

TRANSCRIPT OF PROCEEDINGS

Ref. 43SP0485123

IN THE CROWN COURT AT OXFORD

St Aldate's
Oxford

Before HIS HONOUR JUDGE DALY

R E X

- v -

KHALIZ ALI ALSHIMERY

MR E LUCAS appeared on behalf of the Prosecution

MR P DU FEU appeared on behalf of the Defendant

WHOLE HEARING

17th MAY 2024, 09.59-12.28; 14.45-14.49; 16.36-16.40

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STATUTORY ANONYMITY APPLIES

A JUDGE DALY: Good morning, ladies and gentlemen. Well, we continue with the trial with speeches from counsel and then I will be reminding you of some of the evidence. Mr Lucas?

MR LUCAS: Your Honour, thank you very much indeed and good morning members of the jury. I'll get right next to the microphone. Is that better?

B UNIDENTIFIED SPEAKER: Better.

MR LUCAS: I like to stand this way but I will get a bit closer.

UNIDENTIFIED SPEAKER: Thank you.

MR LUCAS: Members of the jury I've got to sum up this case to you on behalf of the prosecution. I opened the case to you at the beginning of this week and I have not much

C more to say which is different to how I opened it. Forgive me, I'm not going to be terribly long therefore and that's not because, as you well know, I don't think this case is – let me turn this off. That is because, as you well know, I don't think this case is serious because it is. Although there are some things I think I have to tell, I have to speak to you about. And

D before I do, I want to just say this to you. I'm not a witness in this case; my learned friend for the defendant isn't a witness in this case either and frankly is - neither is the judge. If we give an opinion about this case, it's irrelevant unless you accept it, all right? And purpose isn't to drive this case and drive this case, "Oh you must convict" I never would ever do that in my life. My job is to help you reach the difficult decisions that you've got to make, all

E right? And how do you make it? Why are you here? Well, let me tell you why you're here, you're here to exercise your common sense. What's common sense? Common sense is your experience, the sadnesses, your happinesses, the things that make you who you are to enable you to make decisions in your life, okay? And I ask you to deploy that to this case.

Members of the jury, we were told at the beginning of this case by his Honour the

F judge, that you are the judges; you are. There are 13 judges in this case, one who deals with the law and you 12 who deal with the facts. You are the facts and you apply your common sense to this case, which I know you will.

Well, members of the jury, what do you think about this case? I'm going to read something to you from yesterday that the judge said because it's really so important. All of it

G was important but you may think, in the context of this case, it is particularly important. Assumptions and stereotypes. This is produced, members of the jury, for courts to read in every sexual assault case because you must not approach this case on the basis of stereotypes, either way. Experience has shown that there is no typical sexual assault, typical assaulter or typical a person who has been assaulted. Each particular sexual assault is unique and it is

H impossible to say how individual people will behave in particular circumstances. A woman

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who is the subject of an assault may shout and scream; she may fight; she may freeze; and some will go along with it out of fear. She may do a number of things. You must set aside any assumptions or stereotypes that you may have.

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In short, members of the jury, there is no reaction which is common to anybody who unfortunately suffers a sexual assault. You will know through your life, you will know it, we have all met them and some of us have had it ourselves. When you're assaulted, just say when you're younger, some people go crying to their mothers or their fathers straight away,

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"That person assaulted me" it's not the most common reaction this, members of the jury, bury it, they bury it and it meanders through their life for the rest of their lives and they just cannot tell anybody. Ordinarily you'd go to the police, you complain, straight away, or you react in a certain way, you may think but it's just not the way it happens, all right? So please bear

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that in mind whenever you're invited to consider, "Well, she didn't do that, she didn't do that, she didn't do that" but the fact about it is look at the facts of this case. Also bear in mind that she told you that she has autism, difficulty in processing situations. What you make of that is entirely a matter for you but it is, the prosecution says, a background to this case and it also helps you, I think, ignore me if you will, about how you approach this idea of how people react to certain situations.

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Well, members of the jury, what are we to make of this? What are we to make of a man who goes out in the middle of Oxford on a Saturday night, lots of young people around having been in nightclubs, many drunk, many on their own, approaching them in the middle of the street, two girls you saw on the video and he didn't know them, what's he doing?

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What's he doing all night approaching women, occasionally the odd man who he knows, but women and I – it doesn't give me any pleasure to say this, members of the jury, at all, but it's predatory, it's simply predatory behaviour. He was going round the centre of Oxford trying, trying to find a single woman, that's what he was doing and this nonsense, absolute nonsense, that he was going off to Cowley to eat at a restaurant at half past two in the morning or was it half past three or whatever time it was, because his friend was going to keep it opened; but, do you know what, he didn't go back there again afterwards. His friend, I'm sure, would

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have kept it open till five o'clock if he'd asked him to but no, members of the jury, what did he do? He went straight back into the centre of Oxford again. He knew which way he was going if he was going to go to Cowley, it was told him not least by the complainant in this case, "Walk down the road, go up to Cowley". No. And can I tell you what happened,

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members of the jury? Can I tell you, as far as the prosecution is concerned? He saw this girl, he saw this girl walking from Carfax and he followed her and he befriended her, you can see

A them touching hands at one stage, she was being friendly to him. That's all he required, members of the jury, contact, therefore, "She was going to be my girlfriend for the night" whether she wanted it or not, okay? That's what happened. She made the mistake, members of the jury, of engaging with him. That was enough, that was his green light. And what did **B** he do? Nowhere, nowhere in that video are you going to see her holding his arm; all him, all him all the way through; he pushes her over a doorway, members of the jury and what's happening in there? He's savaging her neck. What's he doing to her?

Now, members of the jury, when two members of the public come along, there see something's wrong, nothing's right about this. Not her friends. Two members of the public. **C** And what does she do? She scarpers as quickly as she possibly can up that road, expecting the man who had just assaulted her, members of the jury, to go where he said he was going to go but what did he do? He followed her. He followed her. And, members of the jury, you know what happened at that churchyard. Do you really think that an educated, single female, would voluntarily go to a churchyard on her own at half past two in the morning? Well, **D** maybe, members of the jury, as he has tried to rubbish her by calling her a sex worker, effectively, that is effectively what he has called that student, a sex worker. But, members of jury, do you think that's right? Do you think she is a sex worker or a student who had had a night which some of you may approve of and some of you may not have, she'd had sex with **E** someone else, she didn't have to say that but she did; it's not unusual, you may think, on a Saturday night in a student city. But does that mean, members of the jury, she was actually walking around the street looking for a guy she'd never met before to have sex with? It is total, utter nonsense, total nonsense.

And members of the jury, he made up a story didn't he and I'm telling you it's a story **F** because what he's tried to do in his defence – in his interview is, is tailor his story to what he thought was going to be best for him and I'll come back to that in a moment. But members of the jury, even on his evidence she'd asked him for money; she'd asked him for money, he said, in the doorway, "I followed her there" and he slipped something out, members of the jury, yesterday, didn't he? Which you may think is entirely relevant to this case, "I was **G** going to finish off what I started." Fairly chilling, you may think, because that is precisely what he did.

Well, members of the jury, what are you able to make of his interview? I told you I was going to refer to it a moment ago and I will. Well, where in his interview does he mention the fact that he ejaculated inside his knickers; hugely important in a case like this, **H** forgot to mention it. When asked, "Is your DNA going to be found?" "No, not going to be

A found” before he got the expert evidence in this case, members of the jury. And what do we think about that, the expert evidence in this case, no matter how you fiddle around with it, members of the jury, the reality of it is, his sperm was found high up in her vagina, high up in her vagina and no doubt it was his, billion to one chance that it’s someone else. It’s his. And **B** how did it get there? How did it get there, members of the jury, because, members of the jury, how it got there is he finished off what he’d started, that’s why.

And, members of the jury, she processed it, you heard her saying she was processing it; she didn’t react the way you may think somebody reacts and you have to evaluate why. Is it because she wanted it, members of the jury? Is the defence case really that a student, **C** educated student, was walking through the centre of Oxford and decided, “Yes, I want to have sex with a man I’ve never met before and I met a couple of minutes before and even better I’m going to ask him for money for doing so”? It defies, defies common sense, members of the jury and it defies the context in which this defendant targeted her. She was targeted like other people were attempted to be that night by someone who was walking **D** around Oxford attempting to target women. And that, members of the jury, is precisely what happened.

Now, members of the jury, processing. What did she do within minutes of going back to her accommodation. Was she laughing? Was she joking? Uncontrollable. **E** Uncontrollable. And she gave an account to both her friends which was entirely consistent with what she’s told you. If it hadn’t been consistent, you would have been told about it. So, members of the jury, how do we explain that? Was she just making it up? Or was she processing the worst thing that could possibly happen to any women walking on her own in the centre of Oxford or any other city after a night out?

F Well, members of the jury, that is a matter for you but look at all the evidence in this case, ignore me if you don’t accept what I have said but at the beginning and the end of this case I’m going to ask you this. Do not deploy stereotypes, look at it dispassionately, if you possibly can, and ask yourself why? Who? Where? What? All the questions you would ask. Most importantly apply your common sense and I invite you to come to this conclusion. **G** This man is a sexual predator, I have got no hesitation about saying it and he picked on a single woman at night, vulnerable as she is, as any single woman is and he had his way with her. And after he had his way with her, he went back into the centre of town to see if he could do exactly the same thing.

H Now, members of the jury, I hope that absolutely explains how the prosecution put this case, it’s exactly, I hope, how I put it when I first started this case but you’ve heard the

A evidence now, it's up to you to decide what you think of it; but members of the jury apply your common sense, apply the facts to this case as you see them, you've seen the video evidence in this case, uniquely. Not a single episode of her contacting him. Him moving towards her, him hugging her, him pushing her into the door, she fleeing and him following

B her to finish off what he started. Members of the jury, I don't think I can add very much more to this case, thank you for your attention.

JUDGE DALY: Mr De Feu.

MR DU FEU: Well, members of the jury, I'll warn you now, I'll be a bit longer. This is my one and only chance to speak to you, of course, and there's quite a lot to cover and I'm going

C to try, I hope, to help, obviously on the side of the defendant, with your task of going through all this in due course. Let's see.

JUDGE DALY: Yes, as long as they don't appear on the screen. Okay?

MR DU FEU: How about that? Yes, better now.

