

IN THE MUNICIPAL COURT OF CARLISLE, ARKANSAS

CITY OF CARLISLE

PLAINTIFF

vs.

NO. CR-93-698

CHARLES A. WALLS, III

DEFENDANT

CAPTION

BE IT REMEMBERED that on the 8th day of April, 1994, the above-styled cause came on for hearing before the HONORABLE GARY B. ROGERS, and counsel appeared as follows:

APPEARANCES:

On Behalf of the Plaintiff:

MS. ANGELA A. ALEXANDER, Deputy Prosecuting Attorney
39A Paige
Cabot, Arkansas 72023

On Behalf of the Defendant:

MR. RANDALL L. GAMMILL, Attorney at Law
Gammill Law Offices
South Hazen Avenue
Post Office Box 532
Hazen, Arkansas 72064

ALSO PRESENT: Phillip Whiteaker

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1 P R O C E E D I N G S

2 THE COURT: Ms. Alexander, is the prosecution ready?

3 MS. ALEXANDER: Yes, Your Honor, the State is ready to
4 proceed.

5 MR. GAMMILL: Yes, sir.

6 THE COURT: The case on call is the City of Carlisle
7 versus Jack A. Walls, III. Any preliminary matters that we
8 need to take up before we start?9 MR. GAMMILL: Defense would request the Rule, Your
10 Honor.

11 THE COURT: Anything else?

12 MS. ALEXANDER: No, Your Honor.

13 THE COURT: All those that are going to testify in
14 this case, please stand up. We've got a lot of people that
15 are going to testify. I'm going to go ahead and swear
16 everyone in right now.17 The Rule has been requested. What that means is that
18 you're not to discuss your testimony with anyone, whether
19 it be among yourselves or with anyone else, until this
20 trial has been concluded. And when you're excused, I will
21 let you know that. And then you're free to do whatever.
22 But until you have been excused by the Court, you're not to
23 discuss your testimony with anyone, including your friends
24 or anyone from the other side.

25 Any violation of that will be subject to the

1 punishment of this Court. And I assure you that if I find
2 out, if it's brought to my attention, I will take the
3 appropriate action. There's a lot of people that are going
4 to testify, and I realize that there's going to be --
5 you're going to be together, but please do not discuss
6 anything about this case.

7 All those that are going to testify, raise your right
8 hand and be sworn. Do you swear or affirm the testimony
9 you're about to give before this Court is the whole truth
10 and nothing but the truth, so help you God?

11 [All witnesses present were duly sworn.]

12 THE COURT: Mr. Bailiff, would you take the witnesses?
13 Follow Mr. Lee and he will show you where you can -- feel
14 free to move around. You don't have to be stuck in the
15 room. Just don't come back in the courtroom. Thank you.

16 MS. ALEXANDER: Your Honor, before the State begins,
17 I would like to point out that Mr. Hogan is not only a
18 victim in this case, but he's the affiant. And we'd like
19 for him to remain in the courtroom.

20 THE COURT: All right.

21 MR. GAMMILL: I can't agree to that, Judge. It sounds
22 like you're going to permit that. But as far as I know,
23 the moving party in this case is the State. I prosecuted
24 for seven years, and I never had the victim sit at the
25 table with them.

1 MS. ALEXANDER: Your Honor, he's the affiant. He
2 signed the affidavit warrant for arrest.

3 THE COURT: I think under the current status of law,
4 that's permissible, and I'm going to allow him to stay in
5 the courtroom. Anything else?

6 MS. ALEXANDER: No, Your Honor. We're ready to
7 proceed.

8 THE COURT: Call your first witness.

9 MS. ALEXANDER: Doug Hogan.

10 THEREUPON,

11 DOUGLAS ALLEN HOGAN,
12 being first duly sworn or affirmed to tell the truth, the whole
13 truth, and nothing but the truth, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. ALEXANDER:

16 Q. Doug, would you please state your full name and your
17 address for the Court?

18 A. Douglas Allen Hogan, P. O. Box 87, Carlisle, Arkansas.

19 Q. How old are you, Doug?

20 A. 17.

21 Q. Do you know the defendant, Charles Walls, III?

22 A. Yes, ma'am.

23 Q. Is he also referred to as "Jack"?

24 A. Yes, ma'am.

25 Q. How do you know him?

1 A. Through scouting.

2 Q. How long have you been involved in scouting?

3 A. Since I was real little, in Cub Scouts.

4 Q. During all that time, have you been familiar with the
5 defendant?

6 A. Yes, ma'am.

7 Q. Were you in contact with him at a scouting event on
8 December 30th, 1992?

9 A. Yes, ma'am.

10 Q. And why were you there? Tell us what kind of scouting
11 event this was.

12 A. I was supposed to be getting to know the members that were
13 going on a trip to Philmont with the scouts.

14 Q. Relate the events of that day and into that evening.

15 A. Well, I got over there about 4:00. I arrived by myself.
16 We all stayed around camp for a little while. And we walked
17 around and we walked down to some pig pens and looked around. I
18 told Jack that I had to go back into town and pick up Chris
19 later on. I left and I got stuck in my truck, and I had to
20 walk back to camp and get Jack to pull me out. And he pulled me
21 out.

22 I went and got Chris in town. We went to Wal-Mart. I
23 saw **Andrea** Knox there and I talked to her. I asked her if she
24 was going to camp. And I talked to her casually as we were
25 leaving. And then I left -- me and Chris did, and we went back.

1 to camp.

2 Q. When you got back to camp, about what time was that?

3 A. Maybe 5:30 or 6:00.

4 Q. Okay. Go ahead and tell us what happened.

5 A. Well, when we got back to camp, it was -- we stayed around
6 and played with most of the kids. We played spotlight chase and
7 other games. By 11:30 or 12:00, maybe, Jack offered Chris and I
8 both alcohol at the back of my truck.

9 Q. What kind of alcohol was that?

10 A. Wine.

11 Q. And did he not only offer it, but give it to you?

12 A. Yes, ma'am.

13 Q. What did you do with that?

14 A. I sipped maybe a sip of it. I didn't like it, so I poured
15 it out.

16 Q. Go ahead and continue. What happened after that event?

17 A. On other incidents that night, he offered me on several
18 occasions wine. And about 1:30, we were around the campfire.
19 It was Chris, Jack, and I, and another boy, Josh. Chris said
20 he was going to bed, and Jack instructed Josh to go to bed
21 because it was late. Jack was never on a camp-out and told
22 anyone to go to bed that I've ever known.

23 Q. Tell us what happened when he told Josh to go to bed.

24 A. He asked me who I was thinking about, and I told him a
25 girl that I was dating at the time from Little Rock. He told

- 1 me just to lay back and take it easy. That was no big deal,
2 because we had camped out and stayed out in tents, you know,
3 slept out. But he come over and laid with his head at my feet
4 and started to undo my belt. I told him to stop, and he said,
5 "I thought we were going to jack off." I told him no. He said,
6 "Well, how about me?" And I told him no, that wasn't my style.
- 7 Q. While he was unbuckling your belt, Doug, what did you feel?
8 A. Scared. I didn't know what he was going to do.
- 9 Q. Why did you feel scared?
10 A. Because he was an adult, and I was supposed to be under him
11 and he was using his power to control me.
- 12 Q. I know this is an uncomfortable subject, but explain to the
13 Court what you thought he was going to do to you.
- 14 A. I thought if I resisted, he would hurt me or harm me in
15 some way, possibly even kill me.
- 16 Q. All right. Now after you told him no, and the events
17 stopped, what occurred then?
18 A. He said, "I guess it's bedtime." So I said, "Yeah, I guess
19 so." So I went to my truck and I thought about it for about 30
20 minutes on what to do. And I told Chris Houchens, and he didn't
21 really believe what I told him.
- 22 Q. What did you tell Chris Houchens?
23 A. Exactly what had happened between me and Jack at the
24 campfire.
- 25 Q. Go ahead and continue. After you told Chris, what did you

1 do?

