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ROUGH DRAFT

DEFENSE OPENING STATEMENT

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REPORTER'S NOTE: Since this proceeding is being realtimed and is in rough draft form, please be aware that there is a discrepancy regarding page and line numbers when comparing the rough draft, rough ASCII, and the final transcript.

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2 MR. DELGADO: Good morning, ladies and
3 gentlemen. This is really a case about the
4 possible and the impossible. And what you're going
5 hear is a story that will require you to separate
6 out what's possible from what's impossible. And
7 the judge will give you tools to decide that. The
8 judge will tell you that when you evaluate the
9 evidence, you should look to see what is the
10 evidence and how does the evidence agree with other
11 pieces of evidence and how does it conflict with
12 other pieces of evidence and then what evidence is
13 lacking. So when you listen to the evidence as it
14 comes to you, look for those things and keep that
15 in mind, because we're going to tell you the story
16 of what happened that night, and it's the first
17 time that anyone has heard the entire story. And
18 you'll be the people that determine what really
19 happened that night.

20 Now, what the State said in their openings is
21 partially correct. It starts off outside the
22 Cumberland Food Market, where Ms. Peppers is
23 walking. She's bored. She walks over there to get
24 food.

25 Now, Ms. Peppers will tell you she's new to

1 the area, she doesn't really know her way around.
2 That's important because of what happens later and
3 how she manages to get home, so keep that in mind.

4 Now, she's at that the Cumberland Food Market,
5 gas station, convenience store. She meets
6 Mr. Minton, and they strike up a conversation. And
7 Mr. Minton is flirtatious with her, she's
8 flirtatious with him, and he strikes up a
9 conversation.

10 He talks with her. He finds out that her car
11 has been broken, it was in an accident. She's
12 talking about that she needs money to fix the car.
13 And he's acting like a bigshot. "I can help you
14 get that car fixed, I know a guy that works at a
15 U-Pull It lot, you know, I've got a good job, I
16 driven" -- he's showing he's got a nice truck.
17 He's making it seem like, you know, "I'm a bigshot,
18 I can help you out." And he asks her out to
19 dinner, and she accepts. She's hungry, she's
20 flattered, she finds him attractive. She wants to
21 go on with him that night, so they make plans to
22 meet.

23 Now, here's what's important. You'll hear
24 that Ms. Peppers is a suspicious person. She will
25 also tell you she has a photographic memory.

1 She'll tell you that she is very cautious, that
2 she, at one point, talked about taking a picture of
3 Mr. Minton and his truck.

4 She'll testify that she drove with Mr. Minton
5 from the gas station where they met to her home at
6 730 Carpenter Avenue -- and I'll show that to you
7 in a minute -- no too far away. And she'll testify
8 that when she gets there, everything is perfectly
9 fine.

10 He takes her to her house. I think her cousin
11 that she lives with, along with her aunt, is
12 outside, sees it. They have a conversation at, you
13 know, 5:00, 5:30, and he plans to come back at
14 6:30.

15 So he goes home, he showers, he comes back,
16 and he picks her up. And he says, "We're going to
17 go to this place called the Oyster Bar." And
18 that's really important because the Oyster Bar is
19 Mr. Minton's, like, favorite hangout. Everyone
20 knows him at the Oyster Bar. And it's his boss,
21 Jason Tucker's, favorite bar. Everyone knows the
22 two of them at this bar.

23 So he takes her to a place where everyone
24 knows his name. Okay? And that's really important
25 because I'm going to suggest to you that if you're

1 going to commit a crime, you're not going to take
2 someone to a place where everyone knows who you
3 are.

4 Nevertheless, he takes her to this bar. And
5 what y'all hear is this bar has tons of cameras --
6 cameras in the back, cameras in the front. And
7 you'll hear that camera footage was available. And
8 you'll hear that the night that this happened,
9 Ms. Peppers' aunt went to the Oyster Bar and saw
10 footage. You will not get a chance to see footage
11 because you'll hear the police didn't keep the
12 footage, didn't get the footage, never preserved
13 it.

14 But at this Oyster Bar where everyone knows
15 Mr. Minton, he's sitting there, drinking with
16 Ms. Pepper. She's underage and drinking. It
17 happens all the time. It happens every day.
18 There's nothing involuntary about that.

19 And she'll tell you she watched to make sure
20 he didn't put anything in her drink. She kept
21 continuous eye contact on it. She was having fun.
22 She was playing pool. They're kissing in the pool
23 hall. At one point they're making out while
24 they're playing pooling. So they decide to leave.
25 And there's a conversation about where to go for

1 food, Chili's or whatnot.