JUDGE DALY: Just (inaudible).

D MR DU FEU: Am I okay to continue?

JUDGE DALY: Yes.

MR DU FEU: So, members of the jury, I'm going to be a bit longer and you understand that I represent the interests of a man of previous good character who's facing incredibly serious

E charges and, in a very real way, his future is in his hands, that's the extraordinary burden that we place on juries. It may be – I have no idea about your backgrounds but one of the most important things you'll ever do. I've never sat on a jury, I wish I had, but there we are maybe it'll come.

I entirely endorse my learned friend for the crown's approach to this case and was

F pleased to hear that, as with his judge's directions, the prosecution embrace the idea that we've got to be very careful, we, you, about the stereotypes, the assumptions, the prejudices, the tropes that spring out at you in this case, in every direction, on every topic, they're whispering at you and one of your challenges, and it may be that we here at the bar haven't risen to the challenge sometimes as well as we might, is to avoid those stereotypes and

G assumptions and deal with, as my learned friend and I both urge you to, the evidence. What do I mean about every turn? Well, prosecution say to Mr Alshimery as a sort of opening gambit, "Mr Alshimery you're an illegal immigrant, aren't you, you're illegal, are you an illegal immigrant?" you'll ask yourselves what the relevance of that was if it wasn't playing to stereotypes and tropes and prejudices, of course it wasn't meant in that way by Mr Lucas,

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A it was probably just a warmup to the barnstorming cross-examination that was to come. But it shows that all of us can step into troubled waters.

B And then cross-examining Mr Alshimery, “Mr Alshimery, what would a young Oxford student want with a man like you? Playing into all the stereotypes and tropes and prejudices, rather insulting as it happens; not really helping particularly because we’ve no idea what is in the mind of [Person A3] that night and, of course, bolted on to that are a few other of the stereotypes and assumptions you’re to, in this day and age, for goodness sakes, avoid, it’s only men who want sex, it’s never women, women never initiate sex, they’re never wanting casual sex with a stranger. But we all bid you please to put to one side the fact that
C earlier in the evening she had met up with a 38-year-old married woman with two children and had sex with him in the side street. So, when you start to throw allegations at Mr Alshimery about, “What would she want with you?” you’re rather raising the rest of it and we don’t want that raised, that’s not what this is about, we’re not judgemental, she’s entitled to spend her private time as she feels appropriate. But please don’t then fall into the
D trap of saying that there’s one way or another or analysing what went on at St Clements; it’s not that straightforward and at every turn the stereotypes are whispering at you.

E I’m going to start the narrative, if I may, not in the city centre but halfway down the High where they meet up; where the two protagonists come together. What you know from the evidence of [Person A3] is that she says this stranger came from behind her, wrapped himself around her and that was the start of it. And you’ll remember, of course having seen the CCTV, me asking her, “What do you mean by wrapped around you?” and she couldn’t, perhaps, really quite explain it; but when you see the CCTV, the account given by the defendant actually you may think is far more accurate; they meet and what we seem to see is
F some sort fist bump, they’re face-to-face; I’d suggested to her she was smiley and welcoming and that they then go on down the road, more or less arm around each other, my learned friend says you can be absolutely sure her arm wasn’t around his, have a look at the video, a matter for you; talking, “Where do you go to school? Where are you from?” chatting and smiling. The video, thank goodness for CCTV, rather supports, you may think, his account
G of that initial meeting rather than hers. You’ve then got to layer onto that, well, why has [Person A3] tried to put a gloss on it that makes him, let’s use the word, it’s been writ large by my learned friend, the predator. I’ll come back to the CCTV in town later and what on earth you can make of that, whether that pushes you to predator without bolting on a lot of other assumptions that you won’t but there we are I’ll come back to that.
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So, that's the start of it. We then cut to St Clements and many of you from Oxford will be very familiar with the geography, more familiar than I was at the junctions, thanks to his Honour for correcting me on that; but at St Clements there's a doorway and the next significant bit of CCTV, you'll watch it, you'll study it, I know, is an acid test really for how

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you apply your assumptions, your thoughts, your tropes; because you've got two people on the pavement who suddenly are in a doorway. On the outside is Mr Alshimery; on the inside is [Person A3] and boom, they're in a doorway and on account of both of them, they're then, well, he she says is going for her neck and kissing and biting and sucking, that's her account.

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If you view that piece of footage from the point of view of it's a predatory man, it's always the man who wants the kissing, it's always the man who wants the sex, the snogging, the experience, the adventure with a stranger, it's never the woman, then he's pushing her into the doorway. If you're fairer about it and say to yourselves, "Well, we don't know what's in [Person A3]'s head" and put aside earlier in the evening, I'm not asking you to draw

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conclusions from that, we don't know what she's up to that evening at all; she's a young woman, she's perfectly entitled to have a little adventure if she wants one. So, if you put that sensible head on you can't tell whether she pulls him into the doorway or he pushes her, she says he pushes her.

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Next piece of footage that might help you is the black and white one looking back down towards the doorway and it's got audio on it. Here again, quite rightly, his Honour's injunction to you about don't have any assumptions about how anybody reacts in that situation bite and that must be absolutely right. It would be quite wrong to suggest, "Well, why didn't you shout it? Why didn't you fight back? Why didn't you push him off?" that's nonsense, that's – we all know not the way that anybody necessarily reacts, everybody reacts differently and that – I don't make that point; it seems to be quite quiet in the doorway.

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More relevant when the people come along. I said to [Person A3], "Well, look, at that point you've got some safety, why don't you say to them, 'Excuse me can I go with you please?'" and your answer was, you may think rather oddly, "Well, I didn't because they were going the wrong way, they were going back into town and I wanted to go out of town. So, I didn't attach myself for safety to them because they were going in the wrong direction" a strange answer, you may think; it has the corollary to it that had they been walking up towards Headington, she would have attached herself to them.

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She says they addressed the defendant in that exchange and that he was able to understand and fire back, "No it's okay, it's okay" that's her account. Please have a listen to that footage, I may have entirely imagined this and my learned friend's quite right about us

A not giving evidence. Have a listen and see if you hear a female voice say, “We’re good” in the doorway. If you do, then that’s probably [Person A3] responding to the strangers and it’s not the account she gave, which is the important thing; if you don’t hear it then I’m just talking nonsense, you’ll reject it and go back to the evidence you can rely on. But have a
B listen to that please, as I know you will, your hearing may be better or worse than mine, probably better.

In any event, the next activity bears some nuancing, some thought, because the crown’s case is very clear, she comes out of that doorway wanting nothing more to do with Mr Alshimery, whatever adventure she may or may not have been on, she wants to get home.
C And we all see the wave towards Cowley Road and we know the geography, she’s probably pointing round the plain up the next road and that’s a very fair point for the crown to make, you may think.

He says at that point she talks about some friend, some friend being in the area, in the interview the interpreter can’t quite get it, whether it’s boyfriend or friend and goes back to
D friend, you’ve got the interview, you’ll see it. He says that his impression was that she was effectively warning him, “There’s somebody here I don’t want you to see me with you” and she says, “Follow me”. Well, you’ll have to decide what you make of that.

What you do know from the footage is that she walks back up the road towards Headington Way on St Clements and there’s clearly a busy club just before the
E Half Moon Pub, it looks like, where there are lots of people spilled out on the pavement. If she’s really rattled and, again, you have to understand, of course, that you can’t have stereotypes about how anybody reacts, she would attach herself, you might think, it was something to do, just say, “Can I stand with you for a minute? There’s this bloke acting
F weirdly, he’s been kissing and sucking at my neck. Can I just stand with you and make sure he goes away?” but actually she walks up the road passed them, doesn’t seem to look back, she doesn’t seem to be worried about whether he’s following or not; you’ll have to make of that what you will.

Then there’s the next major set of traffic lights, Morrell Avenue to the right, and somehow by that point he’s caught up, this is the story going on; not quite sure how he’s
G caught up by then, you see him pause at one point as it looks as though he’s doing his shoelace up or something. But they meet at the lights, they’ve got another hundred yards to go or so before the left turn down Marston Road and, at that point, they both agree they’re back together, he says touching, kissing, back to what they were doing on the High; she
H carries on and then makes the decision to turn left down a much quieter road with him. Odd

A decision making, still with him. It seems pretty clear he doesn't know the geography or is unlikely to know the geography as well as she does. He says in his interview, you'll see it, she was talking about the park, the park. Well, he wouldn't know there was a little entrance to a big graveyard there. She would, she did. His Honour clarified my bad question and we

B worked out that she possibly wasn't admitting that she knew that the plinth was there, fine. But in terms of going down there, staying together, ending up being in the graveyard, again, have this idea by all means that it's always the man who does this, the predatory, forgive me, foreigner, illegal immigrant, he's the one leading all this, he's in the dock; try to put all that to one side and say to yourself, well, who knew where that was? Why shouldn't she want to

C continue the adventure; she perhaps didn't after the St Clements doorway, catches up at the lights, it's back on. It's a bit more nuanced, you may think, than the simple view the crown would like to apply.

Let me then focus on the graveyard and the competing accounts about that and I won't ignore the point made by the crown about the ejaculate in the underpants or the expert

D evidence. I will come to that, I promise you, come back to that. What he says, effectively, about that is that on the way and at the graveyard, she's, and this is in his interview at – with the police, she's grabbing at his penis, I think she even says beating his penis at one point but his penis never comes out, she's stimulating him is what he says during the kissing. So, when we come back to looking at what he did and didn't say in his interview, that's in there.

E He says they get in there and the fondling and the kissing continues. In his interview he says that they sit on this stone thing for a while. He, at one point, he's saying in his defence statement, you heard from the expert and now goes and has a quick wee and you remember that I put that to her, she doesn't remember that happening or says it didn't happen.

F And then it moves to the idea that suddenly she is very much up for sex, she's waving her bare backside at him and saying, "Do you want sex, it'll be 50 quid" and for that the balloon for the prosecution just goes up, they can't take that, not for a minute; no student is ever asked to be paid for sex. Okay, prejudices, stereotypes, assumptions, we're in a different world than that, you may think. He says that happened, work out yourselves what you – stall

G you put by that at all but please don't do it on the basis that what would an Oxford student, a young student, how could he effectively call her a sex worker? "Mr Alshimery, do you know the word for prostitute?" all of that line of cross-examination. He can only say, if it happened, what happened, what's in [Person A]'s head is a matter for another day, perhaps, we never find out, we never get to unscrew the top of the head, have a stir around and work

H out what makes her function.