2 A. He wasn't really believing me at that time, so I told him
3 if he wouldn't believe me, then I'd tell somebody who would.

4 And I was going to get some help. So I woke up Mark McConnell
5 and he -- I told him what had happened at the campfire between
6 me and Jack. And he said that he thought we ought to leave.

7 And when I left to stop in town and called his -- I think it's
8 his stepmother or stepfather -- and have them come and get him,
9 because he did not want to stay.

10 Q. Did you attempt to leave the campsite?

11 A. Yes, ma'am. I loaded up the truck a few minutes after
12 that, and I started up the truck. And Jack come over to the
13 passenger's side and told me to shut off the engine, that we
14 needed to talk about it.

15 Q. Now let's go back. Whose truck is this that you're talking
16 about?

17 A. Mine.

18 Q. The one that you came in?

19 A. Yes, ma'am.

20 Q. He told you to shut off the engine. What did you do in
21 response?

22 A. I shut it off.

23 Q. And then what occurred?

24 A. He said that he wanted to talk about it, and I told him
25 that enough had been said.

1 Q. Did you then leave?

2 A. No, ma'am. He said he wanted -- he told me that he didn't
3 want my parents to know about what happened, that we needed to
4 talk about it. He said my parents would think it was a little
5 odd to leave that early in the morning.

6 Q. Did you then talk to him about it?

7 A. Yes. All four of us went to the campfire and we talked.

8 Q. Tell us what was said at the campfire.

9 A. Jack asked Chris and Mark what they knew about what had
10 happened. And they both told him that they had known what had
11 gone on. So then Jack said he wanted to tell his side, and Jack
12 did. He told the exact same thing I had, except he would not
13 say he put his hands on me.

14 Q. I want you to go into specifics as to what Jack said at the
15 campfire to the other boys and to you.

16 A. He told me that he had asked me if I wanted to jack off,
17 and that I said no. And that he told me it was a joke, that he
18 was just kidding with me, and I took it too seriously.

19 Q. Let's go back to when you first got to camp in the
20 afternoon. Whose vehicle were you in then?

21 A. My 1964 C-10 pickup.

22 Q. You said that you told Jack you were going to go somewhere,
23 leave camp?

24 A. Yes, ma'am.

25 Q. Were you told not to leave the campsite?

1 A. No, ma'am.

2 Q. At any time during the evening, did you get into the
3 defendant's truck?

4 A. I think to get a flashlight, but not other than that, no.

5 Q. Where was the defendant sleeping this night?

6 A. He had a tent set up, but all he did was put his gear in
7 it. He didn't stay in the tent.

8 Q. Was he sharing that tent with anyone?

9 A. Ron Goss stayed in the tent.

10 MS. ALEXANDER: I pass the witness.

11 THE COURT: Mr. Gammill?

12 CROSS EXAMINATION

13 BY MR. GAMMILL:

14 Q. Doug, how long had you been involved in scouting as of
15 December the 29th of 1992?

16 A. I don't know exactly how many years. I've been involved
17 since I was in Cub Scouts.

18 Q. And you had known Jack Walls for how long?

19 A. Many years.

20 Q. And had you ever had any problems with him before?

21 A. He's pinched me a couple of times. I've asked my parents
22 about it, but that's been about it.

23 Q. He's pinched you?

24 A. Yes, sir.

25 Q. And you complained to your parents?

1 A. Yes.

2 Q. Well, did you continue to come around him?

3 A. My parents told me to be careful around him and not to
4 provoke him or anything.

5 Q. He pinched you where?

6 A. He's pinched me on the butt before, and he's pinched me on
7 the tit.

8 Q. In a sexual manner?

9 A. No. There were other guys around. Whether he took it that
10 way or not, I don't know. He was doing it to hurt.

11 Q. So he was mean to you?

12 A. No, he was -- we were just talking, and he just did it. He
13 was upset. He wasn't hurting me then.

14 Q. Isn't it true that your dad was a scoutmaster at one time?

15 A. Yes, sir.

16 Q. Isn't it true that your dad and Jack had a disagreement
17 about --

18 MS. ALEXANDER: Your Honor --

19 MR. GAMMILL: -- an Eagle Scout ceremony?

20 MS. ALEXANDER: -- I'd like to object. I don't think
21 that this is relevant.

22 MR. GAMMILL: Well, Your Honor, I think it might bear
23 on the --

24 THE COURT: I think it goes to a possible motive. Go
25 ahead, Mr. Gammill. Overruled.

1 MR. GAMMILL: Thank you, Your Honor.

2 BY MR. GAMMILL:

3 Q. Isn't it true that your dad, Cledis Hogan, and Jack had a
4 difference of opinion about an Eagle Scout ceremony?

5 A. Yes, sir.

6 Q. Isn't it true that your dad did not like Jack Walls?

7 A. Yes, sir.

8 Q. I want to affirm this on cross examination. There was a
9 young man at the campfire by the name of Josh Aukes.

10 A. Yes, sir.

11 Q. You would know Josh because you've been around him in
12 scouting?

13 A. Yes, sir.

14 Q. And you wouldn't be mistaken as to who he was?

15 A. No, sir.

16 Q. You're telling this Court under oath that Jack Walls told
17 Josh to go to bed?

18 A. Yes, sir.

19 Q. So when Josh comes and testifies -- if we ask Josh if Jack
20 sent him to bed, he should say yes?

21 A. Yes, sir.

22 Q. You gave a statement that was used as your affidavit for
23 this arrest. Do you remember giving that statement?

24 A. Yes, sir.

25 Q. And in that statement, you told the municipal judge -- and

1 I think maybe you previously had told whomever -- the state
2 police investigator -- that Jack Walls invited you to come out
3 to this camp-out.

4 A. Yes, sir.

5 Q. When and where did that take place?

6 A. The invitation?

7 Q. Yes, sir.

8 A. Over the phone.

9 Q. And do you remember when?

10 A. I don't remember the exact date. I think it was the Sunday
11 before the event.

12 Q. Do you remember what he said the purpose of the outing was?

13 A. It was for me to get to know the crew that I would be with
14 and the young boys that would be coming to the Philmont trip the
15 next summer.

16 Q. You stated in this statement that you gave on November the
17 18th of 1993, that Jack Walls told you to come alone.

