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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 750101

MELVIN LANDER BARNETT

Appellant

v.

COMMONWEALTH OF VIRGINIA

Appellee

APPENDIX

WILLIAM P. ROBINSON, JR.
MASON, MOORE & ROBINSON, LTD.
419 Law Building
Norfolk, Virginia

Counsel for Appellant

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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK

August 7, 1974
DATE

The Grand Jury charges that: On or about June 9, 1974, in the City of Norfolk, MELVIN LANDER BARNETT did abduct Carolyn Louise Gwin with intent to defile.

Va. Code Section 18.1-38

VIRGINIA: IN THE CIRCUIT OF THE CITY OF NORFOLK

August 7, 1974
DATE

The Grand Jury charges that: On or about June 9, 1974, in the City of Norfolk, MELVIN LANDER BARNETT did rape Carolyn Louise Gwin.

Va. Code Section 18.1-44

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NORFOLK, on the 30th day of August, in the year 1974.

COMMONWEALTH OF VIRGINIA	)	
	)	
	)	
vs.	)	DOCKET #F74-2312
	)	
	)	
MELVIN LANDER BARNETT	)	

Attorney for the Commonwealth: Lawrence C. Lawless

Attorney for the accused: Robert L. Bohannon
(X) Of accused's own choosing

FELONY TRIAL ORDER

This day came the Attorney for the Commonwealth and the attorney for the accused, as aforesaid, and the accused, who stands indicted for Rape on Indictment Numbered ONE, and for Abduction on Indictment Numbered TWO, was led to the bar in the custody of the Sheriff of the City of Norfolk.

Thereupon the accused was duly arraigned and after private consultation with and being advised by his counsel, tendered in person his plea of Not Guilty to each aforesaid Indictment Numbered ONE and TWO, and after having been first advised by his counsel and by the Court of his right to trial by jury, the accused knowingly and voluntarily waived trial by jury, and with the concurrence of the Court and of the Attorney for the Commonwealth, entered of record, the Court proceeded to hear and determine the cases without the intervention of a jury, as provided by law. Having heard part of

the evidence introduced on behalf of the Commonwealth, the defendant by counsel, objected to admissibility of evidence, which said objection having been fully heard and determined by the Court, is overruled, and exception noted. Then, having heard all the evidence presented on behalf of the Commonwealth , the defendant by counsel, moved the Court to strike the evidence of the Commonwealth, which said motion having been fully heard and determined by the Court, is overruled, and exception noted. Whereupon, having heard all the evidence, the defendant by counsel, renewed a motion to strike the evidence of the Commonwealth as being contrary to law and evidence, which motion, having been fully heard and argued by counsel, is overruled, and exception noted. Thereupon, having heard all the evidence and argument of counsel, the Court doth find the accused Guilty of Rape as charged in Indictment Numbered ONE, and Guilty of Abduction as charged in Indictment Numbered TWO.

Thereupon, the defendant by counsel, moved the Court for a new trial, and to set aside the verdict as being contrary to law and evidence, which motion having been fully heard and determined by the Court, is overruled and exception noted. Whereupon, on motion of the defendant by counsel, the whole matter is referred to the Probation Officer of this Court for a Pre-Sentence Report, the hearing on which will be held on the 27th day of September, 1974.

The Court certifies that at all times during the trial of these cases the defendant was personally present

and effectively represented the defendant. A court reporter recorded the evidence and incidents of this trial.

And the defendant, Melvin Lander Barnett, was remanded to jail.

(Court reporter - C. A. Becknell)

Linwood B. Tabb, Judge

NOTICE OF APPEAL

The defendant hereby gives notice of appeal in the above cause, and states that he will apply to the Supreme Court of Appeals of Virginia for a writ of error.

MELVIN LANDER BARNETT

By _____
Of Counsel

HERBERT & BOHANNON
402 Plaza One
Norfolk, Virginia 23510

ASSIGNMENTS OF ERROR

The defendant hereby assigns the following errors of the Circuit Court of the City of Norfolk, Virginia, to-wit:

1. The Court erred in overruling the defendant's objection to the introduction of any and all medical evidence pertaining to the physical condition of the prosecutrix, in particular, that evidence commonly referred to as a "rape kit".

2. The Court erred in failing to sustain the defendant's motion to strike the Commonwealth's evidence upon the ground that there was not sufficient evidence to sustain a conviction.

3. The Court erred in failing to sustain the defendant's motion to set aside the findings and sentence of the Court upon the ground that there was not sufficient evidence to support the conviction.

4. The Court erred in failing to grant defendant's motion for a new trial.

MELVIN LANDER BARNETT

By _____
Of Counsel

HERBERT & BOHANNON
402 Plaza One
Norfolk, Virginia 23510

CERTIFICATE OF MAILING

I hereby certify that on the 23rd day of October, 1974, a copy of the foregoing Notice of Appeal and Assignments of Error was mailed to Lawrence C. Lawless, Esquire, Assistant Commonwealth Attorney, 800 East City Hall Avenue, Norfolk, Virginia 23510.

_____
Robert L. Bohannon

CIRCUIT COURT
Filed 10-23-74
BY: _____ D.C.

1 THE COURT: All right, sir.
2 The Doctor, may remain in
3 the Courtroom.
4 Proceed, gentlemen.
5
6 -----o0o-----
7
8 CAROLYN LOUISE GWIN, witness, appearing on behalf
9 of the Commonwealth, having been first duly sworn, was exam-
10 ined and testified as follows:
11 DIRECT EXAMINATION
12 EXAMINED BY MR. LAWLESS:
13 Q State your name and age, please?
14 A Carolyn Louise Gwin, I'm 17.
15 Q You're 17 years old, now?
16 A Yes, sir.
17 Q And, were you 17 years old on the June 9,
18 1974?
19 A Yes, sir.
20 THE COURT: Would you spell your
21 last name for the record, please?
22 A G-w-i-n.
23 THE COURT: Thank you.
24 BY MR. LAWLESS:
25 Q Are you, married?

1 A Yes, I am.
2 Q What does your husband do, for a living?
3 A He's in the Service, the Army.
4 Q Your husband, is in the Army?
5 A Yes, sir.
6 Q Were you married on June 9, 1974?
7 A Yes, sir.
8 Q And were you and your husband, living in
9 Norfolk?
10 A Yes, sir.
11 Q Where, were you living?
12 A On Lafayette Boulevard.
13 Q And, is Lafayette Boulevard in the City
14 of Norfolk?
15 A Yes, sir.
16 Q All right.
17 Now, I direct your attention to the
18 evening hours of June 9, 1974, and were you and your husband
19 together?
20 A Yes, sir.
21 Q At approximately 11:00 o'clock P.M. on
22 that evening, where were you?
23 A We were in Fairmont Park, headed towards
24 my - we were going, to my mother-in-law's house.
25 Q And, who was with you?

1 A Lin, my husband.
2 Q Your husband, was with you?
3 A Yes, sir.
4 Q All right.
5 Where had you been, immediately prior to
6 going to your mother-in-law's house?
7 A My home.
8 Q And was your husband, Lin, with you?
9 A Yes, sir.
10 Q And what, if anything, did you have with
11 you?
12 A Our bicycles, and we were walking them.
13 Q You and your husband, were walking your
14 bicycles?
15 A Yes, sir.
16 Q And, where were you going with your
17 bicycles?
18 A We were taking them home, to my mother-
19 in-law's.
20 Q All right.
21 Now, did anything unusual occur while you
22 and your husband were walking your bicycles from your house
23 to your mother-in-law's house?
24 A Yes, sir.
25 Q Tell us, if you will, what happened?

1 A We were walking down Argonne Avenue, and
2 a car pulled up.
3 Q What color, was that car?
4 A I think, the color was - it looked, like
5 a tan colored car.
6 Q How many people, were in that car?
7 A One.
8 Q Black, or white?
9 A Dark-skinned; black.
10 Q And what occurred, at that point?
11 A He asked "where some street was", and
12 Lin said "he didn't know where it was and he couldn't help
13 him".
14 And then, he just drove off.
15 Q How long, did that encounter last?
16 A Just, a minute.
17 Q All right.
18 And what did you and your husband do, at
19 that point?
20 A We continued walking, and then we got to
21 the corner.
22 Q What street were you on, then?
23 A Pershing Avenue.
24 Q Pershing Avenue?
25 A Yes, sir.

1 Q Were you still, walking towards your
2 mother-in-law's house?
3 A Yes, sir.
4 Q What occurred, at that point?
5 A It just came - that car, pulled back up.
6 Q And how many people were in that car, at
7 that time?
8 A The same person, was in the car.
9 Q Explain, where the car pulled up?
10 A On the lefthand side, and next to the
11 curb.
12 Q And how far away from that automobile,
13 were you and your husband?
14 A About, that far (indicating with hands).
15 THE COURT: How far, was that?
16 A (indicating with hands) I'd
17 say, about that far.
18 THE COURT: I'd estimate that to
19 be about a foot, gentlemen.
20 BY MR. LAWLESS:
21 Q Could you have reached out, and touched
22 that car?
23 A Yes, sir.
24 Q And, there was still only one person in
25 that car?

1 A Yes, sir.
2 Q All right.
3 And, was it the same person that was in
4 the car earlier?
5 A Yes, sir.
6 Q Explain the lighting conditions on the
7 street, as they appeared at that point?
8 A There was lots of light, on that corner.
9 Q And how far was that car, from the cor-
10 ner?
11 A Not quite, half way.
12 Q All right.
13 Was there any conversation between the
14 person in the car and your husband, at that point, and you?
15 A Yes, sir.
16 Q What, did he say?
17 A He asked, "where we were going".
18 Q And, what else did he say?
19 A He said "get in the car, or I'll shoot".
20 Q When he said "get in the car, or I'll
21 shoot", did you hear a noise, or anything?
22 A No; I just started to walk away, and then
23 when I started to walk away, I heard a "click".
24 Q And then what happened, when you heard a
25 "click"; what did you do, then?

1 A Well, I stopped.
2 Q All right.
3 What happened, then?
4 A He reached over in the back of the car
5 and unlocked the back door, and then I got into the back.
6 Q What did your husband do, at that point?
7 A He, rode away.
8 Q Why, did you get into the car?
9 A Because, I didn't have any other choice.
10 Q All right.
11 And this location, where you were made to
12 get into the car; was that, in the City of Norfolk?
13 A Yes, sir.
14 Q After you got into the car, what happened
15 then?
16 A I - the car, moved.
17 Q And, who was driving it?
18 A The same person, was.
19 Q The same person?
20 A Yes, sir.
21 Q All right.
22 And, where were you driven?
23 A To Verdun Avenue.
24 Q How far was that, from there you got into
25 the car?

1 A Two blocks.
2 Q Do you recall what direction, you were
3 then taken?
4 A Yes, sir.
5 Q Explain that, please?
6 A He went around the corner, left down Lens
7 Avenue; and then he took a right on Cromwell, to Verdun.
8 Q What time of night, was that?
9 A After, 11:00 o'clock.
10 Q And, was that a residential area?
11 A Yes, sir.
12 Q Where, did the car stop?
13 A On Verdun Avenue.
14 Q When the car stopped, what happened then?
15 A He, got in the back seat.
16 Q After he got in the back seat, did he put
17 his hands on you?
18 A Yes, sir; he pushed me, down.
19 Q The man pushed you down, in the back seat?
20 A Yes, sir; and, he held my wrists.
21 Q And, what occurred then?
22 A (pause) First, he told me to "take off
23 my panties" and I said "no".
24 Q What occurred, then?
25 A I - he, ripped them.

1 Q All right.
2 What happened, then; after he ripped your
3 pants, what happened then?
4 A He raped me.
5 Q And did you, as a matter of fact, go to
6 the Hospital?
7 A Yes, sir.
8 Q Were any tests made, or anything?
9 A Yes, sir.
10 Q What?
11 A They took a test, there.
12 Q All right.
13 Otherwise, did you sustain any physical
14 injuries?
15 A No, sir.
16 Q Was force, used?
17 A Yes, sir.
18 Q Would you explain to us, what force was
19 used?
20 A Well, with his free hand around my neck,
21 he held me down; and I tried to get his hand from around my
22 neck, but he kept holding me down with his hand around my
23 throat area.
24 Q Did he have - did he apply any pressure,
25 when he had his hand around your neck?

1 A Yes, sir.
2 Q All right.
3 A And after that, he forced himself on me
4 sexually, and raped me.
5 Q Well, that's a legal conclusion.
6 But, did there come a time when you left
7 the automobile?
8 A Yes, sir.
9 Q Explain the circumstances, that currounded
10 that?
11 A He told me to "put my pants on, and get
12 out".
13 Q After he told you to "put your pants on
14 and get out", what happened then?
15 A I got out.
16 Q What did you do, after you got out of the
17 automobile?
18 A I walked down to my mother-in-law's
19 house, and by that time, the police were coming.
20 Q What kind of police - was the police car,
21 a marked unit; was it the Detective Bureau, or was it a
22 squad car?
23 A It was just a police car, a regular police
24 car.
25 Q And then, did the police take you some

1 place?

2 A Yes, sir.

3 Q Where, were you taken?

4 A To DePaul Hospital.

5 Q And, were you treated by a Doctor there?

6 A Yes, sir.

7 Q Do you see that Doctor here, in this

8 Courtroom?

9 A (looking around Courtroom) I don't recog-

10 nize him.

11 Q You don't see him, here?

12 A I don't remember him, I was scared.

13 Q Did you, report this to the police?

14 A Lin, did.

15 Q And Lin, is your husband?

16 A Yes, sir.

17 Q Did there come a time later on, when you

18 were interviewed by Officer Brownlie, who is seated to my

19 right?

20 A Yes, sir.

21 Q And do you remember how long it was after

22 the incident of June 9th, that you talked to him?

23 A It was the following night, after I had

24 been sent to the Hospital.

25 Q And the police had started an investiga-

1 tion, at that point?

2 A Yes, sir.

3 Q Did there come a time when you were

4 shown several photographs, to see if you could identify the

5 person who had ---

6 A I was shown several photographs; yes,

7 sir.

8 (Mr. Lawless showed group of

9 photographs to Mr. Bohannon, and

10 they conferred.)

11 MR. LAWLESS: Your Honor, I would

12 ask that this series of photo-

13 graphs, and there are 13 here, be

14 marked as a group, as C-1.

15 THE COURT: Marked C-1, for the

16 purpose of identification.

17 BY MR. LAWLESS:

18 Q (handing photographs to witness) I show

19 you C-1, which is composed of a group of 13 Poloroid photo-

20 graphs; I ask you to examine those, if you will, and tell us

21 whether or not you have ever seen them before?

22 A (looking at each photograph in turn, while

23 Mr. Bohannon looked on at witness stand) Yes, sir.

24 Q You have seen those photographs, before

25 today?

1 A Yes, sir.
2 Q Can you tell us, who showed them to you?
3 A Detective Brownlie.
4 Q And from those 13 photographs, were you
5 able to select one?
6 A Yes, sir.
7 Q Out of those 13 photographs that were
8 shown to you, you picked out one?
9 A Yes, sir.
10 Q Do you know which one of those photo-
11 graphs - (handing pencil to witness) take this led pencil,
12 and write your name or else put your initials for Carolyn
13 Louise Gwin, on the back of that photograph?
14 A All right (marking, on back of one photo-
15 graph).
16 Q That photograph on top there, now; is
17 that, the one you selected?
18 A Yes, sir.
19 Q Do you see the man in this Courtroom,
20 who assaulted you when these events occurred on the evening
21 of June 9, 1974?
22 A Yes, sir.
23 Q Would you point to him, please?
24 A That's him, over there (pointing).
25 MR. LAWLESS: Let the record show,

1 that the witness pointed to the
2 defendant.
3 BY MR. LAWLESS:
4 Q Is there any doubt in your mind, whatso-
5 ever?
6 A No, sir.
7 MR. LAWLESS: Answer Mr. Bohan-
8 hon's questions, if you will.
9
10 CROSS EXAMINATION
11 EXAMINED BY MR. BOHANNON:
12 Q Mrs. Gwin, where had you and your husband
13 been, that evening?
14 A My house.
15 Q Your house?
16 A Yes, sir.
17 Q Were the two of you there, alone?
18 A Yes, sir.
19 Q Where, do you live?
20 A Lafayette Boulevard.
21 Q You, don't - your husband, doesn't live
22 at your house?
23 A He, lives with his mother.
24 Q Your husband, lives with his mother?
25 A Yes, sir.

1 Q Your husband and you had been at your
2 house, and you two had left your house and were on your way
3 to your mother-in-law's house?
4 A Yes, sir.
5 Q How long, have you and your husband been
6 married?
7 A Seven months, or almost eight.
8 Q You do have sexual relations with your
9 husband, do you not?
10 A Yes, sir.
11 MR. LAWLESS: Your Honor, I don't
12 see the materiality of that.
13 THE COURT: What, about it?
14 MR. BOHANNON: Your Honor, I'm
15 trying to establish the last time
16 Mrs. Gwin had sexual relations with
17 her husband and I submit the mater-
18 iality of it should be put in evi-
19 dence.
20 MR. LAWLESS: I still, don't see
21 the materiality of it.
22 THE COURT: Well, she can answer,
23 if she knows.
24 BY MR. BOHANNON:
25 Q You do have sexual relations with your

1 husband, do you not?
2 A Yes, sir.
3 Q When was the last time you had sexual
4 relations with your husband, prior to June 9, 1974?
5 A I, don't remember.
6 Q You, don't remember?
7 A No, sir.
8 Q Well, when you say you do have sexual
9 relations with your husband, would you say you have sexual
10 relations with your husband as much as three times a week,
11 or four or five or six times a week, or what?
12 A I - different, times.
13 Q Do you have sexual relations with your
14 husband, on some sort of basis?
15 A Well, I mean we don't, when I'm "regular".
16 Q Then basically, - you and your husband
17 were just married, were you not?
18 A Yes, sir.
19 Q Okay.
20 You have, had sexual relations with your
21 husband?
22 A Yes, sir.
23 Q Okay.
24 But you don't remember when you had sex-
25 ual relations with your husband, prior to June 9, 1974, the

1 date this alleged rape occurred in a car?
2 A No.
3 Q You don't remember when you had sexual
4 relations with your husband, prior to that date; is that,
5 correct?
6 A Yes, sir.
7 Q But you were alone with your husband at
8 your house, earlier in that same evening?
9 A Yes, sir.
10 Q Okay; thank you.
11 Now, you didn't have any problem identi-
12 fying the defendant's picture as being the one you say was
13 with you on the night you say this occurred; and what did you
14 notice about him, that enabled you to pick out his picture?
15 A Well, he had his hair braided and he was
16 not too dark.
17 Q His hair, was braided?
18 A Yes, sir.
19 Q And how about the men in the other pic-
20 tures, Mrs. Gwin; they didn't have their hair braided, did
21 they?
22 A (pause) I don't, think so.
23 Q Then, did you pick out the picture of the
24 man with the braided hair?
25 A I - that wasn't the only thing, I remem-

1 bered.

2 Q But that, was what clicked in your mind;

3 that the man, had his hair in braids?

4 A No, sir.

5 Q Okay; what, else?

6 A Well, the way he talked.

7 Q And that, was what?

8 A "Husky".

9 Q When, did he talk to you; you didn't -

10 you haven't heard him talk, since you say he raped you, have

11 you?