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So, he says that's what happened and effectively it went on a bit, the canoodling and he eventually, "No, I'm not paying you money, I'm off" that's his account. No bare bottom on the floor, penis not coming out of his underpants, her hand putting – sorry, her putting his hand repeatedly to her vagina, that's his account.

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She says, well, as soon as we got in there, in there really there's this plinth and he pushes me up against it and I'm leaning on it, I've got my two hands on there; I put my phone down on the plinth, on the block, "Why do you do that?" so that I've got two hands to push him away with and I'm like that and he's behind me and he's taken down my tights, I don't know, my underpants, my tights and my skirt's gone and he's pushing on me, pushing on me, I can't get away and then I feel him rubbing, I think it may be his penis, it felt different from the fingers his penis on my backside and my vagina. That's her evidence to police, "And then I get a bit angry and I push him away and I turn around and he pushes me to the ground and his penis is out now and he continues to finger me and I think his penis goes in, I'm not sure, it felt a bit different, I'm not sure, I don't think he ejaculated" that's her evidence.

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Just focusing on her evidence there, whatever you make of where the rights and wrongs in general in this case are; is he predatory? Has he attacked her? Is everything without her consent? You're also going to have to ask yourselves, and this isn't part of my case because part of my case is his penis never came out of his underpants, but if you are sure that it did and you're following and preferring [Person A3]'s account, you're going to have to, as it were, pick the bones out of her own equivocation about whether she thinks his penis entered her vagina and you have the definition of penetration very clearly from his Honour.

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But the difficulty with it, perhaps became exaggerated in the trial when suddenly she was telling us that she was entered – she's sure she was penetrated with his penis and that it happened twice. Well, we knew about the possibility in the evidence she gave to the police of it happening on the ground that she wasn't sure; and then in answer to my question, she'd been penetrated from behind whilst leaning up against the plinth and you'll remember me saying to her, "Did you ever say that to the police?" and of course the answer is she didn't; it was rubbing his penis up and down her backside and vagina. She now remembers being penetrated from behind and that may trouble you in the sense that is that another example of putting a gloss on this that is in her interests but very much against his and it is a gloss that's come late and it may trouble you about her trustworthiness, let me make no bones about it.

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So, the accounts of quite what happened there, how they play in later to his interview and the science I'll hope to try and analyse with you in a moment; but we've also got her peculiar response to him about trying to stop this, the last resort. [REDACTED] the

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[REDACTED]

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[REDACTED]

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[REDACTED]

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Of course I can say to her, “Well, why didn’t you call out? Why didn’t you struggle more? Why didn’t walk the few feet to the pavement?” and at that point all the warnings from his Honour come back into play, people act differently. But, again, rather analogist to the doorway, when the people come by on Marston Road and she can hear the voices, at that point it’s legitimate to ask yourselves, “Help, help, please come here, I’m being raped” because help is at hand, it’s different from dark and isolated and what he might do if she responded like that but she doesn’t do that and you’ll have to work out what that’s about; you’ll also have to feed into that how she does say that things went because, and I wanted to get the words for this right, she says that his English became a little bit more sophisticated at that point and she said his response was, “Oh quickly stand up, stand up and make it look like you’re okay, stand up, stand up and pretend you’re okay.” So, her account, if you’re to trust it, is that when they hear voices, that spooks him and he suddenly is able to communicate quite well to her that he wants her to pretend nothing’s happening, nothing’s gone wrong.

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The plot thickens because her response, at that point is that she becomes angry. What makes her angry? She can’t get her tights and skirt back on. So, what does she says she do, she says to her rapist, “Help me with this” and he does, he helps adjust her skirt and get her dressed again and you remember the question I asked, “Why would you want him anywhere near you at that point if you’re telling the truth about this, if it wasn’t consensual?”

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So, within the story, the little details, when you’re going to be, as you are, fair to the case and open minded, and avoid the stereotypes, it’s perhaps worthy of a little more consideration. Well, what about the point that he doesn’t mention in his interview with the police that he ejaculated into his pants? It’s in there in the directions from his Honour as being something he could have mentioned at the police station and didn’t and you’re to work

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A out what you make of that as part of the evidence, only part of the evidence; but I want to
urge you to be a little bit more realistic and a bit fairer about that particular passage because
there are difficulties with it. When you go through his interview you'll see that it's rather
B butterfly at times, the officers are doing their best but they keep going off on tangents about
in town and just when you think you're getting to a point it goes off elsewhere, you'll see
what I mean when you go through it again. And, actually, throughout the interview, perhaps
because she's told them that there was no ejaculation, there was very little focus in the
questioning on what was to come in the science. He wasn't asked, well, look, right until the
end, at the end he was. He wasn't asked, "Well, look, you're saying your penis never went
C into her vagina. How are you going to account if, when we look at the science, we have
taken swabs from her you know, if your semen is there, what are you going to say then?"
because that line of questioning isn't in there, perhaps because of the lack of her saying there
was ejaculation. But right at the end, and you'll look at it when you – if you do go through it,
the officer does remember to ask and he says two things, the first is, "We've taken penile
D swabs from you..." to Mr Alshimery, "... what if we find her DNA on those? What are you
going to say then?" and you'll read his response, "Impossible." Well, he was right about that,
there weren't any traces, the scientist, and I hope fairly I took her through that, said that there
were lots of different competing possible reasons for that, one of them being that his penis
had not been in her vagina, others being it had been shared, it had gone, it had been masked,
E so, I hope that was a fair approach to it. But the interesting point, before I get on to the
second one which is the samples from her, is perhaps the whole approach, let me pause for a
minute and just think about the whole interview and the approach of this defendant, at that
phase of the case, because you may find it interesting as to whether or not you're assessing a
F man who knows he's guilty or a man who believes he's innocent.

Then we take you back to outside Tesco where the arrest took place, I, if you
remember, had to elicit that from the officer in the case. They'd been round to his hotel, he
clearly knew, through the grapevine presumably, that they were looking for him and he goes
down to St Aldates Police Station. Well, that would be extraordinary enough for anybody but
G he, you know, is an asylum seeker, illegal immigrant, came over in a small boat, who's got
connections in London. Aren't you on the first stagecoach out of Dodge at that point if
you're guilty? You know what's coming, if you're reckless and desperate enough to behave
the way the prosecution say you did that evening with [Person A3], well, you're reckless and
desperate enough to run, hide in London, aren't you? No, he goes down to St Aldates, can't
H get any joy there and then sees a police officer, a sergeant, across by Tesco, walks over to

A him and manages to communicate, “Think you’re looking for me, you’ve been to my hotel, I’m who I am, Mr Alshimery” “Put your hands behind your back, you’re coming with me”. Extraordinary, he wanted to keep telling you that because he wants you to know he did that because he doesn’t believe he’s guilty of anything.

B Then think about the process at the police station, he’s got a solicitor representative with him, so, presumably getting advice from somebody qualified for the job. The science isn’t in at that point. Now, we all know about science, we all know how sensitive it is and how if you’ve been somewhere it’s going to show up. That first part of the caution is, “You don’t have to say anything”. In his Honour’s directions there’s the phrase, “Keeping your powder dry”. How do you keep your powder dry in that situation? The science isn’t in, you know you’ve had intercourse with her, you’ve raped her, you know you’ve ejaculated, so, they’re going to find out about it. You keep quiet, don’t you? You don’t have to say anything; you keep your powder dry.

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D So, when you’re analysing what you make of the interview, oh no he answered every question and he was adamant that he had not had intercourse with that woman. Again, if you think about it, if you’re a lying rapist, it’s very easy in this circumstance, it may not float with a jury but you say, “Oh, yeah, yeah, of course you’ll find my semen in her high vagina swabs because we had consensual sex, she led me to the graveyard and we had a good time together. What? She’s calling it rape? Don’t be daft”. Covers all the science, no problem, he’s put his consent defence in knowing what is to come on the science. He doesn’t do that. He gives an interview and he says, “You will not find my semen in her vagina, we did not have intercourse.”

E

F And that brings me to the question that’s then asked by the officer, “What about when we analyse the swabs from her vagina? Are we going to find your DNA?” and his answer is, “I did not have intercourse with her.” Nobody then says, “Well, is there any other way it could have got there?” So, he’s mentioned in his interview his penis being stimulated. There’s not much in the interview about it, they asked two specific questions at the end, he’s right, dead right about one of them; but more to the point he’s prepared to commit to the word “impossible” and on the second one his answer is, “I did not have intercourse with her” and nobody says, “Well, could it have got there any other way?”

G

H Just turning to the science while we’re on the subject of that, there’s lots of bits and pieces to that and you may have felt that the expert, very properly, was determined not to be corralled into a simple answer, “Well...” says the prosecutor, “... what your evidence comes to is that he had intercourse with her” that sort of thing and she has to then caveat everything

A because she's a scientist and it's probabilities and it's opinions and it was, perhaps at times, particularly with the link a little hard to follow and in the end his Honour got drawn down the rabbit hole that took us another five minutes and I'm not sure what the answer was in the end to that either.

B There were some bits and pieces from it, the penile swabs I've mentioned, they probably and she says, I think, inconclusive, I got that from her, they are; but interesting he was prepared to commit on that, I make that point. When it comes down to it, it's two propositions at the end of her report, her conclusions. And they're these two propositions, the first one there is, "Given the results I've found, the swabs, the semen, and looking at first
C proposition, that the defendant had intercourse and ejaculated and/or - and used his fingers..." she says, "... forget the fingers really, that's not relevant at that point" that's one proposition; or the defendant's proposition that she's drawn from his defence statement which is that he'd ejaculated in his pants, he'd urinated, there'd then been vaginal touching by him to her. Given those two propositions which one would I expect to be true? I hope I
D am characterising it, members of the jury, correctly, his Honour will give you a proper analysis of it I am sure, well, the first one and what's more I think that the evidence in this case provides strong evidence for proposition number 1 being the correct one.