18 A. He did not want me to bring Chris Houchens.

19 Q. Didn't you state in your statement that he said, "Come
20 alone"?

21 A. Yes. He did not want me to bring Chris. And that's what I
22 asked him to do.

23 Q. But you said, "Come alone and don't bring anyone"; is
24 that right?

25 A. He didn't tell me not to bring anyone. That may have been

- 1 how Investigator Rainbolt worded it.
- 2 Q. Do you want me to show it to you?
- 3 A. I know what it says.
- 4 Q. You know what it says?
- 5 A. Yes.
- 6 Q. So it's not correct?
- 7 A. He did not specifically tell me to come alone. He did not
8 want me to bring Chris.
- 9 Q. Well, are you saying that the trooper made a mistake?
- 10 A. Possibly.
- 11 Q. So the statement is not correct?
- 12 A. He did not want me to bring Chris.
- 13 Q. Did you read it before you signed it?
- 14 A. Yes, sir.
- 15 Q. Did you see where it said not to bring anyone with you?
- 16 A. The copy I signed was handwritten.
- 17 Q. Is that what it said?
- 18 A. I don't remember the exact details of that day, no, sir.
- 19 Q. Well, whatever the case may be about that, you're telling
20 us that Jack Walls specifically told you, "Don't bring Chris
21 Houchens"?
- 22 A. Yes, sir.
- 23 Q. Why in the world would he tell you, "Don't bring Chris
24 Houchens"?
- 25 A. Because he didn't want Chris over there because he said

1 Chris was a little too straight.

2 Q. Chris doesn't drink?

3 A. No, sir.

4 Q. You do?

5 A. I have.

6 Q. Well, did you feel like that Jack had set you up when you
7 didn't find other boys there your age?

8 A. Yes.

9 Q. That's what I get from your statement.

10 A. Yes.

11 Q. Is that the point you were trying to make in your
12 statement?

13 A. Yes. He had promised me that there would be other boys out
14 there my age, such as Rob Everett that never showed up.

15 Q. So you felt like this was all just a contrived situation?

16 A. Yes, sir.

17 Q. When did you come to that conclusion?

18 A. After the event.

19 Q. Now let me ask you about the wine. In this statement that
20 you gave November the 18th, you said that, "Everyone else was in
21 bed except me, Chris, and Jack Walls. The other scoutmaster was
22 at the campfire. Do you remember that?

23 A. No, he wasn't there.

24 Q. He wasn't at the campfire?

25 A. That night, it was Josh -- before the event, it was Josh,

1 Chris, Jack, and I.

2 MR. GAMMILL: Your Honor, do you have the affidavit in
3 front of you? May I --

4 THE COURT: Sure. Which one do you want?

5 MR. GAMMILL: I think they're both the same, as far as
6 the statements go.

7 BY MR. GAMMILL:

8 Q. Doug, if I could just point out with my finger -- see where
9 it says, "Everyone went to bed except me, Chris, and Jack
10 Walls"? Do you see that?

11 A. Yes, sir.

12 Q. So Josh was in bed?

13 A. No, sir. Josh was told to go to bed after Chris went to
14 bed.

15 Q. Well, had Josh already been sent to bed when this wine
16 incident occurred?

17 A. No, it was before.

18 Q. The wine incident was before the "Josh, go to bed"
19 incident?

20 A. Yes, sir. It was earlier that night, much earlier.

21 Q. The wine incident was?

22 A. Yes, sir.

23 Q. But this reads that everybody was in bed except you, Chris,
24 and Jack Walls when Jack offered you wine.

25 A. When Jack offered me wine, it was at the back of my truck.

1 And it was Chris, I, and Jack.

2 Q. I understand what you're saying, but I understand what your
3 statement says, and your statement says everybody was in bed.

4 And I want to know where Josh Aukes was.

5 A. When the event happened, Josh was there.

6 Q. So he came back out from wherever he was when --

7 A. They were still awake. Because they were in bed doesn't
8 mean they were asleep. They were up, talking.

9 Q. Okay. And in your statement, you said that you, Chris, and
10 Jack were sitting in the back of your Chevy panel truck with the
11 back doors open.

12 A. Yes, sir.

13 Q. So is this like the swing-out doors?

14 A. Yes, sir.

15 Q. We're talking about an area that's probably not any wider
16 than this table?

17 A. No.

18 Q. And you're sitting here?

19 A. I was sitting. Chris and Jack were standing.

20 Q. Were they standing as close to the back of your truck as
21 I'm standing to this table? I can reach here and touch it.

22 A. Yes.

23 Q. Does Chris have any hearing deficiencies or impediments
24 that you're aware of?

25 A. No, sir.

1 Q. So if Jack is standing where I'm standing and you're
2 sitting in the truck, if Jack offers you wine, Chris should hear
3 it, shouldn't he?

4 A. Yes.

5 Q. And if Chris tells us that that didn't happen, what are we
6 to conclude?

7 A. Chris didn't hear it. He says he doesn't recall Jack
8 asking him, but Jack did. Jack offered both of us, and Chris
9 turned and said no.

10 Q. Had Jack drunk at the camp-outs before? Did he drink
11 alcohol?

12 A. Not that I know of.

13 Q. Pardon?

14 A. Not at any camp-outs that I know of.

15 Q. Well, didn't that shock you?

16 A. A little bit, yes, sir.

17 Q. Why didn't you leave?

18 A. Why was I to leave for something I hadn't done? There was
19 supposed to be another adult out there to supervise him. That's
20 why they had two leaders.

21 Q. Who was out there?

22 A. Ron Goss.

23 Q. What did Mr. Goss say when you told him that Jack Walls
24 offered you some wine?

25 A. I didn't tell him.

- 1 Q. You didn't tell him?
- 2 A. No, sir.
- 3 Q. Why not?
- 4 A. He wasn't around. I didn't know where he was at that time.
- 5 Q. How big was this area?
- 6 A. Maybe 100 yards long.
- 7 Q. Your truck was parked maybe 30 feet from the campfire?
- 8 A. Yes. They were spread out.
- 9 Q. Mr. Goss' tent was maybe 60 feet from the campfire?
- 10 A. Maybe.
- 11 Q. We're talking about a distance from here to that wall.
- 12 A. But at a different angle.
- 13 Q. So it was a little too far to go and tell Mr. Goss that
- 14 Jack Walls had just offered you some wine to drink?
- 15 A. I didn't know where Mr. Goss was, and I didn't think to
- 16 tell Mr. Goss.
- 17 Q. So Jack leaves and goes and gets a bottle of wine, I
- 18 presume, because you say he poured it -- poured it into your
- 19 cup.
- 20 A. He had the bottle.
- 21 Q. He already had the bottle?
- 22 A. No. He took a cup out of the back of my truck. He went
- 23 and filled that up. I would assume he poured it in there.
- 24 Q. Well, let's read this sentence halfway down in that
- 25 paragraph. "Jack Walls left and returned with the wine. Jack

- 1 Walls picked my coffee cup up and poured the wine in it."
- 2 A. He poured it at his truck.
- 3 Q. So your statement is wrong?
- 4 A. I saw him. I know what he was doing.
- 5 Q. How do you know?
- 6 A. It didn't get in there by accident.
- 7 Q. It didn't get in where?
- 8 A. My cup.
- 9 Q. Where was Chris --
- 10 A. Chris was sitting right there.
- 11 Q. Where was Chris when Jack brought the wine back?
- 12 A. He was standing with me.
- 13 Q. He had to see the wine.
- 14 A. Yes, sir. It was in the cup.
- 15 Q. So if he tells us he didn't see it, he's lying?
- 16 A. He saw it. It was in my cup.
- 17 Q. But if he tells us from this witness stand he didn't see
- 18 any wine, he didn't hear anything about any wine, he's not being
- 19 honest; is that right, Doug?
- 20 A. Yes, sir.
- 21 Q. Then we come in your statement to this point about making
- 22 Josh go to bed.
- 23 A. Yes, sir.
- 24 Q. Do you see that? It was about 1:45.
- 25 A. Yes, sir.