12 A No, sir; but his "husky voice", I recall.

13 Q All right.

14 Were there any particular facial charac-

15 teristics, that you were able to remember; was there anything

16 about his nose or eyes, or anything in particular like that,

17 that would make you feel you could recognize him from any

18 other man, right off the bat?

19 A No, sir; just his "husky" voice, and the

20 color of his face.

21 Q You had several minutes, to just look at

22 his face; isn't that, right?

23 A Yes, sir.

24 Q But, you can't tell us what he looked

25 like; okay.

1 Now, do you know whether your husband
2 looked at these photographs before you did, or not?
3 A Yes, sir; he did.
4 Q He did?
5 A Yes, sir.
6 Q Your husband looked at those photographs,
7 before you did?
8 A Yes, sir.
9 Q Did you talk to your husband, after he
10 looked at the photographs?
11 A No, sir.
12 Q You, did not?
13 A No, sir.
14 Q All right.
15 Did you talk to your husband, after you
16 looked at the photographs?
17 A No, sir; not, after I looked at them.
18 Q You looked at these photographs several
19 times before you allegedly identified this man, did you not?
20 A Yes, sir.
21 Q All right.
22 And you say that this man's photograph
23 was in there, together with the others; is that, right?
24 A Yes, sir.
25 Q All right.

1 Now, on the night this occurred, on June
2 9th, you say "you saw this man drive up in an automobile"?
3 A Yes, sir.
4 Q And, was it dark?
5 A Yes, sir.
6 Q All right.
7 When you did see the man in the car, was
8 he behind the steering wheel?
9 A Yes, sir.
10 Q This was in the dark of night, and you
11 saw the man sitting behind the steering wheel?
12 A Yes, sir; he was.
13 Q What, did he have on?
14 A He didn't have a suit or coat on, but he
15 did have a shirt on.
16 Q Do you know whether or not, he had pants
17 on?
18 A Yes, sir.
19 Q And, did he have pants on?
20 A Yes, sir.
21 Q Did he have a hat, on?
22 A No, sir.
23 Q All right.
24 Now, you say "the car drove up alongside
25 of you, and you were there approximately a foot away from the

car"; is that, right?

A Yes, sir.

Q And, your husband answered some question put to him by the man in the car?

A Yes, sir.

Q Was your husband, about the same distance from the car?

A Yes, sir.

Q You saw the automobile then, did you not?

A Yes, sir.

Q And, you say "you had seen the same car, earlier"?

A Yes, sir.

Q Okay.

And, you say that "it was a light tan"?

A Right.

Q Was it, a light tan?

A Yes, sir.

THE COURT: What, was that last answer?

A "Yes", Your Honor.

BY MR. BOHANNON:

Q Was there anything you noticed, about that car?

A No, sir.

1 Q Did - was the car dented, or did it have
2 any dents in it?
3 A I, didn't notice any dents.
4 Q You, didn't notice any dents?
5 A No, sir.
6 Q Did you look at the hood, of that car?
7 A No, sir.
8 Q You didn't, look at it?
9 A No.
10 Q You didn't notice anything unusual,
11 about the hood of that car?
12 A No, sir.
13 Q Was the hood up, or down?
14 A I - down.
15 Q The hood was down, right?
16 A Yes, sir.
17 Q Okay.
18 I want to - I'm going to ask you to look
19 at these pictures, and ---
20 (Mr. Bahannon showed two photo-
21 graphs to Mr. Lawless, and they
22 conferred.)
23 BY MR. BOHANNON"
24 Q You say "there was nothing wrong with the
25 hood of that car, and there were no dents or anything"?

1 A No, sir.
2 Q (handing photographs to witness) Now, I
3 want you to look at these two pictures, and ---
4 MR. LAWLESS: Could we have them
5 marked first, Your Honor?
6 MR. BOHANNON: Well, okay (hand-
7 ing photographs to the Court).
8 THE COURT: Marked D-1 and D-2,
9 for the purpose of identifica-
10 tion.
11 BY MR. BOHANNON:
12 Q (handing photograph to witness) Take a
13 look at this picture first, marked D-2, and tell us whether
14 or not you recognize the car shown in that picture?
15 A (looking at photograph) No, I really
16 can't.
17 Q You, cannot?
18 A No, sir.
19 Q You can't tell whether that's the car or
20 not, can you?
21 A No, sir.
22 Q All right.
23 (handing another photograph to witness)
24 Look at D-1, now; can you tell, whether that's the car?
25 A (looking at photograph) No, sir.

1 Q You, cannot?
2 A No, sir.
3 Q Okay.
4 MR. BOHANNON: I'd like to
5 introduce these into evidence,
6 Your Honor.
7 MR. LAWLESS: Objection, Your
8 Honor, if she can't identify
9 them.
10 THE COURT: I sustain the objec-
11 tion, at this point.
12 MR. BOHANNON: All right, Your
13 Honor.
14 BY MR. BOHANNON:
15 Q Now, while you were standing next to the
16 car, I believe - you said that "a car drove up, and the man
17 in the car asked, or the driver of the car asked for direc-
18 tions"; and that was at first, correct?
19 A Yes, sir.
20 Q And, your husband answered him?
21 A Yes, sir.
22 Q And then the car drove off, did it not?
23 A Yes, sir.
24 Q And then, before the car pulled up again,
25 you and your husband had walked on and were at the corner,

1 were you not?
2 A Yes, sir.
3 Q And then, did he ask another question at
4 that time?
5 A He said something, but I couldn't under-
6 stand him at first; I think he said something about "where
7 were we going", and then he said "get in the car, or I'll
8 shoot".
9 Q And, did you see a gun at that time?
10 A No, sir; I, did not.
11 Q You, didn't notice any gun?
12 A No, sir.
13 Q And, you didn't hear any noise or any-
14 thing?
15 A No, sir.
16 Q All right.
17 Now, at that time, what did you do?
18 A (pause) I continued walking, at first,
19 until I heard him say "get in the car, or I'll shoot"; and
20 then, I heard a "click".
21 Q Had your husband, continued on walking?
22 A I don't know; I got excited, after he
23 said that.
24 Q Was your husband, still standing there?
25 A Lin , was going - he, was walking away.

1 Q Did the man say what he said, twice?
2 A Well, he said it when I was a little far-
3 ther away from the car.
4 Q And then you got into the car at that
5 time, correct?
6 A Yes, sir.
7 Q But you didn't see a gun when he said
8 "get in the car, or I'll shoot"?
9 A No, sir.
10 Q That's right, is it not?
11 A Yes, sir.
12 Q Okay.
13 Is it not true, Mrs. Gwin, that your hus-
14 band, at that time, said to you "you'd better do what he
15 says, because he's got a gun"?
16 A After I was walking away, and when I
17 heard a "click", he said ---
18 Q Didn't your husband say to you, Mrs.
19 Gwin, that "you'd better do what he says, because he's got a
20 gun"?
21 A I don't remember if he said "you'd better
22 do what he says, because he's got a gun", or "I think he's
23 got a gun".
24 Q Your husband indicated to you that he had
25 a gun, did he not?

1 A No, he did not.
2 Q All right.
3 So then it was not until your husband
4 told you or said "I think he's got a gun, and you'd better
5 do what he says", that you got into the car; correct?
6 A No, sir.
7 Q That, is not correct?
8 A No, sir.
9 Q All right.
10 A I stood there for a minute, and then I
11 heard a "click".
12 Q All right.
13 What happened, when you heard a "click"?
14 A I thought he might shoot, and so I got
15 in the car.
16 Q And you got in the back, did you not?
17 A Yes, sir; when I heard the "click", I
18 did.
19 Q So then you were in the back of the car,
20 right?
21 A Yes, sir.
22 Q And, did you see the defendant with a gun,
23 at that time?
24 A I saw the defendant; yes, sir.
25 Q Did you see the defendant, with a gun?

1 A No, sir; I did not see him, with a gun.
2 Q And before that time, then - after the
3 statement your husband had previously made to you, that "he
4 thought he had a gun, and you'd better do what he says", ---
5 A Yes, sir.
6 Q --- he said "you'd better get in the car"
7 and you then got in the back of the car, correct?
8 A Yes, sir.
9 But I was walking away, and then I heard
10 a "click"; and then I stood there for a minute, and my hus-
11 band told me "you'd better do what he says" and so I walked
12 back and got into the car.
13 Q All right.
14 So then to summarize the events, at that
15 time: you heard a "click" and at the same time you heard
16 your husband say "I think he's got a gun and you'd better do
17 what he says"; you waited a minute while your husband fin-
18 ished making that statement, and then that's when you turned
19 around and went back and got into the car, correct?
20 A Yes, sir.
21 I was afraid not to get into the car,
22 because the man had said "get in the car, or I'll shoot".
23 Q You had stood there for a minute, then,
24 and while your husband made that statement, did you not; and
25 was it not until after your husband had made that statement

1 to you, that you then went back and got into the car?
2 A I got in the car, because I was scared
3 when he said "get in the car, or I'll shoot" (crying).
4 Q All right, Mrs. Gwin.
5 Now, let me ask you something else: when
6 you first saw the man in the front seat of that car, was he
7 not seated behind the steering wheel?
8 A Yes, sir.
9 Q Now, when you went to get into the car,
10 how did you get into the car?
11 A I - he reached back and unlocked the door,
12 and pushed it open.
13 Q And, which hand did he do that with?
14 A I - his right hand.
15 Q With his right hand; all right.
16 So then he remain seated behind the
17 steering wheel, and he never got out of the car; correct?
18 A Yes, sir.
19 Q He reached his right hand, over to the
20 back of the car ---
21 A Yes, sir.
22 Q --- and unlocked the back door?
23 A Yes, sir.
24 Q And you, got into the back seat?
25 A Yes, sir.

1 Q And, you were by yourself?
2 A Yes, sir.
3 Q All right.
4 And, did he lock the door after that?
5 A I don't remember, that.
6 Q Well now, after you got into the car,
7 were you facing where your husband was standing?
8 A (pause) I don't exactly know where he
9 was standing, at that time; I just remember that he was
10 standing by the car, when I went back and got in the back
11 seat.
12 Q Before you rode away, did he say anything
13 to your husband; did he have any discussion or did he say any-
14 thing at all to your husband after you got in the car?
15 A I don't remember.
16 Q Did you, look for help from your hus-
17 band?
18 A No; I didn't look at him, then.
19 Q You, didn't look at your husband?
20 A No.
21 Q You didn't look at your husband, for any
22 assistance or anything from him?
23 A I - when I did look at him, he was rid-
24 ing away.
25 Q In what direction, was he headed?

1 A The same direction, the car was headed.
2 Q Your husband rode away, in the same dir-
3 ection the car was headed?
4 A And then, he turned around and was going
5 the other way.
6 Q Your husband turned around, and then went
7 the other way?
8 A Yes, sir.
9 Q And then you didn't see anybody else,
10 did you?
11 A No, sir.
12 Q Now, did you - as you sat in the back
13 seat, was it not possible for you to have gotten out of the
14 car?
15 A I couldn't get out, because the car drove
16 right off.
17 Q And when you got in the car, did you see
18 any gun?
19 A No, sir.
20 Q You never saw a gun, while you were in
21 the car?
22 A I didn't know - if there was a gun, I
23 didn't know where it was; I just didn't see any gun, in his
24 hand.
25 Q Did you, look for a gun?

1 A No, I didn't look for a gun.
2 Q All right.
3 And now, (looking through papers) do you
4 remember testifying at the preliminary hearing in this case,
5 on July 16, 1974, and being asked ---
6 MR. LAWLESS: I'm going to ask
7 that Counsel not read from a
8 transcript, Your Honor.
9 THE COURT: Don't let's read;
10 it's not permissible.
11 MR. BOHANNON: I wasn't going to
12 read from the transcript, Your
13 Honor.
14 THE COURT: All right, sir.
15 MR. BOHANNON: I'll rephrase my
16 question, Your Honor.
17 THE COURT: All right, sir.
18 BY MR. BOHANNON:
19 Q Now, do you remember at that time, being
20 asked repeatedly, "if, when you got in the car, you saw a
21 gun"?
22 A And I said, at that time, that "I did not
23 see a gun".
24 Q But you indicated there was a gun, when
25 you got into the car; and, do you remember saying that?

1 A Yes, sir.
2 Q You did?
3 A I was talking about what was in his hand,
4 but I didn't know what it was.
5 Q You testified, that "at that time, he had
6 something in his hand, but you never did see a gun in the
7 car"; is that, right?
8 A I didn't see any gun, and I didn't look
9 for one.
10 Q But, he did have something in his hand?
11 A He just had something, but I didn't know
12 what it was, when he pushed me down and after he grabbed what
13 I was dressed in.
14 Q He grabbed, what you were dressed in?
15 A He grabbed - he held my wrists with one
16 hand, and then he ripped my pants.
17 Q And you say "there was something in his
18 hand, but you can't identify what it was"?
19 A I didn't see, what it was.
20 Q Now, when you say "he grabbed your
21 wrists", did he have anything in his hand at that particular
22 time?
23 A No, sir.
24 Q All right.
25 Now, you say "you drove around a couple

1 corners, and then stopped"?
2 A Yes, sir.
3 Q And at that time you had another chance
4 to exit from that car, did you not?
5 A No, sir.
6 Q Couldn't you have screamed; were the
7 windows, closed?
8 A No, sir; but I was just so nervous,
9 inside the car.
10 Q Do you remember what color the car was,
11 on the inside?
12 A No, sir; I don't.
13 Q Do you know if there were any carpents on
14 the floor of the car, or not?
15 A No, I don't.
16 Q Do you remember if there were bucket seats
17 in that car, or if there were regular seats?
18 A I don't remember.
19 Q You don't, remember?
20 A No, sir.
21 Q Well, you said "the defendant got into
22 the back seat"; and did he go outside of the car and come in
23 that way, or did he crawl over the back of the front seat?
24 A He came over into the back, from over the
25 front seat.

1 Q All right.
2 When he stopped the car, you could have
3 gotten out then, could you not?
4 A No, sir; because he jumped right in the
5 back seat, then.
6 Q Now, you say "he jumped in the back
7 seat", ---
8 A Yes, sir.
9 Q --- once he had stopped the car?
10 A Yes, sir.
11 Q And, - all right.
12 Immediately, when he stopped the car, he
13 jumped in the back seat?
14 A Yes, sir.
15 Q Couldn't you have made some effort, to
16 get out of the car?
17 A No, sir; I, didn't have a chance.
18 Q You didn't, have any chance?
19 A I didn't have a chance to do anything,
20 and I was scared.
21 Q All right.
22 Did you scream, at that time?
23 A No, sir; he had his hand over my mouth,
24 and at my neck.
25 Q As a matter of fact, you never screamed

1 throughout any of those proceedings, did you?
2 A No, sir; I was too scared, to scream.
3 Q Did you, cross your legs?
4 A I tried, to.
5 Q You tried, to?
6 A Yes, sir; but ---
7 Q If he had one hand on your throat and his
8 other hand on your wrists, how come you weren't able to cross
9 your legs?
10 A Because he pushed me down, and the way he
11 got on top of me, I couldn't move them.
12 Q You tried to cross your legs, but you
13 could not?
14 A I tried to, but I couldn't.
15 Q All right.
16 Now, let me ask you this: if, as you
17 have testified, he had one hand at your neck and his other
18 hand was on your wrists, and during all those proceedings you
19 were not able to cross your legs or scream, what, if anything,
20 did you do to try and protect yourself?
21 A Well, I tried to push him away.
22 Q All right.
23 Now, how did you try and push him away?
24 A I - somehow, I got one hand free, and I
25 tried to push him away.

1 Q Okay.
2 And did you try to scratch him, or did
3 you try to pull his hair?
4 A I couldn't.
5 Q You had one hand free, and yet it wasn't
6 possible for you to do that; you couldn't scream or scratch
7 his eyes, or pull his hair or do anything of that sort?
8 A I don't remember.
9 Q As a matter of fact, Mrs. Gwin, did you
10 scratch him, or try to?
11 A (pause) No, sir.
12 Q Did you pull his hair out, or try to?
13 A (pause) No, sir.
14 Q And, did you scream or try to?
15 A (pause) No, sir.
16 Q Okay.
17 Now, you say that "he tore your pants"?
18 A Yes, sir.
19 Q And what pants, did he tear?
20 A My shorts.
21 Q And, what else did you have on?
22 A I - a shirt, and panties under my shorts.
23 Q Did he tear your shorts, and also your
24 underwear?
25 A No, sir.

1 Q He, did not?
2 A No, sir.
3 Q Now, your underpants that were not torn;
4 what, did you do with those?
5 A I threw them, away.
6 Q You, threw them away?
7 A Yes, sir.
8 Q Then, you do not have your underwear?
9 A No, sir.
10 Q Now, how did your underwear get off?
11 A I - he took my underwear off, he pulled
12 them off.
13 Q He, pulled your underwear off?
14 A Yes, sir.
15 Q At that time, did he have both your hands
16 pinned down?
17 A I don't know; he just pulled them off,
18 but how he did it, I can't say.
19 Q You did get one hand free, did you not?
20 A Yes, sir.
21 Q And what were you doing with your free
22 hand, at that time?
23 A I was trying to push him off, and he told
24 me "if I didn't keep still, he'd kill me".
25 Q Now, you say "he had a shirt on"?

1 A Yes, sir.
2 Q What color shirt, was it?
3 A White.
4 Q All right.
5 Now, did he bruise you, in any way?
6 A No, sir.
7 Q Did he do any physical harm, to your
8 body?
9 A No, sir.
10 Q He, did not?
11 A No, sir.
12 Q Okay.
13 Now, how long were you in the car; do
14 you remember that, Mrs. Gwin?
15 A Just, a few minutes.
16 Q Just, a few minutes?
17 A Yes, sir.
18 Q And then when this was over, did you get
19 up and put your clothes on?
20 A Yes, I put them on.
21 Q And, did you put your underwear back on?
22 A Yes, sir.
23 Q And, did you put your torn pants on?
24 A Yes, sir.
25 Q Where, were your pants torn?

1 A By the zipper.
2 Q Just, by the zipper?
3 A Yes, sir.
4 Q And, where was the zipper?
5 A On the front, of them.
6 Q On the front, of them?
7 A Yes, sir.
8 Q Could you describe, how they were torn?
9 A I don't know, they were just ripped.
10 Q All right.
11 You got out of the car and walked away
12 then, did you not?
13 A Yes, sir.
14 Q Then you were able to wear your pants,
15 in other words?
16 A Yes, they were on.
17 Q They were on?
18 A Yes, sir.
19 Q Now, then - after that, - your husband
20 had already gone away, and what did you do when you got out
21 of the car?
22 A I walked, to my mother-in-law's house.
23 Q And, do you live along the area where you
24 got out of the car?
25 A No, sir.