So, my first question to her was, "Look, distilling that down, what that means is that you can't rule out proposition number 2?" I think we got a five-minute answer at that point,
E absolutely properly because I was trying to put it too simplistically no doubt. But at the end of that, from the expert, she said, "And, yeah, I suppose that's right I can't rule it out." Of course she can't. The reason we know she hasn't ruled it out is that she's got two levels above that of very strong and extremely strong. She's not applied those two levels, so, they
F allow that window of possibility for his account being right and being consistent with the evidence. And, in a way, I suppose it's like trying to analyse what on earth the word "sure" means and I'm not going to and I'm not allowed to. But you've got gradations in the idea of "sure" it's certainly not "possible" "might have happened" "we think it happened" "it probably happened" "we're pretty sure it happened" "we're sure it happened". She gave you
G the scale and she was two down from the end of the scale and that means, being fair to Mr Alshimery, that he's right, potentially, about the mechanics of that and you can probably infer reasonably what happened in that he's said to them, "I didn't have intercourse with her, no you won't find my DNA in her vagina" the science has come back saying, "Well, it's there" and the prosecution say he's then completely made up the underpants. He says, "Well,
H nobody asked me".

A

What we do know is that the expert knew about the underpants and the ejaculate there, from the defence statement at some point in the case; and what we also know is that the underpants of him or of her were never examined. When he's saying that, "Please pay it some attention police force and make the effort to go and see whether or not that might or

B

might not be the case". But no, for whatever reason and obviously her clothing was seized and his clothing was seized, none of it, because the officer didn't come back to me about it – come back to us about it, none of it was ever analysed for anything; so, we've got grazes on the knees, let's see what the tights are like, let's bring the clothing to you and see what you make of the proposition of him being able to pull all that down in the way that she describes.

C

She's bare bottomed on the ground and they've taken soil samples and vegetation samples and swabbed her bottom. Please, he's saying that never happened, she's not on the ground. Analyse those swabs please to see whether or not there's vegetation or soil particulars so that you can come back and say, "Well, he may say that she wasn't on the ground but how do you account for this piece of science?" But you can imagine, can't you, "Hello, we've got his semen in the vaginal swabs, that's it, end of". Well, he's the defendant, he just has to rely on a thorough investigation, doesn't he?

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I've talked about one inconsistency in terms of the new information that she was also penetrated from behind, leaning against the plinth. His Honour's injunction to you in those directions also includes, look, people are inconsistent sometimes in the story they tell and that is for you to sort out and whether or not you make much of it. But you'll remember her agreeing with me that before she saw the police, she covered the idea of the phone with her friend who is effectively presumably saying, "Why didn't you call me?" For, "I dropped my phone by this block thing and he moved me away from it and I couldn't call you, I wanted to

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call you." She acknowledged that those messages had been sent. Quite different from, "I placed my phone down deliberately so that I'd have my hands free to push him away" the story quite distinctly different and importantly so, you may think. My suggestion, "Did you put the phone down because you wanted your hands to engage in sexual contact?" The prosecution may not like that idea but it's in play, is it not? And the further points about the

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phone and, again, you have to apply it, well, just because somebody else might do this why should she do it? "Why don't you wave the phone at him, never mind trying to call somebody, wave the phone at him and say go away, piss off or I'm going to phone the police, I've got this, go away". But nothing. Put the phone down so if you've got to run you've left your phone behind. It's all very odd and when you're fair, members of the jury, it doesn't

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A quite necessarily add up as neatly and as tightly as the prosecution would like you to believe and understand.

B I've come back to where I began really which is probably nothing about the background of the defendant is important to this case. It came out in dispatches, as it were, that he was an asylum seeker in a hotel so it's right that he's able to put a bit of flesh on that and let you know about himself; probably on another day quite an interesting story to find out about the Bedoons and what on earth's going on in Kuwait but probably not relevant for our purposes here. What was relevant from the backstory was his ability to say to you, "Well, I've been here since 2002 and I've got no convictions, cautions, warnings, reprimands."
C You're going to have put that against, and more, the fact that he's able to say, "And nothing in Kuwait, by the way either, so, I'm 46 years of age and I've managed to get through those 46 years as a sexual predator, predator, predator, without coming to anyone's attention" so, you'll have to put that alongside how the prosecution would wish you to view this man, for whatever reason, for the purposes of their case.

D Which brings me to the CCTV in the city centre, I said I'd come back to it. I'll be bold with you, if you don't agree then you don't, rather pathetic, I suggest to you, that footage from the city centre. He obviously goes up to two young women and they walk on and they look back as they walk on. He says, "I was just saying hello, I'm happy" he's obviously had a drink, we all know that. The rest of it he says, "Well, that one over there in the corner is some bloke I know, some woman I know" and then we end with the traffic lights at the end of George Street, he's right in the distance, we can probably guess it is the defendant because of the distinctive white trainers and white cap and he's moving from right to left and there's someone else with him, "There he is" says the prosecution, "There he is, members of the jury, with another woman." For goodness sakes he's crossing at a traffic
E lights, it could be anybody, if you can tell that's a woman, better eyes than I have and that's another woman, members of the jury and that's how, if you're not careful, the way that the police prepare their case and want to pitch it becomes a little bit disproportionate. I suggest to you the footage from the city centre is very far from pressing the idea that he's any sort of
F predator. He's clearly a man who is living a different lifestyle from the rest of us for reasons we can all guess at with the process as he very briefly was asked to describe of applying and for waiting for the Home Office; he's in a hotel, he's made some mates, his life is, because he seems not to have been able to go back to I think, if you look in the interview it might be a churchyard down St Aldates, you'll work that out from the geography, has a sleep, he's up at
G night, he's with his mates, "Ridiculous, nonsense he's going to his mate on the Cowley Road
H

A for a free meal that might be the leftovers at 2.30, nonsense.” Why is it nonsense? 3.30/3.28 he’s coming back and he’s decided to give up on that one, “Well, his friend would have waited to five o’clock” say the prosecution, well, who knows? It’s not such nonsense is it if you’re effectively homeless, not got much money, that you’ve got a mate who does some

B food and you get a free meal at the end of the evening, no such nonsense.

So, there it is. The crown bring this case, and I am not going to leave without reminding you of this, really important; the crown has to prove the case, not by way of any of the things that we both agree you’ve got to ignore but by the evidence and they have to make you sure and they do that in this case pretty much on the word of [Person A]. And, so, you’re

C going to have to decide how much you can trust what she says and how much you can work out what was motivating her and what was truly happening and what the inconsistencies might mean and what you make of the defendant of good character.

One last word on it, if I may. My learned friend has just leant into, slightly at the end, the idea that she’s autistic and that that might inform your thought processes about how she

D acted that night. That’s dangerous territory, members of the jury. You were allowed to hear about what she said at the end of her interview, almost certainly because it’s only fair for the prosecution that you find out why that blank visage applied in such emotional circumstances and it would be quite wrong to deprive you of knowing that her own analysis of herself is that

E she thinks she is on the spectrum, now a constellation if you read into it, far more complex than we ever believed, the autism constellation and that that informs how she presents and she almost has to make up her facial expressions to fit the situation. All of that’s entirely proper that you know about her, I hope it’s entirely proper, it’s left in. To go on from there to say, “Well, members of the jury that autistic spectrum you can then feed that into how you

F think she may have responded on the night, what may have driven her, what her impulses may have been, what she wanted, what she didn’t want, all of that’s in play” please, a large dose of caution with that. You’ve had no expert evidence to that effect, you’re being asked to speculate in an area of expertise that’s probably beyond all of us and most psychiatrists probably; but beware of that line, I know my learned friend wasn’t pressing it so hard, but it’s

G right that I address it, I hope.

And when you come to it, finally members of the jury, you’ve got that one discrete issue if you get that far, of deciding whether physically, physiologically, you’re sure about penetration, that’s a discrete issue. The rest of it is about really about consent and what you work out happened that most of the rest of the activity, bar the breast fondling, grabbing

H happened, is pretty much agreed territory, it’s about consent and you’ve got, I submit to you,

A very helpfully from his Honour, the routes to verdict on each count, each type of count.
Being as fair as you can be to the defendant I urge you to the view that when you boil this
down, you're going to have significant concerns about this case and if you do, if you're not
sure on any or all of the counts, then you will follow your oath and your affirmation and find
B him not guilty. Thank you very much for listening. I'm sorry to have gone on for so long but
I hope that's been of some assistance. Thank you very much.

Ladies and gentlemen, it now falls to me to remind you of some of the evidence in the
case. What is going on? Ignore it ladies and gentlemen. As I say I'm going to remind you of
some of the evidence in the case. Let me begin by telling you what I'm not going to do. You
C have got a lot of papers in the case, mainly photographs, I am bound to say; you've also got a
copy of the indictment and, of course, you've got a copy of the interview. I am not going to
go through those in any great detail with you for several reasons; but primarily when you
consider the interview, for example, I may mention a couple of bits in there, but you have all
got a copy yourselves and, of course, you'll wish to discuss it with the other members of the
D jury and you can't do that while I'm going through that – going through it with you in court.
There's no point in me doing it, you can read it yourself and you can do that in the privacy of
your own retiring room when you can discuss the contents with the other members of the
jury.

E So, I'm not going to do that, what I am going to start with is reminding you of what
[Person A] said in the recorded interview that we had. Now, this interview is conducted in a
particular way. Very often in these sorts of cases, when the interviewing officer starts doing
the interview, they will basically give the complainant, the person they are interviewing, the
chance to talk about it all from the start to finish, "Tell me what happened?" that sort of
F thing; and so that they can get the account off her, the full account off her to begin with, then
they will stop and go back and bits and bits and bits and keep going through, so, it can get a
bit repetitive. I am going to try to avoid doing that but I am going to begin by telling you
what she initially said to the officer when she was asked the question, "So, tell me what
happened on Saturday evening?" and she said this, "On Saturday evening, about midnight, I
G think I went to a club or bar, it was just me and my friend. We got on a bus there, just me
and one friend. It was the Spirit Bar, just in Oxford. We'd been drinking, we'd had maybe
about four shots of vodka before we left. [REDACTED]

[REDACTED]
[REDACTED]. We then
H kind of walked back up to the city centre, maybe about 2.30 in the morning of the Sunday, at

A

the city centre. We parted ways, he went kind of one way off to his house and I walked him kind of the opposite way to my house.