- 1 Q. Where was Chris?
- 2 A. Chris said that he --
- 3 Q. I don't want to know what he said. I want you to tell me
4 where he was.
- 5 A. He was going to bed. He was going to my truck --
- 6 Q. Did you see him go to bed?
- 7 A. I saw him go to the back of my truck, yes, sir.
- 8 Q. What time was that?
- 9 A. Right at the time that he told Josh to go to bed.
- 10 Q. Did you have a watch on?
- 11 A. No, sir.
- 12 Q. How do you know what time it was?
- 13 A. I approximated. I can't be specific in times. I don't
14 have a clock in front of me all the time.
- 15 Q. Well, how would you have known it was 1:45 instead of
16 11:45?
- 17 A. [No response.]
- 18 Q. You wouldn't know?
- 19 A. No, sir.
- 20 Q. It could've been 2:30?
- 21 A. It could have.
- 22 Q. It could've been 10:30?
- 23 A. As I said, it's approximate.
- 24 Q. But sometime that night?
- 25 A. Yes, sir.

1 Q. Jack sends Josh to bed. What did he say to him?

2 A. He said, "I think it's time for you to go to bed."

3 Q. So Josh hops up and trots off?

4 A. Yes, sir.

5 Q. That leaves you and Jack?

6 A. Yes, sir.

7 Q. As soon as Josh leaves, Jack says, "Lie back and take it
8 easy"?

9 A. No, he -- after he saw that Josh had gone to bed, I'm
10 sure -- because Josh was in bed. It was silent there for a few
11 minutes. And he asked me who I was thinking about.

12 Q. Why didn't he offer you some more wine? That would have
13 been a good time to drink wine, wouldn't it?

14 MS. ALEXANDER: Your Honor, I've got to object. That
15 calls for speculation.

16 THE COURT: Sustained.

17 BY MR. GAMMILL:

18 Q. Why would he offer you the wine with Chris present, and now
19 that Chris is gone, he doesn't offer you any?

20 MS. ALEXANDER: Your Honor, the same objection.

21 THE COURT: Sustained.

22 THE WITNESS: Maybe he didn't want me to have it.

23 BY MR. GAMMILL:

24 Q. I beg your pardon?

25 A. Maybe he didn't want me to have it at the time.

1 Q. He didn't want you to have it?

2 A. No.

3 THE COURT: Let's move on.

4 BY MR. GAMMILL:

5 Q. So he tells you to lay back and he starts unbuckling your
6 belt --

7 A. Yes, sir.

8 Q. -- just out of the blue?

9 A. No, he come over and laid beside me, and he raised up and
10 he started to undo my belt.

11 Q. Just like that?

12 A. Yes, sir.

13 Q. No talking, no feeling you out or anything; he just
14 starts unbuckling your belt?

15 A. Yes, sir.

16 Q. Were you not just like shocked out of your mind?

17 A. Yes, sir.

18 Q. Why didn't you just get up and walk off?

19 A. What do you do when an adult is standing over you doing
20 this to you?

21 Q. Aren't you just about as big as he is, Doug?

22 A. Maybe.

23 Q. Didn't you drive your truck out there?

24 A. Yes, sir.

25 Q. How long have you been driving?

- 1 A. At that time, four months, maybe.
- 2 Q. You never drove before you were 16?
- 3 A. Yeah, on occasion.
- 4 Q. You did, didn't you?
- 5 A. Uh-huh.
- 6 Q. Why didn't you just get in your vehicle and leave?
- 7 A. I'd been stuck once that night. If I had got stuck again,
- 8 I was staying there. There was no since in running. And I was
- 9 afraid of what he would try to do if I left, but Mark told me I
- 10 should go.
- 11 Q. We're not to Mark yet. We're still at the campfire. We'll
- 12 get to Mark. We're at the campfire. Do you have any physical
- 13 deformities?
- 14 A. No, sir.
- 15 Q. Was there any doubt about being able to outrun Jack?
- 16 A. No, sir.
- 17 Q. He's a 47-year-old paunchy man. Why didn't you just get up
- 18 and run?
- 19 A. Because he was an adult and I was afraid to run. I was
- 20 afraid to run from him. If he could have caught me, he could
- 21 have hurt me.
- 22 Q. Well, if he was going to hurt you, he could've hurt you
- 23 right there at the campfire, Doug.
- 24 A. He could've.
- 25 Q. But he didn't.

1 A. No, but he could have. And that's why I was afraid.

2 Q. He could pull a gun out right now and shoot all of us, but
3 you said in your statement he remained calm.

4 A. He was real calm about it.

5 Q. He was calm. You could've just said no, got up, and walked
6 off, couldn't you?

7 A. Yes, sir.

8 Q. And when you did get in your vehicle, you could have
9 started the motor and driven off, couldn't you?

10 A. I could've.

11 Q. But you didn't?

12 A. No, sir, I didn't.

13 Q. And you would have us believe it's because you were afraid
14 you would get stuck?

15 A. I was afraid that if I did try and go, that he could hurt
16 me. I knew he had weapons out there. And if I had gotten
17 stuck, I would've been stuck out there till in the morning, and
18 I wanted to make it out.

19 Q. Well, now let's fill in the blanks for the Judge. Let's
20 tell him who's out there where you're afraid that you're going
21 to be shot. There's Mr. Goss. In your vehicle, there's Chris
22 Houchens. There's Mark McConnell, who is about your age; is
23 that right?

24 A. He's a year younger.

25 Q. A year younger. Even though there wasn't going to be

1 anybody there your age, Mark was there. And then there's eight
2 or ten scouts from Lonoke in another tent, right?

3 A. Yes, sir.

4 Q. And there's a campfire?

5 A. [Nodded head.]

6 Q. And your vehicle and two tents are around the campfire?

7 A. Yes, sir.

8 Q. And this is where Jack's going to shoot you?

9 A. I had no idea what he would've done. He did not know
10 at that time that I was going to tell.

11 Q. So you've told us you tell Chris and you tell Mark, and
12 you're in your vehicle and you start it up.

13 A. Yes, sir.

14 Q. And you tell us in your direct here today that Jack walks
15 to the passenger side of the vehicle.

16 A. Yes, sir.

17 Q. But you tell us in your statement that Jack Walls jerks the
18 door open.

19 A. Yes, sir, he opened the door.

20 Q. He jerked the passenger door open?

21 A. Yes, sir.

22 Q. He didn't jerk your door open?

23 A. No. My door was already open. Mark was standing at my
24 door talking to me.

25 Q. Why, if Jack wanted to stop you, would he jerk the

1 passenger door open instead of coming to your side?
2 A. I have no explanation.

3 Q. If Chris tells us that Jack didn't jerk the door open,
4 Chris is just mistaken?

5 A. Yes, he is.

6 Q. And if Chris says that Jack didn't say, "You're not going
7 to leave," Chris is just mistaken?

8 A. Yes, sir.

9 Q. And even if Jack did jerk the passenger door open and
10 say, "You're not going to leave," all you had to do was drive
11 off.

12 A. You have to let that truck warm up for one second. I
13 could've been stuck. Then where would I have been?

14 Q. You drove out there.

15 A. Yes, sir. I got stuck leaving, too.

16 Q. But you drove back to the campfire.

17 A. Yes, sir.

18 Q. Doug, I don't want to make a big deal about it, because
19 the Court's not going to let me, but for impeachment, I think
20 I'm certainly entitled to ask you if in fact it's true that you
21 filed a complaint in the Circuit Court of Pulaski County seeking
22 monetary damages from Jack Walls.

23 A. Yes.

24 MS. ALEXANDER: Your Honor, I've got to object. We're
25 on a criminal matter. We've gone way out of line on

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here today?