1 Q You went to your mother-in-law's house,
2 when you got out of the car?
3 A Yes, sir.
4 Q And how far was that, from where you got
5 out of the car?
6 A A block, and a half.
7 Q And, did you meet anyone along the way?
8 A Yes, sir.
9 Q Who, was that?
10 A Lin and one of my girlfriends, and his
11 friend; and they told me, that "the police were coming".
12 Q And when you saw them, what did you tell
13 them?
14 A (pause) I didn't tell them anything, at
15 first.
16 Q You didn't tell them anything, at first?
17 A No, sir.
18 Q Didn't they ask you, any questions?
19 A Yes, sir.
20 Q What, did they ask you?
21 A They asked me, "what happened".
22 Q But, you didn't tell them anything at
23 that time?
24 A No, I didn't.
25 Q Was your husband at your mother-in-law's

1 house when you got there, or what?
2 A I had met him, on the way; and then, he
3 was at my mother-in-law's house.
4 Q And then, did you tell anybody what hap-
5 pened?
6 A I told Lin.
7 Q And at that time, did you describe the
8 individual to your husband, that ---
9 A He knew, who it was.
10 Q Your husband, knew who it was?
11 A He knew, when I got in the car.
12 Q Did your husband know what he looked like,
13 or who it was?
14 A I'm not sure.
15 Q Do you know, if you husband had ever seen
16 that person before?
17 A No, sir; I'm not sure.
18 Q All right.
19 Had you, ever seen that person before?
20 A No, sir.
21 Q And you're not sure, whether your husband
22 had ever seen that person before?
23 A No, sir.
24 Q Now, you say that "the man who raped you
25 was light skinned and his hair was braided"?

1 A Yes, sir; he was black, but not too
2 black.
3 Q It was dark, was it not, when you got
4 into the car?
5 A Yes, sir; it was at nighttime.
6 Q All right.
7 Now, did he have sideburns?
8 A Yes, sir.
9 Q He did?
10 A Yes, sir.
11 Q And how long were they, do you remember
12 that?
13 A No, sir; I don't.
14 Q You don't have any idea, as to how long
15 his sideburns were?
16 A No, sir; I don't remember.
17 Q But, he did have sideburns?
18 A Yes, sir.
19 Q You're sure, of that?
20 A Yes, sir.
21 Q Let me ask you this, now: did his side-
22 burns come all the way down the side of his cheek, or not?
23 A I don't remember; I didn't notice, how
24 long they were.
25 Q Could they have been all the way down, to

1 his neck?

2 A I, could not say.

3 Q Now, when you got in the car at first,

4 you did not scream or make any effort to get out of the car,

5 did you?

6 A I couldn't, because I was too scared.

7 Q And when the man got in the back seat of

8 the car with you, you didn't scream at that time, did you?

9 A (pause) No, sir.

10 Q And you didn't scratch his eyes or pull

11 his hair at that time, did you?

12 A (pause) No, sir.

13 Q You didn't make any effort to shout for

14 help, did you?

15 A (pause) No, sir.

16 Q All right.

17 And ---

18 MR. BOHANNON: I have no further

19 questions, Your Honor.

20 THE COURT: All right, sir.

21 MR. LAWLESS: One thing more,

22 Your Honor.

23 THE COURT: All right, sir.

24

25 REDIRECT EXAMINATION

1 EXAMINED BY MR. LAWLESS:
2 Q When the man got in the back seat, how
3 far was his face from yours?
4 A Maybe, about that far (indicating with
5 hands).
6 THE COURT: Let me see that
7 again, please?
8 A About, that far (indicating
9 with hands, again).
10 THE COURT: Gentlemen, I'd esti-
11 mate that to be about two inches.
12 MR. LAWLESS: No further ques-
13 tions, Your Honor.
14 THE COURT: All right, sir.
15 Let me ask you this question,
16 now:
17 Q When we get into this rape
18 business, we've got to call a
19 spade a spade; and when you state
20 that "the man raped you", you're
21 going to have to explain exactly
22 what he did do.
23 A (long pause) He has sexual
24 intercourse, with me.
25 THE COURT: All right.

1 Any further questions,
2 gentlemen?
3 MR. LAWLESS: None by the Com-
4 monwealth, Your Honor.
5 THE COURT: Mr. Bohannon?
6 MR. BOHANNON: No, sir.
7 THE COURT: All right, gentlemen.
8 You may step down please,
9 and have a seat in the Courtroom.
10 Next witness.
11 MR. LAWLESS: Dr. Santos, please.
12 MR. BOHANNON: If Your Honor
13 please, I wish to state my objec-
14 tion to the medical evidence on
15 the grounds that it's immaterial
16 and irrelevant and has no rela-
17 tionship whatsoever, to this mat-
18 ter.
19 THE COURT: Motion, overruled.
20 MR. LAWLESS: I still would like
21 to just put the rape examination
22 in evidence, and ---
23 Your Honor, if I might have
24 a conference with Mr. Bohannon,
25 I believe I might be able to save

1 some time.
2 THE COURT: All right, sir.
3 (Mr. Lawless conferred with Mr.
4 Bohannon, over paper.)
5 MR. LAWLESS: If Your Honor
6 please, I have just one or two
7 questions that I would like to
8 ask the Doctor.
9 THE COURT: All right, sir.
10 Doctor, if you will, please
11 raise your right hand and be sworn.
12 You do solemnly swear that the
13 testimony you give before the
14 Court in this pending matter will
15 be the truth, the whole truth and
16 nothing but the truth, so help you
17 God.
18 A I do, sir.
19 THE COURT: Have a seat up here
20 in the witness chair, please.
21
22 -----o0o-----
23
24 DR. RAMON SANTOS, witness, appearing on behalf of
25 the Commonwealth, having been first duly sworn, was examined

1 THE COURT: All right, gentle-
2 men.
3 Dr. Santos, you may be
4 excused and you may leave.
5 WITNESS: Thank you, sir.
6 THE COURT: Next witness.
7 MR. LAWLESS: Lin Gwin, please.
8
9 -----o0o-----
10
11 LIN GWIN, witness, appearing on behalf of the Com-
12 monwealth, having been first duly sworn, was examined and
13 testified as follows:
14 DIRECT EXAMINATION
15 EXAMINED BY MR. LAWLESS:
16 Q State your name and occupation, please?
17 A Lin Gwin, U. S. Army.
18 Q Where is your station, at the present
19 time?
20 A Fort Meade, Maryland.
21 Q Are you, married?
22 A Yes, sir.
23 Q To whom, are you married?
24 A Carolyn Louise Gwin.
25 Q And, is your wife seated in this Court-

1 room?
2 A Yes, sir.
3 Q Where, do you see her?
4 A She's seated, in the first row.
5 Q When, were you and your wife married?
6 A January 12th.
7 Q Of this year, 1974?
8 A Yes, sir.
9 Q On June 9th of 1974, were you in the City
10 of Norfolk?
11 A Yes, sir.
12 Q Where were you living, at that time?
13 A At my mother's.
14 Q And, what is her address?
15 A 1619 Lafayette Boulevard.
16 Q And, is that located in the City of Nor-
17 folk?
18 A Yes, sir.
19 Q I direct your attenion to the evening of
20 June 9, 1974 at approximately 11:00 P.M.; were you and your
21 wife together, at that time?
22 A Yes, sir.
23 Q Where, were you?
24 A At 11:00 P.M., we were walking down Per-
25 shing, towards Lens Avenue.

1 Q And, you were going where?
2 A To my mother's.
3 Q And, were you on an errand?
4 A We were walking our bikes, back home.
5 Q Now, did there come a time during that
6 trip, when anything unusual occurred?
7 A Well, we were walking along, when we were
8 approached by the defendant.
9 Q Who, do you mean?
10 A That guy, there (pointing).
11 THE COURT: The witness, pointed
12 to the defendant.
13 BY MR. LAWLESS:
14 Q You have pointed to the defendant, who
15 is seated at Defense Counsel Table to my left?
16 A Yes, sir.
17 Q All right.
18 What happened, when the defendant
19 approached you?
20 A Well, when he drove up beside us, he
21 asked for directions to some street, and I told him "I didn't
22 know where it was", and we walked on.
23 Q What happened, then?
24 A Well, my wife and I continued to walk on;
25 and we got no further than Lens Avenue, when he pulled up

1 again to us, on the opposite side of a tree we were at.
2 Q And then, what happened?
3 A He told us to "stop", and we stopped.
4 Q You and your wife, both stopped?
5 A Yes, sir; and then, he ordered my wife
6 to "get into the car".
7 Q How far away from you was he, at that
8 time?
9 A About, two feet.
10 Q What were the lighting conditions, on
11 that corner?
12 A The lighting, was fair.
13 Q Did he say anything else the second time
14 he approached you, when he said "stop"?
15 A I - the second time, he said "stop, or
16 I'll shoot", and I thought he had a weapon.
17 Q What occurred, at that time?
18 A Well, at that time, my wife continued
19 walking; and then I heard a "click", and I told her "she'd
20 be better off, to do what he says".
21 Q And what did your wife do, at that time?
22 A Well, she just stayed beside me; and then,
23 he told her to "get in the car".
24 Q And, did she get into the car?
25 A Yes, sir; and he reached over, and he

1 unlocked the door, so she could get in.
2 Q All right.
3 And then what happened, after he unlocked
4 the door?
5 A I turned around the other way, then, so I
6 could ---
7 Q When did you do, when you turned around?
8 A I wanted to try and get the license num-
9 ber, off the back of the car.
10 Q And, did you get it?
11 A No, I didn't get the license number.
12 Q Did you notice anything unusual, about
13 that car?
14 A I - the light, one taillight, was out.
15 Q All right.
16 Now, what did he do at that point?
17 A Well, he took off and turned and left for
18 Verdun.
19 A And what did you do, then?
20 A I jumped on my bike real quick, and went
21 to a friend's of mine's house down the street.
22 Q And, what did you do at your friend's
23 house?
24 A I went there, to call the police; and I
25 tol them, what happened.

1 Q And, did the police respond?
2 A Yes, sir.
3 Q Now, did there come a time, sometime
4 later, when you had occasion to be in your car on Virginia
5 Beach Boulevard?
6 A Well, it was a friend's car; I noticed
7 him in front, and then I turned around and noticed that it
8 was him, and in the same car.
9 Q And, where were you going?
10 A I was coming back home, from work.
11 Q How long was that, after the night of
12 this incident?
13 A Two weeks, I guess; I don't know, for
14 sure.
15 Q And, what was familiar about that car?
16 A The car, itself; I just recognized the
17 car, you know, and I looked at the car again, when I turned
18 around, after I was behind him.
19 Q And, were you able to get the license
20 number of that car?
21 A Right.
22 Q And, what did you do with that license
23 number?
24 A I took it down, and then I called the
25 police and gave it to them.

1 Q And, do you remember the detective you
2 talked to?
3 A I don't know the detective, but ---
4 Q But, you did report the license number?
5 A Yes, sir.
6 Q All right.
7 Now, do you see the person in this Court-
8 room today, that you saw at 11:00 P.M. on the night of June
9 9, 1974?
10 A Yes, sir; I do.
11 Q Where, is he?
12 A Over there (pointing).
13 MR. LAWLESS: Let the record show
14 that the witness pointed to the
15 defendant, Melvin Lander Barnett.
16 Q Is there any doubt in your mind, whatso-
17 ever?
18 A There's not doubt, in my mind; that's
19 definitely, him.
20 MR. LAWLESS: Answer Mr. Bohan-
21 non's questions, please.
22
23 CROSS EXAMINATION
24 EXAMINED BY MR. BOHANNON:
25 Q How old, are you?

1 A Eighteen.
2 Q Now, in response to Mr. Lawless' ques-
3 tion, you say "as far as you were concerned, there wasn't
4 anything unusual about the car, except that the left tail-
5 light was out"?
6 A Yes, sir.
7 Q You, could not get the license number of
8 the car?
9 A No, I didn't.
10 Q Did you notice any dents, in that car?
11 A No, I didn't; I didn't notice any, of my
12 own knowlege.
13 Q All right.
14 Did you notice if the hood of the car was
15 up, or down?
16 A I didn't notice, that.
17 Q You didn't notice, that; all right.
18 Well, did you notice the color of the car?
19 A Yes, sir.
20 Q You did?
21 A Right.
22 Q And now the other car, was that the same
23 color or ---
24 A Yes, sir.
25 Q The other car, was the same color as the

1 first car you saw?
2 A Right.
3 Q Now, what made you think that it was the
4 same car, as the first car?
5 A It was a Ford Galaxi, '63; and, it was
6 the same color.
7 Q Did you notice any dents, in it?
8 A No, I didn't.
9 Q All right.
10 What else, did you notice about that car?
11 A Well, it had a black man in it; and also,
12 the left taillight was out.
13 Q Both those vehicles, had the left tail-
14 light out?
15 A Yes, sir.
16 Q When you saw the second vehicle, was that
17 at night or was that in the daytime?
18 A That, was in the daytime.
19 Q That, was in the daytime?
20 A Yes, sir.
21 Q Now, what was it that made you think that
22 it wasn't any different from any other standard Ford Galaxi?
23 A Because, the same man was driving it.
24 Q Okay.
25 You had seen that man before, had you not?

1 A On the night, that it happened.
2 Q Didn't he also, go to school with you?
3 A I didn't - I heard about that, later; I
4 didn't remember, seeing him before.
5 Q Now, on the night that the alleged occur-
6 rence occurred, June 9th, and with regard to this automobile
7 in question; at that time, you did you - how long did you and
8 your wife, Mr. Gwin - you and your wife were standing by the
9 car, right?
10 A Yes, sir.
11 Q How far were you standing, from the car?
12 A Two feet.
13 Q Could you see the person in the car very
14 well, or not?
15 A Yes, sir.
16 Q It was dark, was it not?
17 A Yes, sir.
18 Q It was dark; all right.
19 A But, you could see; there was light,
20 enough.
21 Q What, was the lighting?
22 A Street lights.
23 Q Where was this person, seated in the car?
24 A On the driver's side, of the car.
25 Q On the driver's side, of the car?

1 A Yes, sir.
2 Q And where was he seated, the first time
3 he drove up?
4 A When he first, pulled up?
5 Q Yes, sir.
6 A On the driver's side, of the car.
7 Q Was the driver's side, near you and your
8 wife?
9 A Yes, sir.
10 THE COURT: In other words, he
11 wasn't on the right side of the
12 street, like he was supposed to
13 be?
14 A He was on the opposite side,
15 and then he pulled over.
16 THE COURT: Go ahead, Mr. Bohannon.
17 BY MR. BOHANNON:
18 Q He crossed from the right side, to the
19 wrong side?
20 A Yes, sir.
21 Q All right.
22 Did you have - at that time, you did have
23 occasion to take notice of the car?
24 A Yes, sir.
25

1 Q And, your wife also saw the car?
2 A Yes, sir.
3 Q You didn't notice any dents in the car,
4 at that time?
5 A No, sir.
6 Q And, you didn't see anything wrong with
7 the hood?
8 A No; I didn't pay any attention, to the
9 hood.
10 Q But, you did say "the hood was not up",
11 did you not?
12 A I - yes, sir.
13 Q So then, you did take some notice of the
14 car?
15 A Yes, but I didn't look the car all over.
16 Q All right.
17 And, you didn't notice any dents in it?
18 A No, I didn't pay any attention to that.
19 Q Now, when did you first take notice of
20 the car?
21 A When he asked me "where some street was",
22 and I said "I couldn't help him", like that.
23 Q You weren't able to get the license num-
24 ber, off the car?
25 A No, I didn't.

1 Q You did go around to the back of the car,
2 did you not?
3 A Right.
4 Q But, you didn't notice anything in par-
5 ticular that was wrong with that car?
6 A Just that the taillight, was out; and I
7 mean, I didn't look at it that long a time.
8 Q But you looked at it long enough to take
9 notice of the color of the car, did you not?
10 A And also, the make of it.
11 Q Your wife was standing next to the car,
12 beside you?
13 A Yes, sir.
14 Q Could you, see inside the car?
15 A I could not; no, sir.
16 Q But, you say "this defendant was inside
17 that car"?
18 A Yes, sir.
19 Q Do you know whether that car had bucket
20 seats, or regular seats?
21 A I don't remember, that.
22 Q You, don't remember that?
23 A No, sir.
24 Q All right.
25 Now, when the car drove up the second

1 time, do you remember what was said?
2 A He asked something about "where we were
3 going", and then he said - he told my wife to "get in the
4 car, or he'd shoot".
5 Q And at that time, did you look at the
6 defendant, or the man in the car?
7 A Yes, sir.
8 Q And, did you see a gun?
9 A No, sir.
10 Q You, did not see a gun?
11 A No, sir.
12 Q How far away from you was he, at that
13 time?
14 A If you're talking about when he made the
15 remark about "shooting", I would say two feet.
16 Q But, you didn't see any gun?
17 A No, sir.
18 Q So then, when was it that he told your
19 wife to "get in the car"?
20 A When, was it?
21 Q What did you do, when he told your wife
22 to "get into the car"?
23 A Well, then I told my wife "you'd better
24 do what he says"; I thought he had a gun, because I heard a
25 "click".

1 Q What happened, then?
2 A Well, when I told my wife?
3 Q Yes, sir; when you told your wife "she'd
4 better do what he says, because he had a gun", what did she
5 do?
6 A Well, my wife began walking toward me.
7 Q And then, did she - did she do, what you
8 told her to do?
9 A Yes, sir.
10 Q She did do, what you told her to do?
11 A Yes, sir.
12 Q And, she got into the back of the car?
13 A Right; but I didn't tell her to "get in
14 the back", she just got in the back.
15 Q I thought you just testified, that you
16 told her ---
17 A He, told her to "get in, or he'd shoot";
18 and that was after he had told us to "stop", and then after he
19 told us "he'd shoot", I heard a "click".
20 Q And then, your wife came back and got in
21 the car?
22 A Right; and then, he told her to "get in
23 the back seat".
24 Q Well, wasn't the reason your wife got in
25 the car, because you told her "you'd better do what he says,

1 because he's got a gun"?
2 A I said "I think, he's got a gun".
3 Q Was that before, or after you heard a
4 "click"?
5 A After, I heard the "click".
6 Q After, you heard a "click"?
7 A Yes, sir.
8 Q What, were your exact words; when your
9 wife came back down the street, what did you say to her at
10 that time?
11 A I told her, to - after he told us to
12 "stop, or he'd shoot", my wife kept on walking; and then I
13 heard a "click", and then I told my wife "you'd getter do
14 what he says" and I thought he had a gun, at that time.
15 My wife walked back towards me, and then
16 he ordered her into the car.
17 Q And, did you see how she got into the
18 car?
19 A She got in, through the back door.
20 Q How, did she get in through the back door?
21 A He opened the door, and then my wife went
22 on inside.
23 Q And, did you look inside the car at that
24 time?
25 A No, I did not.

1 Q Well, did you look at your wife?
2 A Did I look at my wife, when she got in
3 the car? - yes, sir.
4 Q And what was the man in the driver's
5 seat doing, at that time?
6 A Well, he had two 7-UP bottles, I think,
7 in his hand.
8 Q He had two drink bottles, in his hand?
9 A I think, so.
10 Q And so - didn't he put them down, or any-
11 thing; didn't he put the drink bottles down, and open the
12 door, so your wife could get in the back of the car?
13 A Well, I don't know.
14 Q Did your wife ask you anything, when she
15 was walking back down?
16 A No, she did not.
17 Q And then, you say "you got on your bike
18 and rode off"?
19 A After, my wife did what he said.
20 Q And, it was dark?
21 A Right.
22 Q And then you turned and went behind the
23 car, hoping to get the car's license number?
24 A Yes, sir.
25 Q But, you didn't get it?