B

Yeah, so, I'd had about five shots of vodka, total and as I was walking home along the road, I don't know whereabouts it is, I don't know the name of the road, it's the road straight out from the city centre, it's basically a long and straight road that just goes down, about halfway along that road, I noticed another man kind of next to me. He was kind of just being a bit friendly, I think he was smiling, sort of, I think he was – I think I was kind of friendly back, I think I probably smiled. I was okay. He kind of went in for a hug and just kind of like wrapped himself around me and I think I just kind of obviously tried to push him off. I didn't try too hard but, you know, just kind of gave him a bit of a nudge that I didn't really want him to be there.

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Then I just carried on walking with him sort of wrapped around and I just sort of headed on to my house. He asked for my name. I lied and I said it was Sophie. I asked him where he was from or where he lived. He said Cowley. He asked where I was heading, I said I was going to Headington. So, I kind of used my arm as a gesture, I was like, 'Okay you're going to Cowley, you're going to go this way' and I then I said, 'I'm going to Headington, I'm going this way.' So, I was like, 'You're going this way, I'm going this way' to kind of show our kind of separate divide. He kind of just kept repeating the same phrase of, 'Yeah no problem' just quite a lot. It was kind of a little obvious that he didn't speak too much English and he was kind of well, like, sort of behind me. He was like, yeah, sort of to the side, he was just kind of kissing or like kind of biting my neck quite a lot which was just a bit painful but I didn't really know what to do. I just kind of, I was just kind of nudging him off, I was trying to push him off.

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And we got as far as I want to say it's called St Clarence roundabout, kind of where the Sainsbury's Local is, that was our split. So, I was going up to Headington down one road; he was going to Cowley down another road, so, I made it quite obvious to him, 'Now, you go this way, I'm going this way' and he then kind of pushed me against a door. It was kind of just on the door of one of the businesses that was there; it was just sort of the door on the side of the road on the pathway. He just kind of pushed me against it and he was kind of using his body to pin me against the door and was just continued to kind of use his mouth to do whatever he was doing on my neck. Just I was just asking him to get off me, he obviously wasn't listening but, yeah, until someone walked past, it was a female, she asked, I think kind of directed the questions more to him but she had asked, 'Is she okay?' and he responded for me and said, 'Oh yeah she's fine.' As he did that he kind of backed off me a little bit so I

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A then kind of used that opportunity to get away from this door and I just started walking to Headington and I just kind of gestured, 'Right, that's where you're going, I'm Headington, done'. Then I kind of fast walked away, just kind of carried on with my walk back. I was trying to process what had just happened, it kind of felt a big deal, but then not at the same time. I didn't really know what to do. I kind of thought I was, you know, obviously like
B alone. I felt there was, you know, yeah, I felt a little bit safer than I'd done about two minutes before. I think I was kind of just relaxing at that point. There was a lot going through my head but then there was also nothing going through my head at the same time.

I walked as far as maybe like the junction of Headington Road, where you could then turn up into Morrell Avenue. I got as far as there and all of a sudden, I heard footsteps right behind me that I hadn't picked up on before and I had the feeling that it was him. But then also I wasn't sure because I hadn't heard behind the entire like five/10-minute walk that I'd just done. So, I turned around and it was him and, again, I just kind of gestured, 'You're going that way, Cowley is that way' you know, 'I'm going to continue this way up to
D Headington'. I was like, 'You're going to Cowley, you're going that way' and just carried on walking straight. I think he must have kind of wrapped around me again and just kind of doing similar to what he was doing before.

We got to St Clement's Church, the entrance of it, and he kind of pulled me inside the entrance to it. Right at the entrance there's a sort of like a concrete block, it's quite a large
E block, it's kind of about the same sort of height as my hips and he pushed me against it; he was still behind me and he pinned me against it, he kind of removed kind of my skirt that I was wearing and the tights that I was wearing and I was completely exposed down there. And he was kind of pushing me against this concrete block and he kind of used his hand and
F the back of my neck kind of to push my head against or push me down against this block. I had my phone in my hand but I kind of placed it down on the block and I just kept saying just, 'No, get off me' and I didn't want to, that I didn't want to do this. I just kind of kept saying, 'No, get off' and he wasn't really responding to anything that I was saying. And then I kind of used a little bit of different tactical method to try to get him off me.

G I think I kind of began to get slightly angry at this point and I kind of turn around and said to him, kind of quote, unquote, it was because he had his hand inside me and I said to him, [REDACTED]

H [REDACTED] I then kind of got a bit more angry and I kind of pushed back and

A kind of pushed him off a little bit. I managed to turn round and face him; he has then kind of
used his body to push me on the floor next to the block and down the side a bit, he kind of
just collapsed his body on top of mine which forced mine to the floor, he was on top of me.
B He was kind of using his hand, his penis was exposed. I had felt it before when I was
standing against this block and I felt it before he'd rubbed it sort of down my, like, my bum
and my vagina and, yeah, so when I was lying on my back and he was on top I was just
saying, 'Please get off me.' And then he was inside of me. I kind of zoned out a bit. I'm not
entirely sure of what's inside me, is it his hand still or if it was his penis, I am not entirely
C sure. I sort of did zone out because I know his hand was in me previously and people walked
past and you could hear them walking past, you could sort of hear the noise of them as they
were coming up towards, you know, the entrance of the church.

And this man then said to me, he said, 'Oh quickly stand up, stand up and make it
look as if you're okay' and he then kind of pulled his trousers up and was kind of, kind of
D helping me get dressed and he was saying, 'Stand up and pretend you're okay.' So, I have
done and I've tried to, I didn't see anybody walking past at this point. I think they had gone
past and they just walked past and didn't really acknowledge too much and I was then trying
to sort of get my skirt and tights back on. I was kind of panicking a little bit and I was kind
of struggling with it really to figure out what part of my tights was supposed to go where and
E what part of my skirt was supposed to go where and I was getting really frustrated and just
angry. And he was kind of speaking to me in a different language and I didn't know what he
was saying and I ended up kind of yelling at him and like, 'Can you just help me put this
back on?' and he did, he then put my skirt on for me and the second he put it back on I
walked away really, really fast.

F I grabbed my phone and walked away, really, really fast and then as I walked away,
he said, 'Thank you.' It was – he was asking if I had everything like, 'Did you get
everything?' he was like, 'Did you get your phone?' he was like, 'Did you get all this?' I just
kind of like was, 'Yeah, yeah, bye' and I just kind of walked off, walked away, carried on
walking back to my accommodation. It was about a five-minute walk. I ran a tiny bit of it
G when there was no cars and then when a jury – when a car would approach, I would then stop
and talk..." sorry, "... stop and walk, I – and my friend had my key to the accommodation,
she was the one that carried the bag and it just happened to be in her bag and I really didn't
think, when I left this other man, I was like, 'Oh no my keys are in her bag'. So, I had to
buzz all the flats, eventually a flat let me in. I ended up then cutting through to my flat. I
H didn't really know what to do. When I got back to mine I just kind of – I think I started

A crying. I tried knocking on my friend's window, she wasn't answering, she had my key but she wasn't answering, then I panicked and went to a different friend's room, then I just kind of sat there with him for a second and I was crying, I think I – he didn't really say anything, he just kind of said, 'Here we go' and I said, 'What kind of question is that?' and we just kind of sat in silence while I cried for a bit. And then I said I needed to go and find my other friend who I split up with at the club. I was like, 'I need to go and find her' and I had a feeling that she had gotten home and she had, she'd got an Uber home with another one of her friend's, so, she was home and she came up to mine, I was crying and I think I'd texted her to say, 'I think I've been raped.' She came up to mine and she said, 'We need to call the police.' I said, 'Yeah okay' and then we phoned them and the police showed up and obviously told them as much as I could as to what had just happened."

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D And so that was her account when she was asked to say what had happened on the Saturday night. And she was then asked to go back where she'd first met him and, "Where were his hands on you?" and she said, "Like on my breast, so, he kind of got his hand there and was just squeezing quite hard over the clothing. At one point he did kind of dip below my clothing ever so slightly but the majority of it was just over the clothing. He was quite expressive. I wouldn't describe myself as drunk at that point but I had been drinking. I was by myself. I was not wearing enormous amounts of clothing. This was just a random man who was acting as if he knew me but, obviously, he didn't and I basically just continued to walk and he just kind of followed along because he was just wrapped around me. I was just trying to kind of walk home and I just tried to pretend he wasn't really there and it wasn't really happening. I kind of tried to carry on normal as possible, just carry on walking home. One of his hands was kind of on my left breast, obviously his arm would have been around that way. Honestly speaking I don't know where his left hand was and I didn't really notice, it wasn't like there are some like bigger things to be prioritising than one - his left arm, it was nowhere important or noticeable to me. I felt like his left arm was sort of around me. It didn't feel like it was around my waist but I'm not 100 per cent confident, but I know for a fact that his right hand was on my left breast."

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G "Was he doing anything with his head?" "His mouth, well, I don't really know what he was doing with his mouth, it kind of felt like he was trying to kiss my neck, it really hurt. I think he was kind of biting it at some point so maybe he was like sucking at some point." "And he was doing that whilst you're continuing to walk?" "Yes, while we were continuing to walk. I kept saying to him, 'You're going to Cowley, I'm going to Headington' he kept

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saying, 'Yeah, no problem' so he said that quite a lot but he wasn't saying anything to me like wasn't starting a conversation."

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"How did he push you against the door?" "I don't really know, I think I might have sort of turned round to him because he was behind me. I think I sort of turned around to him to say like, 'Okay, goodbye, you're going this way, I'm going this way' and I think, because I kind of turned around, he's just sort of pushed against me. He's kind of used his body to push me as I've turned around when we were like face-to-face; my back was against the door, he was kind of doing what he'd already been doing with his mouth, biting, kissing. I was trying to use my arms to kind of push him off a bit by his shoulders but it wasn't really doing much. I was kind of panicking a bit at this point, I felt quite trapped. He was kissing me on my neck."

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"How many times did you say, 'Get off'?" "I couldn't give you an exact number. I was saying it quite a lot. I was switching between I don't want to do this and get off. I think I'd say at least one of those three every three to five seconds." "Did he respond?" "No, he might have mumbled something but I didn't pick up on it." "Do you think he heard you?" "Yeah. I mean I wasn't exactly speaking quietly but I wasn't yelling but I was close enough for him to hear. I was using the same tone of voice, the same sort of level of loudness, when I had been saying to him, 'You're going to Cowley and you're going to Headington' and he responded then."