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speculative questions and answers, and I would
Court to admonish him. Let's stay with what
today.

MR. GAMMILL: Your Honor, if that's not
impeachment, I don't know what is. I just want
sure we have it in the record that we've got a
pending.

THE COURT: Let's move on. I've told counsel
we started that we're not going to try to the case
so let's move on.

MR. GAMMILL: I pass the witness, Your Honor
THE COURT: Ms. Alexander?

REDIRECT EXAMINATION

BY MS. ALEXANDER:

Q. Doug, you stated that you've been in Boy Scouts since
were real young.

A. Yes, ma'am.

Q. What did they teach you about respecting elders and
scoutmasters?

A. To respect them at all times.

Q. Are you supposed to do what they say?
A. Yes, ma'am.

Q. Did it ever cross your mind after this event to leave
without permission?
A. Yes, ma'am.

30

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Lark
7c Connell

1 Q. And why did you not leave?

2 A. Because Jack had wanted to talk and I was afraid that
3 I was to get stuck out there, there would be no way I could
4 to town until the next day.

5 Q. Doug, are you telling the truth here today?

6 A. Yes, ma'am.

7 Q. What you're telling us is true, it's what happened?

8 A. Yes, ma'am.

9 MS. ALEXANDER: I have no further questions.

10 THE COURT: Mr. Gammill?

11 RECROSS EXAMINATION

12 BY MR. GAMMILL:

13 Q. So you stayed all night?

14 A. Yes.

15 MS. ALEXANDER: Your Honor, we need to stay within
16 scope.

17 MR. GAMMILL: She asked why he didn't leave. I'm j
18 asking --

19 THE COURT: Go ahead with your cross examination.

20 BY MR. GAMMILL:

21 Q. And you had breakfast the next morning?

22 A. He give me doughnuts.

23 Q. You left when everybody else left?

24 A. No, sir. I left before.

25 Q. Oh, you left early?

1 A. Yes, sir. As everybody else was packing up, I loaded
2 stuff and I got out.

3 Q. You got out of there?

4 A. [Nodded head.]

5 MR. GAMMILL: That's all, Your Honor.

6 THE COURT: Anything else, Ms. Alexander?

7 MS. ALEXANDER: I have nothing further, Your Honor.

8 THE COURT: You may step down. Thank you. Call
9 next witness.

10 MS. ALEXANDER: Mark McConnell.

11 THEREUPON,

12

MARK McCONNELL,

13 being first duly sworn or affirmed to tell the truth, the wh
14 truth, and nothing but the truth, testified as follows:

15

DIRECT EXAMINATION

16 BY MS. ALEXANDER:

17 Q. Mark, would you, please, state your full name and addre
18 for the Court?

19 A. Mark McConnell, 208 Washington Street, Lonoke, Arkansas

20 Q. You'll have to speak up a little bit since they turned
21 the air.

22 A. Mark McConnell, 208 Washington Street, Lonoke, Arkansas.

23 Q. How old are you, Mark?

24 A. 16.

25 Q. How long have you been in boy scouting?

- 1 A. About eight years.
- 2 Q. A long time. Are you familiar with Doug Hogan?
- 3 A. Yes.
- 4 Q. Are you familiar with Mr. Walls, the defendant here?
- 5 A. Uh-huh.
- 6 Q. Were you at the outing, the scout outing, in December of
- 7 '92 that we're discussing here today?
- 8 A. Yes.
- 9 Q. When did you first see Doug on that day?
- 10 A. When he got there. I don't know what time it was. It was
- 11 sometime in the afternoon.
- 12 Q. And tell us what you recollect about the day and evening.
- 13 A. Like we normally do, just goof around camp, go out and play
- 14 around.
- 15 Q. Why don't you tell us about that evening?
- 16 A. When everybody went to bed or when it started getting dark,
- 17 we all played war games and got tired and hung around camp for a
- 18 little while. And then some of them went to bed early.
- 19 Q. Were you up when everyone else went to bed?
- 20 A. Yes.
- 21 Q. Who was awake at that time?
- 22 A. It was Doug, Chris, me, and Jack. And I don't know who
- 23 else.
- 24 Q. Was there another person there?
- 25 A. I think so.

1 Q. Do you remember what he looked like?

2 A. I don't know who it was. I can't remember.

3 Q. Do you remember if he was as old as you guys or was he
4 younger?

5 A. He was --

6 MR. GAMMILL: Your Honor, I think this would
7 characterize leading the witness. He's already said he
8 doesn't know. Now she's going to give him a description
9 and I guess a name in a minute.

10 THE COURT: He's testified that there was someone else
11 there. If he can tell you who it is, I'm going to let him.
12 If he can't, you need to move on.

13 THE WITNESS: I think it was my nephew. He was out
14 there, too -- Keith Eaton.

15 BY MS. ALEXANDER:

16 Q. What happened when it was just you guys around the
17 campfire?

18 A. We just talked until everyone went to bed. It was kind of
19 late -- early in the morning. It was real late.

20 Q. Were you ever offered any liquor?

21 A. No.

22 Q. Did you ever see any liquor?

23 A. Huh-uh.

24 Q. Tell me, where was Doug sleeping?

25 A. In the back of his truck.

1 Q. And where was the defendant sleeping or supposed to be
2 sleeping?

3 A. I thought he was going to sleep out by the fire, because
4 he did that a lot.

5 Q. Did he have a tent?

6 A. Yeah, he had a tent.

7 Q. Was he sharing that tent with anyone?

8 A. Not that I know of.

9 Q. Did you ever talk with Doug about what happened that
10 evening with the defendant?

11 A. Yeah, when he woke me up to tell me.

12 Q. What did Chris tell you -- not Chris -- what did Doug tell
13 you?

14 A. Well, I was in my tent. I was just laying there and he
15 told --

16 MR. GAMMILL: Excuse me, Your Honor. I think I would
17 have to object at this point. It sounds like that's going
18 to be hearsay. Perhaps if there's some more foundation
19 laid, it would be permissible. But I don't think at this
20 point it is.

21 MS. ALEXANDER: I think we're about to get into when
22 he was told. And before we get into the testimony when it
23 occurred, if I could get a little leeway I'll make sure we
24 get the foundation in.

25 THE COURT: Well, I think what you need to do, Ms.

1 Alexander, is maybe set the time frame. And I think if you
2 do that, I'll let it in.

3 BY MS. ALEXANDER:

4 Q. Do you remember what time of night it was that Doug came
5 and woke you up?

6 A. It was about 2:30 or 3 o'clock in the morning.

7 Q. When Doug first woke you up, what did he say to you?

8 A. He told me he had to tell me something kind of important.

9 Q. What did Doug tell you?

10 A. He said, "Mark, wake up. I've got something to tell you."
11 I said, "What?" He told me to get out of the tent and he would
12 tell me.

13 Q. What did he tell you happened?

14 A. He told me that --

15 MR. GAMMILL: Excuse me. Your honor, I don't think
16 the foundation is there. She might could lay it, but it's
17 not there now. I mean, they're having a conversation.
18 That's hearsay.

19 MS. ALEXANDER: Your Honor, the rules specifically
20 provide for excited utterance. During the time frame of
21 over several hours -- we're talking about the same evening
22 within the time frame.

23 THE COURT: Ms. Alexander, I understand what Mr.
24 Gammill is getting at, and I think that you can get there,
25 but I don't think you've gotten there yet. I think if you

1 lay the proper foundation, I think it's certainly
2 admissible. And I'm certainly going to let it in. But I
3 don't think it's there yet, and I'm going to let you
4 develop that. But again, let's move it along. Let's get
5 to the chase here.