2 Now, one thing's really important the about
3 the choice of the Oyster Bar. The Oyster Bar is
4 right by Mr. Minton's home. It's also not that far
5 from where Ms. Tucker is living -- I'm sorry,
6 Ms. Tucker -- Ms. Pepper is living.

7 Before going to the Oyster Bar, you'll hear
8 that Jason Minton stops at his boss's home. His
9 boss is named Jason Tucker. Jason Tucker lives
10 directly across from Mr. Minton, like you could
11 throw a softball and hit the house. Mr. Minton
12 also lives directly in front of his ex-wife, the
13 mother of three children, a woman he stood up to go
14 hang out with Ms. Peppers. See, Mr. Minton was
15 supposed to take his kids to a movie and blew them
16 off to go hang out with this girl. So that will
17 become important in a minute.

18 But the layout of all these houses is really
19 important because when Mr. Minton has Ms. Peppers,
20 he stops at Jason Tucker's house and says, "hey, do
21 you want to come out with us?" And Megan Pepper
22 will confirm that. She'll confirm that they
23 stopped at his boss's house and she saw Mr.
24 Pepper -- Mr. -- I'm getting all tongue-tied -- Mr.
25 Tucker and Mr. Minton talking.

1 So Mr. Minton did nothing to hide who he was,
2 where he was, where he was going. In fact, he
3 invites his boss with him to come out with this
4 girl to get drinks and play pool.

5 They leave the pool hall, go back to
6 Mr. Minton's house. They stop there. And at this
7 point, the girl with photographic memory, her
8 memory breaks down. She'll tell you that when she
9 gets there, she's feeling the effects of alcohol.
10 But then, after that, she doesn't really remember
11 anything.

12 I don't know what she's going to tell you
13 today. We've talked to her several times in the
14 past. We've heard different versions, so today
15 we'll hear what she says happened. She'll tell you
16 that she doesn't remember things that, that things
17 come and go. But that's where it will come to you
18 to separate the possible from the impossible.

19 One of the things the State says is that
20 Ms. Pepper was given a pill. And pay close
21 attention to that when she talks about it. What
22 she says is that Mr. Minton pulls out a pill,
23 doesn't tell her exactly what it is, and puts it in
24 her mouth, and she swallows it. She takes this
25 pill, not knowing what it is.

1 She then says she instantly becomes paralyzed,
2 that this pill takes effect instantly. Now, later,
3 when we talk to the sexual assault nurse, she'll
4 tell you she knows of no pill that works like that.

5 She'll also tell you that they take
6 Ms. Pepper's urine, and they test for every drug
7 that they can, and they find no such drug in her
8 system. They find no drug in her system, except
9 marijuana. And there will be some conflicting
10 testimony about if Ms. Pepper smokes marijuana.
11 Ultimately she'll admit she smoked marijuana
12 sometime prior to that.

13 So this date rape drug, there will be no
14 evidence of that in her urine. So that's really
15 important because it's one of these things that
16 just simply isn't possible.

17 Now, Ms. Peppers will tell you that while she
18 was there, she -- Mr. Minton apparently engaged in
19 oral sex with her. He went down on her while she
20 was having her period. She'll talk about some of
21 these details, but she'll have a difficult time
22 remembering some, remembering others.

23 And at some point in all of this consensual
24 sex, there's a banging on the back door. And who
25 is it? It's Mr. Minton's ex-wife, the mother of

1 his children, who he has stood up. And she arrives
2 like a force of nature at his back door.

3 Now, you'll hear that Mr. Minton's house is
4 what they call, I think, a railway house. It's
5 long and narrow. The front door and back door are
6 like kind of one continuous shot, so you can see
7 all the way through the back.

8 So the irate ex is at the back door,
9 screaming, yelling. Mr. Minton's opening the door,
10 trying not to let her know that there's a woman in
11 there.

12 You'll hear that there's an altercation
13 between these two women, a shouting match, but
14 you'll hear from the ex-wife that she sees a young
15 woman, Ms. Peppers, in the back, putting on --
16 covering herself up and that she's verbally
17 aggressive. "Who, the fuck, are you?" she's
18 telling this woman. They get in an altercation.

19 At this point Mr. Peppers says, "This is
20 enough, you've got to go. This is done." So and
21 ex-wife will tell you ten to 15 minutes after this
22 altercation, she hears his truck start up and he
23 takes off.