1 A No, sir.
2 Q All right.
3 You saw no gun, at that time?
4 A No.
5 Q Well, did you see a knife?
6 A No, sir.
7 Q You didn't see any type of weapon, did
8 you?
9 A No, I didn't.
10 Q All right.
11 Did your wife call to you, for help?
12 A No.
13 Q Did you wife, scream?
14 A No.
15 Q Okay.
16 Then, you went and called the police?
17 A Right.
18 Q All right.
19 Did you look through any photographs,
20 shown to you by the police?
21 A Yes, sir.
22 Q Did you look through - did your wife, also
23 look through photographs?
24 A Yes, she did.
25 Q And did you look through them first, or

1 did your wife look through them first; do you, remember that?
2 A I, looked through them first.
3 Q You, looked through them first?
4 A Yes, sir.
5 Q When you looked through the photographs,
6 did you identify the defendant at that time?
7 A Yes, sir.
8 Q All right.
9 (looking through papers) Now, do you
10 recall testifying at the preliminary hearing in this matter,
11 in the lower Court, on July 16, 1974; and at that prelininary
12 hearing, did you not testify that "you recognized him from a
13 picture in your Year Book"?
14 A No; that, was after.
15 Q That, was after?
16 A Right; because an acquaintance had told
17 me, about it.
18 THE COURT: Was that, after you
19 had seen the police photographs?
20 A Yes, sir.
21 Q It was?
22 A Yes, Your Honor.
23 BY MR. BOHANNON:
24 Q Now, did you not have some trouble identi-
25 fying this defendant?

1 A There was something about his face, or
2 complexion; he was light-skinned, and he had a particularly
3 soft voice.
4 Q What, about his - was there anything
5 unusual about his face, that would make you recall him?
6 A Just, that he was light skinned; and his
7 voice, the way he talked, with a soft voice.
8 Q You recall, that he was light skinned?
9 A Yes, sir.
10 Q And, did he have sideburns?
11 A Yes, sir; and a mustache, I think.
12 Q And, do you recall how long his sideburns
13 were?
14 A They were not, very long; not any longer
15 than they are - about, like they are now.
16 MR. LAWLESS: Pardon me, but did
17 you say "his sideburns appeared
18 to be about as long as they are
19 now"?
20 WITNESS: Yes, sir.
21 BY MR. BOHANNON:
22 Q Now, did you see your wife immediately
23 after this alleged rape occurred?
24 A Well, yes; that is, right after it occur-
25 red.

1 Q Where, did you see her?
2 A She was coming down Lens Avenue, and the
3 police were coming up.
4 Q All right.
5 Was she walking or running, or what?
6 A She was running, then.
7 Q She, was running?
8 A Yes, sir.
9 Q And, did you have occasion to see her
10 clothes?
11 A Yes, sir; I did.
12 Q Did you notice any bruises, on your wife?
13 A No, I didn't notice any bruises.
14 Q Did you see any scratches, on your wife?
15 A No.
16 Q Did you notice any physical injuries to
17 your wife, at all?
18 A No.
19 Q No physical injuries, at all?
20 A No; nothing, but her wrists were red like.
21 Q You did notice the clothes, she had on?
22 A Yes, I did.
23 Q What clothes, did she have on?
24 A She had a shirt on, and she had a pair of
25 shorts on.

1 Q Did she have any other pants, on?
2 A I couldn't tell, about that.
3 Q Now, did you notice what clothes he had
4 on?
5 A Well, he had on a white shirt.
6 Q And, could you see if he had any pants
7 on?
8 A No, I couldn't see that.
9 Q Well, did he have a hat on?
10 A No.
11 Q Now, did you ever talk with you wife
12 about him; did you ever discuss this man, with your wife?
13 A She told me, that "he was the one raped
14 her".
15 (Mr. Bohannon conferred with the
16 defendant.)
17 MR. BOHANNON: No further ques-
18 tions, Your Honor.
19 THE COURT: All right, sir.
20 Step down and have a seat in
21 the Courtroom, please.
22 Next witness.
23 MR. LAWLESS: Officer Brownlie,
24 please.
25 -----o0o-----

1 OFFICER J. W. BROWNLIE, witness, appearing on
2 behalf of the Commonwealth, having been first duly sworn,
3 was examined and testified as follows:
4 DIRECT EXAMINATION
5 EXAMINED BY MR. LAWLESS:
6 Q State your name, occupation and duty
7 assignment, please?
8 A J. W. Brownlie, Investigator for the Nor-
9 folk Police Department.
10 Q Was that your duty assignment on June 10,
11 1974?
12 A Yes, sir; it was.
13 Q In the performance of your duty, did you
14 have occasion to deliver a Rape Kit in the name of Carolyn
15 Louise Gwin?
16 A Yes, sir.
17 Q Where, did you take it?
18 A I took it to the Division of Consolidated
19 Laboratory Services, 401 Colley Avenue.
20 Q And, is Colley Avenue in the City of Nor-
21 folk?
22 A Yes, sir; it is.
23 Q And, did you turn the Rape Kit over to
24 someone there?
25 A Yes, sir; but, I don't recall who it was.

1 Q Did you, look at the Report?
2 A Did I, look at it? - yes, sir.
3 Q (handing paper to witness) I show you
4 that paper; and, does that appear to be a photostatic copy?
5 A (looking at paper) Yes, sir.
6 Q And, who does that show it was delivered
7 by?
8 A (looking at paper) It says "Evidence,
9 submitted by Investigator J. W. Brownlie".
10 Q And, that is you; correct?
11 A Yes, sir.
12 MR. LAWLESS: Answer Mr. Bohan-
13 non's questions, please.
14 MR. BOHANNON: I have no ques-
15 tions, Your Honor.
16 THE COURT: All right, sir.
17 You, may step down.
18 Next witness.
19 MR. LAWLESS: June Browne, please.
20
21 -----oOo-----
22
23 JUNE E. BROWNE, witness, appearing on behalf of the
24 Commonwealth, having been first duly sworn, was examined and
25 testified as follows:

1 A No, sir.
2 MR. BOHANNON: I have no further
3 questions, Your Honor.
4 THE COURT: All right, sir.
5 If you gentlemen are through
6 with this witness, she may be
7 excused.
8 WITNESS: Thank you, Your Honor.
9 THE COURT: Next witness.
10 MR. LAWLESS: Officer Brownlie
11 again, please.
12
13 -----o0o-----
14
15 OFFICER J. W. BROWNLIE, witness, appearing on behalf
16 of the Commonwealth, having been previously duly sworn, was
17 examined and testified as follows:
18 DIRECT EXAMINATION
19 EXAMINED BY MR. LAWLESS:
20 Q If you would, please state your name
21 again for the record?
22 A Officer J. W. Brownlie, Investigator for
23 the Norfolk Police Department.
24 Q And, was that your duty assignment in
25 June of 1974?

1 A Yes, sir.

2 Q And as a part of your duty, were you

3 assigned to investigate the matter concerning one Carolyn

4 Louise Gwin?

5 A Yes, sir.

6 Q In the performance of your investigation,

7 did there come a time when you took the defendant, Melvin

8 Lander Barnett, into custody?

9 A Yes, sir.

10 Q And prior to any questioning of this

11 defendant, did you advise him of his Constitutional rights

12 as set forth on NPD Form M-381, the Legal Rights Advice Form?

13 A Yes, sir; I did.

14 Q Do you have a copy of that Form, in your

15 file?

16 A Yes, sir; I advised him twice, in the

17 same day (handing papers to Mr. Lawless).

18 Q You advised the defendant of his Consti-

19 tutional rights, twice in the same day?

20 A Yes, sir.

21 MR. LAWLESS: Your Honor, I ask

22 that these papers be marked as

23 C-3 and C-4 for the purpose of

24 identification.

25 THE COURT: So marked.

1 BY MR. LAWLESS:

2 Q (handing papers to witness) I show you
3 two Rights Forms, marked as C-3 and C-4 for the purpose of
4 identification; I ask you to look at them both, and tell us
5 whether or not you recognize them?

6 A (looking at each paper, in turn) Yes,
7 sir; I do.

8 Q Starting with C-3, now; there are six
9 pre-printed questions on that Form, are there not?

10 A (looking at paper) Yes, sir; there are.

11 Q And to the left of each of those six
12 questions, there appears the word "yes"; is that, not cor-
13 rect?

14 A (looking at paper) Yes, sir; it is.

15 Q And, who affixed that word "yes", to
16 that Form?

17 A Melvin Barnett.

18 Q And, was that done in your presence?

19 A Yes, sir; it was.

20 Q And when you say "Melvin Barnett", who
21 do you mean?

22 A The defendant, seated over there (point-
23 ing).

24 THE COURT: The witness, pointed
25 to the defendant.

1 BY MR. LAWLESS:

2 Q Did the defendant appear to be intelli-
3 gent and alert, and to understand his rights?

4 A Yes, sir; he did.

5 Q And, did he ask you any questions about
6 his rights?

7 A No, sir.

8 Q For the purpose of the record, specifi-
9 cally what did you advise the defendant of, when you advised
10 him of his rights?

11 A Well, I advised him of each of his rights,
12 starting with "his right to remain silent"; and after I had
13 advised him of all his rights, as shown on the Form, I also
14 explained to him exactly what each right was, and I asked
15 him "if he had any question on any of his rights".

16 Q And did you, or any other police officer
17 in your presence, make any threats or promises, in an effort
18 to obtain any statement from the defendant?

19 A No, sir.

20 Q All right.

21 Now, with regard to C-4; did you also
22 advise the defendant of his Constitutional rights, according
23 to NPD Form M-381?

24 A Yes, sir; I did.

25 Q To the left of each of the six questions

1 as contained on C-4, there appears the word "yes"; is that,
2 correct?
3 A (looking at paper) Yes, sir.
4 Q And, who wrote that word "yes" after each
5 of those six questions as C-4?
6 A The defendant, Melvin Barnett.
7 Q And, was that also done in your presence?
8 A Yes, sir; it was.
9 Q And when you again advised the defendant
10 of his rights, in accordance with C-4, did he appear to under-
11 stand them?
12 A Yes, sir; he did.
13 Q Whose signature, appears in the bottom
14 righthand corner of C-4?
15 A Melvin Barnett's, the defendant's signa-
16 ture.
17 Q And, were you a witness to that signature?
18 A Yes, sir; I was.
19 Q All right.
20 And, did you advise the defendant of the
21 six rights as contained on C-4?
22 A Yes, sir; I did.
23 Q And did the defendant appear to be intel-
24 ligent and alert, at the time you advised him of his rights
25 in accordance with C-4?

1 A Yes, sir; he did.
2 Q And did you, or any other police officer
3 in your presence, make any threats or promises to the defend-
4 ant, in an effort to obtain any statements?
5 A No, sir.
6 MR. LAWLESS: Your Honor, I
7 offer C-3 and C-4 into evi-
8 dence.
9 THE COURT: All right, sir.
10 Any questions by the
11 Defense, concerning the volun-
12 tariness or involuntariness of
13 any statement in accordance
14 with these two Rights Forms?
15 (Mr. Bohannon conferred with
16 the defendant.)
17 MR. BOHANNON: No, Your Honor;
18 we have no questions, and no
19 objections to any statements.
20 THE COURT: All right, sir.
21 C-3 and C-4, will be
22 received into evidence.
23 And it would appear to the
24 Court, from C-3 and C-4 as well
25 as from the testimony beofore the

1 Court, that there was compli-
2 ance with the requests as set
3 forth in Miranda vs. Arizona,
4 and that any such statements
5 were freely and voluntarily
6 given and may be received.
7 Proceed, Mr. Common-
8 wealth's Attorney.
9 MR. LAWLESS: Yes, Your Honor.
10 BY MR. LAWLESS:
11 Q After advising the defendant of his Con-
12 stitutional rights, did he make any statement to you regard-
13 ing his whereabouts on the date of this offense?
14 A Yes, sir; he did.
15 Q And, what was that statement?
16 A Well, he made two separate statements.
17 Q Start, with statement #1.
18 A All right.
19 He was taken into custody at his home at
20 6:00 P.M., on the 21st of June; and he was advised of his
21 legal rights, at 6:30 P.M.
22 And after that, he stated that "on the
23 date in question, he was at his girlfriend's house, and
24 stayed there about all that day".
25 Q Did he, give you his girlfriend's name?

1 A Yes, sir; he did.
2 Q What, was her name?
3 A Iva Gould.
4 Q And, did you get a statement from his
5 girlfriend?
6 A Yes, sir; I did.
7 Q All right.
8 Did there come a time, when you got a
9 second version from the defendant, as to his whereabouts on
10 that day?
11 A Yes, sir.
12 I was first able to contact Iva Gould,
13 and I told her about the victim and of the events that took
14 place and of the apprehension of the defendant.
15 I then talked again with the defendant,
16 at which time I also examined his automobile.
17 I was able to get in contact with the
18 victim and her husband, later that night, and I brought them
19 to my office where they examined 13 photographs.
20 Q And, were they the 13 photographs that
21 were shown in Court here today?
22 A Yes, sir.
23 Q And one of those photographs contained a
24 picture of this defendant, correct?
25 A Yes, sir.

1 Q All right.
2 Continue, with your narrative.
3 A Yes, sir.
4 They examined the photographs, but the
5 victim and her husband were not together; and each, indivi-
6 dually picked out the defendant.
7 So then, I immediately went back to the
8 defendant's house and again readvised him of his rights.
9 Q If I may digress, for just a moment: on
10 the back of one of the 13 photographs, appears the name of
11 the victim; is that, not correct?
12 A Yes, sir; the victim, Carolyn Louise
13 Gwin, put her name on the back of the defendant's photograph.
14 Q All right.
15 Did there come a time when you questioned
16 the defendant again, about his whereabouts at the time of
17 this offense?
18 A Yes, sir; and, he gave me a second ver-
19 sion.
20 Q And, what was that second version?
21 A Well, the second time he stated that "he
22 had been to North Carolina with his brother, two uncles and
23 his girlfriend".
24 Q And, what were their names?
25 A Well, he stated that "he went to North

1 Carolina with his brother, Albert Barnett, his two uncles,
2 Arthur Majors and Ronald Majors, and his girlfriend, Iva
3 Gould".
4 And he said "they were staying at his
5 sister's husband's house, Edward Plume"; and he said "he
6 lived in Emporia", which is right on the line.
7 He said that "they left Norfolk for
8 Emporia on June 8th at 12:00 noon, from his house" and he
9 said that "they arrived about 3:30 or 4:00 P.M. at Edward
10 Plume's house".
11 And he said "once they got there, they
12 stayed there for a while and then went to a service station
13 where he had a tire fixed for his car", which was a Ford
14 Galaxi, and he said "the tire he had fixed, was for his left
15 front tire on the driver's side".
16 And he said "from there, they went to a
17 dance in Jackson, North Carolina, arriving there about 9:00
18 P.M." and he said "the group playing there, were called 'The
19 Block Busters'".
20 He said "they left there about 2:00 A.M.
21 in the morning, and they went to a bus station and got a soft
22 drink; and then they went back to Edward Plume's house, and
23 went to sleep".
24 Q That would have been the night of June
25 8th, would it not?

1 A That's correct, sir.

2 Q I then asked him "what time he got up the
3 morning of June 9th", and he stated "he got up at 12:30 in
4 the afternoon and that he and Edward Plume changed the spark
5 plugs on his car", the defendant's car.

6 He said "they drove around until about
7 4:30 or 5:00 P.M., and then they went down to Edward Plume's
8 house again, staying around until approximately 6:30 or 7:00
9 P.M.".

10 He said "they headed back toward Norfolk"
11 and he said "they stopped for about a half hour to get some-
12 thing to eat, and they arrived back in Norfolk around 11:30
13 P.M. or 12:00 midnight".

14 Then he said "from there, he dropped his
15 brother off at his house, and then he took his two uncles
16 to their house on Virginia Avenue, at about 12:15 A.M.".

17 And then, he said "he took his girl-
18 friend, Iva Gould, to her house in Portsmouth, and then he
19 returned to his own home, himself, arriving there at about
20 1:00 A.M.".

21 Q All right.

22 In your investigation, did you determine
23 whether or not the defendant actually owned a motor vehicle?

24 A Yes, sir; I did.

25 Q And, what type car is that?

1 A (looking through papers) On the 21st of
2 June at 8:00 P.M., I observed a '63 Ford Galaxi, colored tan.
3 Q (handing two photographs to witness) I
4 show you these two photographs, marked D-1 and D-2 for the
5 purpose of identification; and I believe - you got his
6 license plate number, did you not?
7 A Yes, sir.
8 Q All right.
9 Look at those two photographs, and tell
10 us whether you recognize that car?
11 A (looking at two photographs, in turn)
12 Yes, sir; this appears to be the same vehicle, that I
13 observed.
14 Q And, is that the same license number?
15 A (looking through papers, and at photo-
16 graphs) Yes, sir; it is.
17 MR. LAWLESS: Answer Mr. Bohan-
18 non's questions, please.
19
20 CROSS EXAMINATION
21 EXAMINED BY MR. BOHANNON:
22 Q Officer Brownlie, when was the first time
23 you saw that automobile?
24 A The first time, I saw that automobile?
25 Q Right.

1 A That was on June 21, 1974 at 8:00 P.M.,
2 or just prior to 8:00 P.M.
3 Q On June 21st?
4 A Yes, sir.
5 Q This alleged rape was on June 9th, cor-
6 rect?
7 A Correct.
8 Q And at that time, did you know that was
9 the automobile?
10 A At the time, I looked at the automobile?
11 Q Yes, sir.
12 A Yes, I did.
13 And there were four or five persons in
14 the automobile, but I don't recall who they were.
15 Q Was the defendant in the car, at that
16 time?
17 A No; the defendant, was with me.
18 Q He was; all right.
19 Do you recall the names of the people,
20 who were in the car?
21 A No, I don't believe so.
22 Q Okay.
23 And you examined the car at that time,
24 did you not?
25 A Yes, sir.

1 Q And, did you look at the taillights?
2 A Yes, sir.
3 Q They were both working, correct?
4 A At that time; yes, sir.
5 Q And did you not make the statement to
6 the defendant at that time, that "he could have had time to
7 have had his taillight fixed", or something like that?
8 A I might, have.
9 Q You might, have.
10 Then you didn't know whether it was fixed
11 or not, at the time you made that statement to the defend-
12 ant?
13 A I did notice that the taillight had a
14 break in the lense, and the lense was bent over the taillight.
15 Q But the taillights were working, were
16 they not?
17 A Yes, sir.
18 Q You don't know, of your own knowledge,
19 whether the light was functioning properly on the night of
20 June 9th or not, do you?
21 A No, sir; I don't.
22 Q (handing two photographs to witness) Now,
23 I show you these photographs of the automobile; I want to ask
24 you to look at those, and tell me whether the hood was up
25 like that when you examined the vehicle?