6 BY MS. ALEXANDER:

7 Q. And when was it that Doug came and woke you up?

8 A. About 2:30 or 3 o'clock. It was kind of early in the
9 morning.

10 Q. Early morning hours?

11 A. Uh-huh.

12 Q. Did he say something had just occurred?

13 A. I don't know when it happened, but he told me -- he woke
14 me up about 2:30 or 3 o'clock. And then it was -- I guess it
15 was 30 minutes after it happened, I guess. I don't know when it
16 happened.

17 Q. All right. Why don't you go into what he has told you?

18 A. We walked down from the tent, and he told me that Jack
19 tried to undo his pants. I didn't believe him at first, but
20 then he was real serious about it.

21 Q. When he was telling you about this, Mark, how did Doug act?

22 A. He didn't act -- he was real serious about it, like it's
23 not a joke or nothing.

24 Q. After he told you what happened, what did you guys do?

25 A. Well, he was wanting to leave. He wanted to leave right

1 then, but he was asking me if there was anybody in town that he
2 could contact to come get me or whatever.

3 Q. What did you tell him?

4 A. What did I tell him?

5 Q. Uh-huh.

6 A. I told him that there wouldn't be nobody at my house,
7 because nobody was there. But the preacher of my church would
8 be home. And he said if I needed him any time, I could go get
9 him.

10 Q. After telling him this, what happened?

11 A. We walked -- Jack told us to come back up to the camp, but
12 Doug wanted to go home. He got in his truck and tried to start
13 it, but it wouldn't start. And Jack just told us to come by the
14 fire and we would talk about it.

15 Q. Let me back up a minute. I want to make sure I follow you
16 correctly. When the conversation ended between you and Doug
17 about what had occurred, take us through the chain of events
18 again.

19 A. When we was through talking, we was walking back to -- I
20 was going back to my tent, but Jack told us to come up to the
21 campfire so we could talk about what had just happened.

22 Q. Where was Doug going?

23 A. He was going back up to his truck to leave.

24 Q. Now tell us then what happened. What did Jack do?

25 A. He told Doug he should just stay, because nobody would be

1 up at that time of the morning, and he would probably wake up
2 everybody else in camp by leaving. He didn't want to wake
3 everybody up.

4 Q. Did you go to the campfire?

5 A. Yes.

6 Q. Tell us what happened at the campfire.

7 A. We just talked about what me and Chris would do in Doug's
8 place. We told him we would probably overreact just like Doug
9 did.

10 Q. We need to get real specific. What conversation took
11 place? Tell us what was said and by whom that you remember.
12 Who started talking first?

13 A. Jack. He asked us what -- I mean, he asked us to talk
14 about what had just happened. He asked me what I would do in
15 this situation, and he asked Chris the same thing.

16 Q. What did you tell him?

17 A. I told him I would probably overreact and try to leave, get
18 away.

19 Q. Was any contact discussed?

20 A. [No response.]

21 Q. Can you remember?

22 A. Huh-uh.

23 Q. Was that the end of the conversation at the campfire?

24 A. We didn't stay very long there. We just kept talking about
25 it, and we just gradually -- all of us went to bed.

1 Q. You say "kept talking about it." Talking about what?

2 A. About the situation that happened, what had gone on.

3 Q. And what was reached -- what conclusion was reached?

4 A. There really wasn't one.

5 Q. So what did you guys do after the conversation?

6 A. We went back to bed.

7 Q. Where did you go?

8 A. My tent.

9 Q. Where did Doug go?

10 A. To his truck.

11 Q. Is that the end of the evening, as you remember it?

12 A. Yes, after everybody went to bed.

13 MS. ALEXANDER: I pass the witness.

14 CROSS EXAMINATION

15 BY MR. GAMMILL:

16 Q. Mark, we have the benefit of Doug's testimony. He
17 testified before you did. And we have the benefit of his
18 written statement. The Court has that, and I have a copy of it.

19 And nowhere in the written statement of Doug's and nowhere in
20 his testimony does he say that Jack asked you or Jack asked
21 Chris what you would've done or what Chris would've done.

22 A. He asked us what we would do.

23 Q. We have Chris' statement. He hasn't testified yet, but he
24 will. He doesn't say that Jack asked you what you would've
25 done.

- 1 A. I remember him asking us what we would do.
- 2 Q. You said something about Doug going back to the truck to
3 leave. And I took it from that that when you first talked with
4 Doug and Jack together, that maybe Jack had come to your tent.
- 5 A. Huh-uh.
- 6 Q. No?
- 7 A. No, Jack didn't come to my tent.
- 8 Q. Where did you see Jack?
- 9 A. I saw him go to his truck.
- 10 Q. To whose truck?
- 11 A. Jack's.
- 12 Q. You saw Jack go to his truck?
- 13 A. Yes.
- 14 Q. Where was Doug?
- 15 A. In the back of his truck, getting ready to go to bed.
- 16 Q. When you first talked to Jack?
- 17 A. Huh?
- 18 Q. Was this -- is this --
- 19 A. This is after we left the campfire.
- 20 Q. This is after you left the campfire when?
- 21 A. After we got through talking.
- 22 Q. You're talking about in the middle of the night?
- 23 A. Yes.
- 24 Q. I'm talking about before that. When you told Doug to
25 call your preacher --

- 1 A. Uh-huh.
- 2 Q. -- where were you?
- 3 A. We was down from my tent.
- 4 Q. Down from your tent where?
- 5 A. About 50 yards down the road.
- 6 Q. Who was there?
- 7 A. With Doug?
- 8 Q. Uh-huh.
- 9 A. Chris and I.
- 10 Q. Fifty yards down the road?
- 11 A. Uh-huh.
- 12 Q. How long did you stay 50 yards down the road?
- 13 A. Ten or fifteen minutes.
- 14 Q. And did you leave from 50 yards down the road to go back
15 and get in your tent?
- 16 A. All three of us left to go -- I was going back to my tent,
17 but I was following Doug to his truck.
- 18 Q. And when did you tell him to call your preacher?
- 19 A. When we was down the road.
- 20 Q. Doug says in his statement that you gave him your stepdad's
21 telephone number.
- 22 A. I don't have a stepdad.
- 23 Q. You don't have a stepdad?
- 24 A. No. My dad's in there. [Indicated.]
- 25 Q. So when he says, "Mark gave me his stepdad's phone

1 number" --

2 A. I gave him my preacher's phone number.

3 Q. Do you ever refer to your preacher as your stepfather?

4 A. No.

5 Q. Do you know any reason why he would think he was your
6 stepfather?

7 A. No. He may have misunderstood me.

8 Q. Jack never threatened you?

9 A. No.

10 Q. Jack never threatened Doug?

11 A. Huh-uh.

12 Q. Never threatened Chris?

13 A. [Shook head.]

14 Q. And what you know is what Chris told you that night?

15 A. What Doug told me that night.

16 Q. And Doug didn't tell you that Jack threatened him then, did
17 he?

18 A. No.

19 Q. He just told you about this incident?

20 A. Yes.

21 Q. But never did he say Jack threatened him, did he?

22 A. No.

23 MR. GAMMILL: I pass the witness, Your Honor.

24 THE COURT: Ms. Alexander?

25 REDIRECT EXAMINATION

1 BY MS. ALEXANDER:

2 Q. Mark, I know this is uncomfortable, and we all appreciate
3 you being here so we can get the truth of what happened that
4 night. I just have one question for you. You talked about the
5 campfire and what Jack asked you guys would do. What I want to
6 know is, Jack asked what you would do if confronted with what?
7 What was he asking you what you would do if confronted with what
8 situation?