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I heard somebody speak to me. It sounded that she was potentially with somebody else or obviously with other people. I felt good because I was kind of against the door and I was panicking and there's no sort of way that I could get myself out of the situation and I was hoping, because it's a public place on a public roundabout, that somebody walking past would say something and intervene so I felt good." "You said that he responded to say you were fine?" "Yeah." "And did you say anything?" "No." "And you obviously said you walked away like obviously heading addition – the direction of home, with sort of a fast pace?" "Yeah." "What were you thinking? Was it - it was or wasn't a big deal?" "It felt like a big deal in the sense that like I didn't really feel anything. I had no feelings towards him. I just felt numb. My head and my thoughts were look, 'Oh my god that was a sexual assault'. I felt a lot. I panicked."

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"When you got to the junction..." this is the one at Morrell Avenue, "... how long had you been walking for?" "Less than five minutes. I wouldn't have said less than five minutes but it wouldn't have been over 10. I figured he had just gone. I turned around and saw him, it was similar to the first time. He turned – I turned to walk off and he's

A wrapped around me again. I was more concerned that he'd walk so far, kind of past Cowley to come to Headington; he had no reason to be there. It's maybe a three-minute walk from there to the churchyard, three or four minutes, you get to this entrance to the church and then he basically strutters off the path, I'm facing this block and he kind of pushed me against the

B block; he'd taken me off the path onto the block; he started walking that way which obviously trying to drag me that way because he's kind of attached to me. We got to this square of concrete which is no bigger than a chair coming up to hip height and he pushed the back of my neck down so I'm kind of bent right over the block, my arms are against the block. I think he pushed me down twice, he applied a bit of pressure and I kind of went with

C him. I didn't want anything to sort of get a bit violent or anything if I fought back. He put his hand down on my neck and then his hand was inside of me. I don't know which hand, I couldn't really tell whether it was his left or right hand but it was inside of me, one of the two, and it felt like he had one hand on his penis as well. It felt like he was using a hand to rub him sort of against my private areas."

D "Did he keep a hand on your neck?" "No, he didn't keep a hand on my neck. I want to say he took my skirts and my tights down at the same time because all of a sudden it went from, all of a sudden feeling like obviously quite clothed to all of a sudden being fully exposed and he took my underwear with it, so, all three garments came down. He pulled

E them down to sort of above my knee, just up to my knee and then he was going to sort of insert his penis into me, he was rubbing it against the entrance of my vagina as if he was about to put it in; but I got a boost of adrenaline and I pushed back on him and he came back a bit off me, so, I was kind of repeating the same phrases, 'I don't want to do this, get off me' that didn't work, I did say to him, I like sort of changed how I was responding and I said to

F him, because obviously he had his hand inside of me, [REDACTED]

[REDACTED]

[REDACTED]

G "How do you know he had a hand on his penis?" "I didn't actually see it. It felt, by the way his penis was being rubbed against me, it felt like it was being controlled by a hand, he was using his hand to control the way he was rubbing his penis." "How do you know it was a penis?" "Because it feels like a, not in a classic sort of way normal penis, it had kind of like the outie bit and then the sort of like flat bit down, if that make's sent. I was sort of like the tip of it came out and then the rest of it was more down and flat. I felt like he might not have been fully erect at that point."

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“Where was his rubbing his penis?” “Well, the sort of entrance to my bum and also the entrance to my vagina. He was being slightly forceful; sort of the area of my bum and I panicked because I thought he might put it in there and then he drops down to the entrance to my vagina and he was kind of doing whatever there. Either way it wasn’t fully erect, it

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wasn’t able to slip in easily. He was moving the tip of it like up and down.” “Did it go into your vagina or your bum?” “Not really, it slipped into my vagina like maybe the tip of it before he removed it himself. He was not fully erect. It would have made it more difficult for him to get it in. But then I also had that split second of calmness and like I sort of disconnected, all of a sudden, I just really didn’t care about anything. It was probably a panic or sort of a defence mechanism; I don’t want to deal with that experience.”

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“How long was he rubbing against you?” “Maybe about a minute, 35 seconds to a minute.” “You said about him having his hand inside you?” “Yeah.” “At the same time?” “No, he had his hand in before and then he was sort of doing whatever with his penis.”

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“Where did he put his hand?” “Into my vagina. He was doing sort of in and out motion, moving his fingers about inside.” “How many fingers?” “I don’t know, it wasn’t painful, didn’t feel good, went on for about 30 to 40 seconds.” “So, he’s had his hand inside you and then he’s been rubbing his penis around and inserted the tip into your vagina?” “Mm” she agreed. “Do you know how many times you said, ‘Get off me’?” again, “I wouldn’t be able to remember.”

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“And then you said you were down on the floor. How did he get you into that position?” “He was just kind of - we’re facing each other now, face-to-face from where I’d spun round; it wasn’t like a shove, it was sort of grabbed my shoulders and then kind of I’ve taken a step back from him and he’s coming as if he’s stepping towards me and he’s basically

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sort of collapsed his body onto mine; it wasn’t really aggressive, it was just slowly. He’s kind of come down on the floor on top of me, pushed me to the floor as well, not a violent shove, he was still standing and then sort of used his body to collapse on top of mine. I’m just on his back, I’ve got nothing on here, I’m still naked from this part down. He takes my tights, skirt, all the way down and then mainly he’s mainly down my right leg down to my

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ankle. He would have just pulled them down. It’s not something I really focused on. I didn’t specifically see how he took them down. My top just stayed on. I had this odd, calm feeling, sort of numb calm. I didn’t feel stressed or upset or angry. I just think I just literally felt nothing. My thoughts were obviously different. My thoughts were thinking this is really bad but my feelings and my emotions in my body were like I don’t care and that sort of like

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numb. I think potentially my brain and my body might have pretty much shut down.”

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“What did you say when you were laying down?” “Just the continued, ‘Get off me’ I know he had his hand in me when I was on the floor. He knelt down between my legs and my legs were kind of up and my knees were up; he was just kind of in between my legs. I don’t really know how they got up. I don’t remember him pushing them up. I think he might have pushed them up, I don’t remember specifically. It might have been like instinct at that point, well, he’s going to get what he wants and like I said it crossed my mind I didn’t really want him to get violent in any way because if he did it would only have ended up worse for me.”

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“And you said he put his hand against you again, where?” “Just into my vagina and then the feeling of what was inside me changed and it went from like being able to feel his fingers then something, I don’t know specifically what it was, it felt different to his fingers but, again, I don’t really know what it was, it just felt different.” “How long were you on the ground for?” “About a minute and a half.” “What made him stop?” “The people walking past made him jump back and that’s when he was like, ‘Quickly stand up and pretend you’re okay, look like you’re okay, quickly stand up and look like you’re okay.’ I tried to get my clothes back on and my skirt did entirely come off and I had to try and put it back on.” “How did he help you?” “I think he kind of pulled it like down a bit and pulled a part that was tucked up and then kind of it fell back into place normally.” “How long after he’d move away from you on the floor did you walk away?” “Maybe about five seconds. I kind of walked off.” “Do you know if he was wearing anything on his penis?” “No.” “Did he cum?” “I don’t think so.” “Did you want that to happen?” “No.” “Would he have known that you didn’t want that to happen?” “Yeah, I said multiple times I didn’t want to do this. He would have known. And when those people walked past, he told me to stand up and look as if I was okay.” “Did you see him expose his penis?” “No, I was faced the other way.” “Were you aware that he has exposed his penis?” “Not until I felt it sort of against me.”

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Now that’s my summary of what she said on the video, ladies and gentlemen. She then appeared in front of us the following day; and first of all, Mr Lucas took her through the photographs that you’ve got in your bundle. I’m not going to do that again. She identified the door in question saying what was happening and how she was trying to put him off. She said, “I did not consent to sexual activity with that man that night.”

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She said she’d been drinking at home and repeated a lot of what she had already said in terms of going out, [REDACTED]

[REDACTED]

A

[REDACTED]
[REDACTED]. I walked down High Street to The Plain. I was happy and smiling and then he – this other man came behind me and wrapped around me. We laughed for about five seconds but he didn't speak much or understand much English. He kept saying, 'Yeah, no problem.' I gave him a false name. When we went past the slipway and I think that was the bit which goes down by the side of Magdalen Bridge leading to the boats..." he said – she said, "... when we went past there, he did try to get me into the slipway and gestured for me to come down. Then we got to the doorway, kissed a bit. I didn't initiate it, it was not consensual, it was forced on me. When a passerby stopped, she was walking in the opposite direction and addressed him not me. I am not confrontational; I wanted to keep walking. I didn't say anything. He did not – I did not tell him to follow me."

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Now, ladies and gentlemen, you are going to be able to see the CCTVs; you are going to be able to see what she said about it and watch the CCTV which may help you in terms of what happened in the doorway, you can't see a great deal about that; what happened walking towards the doorway and also what happened when she left the doorway. You'll be able to look at that; you'll be able to see the manner of her walking; you'll be able to see what she was doing. Please spend a bit of time doing that.

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She said, "He caught up with me at Morrell Avenue. Wrapped around me again. I went down Marston Road as that is the way home. I didn't lead him into the entrance; he steered me into the churchyard. He pushed me to the side into the churchyard, pushed me against the block. I put my phone down to free up my hands to push him off. I didn't use it to call, I was panicking. I didn't know what to do. I didn't want to add more drama to the occasion. It crossed my mind to phone but I didn't have time. On the way down it didn't cross my mind. I left the phone on the brick wall and then we went down on the floor so I was away from the phone." At this point she was being asked about what she had said, I think, to [Person C2], is that right, no? Anyway. "We weren't kissing and fondling. I wasn't grabbing at his penis trying to stimulate him and I did not see him go off to urinate. I had a zip on my skirt. He pulled all three garments down at the same time. I didn't prevent him. I was in shock; I was in panic."

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It was put to her she exposed her bottom to him and asked for sex. She said, "No. I did not take his hand – take his hand and press it on my vagina. I did not ask for £50 for sex."