1 A (looking at photographs, and they through
2 papers) I took down a description on it, and wrote down that
3 "the hood was tied down, one taillight was broken, the
4 interior had bucket seats and gold shag carpeting in the car
5 and at the rear window, that the inside overhead light was
6 burned out and that the left rear door on the inside was
7 green and white, and that the left rear door was definitely
8 different".
9 Q Was the rest of the interior of the car,
10 of a dark color?
11 A I don't recall, that; I just have that
12 "the left rear door inside was green and white", and that's
13 all I have.
14 Q The shag carpeting, was gold?
15 A Yes, sir.
16 Q Did you question the defendant, about
17 the broken taillight?
18 A No, sir.
19 Q Now, you had occasion to question the
20 victim; and what did she say to you, regarding the identity
21 of this defendant or anything?
22 A When I questioned her, about this indi-
23 vidual?
24 Q Did she tell you, what he had on?
25 A You mean, on the night of the offense,

1 I overrule your Motion to
2 Strike, Mr. Bohannon, as to
3 each Indictment.
4 MR. BOHANNON: All right, Your
5 Honor.
6 Note my exception, if Your
7 Honor please.
8 THE COURT: Yes, of course.
9 (Mr. Bohannon conferred with the
10 defendant.)
11 MR. BOHANNON: The Defense, calls
12 Iva Gould.
13
14 -----o0o-----
15
16 IVA GOULD, witness, appearing on behalf of the
17 Defense, having been first duly sworn, was examined and tes-
18 tified as follows:
19 DIRECT EXAMINATION
20 EXAMINED BY MR. BOHANNON:
21 Q Now, if you will, please lean forward toward
22 the microphone, so His Honor and all of us, can hear you;
23 okay?
24 A Yes, sir (leaning forward in witness chair,
25 to microphone).

1 Q All right.
2 Now, what is your name and age?
3 A Iva Gould, and my age is 17.
4 Q And, where do you live?
5 A 876 Dillon Avenue.
6 Q And, where is that located?
7 A Chesapeake Manor.
8 Q In Chesapeake Manor; all right.
9 And, is that in the City of Norfolk?
10 A Yes, sir.
11 Q All right.
12 Do you know this fellow, sitting beside
13 me at Counsel Table?
14 A Yes, sir.
15 Q What, is his name?
16 A Melvin Lander Barnett.
17 Q All right.
18 Is he, your boyfriend?
19 A Yes, he is.
20 Q All right.
21 Now, I call your attention to the after-
22 noon of June 9, 1974; were you with Melvin Lander Barnett,
23 on that day?
24 A Yes, sir.
25 Q And at what time, were you with him?

1 A All day.
2 Q All day?
3 A Yes, sir.
4 Q All right.
5 And so you were with him, before that
6 afternoon?
7 A Yes, sir.
8 Q All right.
9 And then, what did you do in the after-
10 noon?
11 A (pause) We were over his house, playing
12 cards and talking.
13 Q When you say "his house", do you mean
14 Melvin's?
15 A Uh-huh.
16 Q And then, after that afternoon, where did
17 you go?
18 A (pause) To the movie theatre.
19 Q What movie theatre, do you recall?
20 A The Regal.
21 Q And, on what street is the Regal Theatre?
22 A Church Street.
23 Q All right.
24 What movie, did you see?
25 A I don't know, what the name of it was.

1 Q All right.
2 What did you do, after you came out of
3 the movie theatre?
4 A We went back, over to his house.
5 Q Back, over to Melvin's house?
6 A Uh-huh.
7 Q All right.
8 What did - do you remember, what time
9 you got back over to Melvin's house?
10 A We got back over to his house, about 8:00
11 or 9:00 o'clock.
12 Q And, Melvin lives where?
13 A 305 West 26th Street.
14 Q And how far away is that, from where you
15 live?
16 A (pause) (no answer)
17 Q Is it more, than a few blocks?
18 A Yes, it's a long way.
19 Q It's a long way; all right.
20 Now, let me ask you this: how long does
21 it usually take Melvin, to go from his house to your house?
22 A About 15, or 20 minutes.
23 Q Okay.
24 Now, I believe I asked you - you went to
25 his house, on 26th Street?

1 A Yes, sir.
2 Q And, what time was that?
3 A (pause) Around, 8:00 o'clock.
4 Q How do you know, what time it was?
5 A (pause) Because, that was after we left
6 over Linda's house.
7 Q Linda, who?
8 A Linda Forbes.
9 Q And, who is Linda Forbes?
10 A Melvin's brother's girlfriend.
11 Q All right.
12 Now, what is Melvin's brother's name?
13 A Calvin Barnett, and he's Melvin's twin
14 brother.
15 Q Calvin Barnett and Melvin Barnett, are
16 twin brothers?
17 A Yes, sir.
18 Q All right.
19 Now, does Melvin have an unmarried sis-
20 ter?
21 A Yes, sir.
22 Q And, what is her name?
23 A Gloria.
24 Q Gloria Barnett?
25 A (pause) I don't know, that.

1 Q All right.
2 Was Calvin there, at that time?
3 A Yes, he was with us.
4 Q And, was Linda Forbes with you?
5 A Right.
6 Q So then, you say that you, Melvin, Calvin
7 and Linda, all went over to Melvin's house, or were there?
8 A Right.
9 Q All right.
10 Now, was anybody else there?
11 A (pause) I guess so, but I don't remem-
12 ber right now.
13 Q You guess, there were some other people
14 there?
15 A (pause) Yes, sir.
16 Q Okay.
17 Then what did you do, after you all got
18 there?
19 A Then we started playing cards, and we
20 were sitting at the kitchen table while we were playing.
21 Q What kind of cards, were you playing?
22 A "Spades".
23 Q "Spades"?
24 A Yes, sir.
25 Q Who all was playing cards, do you know

1 that?

2 A (pause) Gloria, and Melvin's cousin ---

3 Q And, who is that?

4 A Jerome.

5 Q What, is Jerome's last name?

6 A (pause) I can't remember, now.

7 Q Okay.

8 Now then, do you remember how long you

9 played cards?

10 A (pause) (no answer)

11 Q Was it, a long time?

12 A Uh-huh.

13 Q Okay.

14 And did everybody stay there the whole

15 time, or did anybody leave?

16 A (pause) They just left, to go home.

17 Q Who left, to go home?

18 A Gloria and her boyfriend, went out.

19 Q All right.

20 Did you, leave?

21 A Later.

22 Q All right.

23 Do you remember, what time you left?

24 A Between 11:30, and something to 12:00.

25 Q And when you left, who did you leave with?

1 A Melvin.
2 Q And, was Melvin there the whole time you
3 were there?
4 A Yes, sir.
5 Q And when you did leave, how do you know
6 what time it was?
7 A (pause) Well, they've got a kitchen
8 clock; and I had to go to school, the next day.
9 Q And, were you watching TV?
10 A We were watching TV, too; un-huh.
11 Q All right.
12 A And I looked up, and said "it's getting
13 late".
14 Q And, did you and Melvin leave then?
15 A Yes, sir.
16 Q And, how did you leave?
17 A How?
18 Q Did you walk, or ---
19 A By car.
20 Q And, whose car did you go in?
21 A Melvin's car.
22 Q All right.
23 Now, do you recall what Melvin had on
24 that night?
25 A (pause) I know he wore a shirt, and ---

1 Q And, did he have pants on?
2 A Uh-huh.
3 Q So then, he had a shirt and pants on?
4 A Uh-huh.
5 Q Now, do you remember the color of the
6 shirt he had on?
7 A I don't remember, that.
8 Q Does he wear a shirt, all the time?
9 A Yes, sir.
10 Q Have you ever known him, to be without
11 a shirt?
12 A (laughing) When he takes a bath, you
13 know.
14 Q All right.
15 Does he ever go around, without a shirt?
16 A No, sir; he always, has a shirt on.
17 Q All right.
18 Then how long did it take Melvin, to take
19 you home that night?
20 A About 15 minutes, I think.
21 Q And when Melvin took you home, was your
22 mother there when you got home?
23 A Yes, sir.
24 Q And how long, did Melvin stay there at
25 your house?

1 A He stayed there for about five minutes,
2 I guess.
3 Q And then, did he leave?
4 A Right.
5 Q And, how do you know if he went right
6 back home?
7 A Because, he called me.
8 Q He called you, from where?
9 A From his house.
10 Q On 26th Street?
11 A Right.
12 Q How, do you know that?
13 A Because, he always calls me when he gets
14 home.
15 Q Why?
16 A Because, that's just the way we are; we
17 always call each other, when we get home.
18 Q All right.
19 Now, do you and Melvin plan to get mar-
20 ried?
21 A Yes, sir.
22 Q All right.
23 So then, did Melvin call you that night?
24 A Yes, sir; after he took me home, then he
25 called me when he got back home again.

1 Q And, what did he say to you?
2 A I - he just made sure to me, that he got
3 home safely; I said "okay", and he hung up.
4 Q All right.
5 Now, what kind of seats does Melvin have
6 in his car; can you tell us, about that?
7 A They're parted seated, bucket seats.
8 Q Melvin's car, has bucket seats?
9 A Yes, sir.
10 Q Now, I believe you had occasion to talk
11 to a police officer, did you not?
12 A Yes, sir; I did.
13 Q And, did you not talk to Officer Brown-
14 lie?
15 A I - yes, sir.
16 Q And, do you remember when you talked to
17 him?
18 A I don't remember what night it was, but
19 it was late at night.
20 Q All right.
21 Now, can you tell us, where else you
22 were?
23 A That night?
24 Q Yes.
25 A Well, I already told you.

1 Q All right.
2 Do you know - did you notice anything
3 about Melvin's car, like the car's taillight not working; or,
4 did you know about that?
5 A No.
6 Q You, didn't know about that?
7 A Uh-uh.
8 Q Does Melvin, take care of his car?
9 A Yes, sir.
10 Q Do you have - are you absolutely sure,
11 that you did not leave his house until approximately 11:30
12 or ---
13 A Or something, to 12:00 o'clock; I'm pos-
14 itive.
15 Q Do you know the prosecutrix, Carolyn
16 Louise Gwin; or, have you ever seen her before?
17 A No, sir.
18 Q Do you know, who she is?
19 A No, sir.
20 Q Do you know her husband, or have you ever
21 seen him before?
22 A No, sir.
23 Q Okay.
24 MR. BOHANNON: Please answer Mr.
25 Lawless' questions.

1 CROSS EXAMINATION

2 EXAMINED BY MR. LAWLESS:

3 Q You talked to Officer Brownlie, is that
4 correct?

5 A Yes, sir.

6 Q And, was your mother present?

7 A Yes, she was.

8 Q And your full name, is Iva Anglia Gould?

9 A Yes, sir.

10 Q And your mother's name, is Agnes Eliza-
11 beth Gould?

12 A Correct; yes, sir.

13 Q All right.

14 You talked to Officer Brownlie in the
15 Youth Bureau at the Public Safety Building, did you not?

16 A Yes, sir.

17 Q And, was that on July 1, 1974?

18 A Yes, sir.

19 Q Do you remember, what day that was?

20 A No, sir.

21 Q But, you do remember talking to Officer
22 Brownlie?

23 A Yes, sir.

24 Q And, are you positive of what you said to
25 him at that time?

1 A (pause) Yes, sir.
2 Q All right.
3 (looking through papers) Do you remem-
4 ber telling him, about going to Virginia Beach?
5 A Yes; but that was another day, and I told
6 him that.
7 Q You told him, "that was another day"?
8 A Uh-huh.
9 Q It was not, the same night?
10 A I don't believe - I told him "we went to
11 Virginia Beach, before we went to Melvin's".
12 Q How long were you at Virginia Beach, that
13 day?
14 A I don't remember, how long.
15 Q But, you now remember telling Officer
16 Brownlie that "you went to Virginia Beach then"?
17 A (pause) Yes, sir.
18 Q And, you remember going to the movies at
19 the Regal?
20 A Yes, sir.
21 Q And, do you remember telling him what the
22 movie was about?
23 A Uh-huh.
24 Q What, did you tell him the movie was
25 about?

1 A (pause) It was about a girl that was
2 (pause) - it was kind of an African movie, you know.
3 Q And, did you tell Officer Brownlie that
4 "the defendant left you at home, at 10:30"?
5 A I - no.
6 Q You, did not tell him that?
7 A I - he was trying, to confuse me.
8 Q All right.
9 What, did you tell him?
10 A (pause) It's just, that he was trying to
11 trick me into saying ---
12 THE COURT: Do you understand the
13 question, that was asked you?
14 A (pause) Yes.
15 THE COURT: Then answer it, please.
16 BY MR. LAWLESS:
17 Q What, did you tell Officer Brownlie?
18 A (crying) (no answer)
19 THE COURT: Try to stop crying,
20 and answer the question.
21 A I don't know, how to answer
22 that question.
23 BY MR. LAWLESS:
24 Q Let me ask you this, now: you told
25 Officer Brownlie that "the defendant could have left your

1 house at 10:30", did you not?
2 A No.
3 Q You, did not tell him that?
4 A (crying) He was trying, to trick me.
5 THE COURT: Just answer the ques-
6 tion, please.
7 A (crying)
8 BY MR. LAWLESS:
9 Q You told Officer Brownlie that "the
10 defendant could have left your house at 10:30", did you not?
11 A (crying) (no answer)
12 Q Will you answer my question, please?
13 A (crying) (no answer)
14 THE COURT: Do you remember tel-
15 ling Officer Brownlie that "the
16 defendant could have left your
17 house at 10:30"?
18 A (pause) (nodding head, up
19 and down)
20 BY MR. LAWLESS:
21 Q What, was your answer?
22 THE COURT: She indicated, "yes".
23 BY MR. LAWLESS:
24 Q You did, answer "yes"; or, did you so
25 indicate by nodding your head?

1 A He kept trying to make me say "it was
2 10:30", and I remember that.
3 Q Well, do you remember telling him that?
4 A (crying) (no answer)
5 THE COURT: Did you tell him
6 that, or not?
7 A No, I didn't tell him that.
8 THE COURT: All right.
9 (Mr. Lawless showed papers to Mr.
10 Bohannon, and they conferred.)
11 MR. BOHANNON: Your Honor, may we
12 approach the Bench?
13 THE COURT: Yes, sir.
14 (Sidebar conference: the Court,
15 Mr. Lawless and Mr. Bohannon.)
16 MR. LAWLESS: Your Honor, I'd
17 like to have these papers marked
18 as C-5 for the purpose of identi-
19 fication.
20 THE COURT: So marked.
21 BY MR. LAWLESS:
22 Q (handing papers to witness) Ishow you
23 two sheets of paper which have been marked C-5 for the pur-
24 pose of identification; I ask you to look at both of those
25 sheets of paper, and at the bottom of page two where the name

1 "Iva Gould" appears, and tell us whether you recognize them
2 and whether or not that's your name written there?
3 A (looking through both papers, and cry-
4 ing)
5 Q Is that your signature, on the bottom
6 righthand corner of the second of those two papers?
7 A (looking at paper, and crying) Yes, sir.
8 MR. LAWLESS: I have no further
9 questions, at this point.
10 MR. BOHANNON: If Your Honor
11 please, I believe the witness is
12 confused; she has stated, that
13 "the officer tried to make her
14 say something", and ---
15 THE COURT: If you wish to ques-
16 tion her about that, go ahead.
17 MR. BOHANNON: All right, Your
18 Honor.
19
20 REDIRECT EXAMINATION
21 EXAMINED BY MR. BOHANNON:
22 Q Are you trying to tell us the truth, at
23 this time?
24 A (crying) Yes, sir.
25 Q And, you want to tell us the truth?

1 A Yes, sir.
2 Q All right.
3 Now, were you frightened at the time you
4 talked to Officer Brownlie?
5 A Yes, I was.
6 Q And when you answered his questions, were
7 you afraid then?
8 A Yes, I was frightened.
9 Q All right.
10 What time of night, was that?
11 A When I talked with him, you mean?
12 Q Yes.
13 A That was about 11:00 or 12:00, at night.
14 Q And you went down to the Police Station,
15 did you not?
16 A Yes, sir.
17 Q And, your mother was present?
18 A Yes, sir.
19 Q Now, when you say "the Officer was try-
20 ing to trick you", what do you mean and what did he do, in
21 that respect?
22 A Well, he kept saying that - well, once,
23 that "it was 10:00 o'clock"; and when he told me "it was 10:00
24 o'clock", he told me "I could get in a lot of trouble, if ---
25 Q Just a minute, now: are you saying then,

1 that he mentioned the time to you?
2 A Right; yes, sir.
3 Q All right.
4 Did he mention anything else, in that
5 respect?
6 A (pause) He just mentioned, some other
7 stuff.
8 Q What, other stuff?
9 A Well, he kept trying to get me to say
10 "it was 10:00 o'clock" and he kept on telling me that.
11 Q All right.
12 And, what else?
13 A Well, when I said "11:00 o'clock", he
14 just kept trying to confuse me.
15 Q Okay.
16 So then Officer Brownlie, kept trying to
17 confuse you?
18 A Yes, sir; and I was trying to tell the
19 truth then, because he said "I could get in a lot of trouble
20 if I didn't".
21 Q All right.
22 And, are you telling us the truth now?
23 A (crying) Yes, I am.
24 Q Please, try to stop crying and answer
25 questions; I know, you're upset.

1 A I'm telling you, the truth.
2 Q All right.
3 And your mother was present, when you
4 made your statement to Officer Brownlie?
5 A Yes, she was.
6 Q All right.
7 Now, you had traveled from North Carolina
8 by car, with Melvin?
9 A Yes, sir.
10 Q Tell us about that, if you would?
11 A I told the Officer about it, then.
12 Q Would you please tell us, what you told
13 the Officer about coming from North Carolina?
14 A (pause) (no answer)
15 Q Do you understand my question, Iva?
16 A (pause) No.
17 Q All right.
18 Did you tell Officer Brownlie, that "you
19 had been in North Carolina with Melvin"?
20 A Yes, sir; and I was in North Carolina,
21 with Melvin.
22 Q And, on the night of the 8th of June?
23 A Yes, sir.
24 Q All right.
25 Now, would you explain to us, what you

1 told Officer Brownlie?
2 A (pause) I told him "that Saturday,
3 before Sunday - we left Saturday, to come back up for Sun-
4 day".
5 Q You told him that, in your statement?
6 A Yes, sir.
7 Q All right.
8 Did you read your statement, before you
9 signed it?
10 A He kept telling me that "I couldn't leave,
11 until ---
12 Q Speak up, please; what, did you say?
13 A (pause) He kept telling me "I wasn't
14 going to leave, until I signed the papers".
15 MR. BOHANNON: Okay.
16 That's all, Your Honor.
17 MR. LAWLESS: No further ques-
18 tions, Your Honor.
19 MR. BOHANNON: You, may come on
20 down.
21 THE COURT: Just a minute, if
22 you don't mind.
23 MR. BOHANNON: Sorry, Your Honor.
24 THE COURT: Let me, ask you this:
25 Q You still, didn't answer Mr.

1 Bohannon's question: did you
2 read your statement, before you
3 signed it?
4 A He told me that "I couldn't
5 leave, until I signed it".
6 Q Did you read it, before you
7 signed it?
8 A I was frightened, and I
9 wanted to leave.
10 Q Did you read your statement,
11 before you signed it?
12 A He told me, that "I would
13 have to sign it" and then I did.
14 I asked him "if I signed it,
15 would he let me go" and he said
16 "yes", and so then I signed it.
17 Q All right.
18 And then, you did sign the
19 papers?
20 A (pause) He said "if I did,
21 he would let me go"; and then, I
22 signed.
23 Q Did Officer Brownlie tell
24 you "you could not go, if you did
25 notsigned the papers"?