24 Mr. Tucker, his boss, is outside, smoking a
25 cigarette when this happens, and he'll tell you the

1 same thing. He hears Mr. Minton's car start up,
2 sees Mr. Minton and the girl get in the car and
3 drive off. That's really important because that's
4 possible.

5 The impossible is what Ms. Peppers tells you
6 happened. What Ms. Peppers will tell you happened
7 is that at some point in all of this commotion,
8 she -- her clothes are on, her clothes are off, her
9 pants are on, her pants are off. She sees her
10 pants on the floor. She pulls them on and she
11 takes off running.

12 Now, when you see pictures of Mr. Minton's
13 house, as you will, Mr. Minton's house, to say it's
14 rundown would be charitable. This is the ultimate
15 fixer-upper. The floors have all been ripped up.
16 There's no air conditioning in half the house.
17 It's a house that he was trying to fix up. It's
18 dark. There's not, like, a main entrance. You
19 have to step over all kinds of tools, things like
20 that. It's not the kind of house that you could
21 just run freely through.

22 And that's really important because when
23 Mr. Peppers gets to the hospital, she doesn't have
24 a single injury or single mark on her. What
25 Ms. Peppers says is she has no idea where she is,

1 she doesn't know how she got there. And, yet,
2 unerringly, like a homing pigeon, she finds her way
3 home. And that's why I want to show this map.

4 Mr. Deputy, could you --

5 THE COURT: Wake up the computer.

6 MR. DELGADO: Okay. Can everyone kind of see
7 that?

8 So the 280 West Minnesota Avenue, that's
9 Mr. Minton's house. The 730 South Carpenter
10 Avenue, that's Ms. Peppers' house. Depending on
11 which route you take, it's two and a half to almost
12 3 miles there.

13 Now, Ms. Peppers would have you believe that,
14 drunk, incapacitated, barely able to remember what
15 happened, barely able to --

16 MS. STRATIS: Your Honor, I'm going to object.
17 It's argumentative at this point.

18 THE COURT: Sustained.

19 MR. DELGADO: Ms. Peppers will tell you that,
20 despite her intoxication, she travels -- not
21 knowing where she is, she travels home. Now,
22 depending on which route she takes, she's either
23 going through a heavily residential area --

24 MS. STRATIS: Objection. Argumentative,
25 Judge.

1 THE COURT: Sustained. Just point the route.
2 Do you have one of those red deals?

3 MR. DELGADO: I don't.

4 THE COURT: Do we? Oh, sorry.

5 MR. DELGADO: Whichever route she takes,
6 she's going to drive -- she's going to run by
7 people's houses. She tells you that she sees a
8 car, she tries to flag the car down. She claims
9 that the cars don't stop for this woman in obvious
10 distress. And she manages to run all the way home,
11 where Mr. Minton happens to find her, and she gets
12 back in the truck with him.

13 Now, she'll tell you that she gets back in
14 Mr. Minton's truck outside the cemetery. And the
15 cemetery is down here past her house. So no matter
16 which way she goes, she has to run past her house
17 to then be found by Mr. Minton, to get back in the
18 vehicle.

19 Now, this area, and you'll see -- and you'll
20 hear testimony, whether you go down 17-92, where
21 there's a lot of businesses, or you go through
22 these back roads, you're passing houses. You'll
23 not hear any testimony that the police encountered
24 anyone who said they saw a woman running down the
25 road in the middle of the night, screaming for

1 help. Because that's what her testimony will be,
2 that she was streaming for help, running two and a
3 half miles, incapacitated, which is simply up to
4 you to decide whether that's credible or not.

5 Mr. Deputy, I think I'm good with that.

6 THE COURT: Lights?

7 MR. DELGADO: Yes, please.

8 So Ms. Peppers will explain that she makes
9 this run home, again, not knowing where she is, not
10 knowing which way to turn. She unerringly gets
11 home, where, apparently, Mr. Minton is waiting for
12 her. And by her own testimony, she gets back in
13 the truck.

14 She then escapes from the truck yet again a
15 few hundred feet from her house and goes home,
16 where she goes to the bathroom. She's in the
17 bathroom. At some point her aunt hears her crying
18 or making a commotion in the bathroom, and her aunt
19 goes in.