[REDACTED]
[REDACTED] He blocked me with his body. I couldn't run. Someone came by but I didn't call out, I was trying to get away." It was put to her, "His penis never came out

A of his trousers?” and she said, “It did. I did not repeatedly put my hand – put his hand on my vagina. He pushed me to the ground. He had, I think, one hand on his penis. His penis, when I was on the concrete...” sorry, “... when I was on the concrete block, his penis went in from behind. When it went in from – on the floor, it felt different. I did not think he had

B ejaculated. It ended with the sound of passersby and he said to make it look like I’m okay. I tried to get dressed, I had a problem” and she explained and she agreed that, “I asked him to help me” and that happened, “I didn’t want to walk home half naked. Then I was free to walk off and he said, ‘Thank you’ and when I got back to the lodgings, I said I thought I had been raped, I had been raped.”

C So, that was her account ladies and gentlemen. You then heard from [Person C] and his statement was read out to you and I’ll remind you of part of that. “On 19th November I was asleep in my bedroom in my halls at [School A] where I was a student. At 3.30 to four o’clock in the morning, I woke up because I could hear [Person A2] knocking on the door

D calling my name. She was buzzed into the building by one of my flatmates and I could hear she was crying and sobbing. When I opened the door for a minute or two, she couldn’t say anything at all because she was crying so much.

When she was finally able to talk [Person A2] told me that she had been raped by a man she didn’t know on her way home. She said that when she had first come into contact

E with him, he had pushed her up against the wall. She didn’t go into more detail. She said she felt shaken up about this and continued walking off. She said the male grabbed her again and tried to pin her down; tried to get him off her but he pinned her down again and raped her and she had no control over it.

She said that happened in a churchyard on the Marston Road which is about a 10-minute walk from our halls. [Person A2] said she had marks on her neck from this incident

F but I didn’t feel comfortable seeing them so I told her I didn’t want to look at them. [Person A2] did not tell me any more details about what happened at this time but she said that after the incident she walked back home to our halls. She said she had tried to calling me but I was asleep and I didn’t hear my phone ring so she walked straight in the room. She was

G crying the whole time she was in my room and whilst she was telling me what happened. I kept trying to comfort her and tell her it was going to be okay. I told her that she should call the police and tell them what happened so they could find the guy who did this; but I’m not sure exactly when she did call the police. She stayed a little longer; was in my room for about 20 or 30 minutes. After a while I told her to go home and get some sleep because she

H was tired and had been drinking and I knew she needed some sleep.”

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The next person that we heard from was her friend, [Person B2]. She had gone out with her having had free drinks in her flat. She said [Person A2] was having rum and lemonade, as far as she was (inaudible). “We were planning to go to Oxford town centre and we got the X3 and went to the Spirit Bar. We went in. It was initially quite quiet.

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[Person A2] saw a guy across the bar who she was interested in. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] After a few hours in the bar, I got an Uber home. [Person A2] had left the bar by this point, although I didn’t see who she had left with, I didn’t see her leave and she had not told me she was going. I messaged her on Snapchat and she’s replied that she was on her way home. That was about 2.30.

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I got back a bit after three o’clock, went to my room, turned my phone off and then I heard knocking on the window outside. I saw that [Person A2] had messaged me. She said something along the lines, ‘Can you come up I think I was raped’ so I replied saying I was coming up and I went up to see her. I went into her room, she was crying and shaking. She had tears running down her face. She told me that she had been raped, that a man had started kissing her by Sainsbury’s, pushed her against the block and raped her and then he’d left.

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[Person A2] told me that she didn’t know what to do. She didn’t know if she wanted to call the police or not. I told her she should call the police. I called them using my phone and told them what [Person A2] had told me. [Person A2] didn’t tell me too much detail at that point and I didn’t really want to ask her what had happened.

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The police told me on the phone that they would be there as soon as possible. When the police came, I stayed with [Person A2] and she – they asked her what had happened and she gave her account. She said a random guy came up to her and started talking to her in broken English. He told [Person A2] he lived in Cowley and carried on walking when the man pushed her into a door near a bridge and Sainsbury’s, started kissing her, [Person A2]

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said she was trying to push him away; he only stopped kissing her when a passerby came passed, asked her if she was okay; she then slipped out from under him and carried on walking home. As she got to where the church was on Marston Road, she realised the man had been following her, I can’t remember how exactly she said it happened but the man

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pulled her into the churchyard, pushed her up against a cement block, pulled down her skirt, underwear and her tights and said he fully pulled the tights and underwear off; then she said a

A group of passersby came past and she said that she was pushed onto the ground, he put his fingers inside her vagina; she wasn't sure if he put his penis inside her. He didn't ejaculate. He then stopped and left in the direction of Cowley and [Person A2] had walked down Marston Road back towards the accommodation.

B So that was the account, ladies and gentlemen, of [Person C] and [Person B]. What did you hear next? Well, the officer in the case, she provided us with a timeline which was a very – of assistance when they were looking at those CCTV recordings. Like I say, use those, see what you can see on them and remember, ladies and gentlemen, it's what you see on them, what you possibly hear on them, that counts; people can make suggestions to you, but it's what you see and hear that counts.

C We went through the interview, I told you I'm not going to go through it all with you but we were specifically directed to page 10 where she was asked, "How were you touching her..." he was asked, "How were you touching her vagina?" and he said, "She was grabbing my hand towards her vagina." "Did you touch her vagina?" "Yes. She put my hand, it wasn't me, she put my hand on her vagina." "Describe where your hands touched her vagina?" "She was pulling my hand to put it inside or on the top of her but I'm aware of - that my hand was touching her vagina. I don't know if it went inside her vagina or not." "Surely you would know if your hand and fingers went inside her vagina?" "I was so drunk." And then going forward, I think, to page 17, "My penis did not go inside her." "Did your fingers enter her vagina?" "She was pulling my hand towards her vagina." "Did you physically move your own hand into her vagina?" "No, she was grabbing my hand and forcing it into – inserting, forcing it into her vagina." "Do you deny any sexual intercourse, your penis going into her vagina?" "Never and an examination will tell you that."

E Finally, from this interview, very last page, "I did not have sex with her, it was her grabbing my hand towards her vagina." "From any intimate swabs that have been obtained from her, is it likely to find your DNA inside her vagina?" "No, I did not enter, I did not put my penis inside of her, she asked me" and clearly, ladies and gentlemen, he never mentions ejaculating in his underwear or urinating and then subsequently putting fingers into the vagina at that point.

G Where do we go from there, ladies and gentlemen? Well, the forensic scientist. I will be as clear as I can with this. I apologise that that was done over a link which was not very clear. The next time somebody asks me if I will hear a forensic scientist over the link the answer is going to be no; but I'm afraid that is for the future, we've got to deal with what we have got.

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She told you about what she does and her qualifications, there's no dispute that she is capable of giving expert evidence in the area with which we are concerned. She told us about the swabs that had been provided from her by [Person A] and she was provided with DNA samples, a physical sample from [Person A], a copy from the defendant, the – first of all the neck, well, there's no real dispute about the neck because he accepts that he kissed the neck, so, it was bound to have what the forensic scientist found which was a full profile of his DNA upon it.

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But now we move on to the vaginal swabs, she examined a number of swabs and a number of them had semen on them and she found a complete profile of the defendant from low vaginal endocervical swabs and I think from a high vagina swab. What does that mean? Well, she is able to form an opinion obviously. She considers two alternatives. Whether the semen DNA originates from the defendant or could it have originated from a random other unrelated person? And it is one billion times more likely that what she found originates from the defendant than from a random other unrelated party.

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And she said she found semen at the highest points in the vagina in the high vaginal swab and the endocervical swab and also on the lower vagina swabs. And in her opinion the quantity and the distribution of the semen could be explained if there had been penile intercourse and ejaculation inside the vagina. And she considered whether it was more likely that he had penetrated her with his penis and fingers or, alternatively, he did not do this but he touched his underwear into which he had ejaculated, then urinated and the transfer was via his fingers. And she said the first proposition, in her view, was more likely to be true; the second proposition was only possible if there had been digital preparation – penetration, as described. It could be accounted for from semen on his hands or fingers, touching semen-stained underwear and being transferred to his hands and then if there had been digital penetration, some transfer could have occurred, but she had a low expectation of detecting the quantity of semen which she observed if the latter proposition was right and so she says there is strong support for the first proposition.

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On cross-examination she was asked about this and she said it possibly could be explained by his account. If it could be completely ruled out then it would be stronger for proposition 1; but she had had to make, as far as proposition 2 to be possible, she had had to make assumptions to maximise the possibility of proposition 2 happening.

H

[REDACTED]

[REDACTED]

[REDACTED]

A

[REDACTED]

B

[REDACTED]

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Penile swabs, well, there's no traces of DNA on the penile swabs from another man or indeed from [Person A3]. And that could be explained by no penile penetration; but it's also possible that if there had been DNA from [Person A3] on the defendant's penis, then it could have been lost either by washing or it had been transferred to the underwear and was no longer on the penis and obviously, ladies and gentlemen, the passage of time is going to play an important part of this. But if they had been able to examine the underwear of both parties, it might have been possible to get more information from it. However, she said that where -

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this wouldn't be done routinely because we have vaginal swabs with semen on it and, of course, with the passage of time it might have made it less helpful. The saliva, again, matched the defendant's profile but there was a trace amount of semen on the neck swabs, again, low level, mixed DNA profile. And that was the evidence of the forensic scientist, ladies and gentlemen.

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Now, we moved on to the defence case and we heard from the defendant. He was born in Kuwait. He came to the United Kingdom in 2022 seeking asylum. He came here in a boat from France. He has no convictions and he was not arrested or in trouble in Kuwait. You know, ladies and gentlemen, what he said about his life in Kuwait. He said he was known as a Bedoon, that is somebody who is without, meaning, effectively, without papers or, if you like, almost without any accepted existence; deprived of all rights, not allowed to work, no papers, not allowed to go to school. He had family in Kuwait; he had a wife. He came to the UK in order to get formal papers. He was living in London and he was in Oxford, he was sorting out his papers and then going back to London.

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He was told that, by friends, that the police wanted to speak to him so he went to St Aldates' Police Station, waited a while there, having two cigarettes; then he saw the policeman outside, walked towards him and said, "I thought the police were looking for me." Then he was taken to the police station, interviewed, answered the questions and provided samples.