1 A (pause) (no answer)
2 Q Do you, understand that
3 question?
4 A (pause) (no answer)
5 Q Do you remember him, say-
6 ing anything like that?
7 A (pause) No.
8 THE COURT: All right.
9 I, have no further ques-
10 tions.
11 You may stand down, now.
12 Next witness.
13 MR. BOHANNON: Linda Forbes,
14 please.
15
16 -----o0o-----
17
18 LINDA FORBES, witness, appearing on behalf of the
19 Defense, having been first duly sworn, was examined and tes-
20 tified as follows:
21 DIRECT EXAMINATION
22 EXAMINED BY MR. BOHANNON:
23 Q State your name and age, please?
24 A I'm Linda Forbes, and I'm 17.
25 Q You're 17 years, of age?

1 A Yes, sir.
2 Q Do you know this man, seated next to me?
3 A Yes, sir.
4 Q What, is his name?
5 A Melvin Lander Barnett.
6 Q Does Melvin Lander Barnett, have a twin
7 brother?
8 A Yes, sir.
9 Q What, is his name?
10 A Calvin Barnett.
11 Q Calvin Barnett?
12 A Yes, sir.
13 Q Does Calvin and Melvin, - do they, look
14 alike?
15 A No; not, really.
16 Q Okay.
17 Well, do they have the same appearance?
18 A Calvin's a little darker than Melvin, in
19 the face.
20 Q All right.
21 Now, are you Calvin's girlfriend?
22 A Yes, sir.
23 Q And were you with Calvin on June 9, 1974?
24 A Uh-huh.
25 Q And, where were you that day?

1 A I, was home.
2 Q And, where is your home?
3 A 1526 West 40th Street.
4 Q And, is that in the City of Norfolk?
5 A Yes; uh-huh.
6 Q All right.
7 And, did somebody come by and pick you
8 up?
9 A Yes, sir.
10 Q And then, who was with you?
11 A Well, Calvin, Iva and Melvin.
12 Q How long, have you been going with Cal-
13 vin?
14 A Three months.
15 Q Now, you say that - somebody - they, came
16 by and picked you up?
17 A Uh-huh.
18 Q And, that was Calvin and Iva and Melvin?
19 A Uh-huh.
20 Q All right.
21 What time was that, do you remember?
22 A Around 8:00 o'clock, or somewhere around
23 there.
24 Q All right.
25 Did Melvin pick you up, with - was he

1 in his - how, did he pick you up?
2 A How? - in his car.
3 Q And Calvin and Iva were with him at that
4 time, correct?
5 A Yes, sir.
6 Q Was anybody else in the car, with them?
7 A No.
8 Q All right.
9 Now, where did you go?
10 A Straight, to his mother's.
11 Q To his, mother's?
12 A Yes, sir.
13 Q To Melvin's mother's house, you mean?
14 A Yes, sir.
15 Q And, where is Melvin's mother's house?
16 A 305 West 26th Street.
17 Q All right.
18 When you got over there, do you remember
19 who all was there?
20 A Jerome, Gloria and her boyfriend, and
21 his mother was there.
22 Q Whose mother, was there?
23 A Melvin's.
24 Q And that was Calvin's mother too, was it
25 not?

1 A Yes, sir.
2 Q All right.
3 And, what did you all do?
4 A We stayed there, you know.
5 Q You all, stayed there?
6 A Uh-huh.
7 Q Okay.
8 What, did you all do?
9 A Played cards.
10 Q And, what kind of cards did you play?
11 A "Spades".
12 Q "Spades"?
13 A Yes, sir.
14 Q And, did you all play "Spades"?
15 A Everybody, but - all of us, except their
16 mother.
17 Q Okay.
18 How long, did you play cards?
19 A Forquite a little while, or until about
20 11:30.
21 Q And, did anybody leave?
22 A Melvin and his girlfriend, Iva; they,
23 left.
24 Q And, how about before they left?
25 A I think Gloria and her boyfriend, went on

1 out.

2 Q Do you remember, what time they left?

3 A I think it was right before Melvin left,

4 but I don't know exactly what time it was when they left.

5 A Okay.

6 Now, you say "Melvin and Iva Left"; and

7 do you remember, what time they left?

8 A About 11:30, or something to 12:00.

9 Q And where did they go, do you know that?

10 A They went - Melvin, took Iva home.

11 Q All right.

12 Do you know, how long Melvin was gone?

13 A (pause) I just know what time he left,

14 because ---

15 Q How, do you know what time that was?

16 A Because I had to feed the baby, and it

17 was about 10 to 12:00 when I did that.

18 Q All right.

19 What time, did Melvin get back?

20 A I would say it was 12:30, or something to

21 1:00.

22 Q Then, he came back before 1:00 o'clock?

23 A Yes, he got back before 1:00 o'clock.

24 Q All right.

25 And, what time did you say he left?

1 A I - around, 11:30.
2 Q And between 11:30, and - are you sure,
3 that was the time?
4 A It was around there, you know; I had to
5 feed the baby, and I fed the baby at 10 minutes to 12:00.
6 Q All right.
7 Now, how do you know that Melvin and Iva
8 left around 11:30; how can you be so sure, about the time?
9 A Because, at about 10 minutes to 12:00, I
10 had to feed the baby; and I fed the baby after 11:30, after
11 they left in the car.
12 Q They left, in a car?
13 A In Melvin's car; and when they left, then
14 I fed the baby, and it was about 10 minutes to 12:00.
15 Q All right.
16 Was there a clock, in that room?
17 A Right; in the kitchen, where we were
18 playing cards.
19 Q In the kitchen, where you were playing
20 cards; all right.
21 And, where is that clock located?
22 A It's right off - there's a washing
23 machine, and the clock was right on top of the washing mach-
24 ine.
25 Q Could you see that clock from the kitchen

1 table, where you were playing cards?
2 A Yes, sir.
3 Q And, do you remember looking at that
4 clock?
5 A Uh-huh; I always look at the clock,
6 because of course, I had to feed the baby.
7 Q You watched the clock, because you had to
8 feed the baby?
9 A Uh-huh.
10 Q Then, you say "Melvin got back, at around
11 12:30"?
12 A Yes, sir; about 12:30, or something to
13 1:00.
14 Q And, what did Melvin do, when he came in?
15 A What, did he do?
16 Q Where did he go, when he first came back
17 in?
18 A Well, when he first came in, he said "he
19 wa going to call ---
20 MR. LAWLESS: Objection, Your
21 Honor.
22 THE COURT: Sustained.
23 MR. BOHANNON: All right, Your
24 Honor.
25 BY MR. BOHANNON:

1 Q Don't give us any answer about him say-
2 ing "he was going to call"; just tell us what he did, when
3 he came back?
4 A He called Iva, and said ---
5 MR. LAWLESS: Objection.
6 THE COURT: Sustained.
7 BY MR. BOHANNON:
8 Q Melvin made a 'phonecall when he came
9 back in, right?
10 A Right.
11 Q All right.
12 Now, do you know, of your own knowledge,
13 who Melvin called?
14 A (pause) I just know, that he made a
15 'phonecall.
16 Q Okay.
17 And then, did you leave?
18 A No.
19 Q You did not leave, then?
20 A No; not, right then.
21 Q All right.
22 When, did you leave?
23 A I left, about 1:00 o'clock.
24 Q And, who was with you?
25 A Melvin, Jerome, and my baby.

1 Q And, did you go in Melvin's car?
2 A Yes, sir.
3 Q And, then, where did you go?
4 A Straight, home.
5 Q Did you go to your home, first?
6 A Well, we dropped Jerome off, and then we
7 went to my house.
8 Q And then, where did Melvin go?
9 A I guess he went home, after he left my
10 house.
11 Q All right.
12 Now, are you sure that - are you positive
13 that from approximately 8:00 o'clock that evening until 11:30
14 and then from 12:30 to 1:00 o'clock, that Melvin Lander Bar-
15 nett was in your presence?
16 A I'm positive.
17 Q There 's no question in your mind, about
18 that?
19 A No.
20 MR. BOHANNON: Answer Mr. Law-
21 less' questions, please.
22
23 CROSS EXAMINATION
24 EXAMINED BY MR. LAWLESS:
25 Q How does that particular evening of June

1 9th, stick out in your mind?
2 A Well, I've had time to think about it.
3 Q Answer me this, now: did anything
4 unusual occur that particular night, that made you think
5 about it?
6 A No, I just thought about it; and, I've
7 had a long time to think about it.
8 Q How old is your baby, now?
9 A Three months.
10 Q How old was your baby, on June 9th?
11 A (pause) Approximately, two months.
12 Q How many months, was that?
13 A (pause) What, do you mean; say that,
14 again?
15 Q You told me "your baby was three months
16 old", right?
17 A Yes, sir.
18 Q And is it your testimony that on June 9th,
19 your baby was two months old?
20 A (pause) (no answer)
21 Q This is August 30th, is it not?
22 A What?
23 Q Is this date, August 30th?
24 A I, don't understand.
25 Q What, is today's date?

1 A This, is September.
2 Q Are you sure, this is September?
3 A (pause) I'm mixed up, now; what, are
4 you trying to ask me?
5 Q I'm trying to find out now, what month
6 this is?
7 A I think, this is September; but that, was
8 in June.
9 THE COURT: What?
10 A June.
11 MR. LAWLESS: I have no further
12 questions of this witness, Your
13 Honor.
14 THE COURT: All right, sir.
15 Step down.
16 MR. BOHANNON: The defense, calls
17 Gloria Barnett.
18
19 -----o0o-----
20
21 GLORIA BARNETT, witness, appearing on behalf of the
22 Defense, having been first duly sworn, was examined and tes-
23 tified as follows:
24 DIRECT EXAMINATION
25 EXAMINED BY MR. BOHANNON:

1 Q State your name and age, please?
2 A Gloria Barnett, and I'm 20 years old.
3 Q Do you have any relationship to Melvin
4 Lander Barnett, seated next to me?
5 A Yes, sir.
6 Q What, is that relationship?
7 A He's, my brother.
8 Q Melvin Lander Barnett, is your brother?
9 A Yes, sir.
10 Q All right.
11 Do you remember the early evening of
12 June 9, 1974?
13 A Yes, sir.
14 Q Where were you, that day?
15 A I, was home.
16 Q You were home, that day?
17 A Yes, sir.
18 Q And, what were you doing that night?
19 A Well, we was playing cards.
20 Q And, who is "we"?
21 A Me, Melvin and Iva, Linda, Jerome and
22 Calvin.
23 Q Was anybody else, there?
24 A People, was coming in and out.
25 Q Then, you did see Melvin there?

1 A Yes, sir.
2 Q Was there any time, when Melvin was not
3 there?
4 A (pause) Between 7:00, and maybe 8:00.
5 Q Okay.
6 Did he bring anybody back, with him?
7 A Yes, sir.
8 Q Who, was that?
9 A Iva Gould.
10 Q And, did Linda have her baby?
11 A Yes, sir.
12 Q All right.
13 Now, did you stay there that whole night
14 and play cards?
15 A I got up from the table at about 10:30,
16 and I took about a half hour to get dressed; I was going to
17 the Black Cat Lounge in Berkley, with a friend.
18 Q You were going there, with a friend?
19 A Yes, sir.
20 Q What time, would you say you left?
21 A I left the house, about 11:00 o'clock;
22 about that, or maybe a little after.
23 Q All right.
24 And who was there, when you left?
25 A Iva, Melvin, Linda, Jerome, Calvin and

1 Linda's baby.
2 Q Okay.
3 And then after that, you don't know who
4 left, or anything about that, about who left the house at
5 that time, do you?
6 A No, sir.
7 Q All right.
8 You don't know what went on later on that
9 night, do you?
10 A No, I don't.
11 Q All right.
12 Now, did you see Melvin with a shirt and
13 pants on?
14 A Well, Melvin always wears a shirt.
15 Q All right.
16 And, did he have a hat on?
17 A No; he had his hair braided, but I don't
18 know for sure whether he had a hat on, or not.
19 A Okay, okay.
20 Do you remember, whether he had a beard?
21 A Yes, sir.
22 MR. BOHANNON: No further ques-
23 tions.
24 Answer Mr. Lawless' ques-
25 tions, please.

1 CROSS EXAMINATION

2 EXAMINED BY MR. LAWLESS:

3 Q How did you say Melvin had his hair

4 fixed, that night?

5 A He had it braided, you know.

6 Q Braided?

7 A You know, it was sticking out.

8 Q (handing photograph to witness) I show

9 you this photographs, marked C-1; is that, what his hair

10 looked like?

11 A (looking at photograph) Yes, sir; it

12 was braided, like that.

13 Q What kind of car, does Melvin own?

14 A I think it's a '63 ---

15 Q (handing two photographs to witness) I

16 show you these two photographs, marked D-1 and D-2; does

17 that, look like his car?

18 A (looking at photographs, in turn) Yes,

19 sir.

20 Q Was that the car he owned, on June 9th?

21 A Yes, sir.

22 Q Where, do you work?

23 A I, don't work.

24 Q How, do you support yourself?

25 A I'm on Welfair.

1 Q Do you, have any children?
2 A I, have one.
3 MR. LAWLESS: No further ques-
4 tions.
5 THE COURT: Step down.
6 MR. BOHANNON: Jerome Majors,
7 please.
8
9 -----oOo-----
10
11 JEROME MAJORS, witness, appearing on behalf of the
12 Defense, haveing been first duly sworn, was examined and
13 testified as follows:
14 DIRECT EXAMINATION
15 EXAMINED BY MR. BOHANNON:
16 Q State your name, please?
17 A Jerome Majors.
18 Q How old are you, Mr. Majors?
19 A Eighteen.
20 Q Is Jerome, actually your first name?
21 A No; Harold.
22 Q Then, you are Harold Jerome Majors?
23 A Yes, sir.
24 Q Where, do you live?
25 A 1262 West 27th Street.

1 Q Is that, in the City of Norfolk?
2 A Yes, sir.
3 Q All right.
4 Now, do you know the defendant seated
5 next to me?
6 A Yes, sir.
7 Q What, is his name?
8 A Melvin Lander Barnett.
9 Q How long, have you known him?
10 A All my life, really.
11 Q Did you have occasion to be with him, on
12 June 9th; do you, remember that?
13 A I was at their house, when he was there.
14 Q At whose house?
15 A Well, Barnett's.
16 Q And who else was there, do you remember
17 that?
18 A He, was; and there was myself, Melvin's
19 girlfriend, Barnett's brother, and Linda Forbes.
20 Q And, what were you doing?
21 A Playing cards.
22 Q All right.
23 Was anybody else, there?
24 A Barnett's mother, was there.
25 Q All right.

1 And how long, did - what time, did you
2 get there?
3 A I - 7:00 o'clock.
4 Q And, how did you get there?
5 A Me? - I, walked there.
6 Q You, walked over there?
7 A Yes, I did.
8 Q Do you remember if there was anybody else
9 there, playing cards?
10 A Melvin's girlfriend, Iva.
11 Q All right.
12 Now, was - do you know if - was Linda
13 Forbes there, when you got there at 7:00 o'clock?
14 A No; she wasn't there, then.
15 Q When, did she get there?
16 A She came over at about 7:30 or 8:00
17 o'clock, or somewhere around there.
18 Q All right.
19 Were you there, the whole night?
20 A I were.
21 Q You were?
22 A Yes, sir.
23 Q All right.
24 When you went home, did anyone take you
25 home?

1 A Yes; Melvin, did.
2 Q Melvin, took you home?
3 A Yes, sir.
4 Q Did Melvin leave, before he took you
5 home?
6 A Yes; he left, with his girlfriend.
7 Q And, who is his girlfriend?
8 A Iva.
9 Q Iva, who?
10 A Iva Gould.
11 Q When Melvin left with Iva, do you know
12 where they were going?
13 A He was going to take Iva, home.
14 Q What time was that, do you remember?
15 A I think he left to take her home, about
16 11:00 o'clock.
17 Q All right.
18 Now, did Melvin come back to the house
19 later on?
20 A Yes, he did.
21 Q And, do you remember what time that was?
22 A I would say he got back, around 12:30.
23 Q All right.
24 A It was somewhere, in that area.
25 Q Okay.

1 And then, what happened when he got back?
2 A Well, he asked me "if I was ready to go
3 home" and I said "I'd be ready in a few minutes, when I got
4 finished playing cards".
5 Q And, was he dressed properly?
6 A Naturally.
7 Q Did he have a shirt on, at that time?
8 A Yes, he did.
9 Q All right.
10 Do you remember, what color his shirt
11 was?
12 A No, I do not.
13 Q And, did he have shoes on?
14 A Yes, I would say that he did.
15 Q All right.
16 Now, did Melvin do anything in particular
17 when he got back?
18 A Sure.
19 Q What, did he do?
20 A He made a 'phonecall to his girlfriend,
21 that he got home.
22 Q Are you sure, he did that?
23 A Sure, he did.
24 Q All right.
25 Now, did anyone else leave with you, when

1 Melvin took you home?

2 A Linda Forbes, and her baby.

3 Q All right.

4 Did Melvin take you home first, or did

5 he - was Melvin going to take Linda Forbes home, do you know?

6 A Yes, he was; he dropped me off first, and

7 then he was going to take Linda on home.

8 Q All right.

9 And, do you remember what time it was

10 when you all left, when Melvin was going to take you and

11 Linda Forbes home?

12 A I would say it was around 1:00 o'clock,

13 in that neighorhood.

14 MR. BOHANNON: Answer Mr. Law-

15 less' questions now, please.

16

17 CROSS EXAMINATION

18 EXAMINED BY MR. LAWLESS:

19 Q You walked over to Barnett's house, from

20 your house on 27th Street?

21 A Yes, sir.

22 Q And, they live on 26th Street?

23 A Yes, sir.

24 Q So then, you walked over, but Melvin

25 drove you home?

1 A Yes, he did.
2 Q And what time was that, when Melvin took
3 you home?
4 A Somewhere, around 1:00 o'clock.
5 Q What date was that, do you know?
6 A What date?
7 Q That night, when you were playing cards?
8 A What date, was it?
9 Q That's, what I'm trying to find out; was
10 it the 21st, or the 23rd, or ---
11 A It was the 9th, I think.
12 Q Not, the 21st; all right.
13 Now, do you remember what day of the week
14 it was?
15 A No.
16 Q You don't remember, what day of the week
17 it was?
18 A No, I don't; but, I know it was the 9th.
19 Q You don't know what day of the week it
20 was, but you know it was the 9th and not the 21st?
21 A I think, it was the 9th.
22 Q All right; you think, it was the 9th?
23 A Yes, I think it was.
24 MR. LAWLESS: I have no further
25 questions.