20 Her aunt talks with her. And based what says
21 to the aunt, the aunt decides to go to the Oyster
22 Bar to check. The first thing the aunt does is not
23 to call 9-1-1, not to call the police; she goes to
24 the Oyster Bar to check for herself.

25 She'll tell you that she goes to the Oyster

1 Bar, she sees the video footage, she sees the
2 people arriving. So she'll tell you she even tells
3 the Oyster Bar, "Please hold on to this video
4 footage, the police are going to need it." So the
5 aunt checks out to see was this even -- was she
6 even at the bar. Why? We'll hear that for our
7 ourselves.

8 The aunt then comes home and calls 9-1-1 and
9 takes Ms. Peppers to the hospital, where all of
10 this gets set in motion.

11 There's evaluations that are done. There's a
12 nurse whose specialty is evaluating sexual assault
13 victims, and she does her full work-up. She takes
14 blood, she takes urine, all of those things. And,
15 again, as I said, there's no date rape drug in her
16 urine. There's no evidence of any of that pill in
17 her urine. The only thing in her urine, you're
18 going to hear, is THC, marijuana.

19 The sex assault nurse asks her questions, and
20 we'll hear more from her. But what's important is
21 the sexual assault nurse notes no injury to her
22 body consistent with being brutally sodomized.

23 She claims that Mr. Minton, without any -- she
24 doesn't remember how it happened, but engaged in
25 anal intercourse without her consent, without her

1 permission; and, yet, she has no injuries, no,
2 marks, nothing on her. That's the testimony that
3 you'll hear from the sex assault nurse.

4 They go to gather DNA. They find no DNA.
5 They go to gather semen. They find no semen. They
6 look for, you know, skin under the nails, signs of
7 defensive wounds, signs of struggle. They find
8 none of those things. There is a complete lack of
9 any physical evidence like that that you'll hear
10 about in this case, despite that being the reason
11 that they do this evaluation.

12 And they proceed to interview Ms. Peppers.
13 And Ms. Peppers' memory, you know, comes and goes.
14 She has a difficult time remembering details. She
15 remembers certain things very clearly -- what kind
16 of clothes Mr. Minton was wearing, what kind of
17 truck he drove, that he had Van shoes on. But when
18 it comes to the details of what happened, she
19 doesn't remember anything.

20 It's also important that she'll tell you that
21 she started to feel woozy and in a dream-like state
22 well before she took the pill. She'll also tell
23 you that when she doesn't eat and she goes hungry,
24 she has been known to talk to people that aren't
25 there and have these kind of fainting spells and

1 all these episodes.

2 So you'll hear about a lot of about Ms. Minton
3 and her health, but you won't hear a lot about any
4 physical evidence, and you won't hear a lot of
5 facts that confirm her story.

6 You won't see that the police gathered
7 evidence of cell phone records or cell phone calls
8 or locations of people. Ms. Peppers won't tell
9 you, doesn't remember whether she had a cell phone
10 or not to call for help. There's going to be a
11 complete lack of evidence in this case for you to
12 evaluate.

13 Despite having, you know, escaped and ran all
14 this distance, there's no signs of injury on
15 Ms. Pepper's body, no signs of her stumbling or
16 falling or being scraped by brush or anything like
17 that. She won't tell you that at any point
18 Mr. Minton grabbed her as she was trying to run out
19 of his house, grabbed her as she was trying to get
20 away from him in the truck. You won't hear when
21 she gets out of the truck, Mr. Minton ran after her
22 and tackled her and stopped her. Everything you'll
23 hear is that Mr. Minton did nothing to hide who he
24 was, where he lived, or any of those details about
25 him.

1 You'll hear from Ms. Peppers that she was
2 romantically involved with a coworker.

3 MS. STRATIS: Objection, Your Honor.

4 THE COURT: Sustained.

5 MR. DELGADO: Ladies and gentlemen, it will be
6 your job to evaluate the evidence, to weigh the
7 evidence, to see if the evidence agrees with
8 itself, if it's consistent, if it's contradictory,
9 if it's believable, if it's implausible. That will
10 be your job. Your job will be to separate fact
11 from fiction, to separate reality from
12 make-believe, from dream. It will be your job to
13 decide what the hard, cold facts are. And that
14 require you, as we've talked about in jury
15 selection, to get down and look at graphic details.
16 But it's in the details that you'll find this case
17 doesn't add up. You'll find there's reasonable
18 doubt. And you'll find the only verdict you can
19 return is not guilty. Thank you for your time.

20 THE COURT: Thank you, sir.

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