9 A. If somebody tried to undo our pants.

10 MS. ALEXANDER: I pass the witness.

11 MR. GAMMILL: No further questions, Your Honor.

12 THE COURT: Is this witness excused or is he needed
13 subject to recall?

14 MR. GAMMILL: I'm not going to recall him.

15 MS. ALEXANDER: Your Honor, for now, I'd like to keep
16 him under the Rule.

17 THE COURT: Mr. McConnell, you're still under the
18 Rule, so what you need to do is leave the courtroom with
19 Mr. Lee here. And again, do not discuss your testimony
20 until you've been released, okay? You're subject to
21 recall. Call your next witness.

22 MS. ALEXANDER: Chris Houchens.

23 THEREUPON,

24 CHRISTOPHER MICHAEL HOUCHENS,

25 being first duly sworn or affirmed to tell the truth, the whole

*Start
Chris
Houchens*

1 truth, and nothing but the truth, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. ALEXANDER:

4 Q. Chris, would you, please, state your full name and address
5 for the Court?

6 A. Christopher Michael Houchens, P. O. Box 887, Carlisle.

7 Q. How old are you, Chris?

8 A. 16.

9 Q. How long have you been in boy scouting?

10 A. Since, I believe, the second grade.

11 Q. A long time. So you're familiar with Doug, and you're
12 familiar with the defendant, Mr. Walls?

13 A. Yes.

14 Q. Were you present at a Boy Scout outing on December 30th of
15 1992?

16 A. Yes.

17 Q. Why don't you tell the Court what you remember about that
18 evening?

19 A. What part? Just the whole thing?

20 Q. Let's start with when you first got there and you came in
21 contact with the defendant, and Mr. Hogan.

22 A. My sister took me over there at probably 5 o'clock that
23 afternoon. Doug was supposed to pick me up, and he came up
24 there and got me. And we went back out there.

25 Q. What happened at the campsite?

1 A. Until about midnight, everything was like a regular camp-
2 out. We just ran around and just talked.

3 Q. Okay. Let's start with around midnight when things got to
4 be unusual then.

5 A. Well, Doug and Jack were the last two at the campfire. And
6 I had gone to bed about probably 10 or 15 minutes. And Doug
7 came over there to the truck and was laying there. And was kind
8 of breathing hard and he started telling me about the
9 conversation at the campfire. And he said that they were
10 talking about girls, and they were just sitting there talking
11 for a little bit.

12 And he said that Jack was asking him about masturbation.
13 And he said, "Do you want do that?" And Doug said no. And Jack
14 said, "Do you want to do me?" And Doug said no. And Doug was
15 saying that Jack touched him or tried to undo his pants or
16 tugged at him or something like that.

17 Then later on, we were fixing to leave, because we had
18 already got Mark up. And Doug and I were going to leave. Jack
19 came over there to the truck and asked me what we was doing.
20 And I said, "You better ask Doug that." So he asked Doug, and
21 Doug said, "Well, you scared me pretty bad, Jack."

22 Q. What did Jack say in response?

23 A. He said, "Well, can we just talk about this and go over
24 here to the campfire and see what's going on?"

25 Q. And what happened at that time? Tell us about the campfire

1 conversation?

2 A. We went over to the campfire, and Doug went through this
3 story again in front of Mark and Jack and I. And we just kind
4 of talked back and forth about it.

5 Q. What did Jack say?

6 A. He said the same thing that I was saying, that it was
7 just -- it was kind of a big misunderstanding, that it was kind
8 of ridiculous.

9 Q. Chris, were you ever offered liquor that evening?

10 A. No.

11 Q. Was anyone else offered liquor in your presence?

12 A. Doug said he was, but it wasn't in my presence.

13 Q. Did you ever see liquor in a coffee cup?

14 A. Doug said it was, but I didn't test it to find out, drink
15 any of it.

16 Q. Where were you standing when all this was going on?

17 A. Whenever he showed me the mug, we were walking down the
18 road from the campsite.

19 Q. After the event had happened?

20 A. No, this was before.

21 Q. Before?

22 A. Earlier that night.

23 Q. Tell us what you remember about the alcohol.

24 A. He just said that Jack gave him some. And he asked me if
25 I wanted some, and I said no. Doug asked me if I wanted some of

1 what was in the glass.

2 Q. Where was Jack during --

3 A. It was offered to me, but it was by Doug.

4 Q. Where was Jack during all this conversation?

5 A. He was back at the campsite. I don't know exactly where he
6 was at, but he was around the campsite.

7 Q. Where was Jack supposed to be sleeping that evening?

8 A. I believe he had a tent out there he was sleeping in.

9 Q. Was he going to share that tent with anyone?

10 A. Not that I know of. I don't know what the tent partners
11 were that night.

12 Q. Let me put it this way: Where was Ron Goss sleeping that
13 night?

14 A. He either had a tent or was sleeping in the back of his
15 car. I didn't pay any attention where everybody was sleeping.

16 Q. Okay. So you're not real sure about that point?

17 A. Huh-uh.

18 Q. Did you ever see Jack Walls go to bed?

19 A. I was already laying in the back of his truck.

20 MS. ALEXANDER: That's all. I pass the witness.

21 THE COURT: Mr. Gammill?

22 MR. GAMMILL: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. GAMMILL:

25 Q. Chris, Doug specifically states in a statement under oath,

1 and again in this courtroom under oath, that the back of his
2 truck is open and that it's about as wide as this table, and
3 that he's sitting in the truck, in the back of the truck like I
4 am, and that you're standing right by him, and that Doug --
5 excuse me -- Jack is standing right by you, and that Jack offers
6 you both wine.

7 A. No.

8 Q. Did that happen?

9 A. [Shook head.]

10 Q. Well, now Chris, either you're not telling us the truth or
11 Doug is not telling us the truth.

12 A. It's got to be him, then.

13 Q. Well, would that surprise you if he wasn't telling the
14 truth?

15 A. Most of the time, it wouldn't.

16 Q. I beg your pardon?

17 A. Most of the time, it wouldn't.

18 Q. How long have you known Doug?

19 A. Ever since I was little.

20 Q. Raised in the same town with him?

21 A. We've gone to school together all our life.

22 Q. You're in the same class with him in high school -- I mean,
23 the same age classification. You're both juniors?

24 A. Yes.

25 Q. You've been in scouts with him?

1 A. Yes.

2 Q. You've been in contact with him all your life?

3 A. Yes.

4 Q. And in particular through scouting?

5 A. Yes. We used to be running buddies.

6 Q. Have you formed an opinion, Chris, as to Doug's character
7 for truthfulness or untruthfulness?

8 A. A lot of times, I don't believe the things he says.

9 Q. Does he tell tall tales?

10 A. That's what I call them.

11 Q. Things to impress people?

12 A. Sometimes.

13 Q. Likes to be the center of attention?

14 A. Sometimes.

15 Q. And of course, you've gone to school with a number of
16 other people in that class.

17 A. [Nodded head.]

18 Q. The class above, the class below, people that would form
19 a community of your peers. Would you have knowledge of Doug's
20 reputation in that community of peers as to whether or not he's
21 a truthful or untruthful person?