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He said he told the truth in interview but he was nervous, he was terrified about the whole situation and he was, that night, on his way to Cowley and he met up with this lady,

A introduced themselves, he said, “Hi” and then they were walking close together with their arms around each other, talk about where he’d come from, where he was living and he was able to answer a few questions. And he asked her name and she said, “In Kuwait they have a lot of money” and she said she was 25 and she went to the junction of Cowley and he went with her. “We had started to kiss, we reached the door, continued kissing on the neck, lips and I remember somebody speaking to us and she said, ‘It’s my friend’ and then said to me, ‘I walk, you follow me’” again, ladies and gentlemen watch the CCTV. “I was in the doorway, I don’t remember someone saying anything. I had to stay a little bit back. We were intimate. I thought she wanted to finish what we had started. I caught up not far away. She had been touching my penis over my clothes and I caught up with her close to the traffic lights and we continued walking and the touching of the penis started while we were walking. There was mutual kissing and hugging. I don’t remember how we got to the graveyard. She asked me to give her money; she said it twice, in the centre and again at the graveyard.

D I didn’t know there was a park, I don’t know that area. I remember the block, she put her hand on the block and I was – and she was doing seductive and provocative movements. She took off her clothes, lifted up her skirt, took down her tights and pants. I don’t know if she was wearing pants but she started doing seductive moves and said, ‘Make love to me’ and, ‘Give me £50’ and I refused, I said, ‘I haven’t any money’ and she stimulated my penis which caused sperm to go into my trousers. I went and urinated and sperm got on my hand and she put my hand onto her vagina. That was after I had urinated when we’re still standing beside the block and I urinated before she put my hand into her vagina. We didn’t stay for long. I didn’t put my penis into her vagina. We were never lying on the ground. I did not say anything except bye, bye. I didn’t touch her breast; it was consensual, no objections. She put it inside. I was not rubbing my penis against her backside and vagina. My penis never came out of my tracksuit bottoms at any stage.

E Turning to the CCTV in the city centre, I did approach two women, I said, ‘Have a good day’ I’d seen them before in the bar. In other clips there were two ladies, I knew them. I also knew a disabled guy from the hotel I was talking to. I don’t know what was going on in the last clip in the George Street. It’s right I entered the country illegally, I’ve not got asylum yet, I wasn’t drunk, I was relaxed. I don’t know if my fingers went inside but I didn’t insert it, she is the one who started it, she seduced me. She inserted one or two fingers. I don’t know if it was fully inserted or not.

G In the interview I was very nervous, I hadn’t had a smoke and they refused to give me a break for a cigarette. I was more relaxed than drunk that night. I ejaculated inside my

A pants. I didn't say that in interview, they'd already had my boxers. I didn't reach her. I was not trying to find single women for sex. She asked me to follow her. I didn't go to Cowley because we met kissing – because we met and we were kissing and I didn't intend to have sex with her. It was casual kissing and what happened was consensual. I didn't grab her breasts,
B I didn't push her in the doorway, I didn't bite her. She said in the doorway, 'This is my friend' then said to me, 'Follow me.'

Before she left, she asked for money, I didn't have money. I thought she was joking, I didn't think she was a prostitute. She asked me to follow her. I thought she could be my girlfriend. I wanted to finish kissing and hugging and I wanted her to be my friend. I didn't
C push her into a graveyard, I didn't put my fingers into her vagina and I didn't rape her. I was 100 per cent sure I hadn't taken my penis out. I am the victim here, that's why I went to the police. She asked for money for sex. I didn't go to Cowley because the restaurant would have been shut so I went back to Oxford to wait for the morning to come." Again, ladies and gentlemen, you've got CCTV. "When she left me, she was quite happy. I am not a sexual
D predator. I did not follow and rape her."

Well, ladies and gentlemen, that is the summary of the evidence and very shortly you are going to retire to discuss that evidence and come to your verdicts. Now, how do you do that? Well, how you behave in your jury is, within reason obviously, a matter entirely for
E you. But there are 12 of you and when you get a group of people, 12 people, more, less, you tend to find that some of them will have let's say slightly stronger personalities than others; and if you're not careful, when you have discussions, the persons with stronger personalities will tend to dominate the conversation and shout down, sometimes, the people with not as strong personalities. Well, that mustn't happen, because you are each members of this 12-
F person jury and you will each have your own opinions and you are each entitled to express those opinions.

How can we be sure that that happens? One way of doing it is to elect somebody, let's call them the jury foreman, it's been done for years, ladies and gentlemen, you don't have to do this but you can elect somebody, it doesn't matter who it is, to chair your
G discussions, to make sure that everybody who wants to say something does say something; and what they have to say is listened to and respected; also, to make sure you don't go off at a tangent and start discussing irrelevant matters; also, to make sure you follow the legal directions that I've given you. As I say, you don't have to do that but it may be convenient to have someone directing your discussions.
H

A

What are you discussing? All the evidence in the case and take with you, ladies and gentlemen, all the documents I have or rather you have been given. You will be able to view those CCTVs. Please do so. You have got plenty of time, don't worry about the passage of time. I've told you I'm going to ask you to reach verdicts. What verdicts do you - do I

B

require from you? The short answer is, ladies and gentlemen, unanimous verdicts on every count. I want all 12 of you to be in agreement on every count on in this indictment. It may take time, that is what I am requiring. Now, is there anything further from anybody please?

MR DU FEU: Not from me your Honour.

MR LUCAS: No thank you your Honour.

C

JUDGE DALY: Very well, I'm going to ask the jury bailiffs to be sworn and then they will take you up to your room where you can consider your verdicts.

(Bailiff sworn)

(The jury retired to consider its verdict)

D

JUDGE DALY: Yes, no verdict between one and two and I will not give a majority direction unless there is a specific note from the jury today. Mr Lucas does that cause a difficulty for you, I know you're doing something next week?

MR LUCAS: Your Honour I'll address your Honour later on today when we see what's going on.

E

JUDGE DALY: Right. We have a note.

MR LUCAS: Already.

JUDGE DALY: Just a short note. "May we have a copy of the forensic report?" No. They haven't actually seen the forensic report.

MR LUCAS: As opposed to any other witness statement, of course not.

F

JUDGE DALY: Could we have them back in again please?

(Judge Daly conferred with The Court Clerk)

(The jury entered court)

G

JUDGE DALY: Ladies and gentlemen, I've had a short note from you and it is this, "May we have a copy of the forensic report?" I could give you a very short answer, no, but I think you want a bit more of an explanation. The forensic scientist is an expert witness but she is a witness nonetheless. As you know, witnesses come to this court having already made statements and they give their evidence in the witness box or over the link or wherever and you don't get a copy of what they said. And the forensic scientist is in the same position.

H

Her report, and this is basically a witness statement and you don't get copies of that.

A Also, as you will appreciate, the forensic scientist's report, our forensic scientist goes on for quite a long way and what happens is counsel are – be able to see what she has say and extract from it what they wish to extract. The defence can extract what they wish to extract; the prosecution can extract what they wish to extract. If you had the whole lot of it, there
B would be a vast amount for you to go through and it's not been explained by the forensic scientist. So, you stick with what we've got, stick with what she said and what I've reminded you of and we have to go on that basis, so, you don't get that. The only ones you get if, for some reason lost in the midst of time, you do get a copy of the interview; but otherwise, I'm afraid you've just got to do your best to remember what she said. Thank you very much.

C (The jury retired to consider its verdict)
JUDGE DALY: Yes, thank you both. Can we call on the next case?

(Short adjournment)

(Hearing moved to courtroom 2)

(The court reconvened in the absence of the jury)
D JUDGE DALY: We have a note.

MR LUCAS: Thank you.

(Counsel conferred)

MR DU FEU: I'm sure your Honour doesn't need my help on that.

E MR LUCAS: Or mine.

JUDGE DALY: Yes, can we have the jury in please? Can I have the note please?

(The jury entered court)

JUDGE DALY: Ladies and gentlemen, I have a note from you, well, several notes really, "Please can we have a transcript of the claimant's interview and cross-examination or the
F judge's summary which was read out at the end and can we have a transcript of the defendant's statement on the stand?" or witness box as we call it in this country. So, "Please can we have a transcript of the claimant's interview?" The short answer is no. The reason is this. The interview with the police officers, which you saw on the screen, is an alternative to her giving that evidence in the witness box; and if she gave evidence in the witness box, you
G would not have a copy of that evidence. So, you don't get a copy of the transcript of that evidence.

Similarly, cross-examination you don't get a transcript of that, although I will tell you now, no transcript exists. What is said in the witness box is, in fact, recorded but no transcript is prepared and even I do not get to see a transcript of evidence from the witness
H box. What I do is take a note and repeat to you what I have got in my note. So, once again,

A “Can we have a transcript of the defendant’s statement on the stand?” no, because no transcript exists. As I say, even I don’t have one, I simply have to refer to notes.

B As regard to the judge’s summary, which was read out at the end, well, that’s just reading out bits of what I have selected from the transcript, so, I’m afraid, ladies and gentlemen, it’s a case of you using your memories and I know it’s unsatisfactory in many respects. You only ever get the transcripts if there’s an appeal or something like that and then - it’s a different company, in fact, that does the transcripts and we have to send away to that company to get the transcripts, we don’t get the automatically. Sorry about that. We are in court 2, by the way, just so - just in case you thought it had all changed, we were in court 3 but I’m in court 3 doing – court 2 doing lots of things this afternoon. So, if you’d like to go back and continue your deliberations please.

(The jury retired to consider its verdict)

(Short adjournment)

(The court reconvened in the presence of the jury)

D JUDGE DALY: Ladies and gentlemen, 20 to five, Friday afternoon. Normally I would have sent you home a little bit earlier but I’ve been rather busy this afternoon and haven’t been able to bring you down. But I’m now going to ask you to stop your deliberations over the weekend and, as I said to you before, the best thing to do is just to stop completely, leave the case behind, pick it up again 10 o’clock Monday morning when I will then re-swear the jury bailiffs and let you go back upstairs to continue your deliberations. So, have a pleasant weekend, I’ve got a four-year-old’s birthday party to go to, so, if I’m looking at little haggard on Monday you know why. Anyway, have a nice weekend, see you then.

(The jury left court)

F JUDGE DALY: 10 o’clock and at court 3? Court 3, 10 o’clock.

ADJOURNED AT 16.39 UNTIL MONDAY, 20th MAY 2024

G *eScribers hereby certify that the above is an accurate and complete record of the proceedings or part thereof having used our best skill and ability in its production.*

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