRN: Nausea & Vomiting, 10 tab, 0 Refill(s)

raltegravir 400 mg oral tablet: 400 mg, 1 tab, PO, BID, for 28 day, (Isentress); Please follow up with the primary care provider., 56 tab, 0 Refill(s).

Results review: Lab results : General Laboratory

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U Amph Scr	Negative
U Barb Scr	Negative
U Benzodiaz Scr	Positive
U Cocaine Scr	Positive
U Opiate Scr	Negative
U Phencyc Scr	Negative