1 THE COURT: Step down.
2 MR. BOHANNON: The Defense calls
3 Calvin Barnett.
4 DEPUTY CITY SHERIFF: If Your
5 Honor please, this witness has not
6 been sworn.
7 THE COURT: All right, sir.
8 Raise your right hand, and
9 be sworn.
10 You do solemnly swear that
11 the testimony you give in this mat-
12 ter before the Court will be the
13 truth, the whole truth and nothing
14 but the truth, so help you God.
15 WITNESS: I do.
16 THE COURT: Have a seat up here in
17 the witness chair, please.
18
19 -----oOo-----
20
21 CALVIN BARNETT, witness, appearing on behalf of
22 the Defense, having been first duly sworn, was examined and
23 testified as follows:
24 DIRECT EXAMINATION
25 EXAMINED BY MR. BOHANNON:

1 Q State your name, please?
2 A Calvin Barnett.
3 Q Do you have any relationship with the
4 defendant, seated by me?
5 A Yes, sir.
6 Q What, is that?
7 A He's, my twin brother.
8 Q Then, you were both born the same day?
9 A Yes, sir.
10 Q All right.
11 Now, does Melvin own an automobile?
12 A Yes, sir.
13 Q And, what kind of car does he own?
14 A A Ford Galaxi.
15 Q Do you know very much, about that car?
16 A I know a little bit, you know.
17 Q A little bit?
18 A Not, that much.
19 Q Well, do you know if anything is wrong
20 with the hood?
21 A Yes; the hood's, up.
22 Q The hood, is up?
23 A It's open a little bit, you know.
24 Q All right.
25 Do you know what the inside of that car,

1 is like?

2 A Well, it's got gold carpet.

3 Q And, what kind of seats?

4 A Bucket.

5 Q Okay.

6 Now, I direct your attention to June 9,

7 1974; where were you, that day?

8 A I was home, in the daytime.

9 Q You were home, in the daytime?

10 A Uh-huh.

11 Q All right.

12 Then you didn't go anywhere, that morn-

13 ing?

14 A No.

15 Q All right.

16 Did you go anywhere, that afternoon?

17 A Over, to my mother's house.

18 Q And, what time was that?

19 A Well, about 8:00 or something to 8:00

20 o'clock.

21 Q And, how did you get over there?

22 A My brother, came and picked me up.

23 Q And, do you know who was with him?

24 A His girlfriend.

25 Q And, who is that?

1 A Iva.
2 Q All right.
3 And, was anybody with you?
4 A My girlfriend.
5 Q And, who is that?
6 A Linda.
7 Q And, does Linda have a baby?
8 A Yes, sir.
9 Q All right.
10 Now, where did you all go?
11 A We went over, straight to my mother's
12 house.
13 Q And, where is that?
14 A 305 West 26th Street.
15 Q And, - all right.
16 Now, do you know where Iva lives?
17 A I don't know, but she lives in Chesa-
18 peake with her mother.
19 Q Do you know about how far away that is,
20 from 26th Street?
21 A Well, it's pretty far.
22 Q Do you know how long it takes to get over
23 there, by car?
24 A I - about 20 minutes, or more.
25 Q Do you know - when you go from 26th Street

1 to Dillin, do you go on Lafayette Boulevard and through
2 Lafayette Park?
3 A You can, go that way; and then you'd
4 most like turn left on Tidewater Drive, that way.
5 Q Okay.
6 Do you if that's the way Melvin goes,
7 when he takes Iva home?
8 A He goes straight on, and then goes down
9 Widgeon.
10 Q From 26th Street to Lafayette Boulevard,
11 and then down Tidewater Drive to Widgeon?
12 A And then left on Gregory Drive, to Dil-
13 lon.
14 Q All right.
15 Now, who was at your mother's home at
16 305 West 26th Street, when you got there?
17 A I - my sister and Jerome, and my brother,
18 Melvin.
19 Q All right.
20 Do you know what clothes Melvin had on,
21 that night?
22 A He had on shoes and dark pants, and a red
23 T-shirt.
24 Q Now, what did you do, when you got over
25 there to 26th Street?

1 A When I got there, I was sitting down for
2 a little while; and then I went from the living room into the
3 kitchen, and started playing a little bit of "Spades", and
4 (pause) so we started playing "Spades".
5 Q And, who was playing "Spades"?
6 A Well, there was Linda, Iva, Gloria,
7 Melvin and me, and Jerome.
8 Q Was Iva, playing?
9 A Well, no.
10 Q Where, was she?
11 A Well, she was sitting around watching us
12 play, you know.
13 Q All right.
14 And how long did you play "Spades", do
15 you remember that?
16 A We played "Spades", until around about
17 1:00 o'clock, that night.
18 Q All right.
19 Do you remember anybody leaving, during
20 that night?
21 A Yes.
22 Q Who, was that?
23 A Gloria left, to go out.
24 Q All right.
25 Now, do you know what time she left?

1 A I don't know exactly what time she left,
2 but I know she left because she was going out.
3 Q And Gloria, is your sister?
4 A Uh-huh.
5 Q Do you have any idea, when Gloria left?
6 A I would say she started to go out at
7 about 10:30, but I don't know exactly what time she did
8 leave.
9 Q All right.
10 Now, where were you sitting in the kit-
11 chen, when you were playing "Spades"?
12 A At the kitchen table.
13 Q Okay.
14 And from where you were sitting at the
15 kitchen table, could you see any clock that was in that room?
16 A You could see a clock, that was over the
17 washing machine.
18 Q All right.
19 Now, did anybody else leave that night?
20 A Melvin and Iva, they left.
21 Q And, when did they leave?
22 A It was right after Gloria went out, you
23 know; Melvin, took Iva on home.
24 Q Did anything happen at that time, when
25 Melvin left with Iva?

1 A Well, Linda fed the baby.
2 Q Okay.
3 Do you know what time it was, that Linda
4 fed the baby?
5 A I'd say it was about 11:30 or something
6 to 12:00, but I don't know exactly what time it was.
7 Q Okay.
8 A Linda fed the baby, about the same time
9 that Melvin and Iva left, you know.
10 Q All right.
11 Do you remember looking at that clock,
12 that night?
13 A Yes, I looked at the clock.
14 Q All right.
15 Do you remember looking at the clock,
16 when Linda fed the baby?
17 A Well, it was getting on to 12:00 o'clock.
18 Q All right.
19 Now, do you know what time it was when
20 Melvin came back after taking Iva home?
21 A That was about 12:30, or something to
22 1:00.
23 Q All right.
24 Do you remember if Melvin said anything
25 in particular to anybody, when he came back?

1 A Well, he asked Jerome "if he was ready
2 to go home", you know, and Jerome said "he wanted to finish
3 playing cards".
4 Q And then, what did Melvin do?
5 A Well, he just layed down on the sofa,
6 you know.
7 Q All right.
8 And then, did Melvin take Jerome on home?
9 A Yes, he did; and he took Linda Forbes
10 home and her baby.
11 Q All right.
12 Do you remember what time, that was?
13 A Around 1:00 o'clock, I'd say.
14 Q Okay.
15 Now, Melvin also took you home that night,
16 did he not?
17 A Yes, he did.
18 Q And, did he take you in his car?
19 A Yes.
20 Q All right.
21 Now, did you notice any damage to Mel-
22 vin'a car; either to the taillight, or ---
23 A No, I didn't notice anything; I didn't
24 look, to see.
25 Q Okay.

1 Now, were you in Melvin's car when the
2 police stopped his car?
3 A Yes, sir; when they picked me up, I was
4 in his car.
5 Q And did the police officer, at that time,
6 examine Melvin's car?
7 A Yes, sir.
8 Q Do you recall if the lights were working,
9 at that time?
10 A Yes, the lights were working.
11 Q And the taillights, did they work?
12 A Yes, sir.
13 Q Do you know how long a period of time it
14 was from June 9th, until the police picked you up?
15 A That was about two weeks later, I think.
16 Q Okay.
17 A And then, it was about two weeka later on,
18 when they picked him up?
19 Q Okay.
20 Do you know, if during that period of
21 time, from June 9th, if Melvin had any work done on his car?
22 A Not, that I know of.
23 Q Does Melvin, take care of his car?
24 A Yes, he really does.
25 Q He does, take care of his car?

1 A Like he should, you know.
2 Q All right.
3 Now, what kind of work do you do?
4 A I work on automobiles, and ---
5 Q Are you, a mechanic?
6 A No, but I like to work on automobiles.
7 Q And, do you work on Melvin's car?
8 A Yes, I work on Melvin's car; I fixed it
9 up and put some stuff on it, you know.
10 Q All right.
11 Now, are you positive that on the night
12 of June 9th, that Melvin was at the home of your mother from
13 8:00 until 12:30; and, that was at nighttime?
14 A Uh-huh.
15 Q Is that "yes", or "no"?
16 A Yes.
17 Q All right.
18 Now, that morning; do you know where Mel-
19 vin was, or where he went?
20 A No, I don't.
21 Q Did he ever say anything to you about
22 this girl, or ---
23 MR. LAWLESS: Objdction, Your
24 Honor; that, would be hearsay.
25 THE COURT: Sustained.

1 BY MR. BOHANNON:
2 Q Now, do you know Carolyn Louise Gwin?
3 A No.
4 Q Okay.
5 Do you know her husband, Lin Gwin?
6 A No, I don't; I don't know, either one of
7 them.
8 Q Okay.
9 Let me ask you one further question, now:
10 when the officer examined Melvin's car, did he say anything
11 about the taillight?
12 A Well, he said that "Melvin could have had
13 the taillight changed", you know, between that time.
14 Q What was wrong, with the taillight?
15 A The glass on the taillight was scratched
16 a little, but the light was not out.
17 Q When the officer said "the taillight
18 could have been changed", do you know what he meant by that?
19 A Well, he could have had the bulb taken
20 out and a bulb put in that would work.
21 MR. BOHANNON: I have no further
22 questions.
23 Answer Mr. Lawless' ques-
24 tions, now.
25

1 CROSS EXAMINATION

2 EXAMINED BY MR. LAWLESS:

3 Q You do, work?

4 A Yes, I do.

5 Q How old, are you?

6 A Nineteen.

7 Q Do you, have any physical disabilities?

8 A No.

9 Q And, do you live in the same home as your

10 brother?

11 A No.

12 Q Where, do you live?

13 A 1526 West 40th Street; I did, live there.

14 Q When Melvin went to take Iva Gould home,

15 do you know where he had to go to take her home?

16 A To Chesapeake Manor.

17 Can you get there to her house, by going

18 down Chesapeake Boulevard?

19 A Well, I guess you can; but the best way,

20 is to go straight down 26th Street and on down Lafayette

21 Boulevard across the Lafayette Bridge, and then turn left on

22 Tidewater Drive.

23 Q Aren't there actually several ways, that

24 you could go?

25 A No, I wouldn't say so.

1 Q Now, you were present when your brother
2 was arrested, correct?
3 A Yes, sir.
4 Q You and your brother are close, are you
5 not?
6 A Yes, sir.
7 Q Were you shocked, when your brother was
8 arrested?
9 A Yes, a little.
10 Q Do you remember the date, he was arrested?
11 A No, I don't.
12 Q Do you know, what month it was?
13 A No, I don't; I just know, that it was
14 sometime after June 9th.
15 Q It was after, June 9th; all right.
16 MR. LAWLESS: I have no further
17 questions.
18 MR. BOHANNON: Just a minute,
19 please.
20
21 REDIRECT EXAMINATION
22 EXAMINED BY MR. BOHANNON:
23 Q You were with your brother on June 9th,
24 were you not?
25 A Yes, sir.

1 Q That is, your brother Melvin, was with
2 you on that date?
3 A Yes, sir.
4 Q And these statements that you have made
5 here today under oath, they were the truth?
6 A Correct; right.
7 Q And there's no question in your mind, as
8 to the date and the times?
9 A The times?
10 Q The times you mentioned in your testi-
11 mony, when certain things occured on June 9th; they, were all
12 true?
13 A Yes, sir.
14 MR. BOHANNON: That's all.
15 THE COURT: Step down.
16 (Mr. Bohannon conferred with the
17 defendant.)
18 MR. BOHANNON: I call the defend-
19 ant to the stand, Your Honor.
20 THE COURT: All right, sir.
21
22 -----o0o-----
23
24 MELVIN LANDER BARNETT, defendant, appearing on his
25 own behald, having been first duly sworn, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 EXAMINED BY MR. BOHANNON:

4 Q State your name, please?

5 A Melvin Lander Barnett.

6 Q How old, are you?

7 A Nineteen.

8 Q Okay.

9 Now, do you own an automobile?

10 A Yes, sir.

11 Q All right.

12 What kind of automobile, do you own?

13 A It's a '63 Ford Galaxi, 500.

14 Q All right.

15 (handing two photographs to witness) I

16 show you D-1 and D-2, and ask if they are pictures of your

17 car?

18 A (looking at each picture, in turn) Yes,

19 sir; it is.

20 Q Okay.

21 Now, looking at those two pictures, they

22 show the hood up; right?

23 A (looking at pictures, again) Yes, sir.

24 Q Was the hood on your car, up like that,

25 on June 9, 1974?

1 A Yes, sir.
2 Q All right.
3 Was it also like that, in July?
4 A Yes, sir; the hood was jammed, that way.
5 Q How, did it get jammed?
6 A I had a wreck, in (pause) I think it was
7 in March or April.
8 Q All right.
9 And having had your car in wreck, caused
10 the hood to jam like that?
11 A Yes, sir; it was bent, up.
12 Q And, that was because of an accident?
13 A Yes, sir.
14 Q All right.
15 And since you had the wreck, you had not
16 had your hood straightened?
17 A Correct.
18 Q Okay.
19 Now, what is the inside of your car like?
20 A Well, it has bucket seats; and it has
21 carpet in it, too.
22 Q And, who put the carpet in your car?
23 A I put it in there, myself.
24 Q What color, is the carpet in your car?
25 A Gold.

1 Q And what color was it, inside?
2 A Black, and beige.
3 Q And, what about the rest of the finish?
4 A Well, the doors on the bottom, you know,
5 were the same as the trim; all, except the rear door on the
6 driver's side.
7 Q Was your car like that, on June 9th?
8 A Well, I was still working on it, you
9 know; the hood, had never been fixed.
10 Q Was there anything else, wrong with your
11 car?
12 A Well, one of the window glasses was
13 cracked; and it was like that, when I got it.
14 Q All right.
15 Now, I direct your attention to June 9th;
16 do you, remember that day?
17 A Yes, I do.
18 Q Where were you, on that day?
19 A Well, I had come up from North Carolina;
20 and then I drove Iva on home, later on that evening.
21 Q All right.
22 Did you stay with Iva Gould, all that day?
23 A Yes, sir.
24 Q Now, let's get something straight: when
25 you say "you had come up from North Carolina", what date are

1 you talking about?
2 A June 8th.
3 Q All right.
4 And, what time did you get back to Nor-
5 folk?
6 A About, 11:00 o'clock.
7 Q A.M.?
8 A Yes, sir.
9 Q In the morning, then?
10 A Yes, sir.
11 Q How long, had you been in North Carolina?
12 A We stayed from Saturday, until Sunday at
13 around about (pause) - I'm not what time we left there, but
14 I think it was (pause) around 9:00, when we left there.
15 Q All right.
16 And, what did you do then?
17 A Well, we came on back to Norfolk.
18 Q And, Iva was with you?
19 A Yes, she was.
20 Q All right.
21 Now, what did you do that evening?
22 A That evening?
23 Q Yes.
24 A Well, we went to the movies.
25 Q And then, what did you do?

1 A After we left there, we went over to get
2 my brother and Linda.
3 Q All right.
4 Now, what kind of a movie did you see?
5 A It was an African picture, you know.
6 Q All right.
7 And then after you left the movies, you
8 went to get your brother and Linda?
9 A Yes, sir; we went, to pick them up.
10 Q And, what is your brother's name?
11 A Calvin; and his girlfriend, is Linda
12 Forbes.
13 Q All right.
14 And, what time was that?
15 A I - that was around - we didn't leave
16 until around 7:30 or 8:00 o'clock; I don't know what time we
17 got there, but that's when we left.
18 Q All right.
19 And who was with you, when you went there
20 to get your brother Calvin, and Linda Forbes?
21 A Nobody, but Iva.
22 Q All right.
23 Are you brother and Linda, getting mar-
24 ried?
25 A Well, I imagine so.

1 A After we left there, we went over to get
2 my brother and Linda.
3 Q All right.
4 Now, what kind of a movie did you see?
5 A It was an African picture, you know.
6 Q All right.
7 And then after you left the movies, you
8 went to get your brother and Linda?
9 A Yes, sir; we went, to pick them up.
10 Q And, what is your brother's name?
11 A Calvin; and his girlfriend, is Linda
12 Forbes.
13 Q All right.
14 And, what time was that?
15 A I - that was around - we didn't leave
16 until around 7:30 or 8:00 o'clock; I don't know what time we
17 got there, but that's when we left.
18 Q All right.
19 And who was with you, when you went there
20 to get your brother Calvin, and Linda Forbes?
21 A Nobody, but Iva.
22 Q All right.
23 Are you brother and Linda, getting mar-
24 ried?
25 A Well, I imagine so.

1 Q All right.
2 And Iva Gould, is your girlfriend; cor-
3 rect?
4 A Right.
5 Q All right.
6 Then where did you go, after you picked
7 up Calvin and Linda?
8 A We went to my mother's house, then; and
9 Linda had her baby with her, you know.
10 Q All right.
11 What did you all do, when you got to your
12 mother's house?
13 A Well, when we got there, ---
14 Q And by the way, where is your mother's
15 house?
16 A On 26th Street.
17 Q In the City, of Norfolk?
18 A Yes, sir.
19 Q All right.
20 When you got to your mother's house, who
21 was there?
22 A Well, Jerome was there.
23 Q Jerome Majors?
24 A Yes, sir; and my sister, Gloria.
25 Q Okay.

1 Now, what did you do when you got there?
2 A Well, we started playing cards.
3 Q And, who all started playing cards?
4 A Linda and Calvin, Jerome and Gloria and
5 me and Iva.
6 Q Now, how long did you play cards; do you
7 remember, that?
8 A Until somewhere, about 11:30, we stopped;
9 but, they kept on playing.
10 Q When you say "we stopped", who do you
11 mean?
12 A Me, and Iva; because Iva had to get on
13 home, because she had to get up in the morning.
14 Q All right.
15 And, how did you take Iva home?
16 A In my car.
17 Q Okay.
18 What time, did you leave your mother's
19 to take Iva on home?
20 A It was going on 12:00 o'clock, when we
21 left.
22 Q And, did you take Iva on home?
23 A Yes, I did; and then later on, I took
24 Jerome home.
25 Q All right.

1 Now, where does Iva live?
2 A In Chesapeake Mannor.
3 Q And, what's the name of the street Iva
4 lives on?
5 A Dillon.
6 Q How long, does it take you to get there?
7 A Usually, about 15 minutes.
8 Q And, did it take you 15 minutes to get
9 her home that night?
10 A Yes, sir.
11 Q All right.
12 Now, when you drove Iva home, what route
13 did you take?
14 A Well, I went the usual way, down Tide-
15 water Drive.
16 Q And, did you come that way, on the way
17 back?
18 A Yes, sir.
19 Q Now, how did you get to Tidewater Drive?
20 A Down 26th Street, to Lafayette; and then
21 I turned left on Tidewater Drive and went all the way down to
22 Widgeon Road, down to Sewells Point Road and made a left on
23 Denison, and then a right on Gregory Drive to Dillon.
24 Q Okay.
25 Now, Lens Avenue; have you, ever heard of

1 that street?
2 A No.
3 Q You explained the route you used to take
4 Iva home, but you don't know where Lens Avenue is?
5 A No, I don't.
6 Q When you take Iva home, or - well, when
7 you come home from Iva's, on other occasions, do you always
8 reverse the same route you just explained to us?
9 A Not, all the time; sometimes, I come back
10 by Sewells Point Road and turn right on Widgeon Road, and
11 then come all the way back down Tidewater Drive, right on
12 Lafayette Boulevard and go over to Granby Street or either
13 Monticello, and then I go right to my house.
14 Q On June 9th, is that all the streets you
15 were on?
16 A Yes, it is.
17 Q All right.
18 Now, what did you do when you got back
19 home?
20 A I went into the house and asked Jerome
21 "if he was ready to go home" and he said "no, that he wanted
22 to finish playing his cards", you know, and so they finished
23 playing their cards; and while they were still playing cards,
24 I went in and layed down on the sofa after I called Iva so
25 she would know I got home all right from her place, you know.

1 Q When, did you call Iva?
2 A I called her, as soon as I got back home.
3 Q And, you called her to tell her that "you
4 got home safely"?
5 A Yes, sir.
6 Q All right.
7 So then who else, did you take home that
8 same night?
9 A After Iva, I took Jerome, Calvin and
10 Linda and her baby, home.
11 Q You, took them all home?
12 A Yes, sir.
13 Q All right.
14 Now, what time was it when you got back
15 home from Iva's house?
16 A I - it was around something, to 1:00
17 o'clock.
18 Q And when you got to Iva's, did you stay
19 there for a few minutes?
20 A Yes, sir.
21 Q How long, did you stay at Iva's after you
22 took her home?
23 A Ten, or 15 minutes.
24 Q And when you left Iva at her house, did
25 you turn and come directly home?

1 A Yes, sir.
2 Q All right.
3 Did you do anything else, after you took
4 Iva home?
5 A No; after I took Iva home, I came back
6 home, myself.
7 Q All right.
8 And again, what did you do after you got
9 back home from Iva's?
10 A I called her, because - well, I always
11 make sure I call her, when I get back home.
12 Q Okay.
13 Now, what did you have on that night?
14 A I had on a red shirt, and ---
15 Q What color, was that?
16 A A red shirt.
17 Q A red shirt?
18 A Correct.
19 Q And, what else?
20 A A pair, of navy blue pants.
21 Q All right.
22 Could you, have had a white shirt on that
23 day?
24 A No.
25 Q Now, do you ever go around with a shirt?

1 A No; I can't stand, to be without a shirt.
2 Q Why, is that?
3 A I don't really know, but without a shirt
4 on, I feel naked.
5 Q All right.
6 Now, this girl, Carolyn Louise Gwin; have
7 you, ever seen her before?
8 A No, sir; I've never, seen her.
9 Q All right.
10 You heard her testify, that "you raped
11 her"; did you, rape her?
12 A No, sir; I did not, rape her.
13 Q All right.
14 And her husband, Lin Gwin; have you ever
15 seen him, before?
16 A Well, I think I've seen him in school
17 before, but ---
18 Q What school, was that?
19 A Willard.
20 Q How long ago, was that?
21 A That's been some years, back.
22 Q So then you think, but you don't know,
23 that you've seen him in school?
24 A I think, I've seen him in school.
25 Q Okay.

1 Now, did you abduct this girl, Carolyn
2 Louise Gwin, and take her someplace in your car with you?
3 A No, sir; I, did not put her in my car.
4 Q All right.
5 Did you ask for any directions to some
6 street, from her husband?
7 A No; uh-uh.
8 Q Okay.
9 And those statements which they made here
10 today in this Courtroom, and that is Carolyn Louise Gwin and
11 her husband, Lin Gwin, are you saying that they were not
12 right?
13 A Right; that's right.
14 MR. BOHANNON: Answer Mr. Law-
15 less' questions now, please.
16
17 CROSS EXAMINATION
18 EXAMINED BY MR. LAWLESS:
19 Q The evidence, has been that you take good
20 care of your car?
21 A Yes, sir.
22 Q Did you have the keys to your car with
23 you, all that day?
24 A Yes, sir.
25 Q And, do you keep your car keys on you?

1 A Yes, sir.
2 Q On your person, or in your pocket?
3 A Someplace; in my pocket, and also at the
4 house.
5 Q In the house, too?
6 A On the dresser, somewhere.
7 Q Do you know, if Iva has a set of keys to
8 your car?
9 A Not, that I know of.
10 Q Now, do you remember when you first
11 talked to Officer Brownlie, seated here next to me?
12 A Yes, sir.
13 Q Do you remember telling Officer Brownlie,
14 that "after returning from North Carolina, that you stayed at
15 your girlfriend's house all day"?
16 A Yes, sir; but that, was naturally a lie.
17 Q Do you remember telling Officer Brownlie,
18 that "you arrived back in Norfolk around 11;30 P.M. or 12:00
19 midnight"?
20 A Yes, I told him that.
21 Q But that was not true, when you told him
22 that?
23 A No, that was not the truth.
24 Q And, do you remember telling Officer
25 Brownlie that "you had stopped somewhere along the way for

1 something to eat, for about a half hour"?
2 A Yes, sir; that's right.
3 Q All right.
4 And, did you go to Virginia Beach during
5 that day?
6 A No.
7 Q You remember, that you did not go to Vir-
8 ginia Beach?
9 A Yes, sir.
10 Q Do you remember going to the Regal Theatre
11 on Church Street, and seeing a movie?
12 A Yes, sir.
13 Q What time was it, when you went there?
14 A I don't know what time we went there, sir;
15 I don't know, because I wasn't wearing a watch.
16 Q You, were not wearing a watch?
17 A No, sir.
18 Q Could you have gone there, as late as
19 7:30?
20 A No, I don't think so.
21 Q Well, was it later?
22 A No, it was not later; and, I don't know
23 the time.
24 Q Could it have been 7:30 when you left
25 there, and went to your mother's house?

1 A Yes, sir.
2 Q And then you went to you brother's house,
3 and picked him up?
4 A Yes, sir; at Linda's.
5 Q Where were you working, at that time?
6 A Heritage Company.
7 Q And how long, were you working there?
8 A (pause) For a couple months, anyway.
9 Q And where were you working, prior to
10 Heritage Company?
11 A Jayen Tile Company.
12 Q And, when were you working there?
13 A Around January, or February.
14 Q And, did you have a job before that?
15 A Yes, sir; at Atlantic Furniture.
16 Q And, was that your first job, after
17 school?
18 A Yes, sir.
19 Q All right.
20 And you're positive, that it was between
21 11:30 and 12:00 o'clock when you left your mother's house,
22 after taking Iva Gould back to her home?
23 A Yes, sir.
24 Q You're positive, about that?
25 A Yes, sir.

1 MR. LASLESS: I have no fur-
2 ther questions of this defend-
3 ant, Your Honor.
4 THE COURT: All right, sir.
5 MR. LAWLESS: One or two more
6 questions, if I may, Your Honor.
7 THE COURT: Yes, of course.
8 BY MR. LAWLESS:
9 Q You say - did you tell the officer that
10 "you were in North Carolina, and that's why you could not
11 have done this"?
12 A I told him that, because at that time,
13 you know, he was asking me questions real fast; and so I just
14 told him that "I was somewhere else that whole day", and I
15 was.
16 And then he talked to me some more, and I
17 said "I was in North Carolina"; and then he said "so you
18 weren't even in Norfolk, when this happened" and I said "no".
19 Q Okay.
20 Now on June 9th, the date this incident
21 happened, how did you have your hair fixed that day?
22 A Well, I had braided my hair.
23 Q And, did you have sideburns on your face?
24 A All the way down to my chin, I did; yes,
25 sir.

1 Q All right.
2 Now, have you ever been convicted of a
3 felony?
4 A No.
5 MR. LAWLESS: No further ques-
6 tions, Your Honor.
7 THE COURT: All right, sir.
8 Let me ask you this, now:
9 Q When, did you go to Willard?
10 A I was at Willard, for about
11 two years or maybe three years.
12 Q Two years, or maybe three
13 years?
14 A Yes, sir.
15 Q How old, did you say you
16 were?
17 A I'm nineteen.
18 Q Willard is a Junior High
19 School, is it not?
20 A Yes, sir.
21 Q Did you graduate then, from
22 Maury?
23 A No; I didn't go to Maury.
24 Q You didn't?
25 A I dropped out of school, when

1 I was at Willard.
2 Q How old were you, then?
3 A Seventeen.
4 Q You were 17 years old when
5 you dropped out of school, and
6 you're 19 now?
7 A Yes, sir.
8 Q What was the last grade you
9 attended, at Willard?
10 A Eighth, and I was going
11 into ninth.
12 Q You dropped out, after com-
13 pleting the eighth grade at Wil-
14 lard Junior High School?
15 A Yes, sir; that's correct.
16 Q Did you not hear Mr. Gwin
17 testify here today, that "he knew
18 you while you were at school with
19 him"?
20 A Yes, sir.
21 Q Were you at Willard, when he
22 was there?
23 A (pause) Well, he says that,
24 because I guess he's seen me.
25 Q Did he see you, while you

1 were at Willard?
2 A Either that, or else he's
3 just seen me around.
4 Q Either that, or he's just
5 seen you around?
6 A Yes, sir.
7 THE COURT: I, have no further
8 questions.
9 You, may step down.
10 How many more witnesses do
11 you have, Mr. Bohannon?
12 MR. BOHANNON: One moment, Your
13 Honor.
14 (Mr. Bohannon conferred with Mr.
15 Lawless.)
16 MR. BOHANNON: Just two more wit-
17 nesses, Your Honor.
18 THE COURT: All right, sir.
19 MR. BOHANNON: Alma Barnett,
20 please.
21
22 -----o0o-----
23
24 ALMA BARNETT, witness, appearing on behalf of the
25 Defense, having been first duly sworn, was examined and tes-

1 tified as follows:

2 DIRECT EXAMINATION

3 EXAMINED BY MR. BOHANNON:

4 Q State your name and address, please?

5 A Alma Barnett, 305 West 26t Street.

6 Q In the City, of Norfolk?

7 A Yes, sir.

8 Q All right.

9 Now, what relation are you to the defend-

10 ant?

11 A I'm, his mother.

12 Q Do you know what Melvin's reputation is

13 in the community in which he lives, for telling the truth?

14 A Well, he has a good reputation.

15 Q Where?

16 A On the street.

17 Q Has he ever been any trouble, of any

18 kind?

19 A Just some kid trouble, on the street.

20 MR. BOHANNON: That's all.

21 Answer Mr. Lawless' ques-

22 tions, please.

23

24 CROSS EXAMINATION

25 EXAMINED BY MR. LAWLESS:

1 Q You say "your son, has a good reputa-
2 tion"?
3 A Yes, sir; he has.
4 Q Do you know, if he owns a red shirt?
5 A No.
6 MR. LAWLESS: That's all.
7 THE COURT: You, may step down.
8 MR. BOHANNON: Mr. Barnett, please.
9
10 -----o0o-----
11
12 THOMAS BARNETT, witness, appearing on behalf of the
13 Defense, having been first duly sworn, was examined and tes-
14 tified as follows:
15 DIRECT EXAMINATION
16 EXAMINED BY MR. BOHANNON:
17 Q State your name, please?
18 A Thomas Barnett.
19 Q Are you any relation, to this defendant?
20 A Yes, I am.
21 Q What, is your relationship to him?
22 A Grandfather.
23 Q Do you know what Melvin's reputation is
24 for telling the truth, in the community?
25 A Yes, I do.

1 Q All right.
2 Does Melvin, tell the truth?
3 A Yes, sir.
4 MR. BOHANNON: Okay; that's all.
5 Answer Mr. Lawless' ques-
6 tions, please.
7
8 CROSS EXAMINATION
9 EXAMINED BY MR. LAWLESS:
10 Q What, is Melvin's reputation?
11 A He has a good reputation, and I've never
12 heard anything other than that, for years.
13 Q Have you ever heard his reputation dis-
14 cussed, in the neighborhood?
15 A No, sir.
16 MR. LAWLESS: That's all.
17 THE COURT: You, may step down.
18 (Mr. Bohannon conferred with
19 the defendant.)
20 MR. BOHANNON: That's all we
21 have, Your Honor.
22 We rest, Your Honor.
23 THE COURT: All right, sir.
24 MR. LAWLESS: The Commonwealth
25 calls Officer Brownlie, on re-

1 buttal, Your Honor.

2 THE COURT: All right, sir.

3

4 -----o0o-----

5

6 OFFICER J. W. BROWNLIE, witness, called by the

7 Commonwealth on rebuttal, having been previously duly sworn,

8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 EXAMINED BY MR. LAWLESS:

11 Q Officer Brownlie, in your investigation,

12 on July 1, 1974, did you have occasion to question Iva Gould,

13 a witness who appeared here today, with reference to her

14 activities on the 9th day of June, 1974?

15 A Yes, sir; I did.

16 Q Was a statement from her reduced to writ-

17 ing, and signed by her?

18 A Yes, sir; it was.

19 Q And, was that done in your presence?

20 A Yes, sir; it was.

21 Q And, was Iva Gould's mother present?

22 A Yes, sir; she was.

23 Q Did you make any threats or promises to

24 Iva Gould, in order to induce her to make a statement?

25 A No, sir.

1 Q All right.
2 How long, have you been a Norfolk Police
3 Officer?
4 A Since January, 1971.
5 Q (handing papers to witness) I show you
6 Exhibit C-5, and I ask you to examine that, if you will?
7 A Would you like me, to read it?
8 Q If you will, please?
9 A (reading through papers) This is a state-
10 ment that I took from Iva Gould, with reference to the where-
11 abouts of Melvin Barnett on that day.
12 Q That relates to where he was, on June
13 9th of 1974?
14 A Yes, sir.
15 Q And, how long is that statement?
16 A It's two pages, sir.
17 Q And, where did Iva Gould sign that state-
18 ment?
19 A On the bottom, of the second page; it
20 has "Iva Gould", written on there.
21 Q And, did she sign that statement in your
22 presence?
23 A Yes, she did.
24 Q All right.
25 And, did you witness her signature?

1 A Yes, I did.
2 Q And, did Iva Gould's mother also witness
3 that statement?
4 A Yes, sir; she did.
5 Q And, what is her signature?
6 A (looking at paper) It has "Agnes E.
7 Gould", as witness; and that's written in, above my signa-
8 ture.
9 Q All right, sir.
10 Now, what does Iva Gould have to say
11 about June 9th; would you read that portion of her statement,
12 where she's telling about the activities of June 9, 1974?
13 A Well, before she told me about that, I
14 had told her that "on June 9, 1974, at approximately 11:00
15 P.M.", and I named the location, "that Melvin Lander Barnett
16 had been charged with these offenses".
17 And then I asked her to "tell me if she
18 was with Melvin Lander Barnett on June 9, 1974, and for what
19 length of time"?
20 And she stated to me, that "we left North
21 Carolina at approximately 9:00 A.M. and got to Melvin's house
22 between 12:00 noon and 1:00 P.M. Then Melvin took a bath,
23 then we took his uncles home, then he took me home around
24 2:00 P.M. and I took my bath. Then we left and went over to
25 his brother's house. Thenwe left there and went over to his

1 brothers house. Then we left there and went over to his
2 house. Then about 7:00 P.M. we went to the movies, the Regal
3 on Church Street. Then we left there about 9:30 P.M. and
4 went back to his house. Then he took me home around 10:30
5 or 11:00 P.M."
6 I asked here "Are you sure that it wasn't
7 earlier than 10:30 P.M. or 11:00 P.M., that he got you home?"
8 and she said "it could have been 10:15 P.M."
9 I asked her "are you sure that it
10 couldn't be earlier than 10:15 P.M.", and she said "I'm not
11 sure, it might have been 10:00 P.M."
12 Q Just go ahead, and read it in question
13 and answer form, if you will.
14 A Okay.
15 "Q How long did he stay at your
16 house?
17 A I don't know.
18 Q What time, did he leave the
19 house?
20 A I don't know.
21 Q Could he have left your house
22 by 10:30 P.M.?
23 A I don't know.
24 Q Could you have gone to the
25 beach, that day?

1 A Yes; we went to the beach,
2 before we went to the movies.
3 Q What did you see, at the
4 movies?
5 A It was a movie, about African
6 girls.
7 Q Are you sure, you went to
8 the movies?
9 A Yes.
10 Q Had you been in a fight or
11 argument with Melvin, that day?
12 A I don't know, that's what I
13 was trying to think.
14 Q How long, have you dated
15 Melvin?
16 A A year, and seven months.
17 Q Do the two of you, plan on
18 getting married?
19 A We talked, about it.
20 Q Is there anything else, you
21 would like to say?
22 A No.
23 Q Is this statement true, to
24 the best of your knowledge and
25 belief?

1 A Yes."
2 MR. LAWLESS: All right, sir.
3 Your Honor, I ask that C-5
4 be received into evidence.
5 MR. BOHANNON: Objection, Your
6 Honor; that statement was for
7 the purpose of the identifica-
8 tion of the signature, only.
9 THE COURT: And, she identified
10 it as being her signature.
11 Received into evidence, as
12 C-5.
13
14 CROSS EXAMINATION
15 EXAMINED BY MR. BOHANNON:
16 Q Officer Brownlie, is it not true that you
17 testified that "when you examined the defendant's car, that
18 the taillights were working"?
19 A Correct.
20 Q And, did you not make the statement to
21 the defendant that "between that time and June 9th, that he
22 could have had time to have had his taillight fixed"?
23 A Yes, sir.
24 Q Now, let me ask you this: when Calvin
25 Barnett was picked up, he was in the defendant's car, was he

1 not?

2 A Yes, sir.

3 Q And, there were other people in the car

4 with him?

5 A Yes, sir.

6 Q And, did you not state that "at that

7 time, the defendant was with you"?

8 A Correct.

9 Q Now, you got Iva Gould to come down to

10 the Police Station, did you not?

11 A To the Youth Bureau; yes, sir.

12 Q Had you tried to get her to come down,

13 more than once?

14 A I believe I went by her house earlier in

15 the afternoon, but she was not at home.

16 Q And, wasn't her statement given at around

17 12:00 o'clock at night?

18 A I believe it was, late; and of course, I

19 would have liked to have made it earlier, but I had to do the

20 best I could, under the circumstances.

21 Q All right.

22 Now, you say "the defendant gave you two

23 statements"?

24 A Yes, sir; he did.

25 Q Officer Brownlie, if you would, look on

1 the second page of Iva Gould's statement, and tell us what
2 the time is there?
3 A (looking through papers) Iva Gould
4 signed this statement at 1:30 A.M.
5 Q At 1:30 A.M.?
6 A Yes, sir.
7 MR. BOHANNON: That's all.
8 THE COURT: You may step down,
9 sir.
10 MR. LAWLESS: We rest, Your
11 Honor.
12 THE COURT: All right, sir.
13 Argument, gentlemen?
14 MR. LAWLESS: The Commonwealth
15 waives Initial Argument, Your
16 Honor.
17 THE COURT: All right, sir.
18 MR. BOHANNON: Could we have
19 a brief recess, Your Honor,
20 before presenting Argument?
21 THE COURT: Yes, sir.
22 (Recess from 3:37 P.M. until
23 4:40 P.M., when Court reconvened.)
24 THE COURT: Are you ready, Mr.
25 Bohannon?