22 A. A lot of people say the same thing I do. They don't
23 believe some of the things he says.

24 Q. He has a reputation for being untruthful. Do you drink?

25 A. No.

1 Q. Does he?

2 A. To my knowledge --

3 Q. He does?

4 A. That's what he says.

5 Q. So it wouldn't surprise you if he was drinking that night
6 or any other night?

7 A. No.

8 Q. Have you ever seen Jack Walls bring liquor to a scout camp-
9 out?

10 A. No.

11 Q. Never, ever?

12 A. Never.

13 Q. How long have you known Jack Walls?

14 A. About six years.

15 Q. Doug tells us in his statement, and again here today, that
16 Jack didn't want you to come.

17 A. He said something to me about that.

18 Q. Do you believe that?

19 A. I don't know whether to believe it or not, because I
20 haven't talked to Jack about it.

21 Q. Isn't it true that you were a member of the Order of Arrow?

22 A. Yes.

23 Q. Isn't that an honor in scouting?

24 A. Yes.

25 Q. Weren't you part of a dance team?

- 1 A. Supervisor.
- 2 Q. And Chris -- excuse me -- and Doug?
- 3 A. Doug.
- 4 Q. And Robbie Everett, Chase Tucker?
- 5 A. Yes.
- 6 Q. Heath Stocks?
- 7 A. I think he's done some with us.
- 8 Q. So if Jack says that he invited these young men to this
- 9 camp-out, that would be consistent with the practices of that
- 10 group, wouldn't it, Chris?
- 11 A. Yes.
- 12 Q. If they get up here and tell the Judge specifically they
- 13 were asked to come to this camp-out, that would be consistent?
- 14 A. I believe so. I haven't talked to them, whether they
- 15 were invited that night or not, except for Robbie.
- 16 Q. You wouldn't believe that Jack wanted Doug to come alone
- 17 just because Doug said that, would you?
- 18 A. No.
- 19 Q. And when Doug was in the vehicle with the motor running,
- 20 there was nothing to prevent him from driving off, was there,
- 21 Chris?
- 22 A. No.
- 23 Q. There were no trees in front of him?
- 24 A. No.
- 25 Q. Nothing to impede his vehicular progress?

*all Victims
which is also
CONSISTANT*

1 A. No.

2 Q. And Jack walked up to the vehicle?

3 A. Right.

4 Q. Presumably because he heard the motor running.

5 A. Yes.

6 Q. And he came to your side?

7 A. Yes.

8 Q. And he -- I won't ask you a leading question. What did he
9 do?

10 A. I was standing in the door. I was fixing to get in. He
11 came up and asked me, he said, "What's going on? What are y'all
12 doing?" And I said, "Well, you better ask Doug that."

13 Q. All right. Now let me stop you, because Doug tells us in
14 his statement, and again today, that Jack jerked the door open.
15 Did he jerk your door open?

16 A. No. My door wasn't shut yet.

17 Q. So if he jerked the door open, it must have been Doug's
18 door?

19 A. He was on my side, so it couldn't have been.

20 Q. Maybe he has long arms; I don't know. He didn't jerk
21 your door open?

22 A. No.

23 Q. And he didn't make Doug stay?

24 A. Doug could have left.

25 Q. When y'all went to the campfire, did you more or less lead

1 the conversation?

2 A. Basically.

3 Q. Isn't it true that Jack said, "That's ridiculous," or
4 something to that effect, about this incident?

5 A. Yes.

6 Q. Isn't it true that he pointed out to y'all, "Look, here's
7 the campfire. See the light in the campfire? Here's the panel
8 truck 20 or 30 feet over. Here's a tent full of kids from
9 Lonoke"?

10 A. Yes.

11 Q. "Here's a tent with Ron Goss sleeping in it." Isn't that
12 what he said?

13 A. Something to that effect.

14 Q. And you said it was a big misunderstanding?

15 A. I believe it is.

16 Q. For all we know, it could've been another one of Doug's
17 lies.

18 A. It could've been.

19 MR. GAMMILL: I pass the witness, Your Honor.

20 THE COURT: Ms. Alexander?

21 MS. ALEXANDER: ,I have no further questions for this
22 witness.

23 THE COURT: Subject to recall?

24 MR. GAMMILL: Not on behalf of the defense, Your
25 Honor.

1 MS. ALEXANDER: No, Your Honor. I will not be calling
2 him.

3 THE COURT: So he will be excused. Mr. Houchens, you
4 can stay in the courtroom or you're free to go. You can go
5 back to school. You're free to do that. Thank you.

6 MS. ALEXANDER: Investigator Rainbolt.

7 THEREUPON,

8 JIM RAINBOLT,
9 being first duly sworn or affirmed to tell the truth, the whole
10 truth, and nothing but the truth, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. ALEXANDER:

13 Q. Will you please state your name and occupation?

14 A. Jim Rainbolt. I'm a criminal investigator for the Arkansas
15 State Police.

16 Q. How long have you been so employed?

17 A. About 14 years.

18 Q. Did you conduct an investigation into this matter?

19 A. Yes, ma'am, I did.

20 Q. And that's regarding the defendant, Charles Walls, III, and
21 Doug Hogan being the victim in this or alleged victim?

22 A. Yes, ma'am.

23 Q. Did you interview the defendant?

24 A. Yes, ma'am.

25 Q. Do you remember what day that was?

*Jim
Rainbolt*

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1 A. It would be on the rights form and the inter
2 don't recall it off the top of my head.

3 MS. ALEXANDER: Your Honor, may I appro
4 THE COURT: You may.

5 BY MS. ALEXANDER:

6 Q. I'll show you your rights form.

7 A. [Reviewed document.] I interviewed him on Ju
8 at 9:35 a.m.

9 Q. Would you please identify this document?

10 A. This is what we call the ASP-116 Form, which i
11 warnings under the federal law. It advises the def
12 rights as set up by the Constitution of the United

13 Q. Did he indicate that he understood each of tho

14 A. Yes, ma'am. He signed -- I read the rights to
15 responded. I put his response down here and he init
16 And I gave it to him to review, and then he signed a
17 bottom.

18 MS. ALEXANDER: Your Honor, I'd like to ha
19 introduced, marked as State Exhibit No. 1.

20 THE COURT: Mr. Gammill?

21 MR. GAMMILL: No objection, Your Honor.

22 THE COURT: It will be received without ob
23 [State's Exhibit No. 1 was marked for ident
24 and was received in evidence.]

25 BY MS. ALEXANDER:

1 Q. After you read his Statement of Rights form, did you
2 conduct an interview with him, too?

3 A. Yes, ma'am. He had already prepared a statement for me. I
4 had called him previously and advised I needed to talk to him
5 and what I needed to talk to him about. And he gave me a copy
6 of that statement. And after I read the statement, I asked him
7 some questions and an additional was added to the statement.

8 MS. ALEXANDER: Again, Your Honor, if I could
9 approach.

10 THE COURT: You may.

11 BY MS. ALEXANDER:

12 Q. I believe we have both statements there; is that correct?

13 A. Yes, ma'am. The first three pages are what he brought me,
14 and the second three pages are what I added. And he put a
15 paragraph at the end of the statement.

16 Q. Is this the same document he handed to you and the addition
17 that you took?

18 A. Yes, ma'am, it is.

19 Q. All right. In the first statement, would you please
20 indicate to the Court what it says about where the defendant was
21 sleeping at 11:30 p.m.?

22 A. It says he was in his bed, went to bed in his tent.

23 Q. And what did it relate about the event with Doug?

24 A. Shortly afterwards, it indicates that he was awakened by an
25 outburst at the campfire where Mr. Hogan was loudly complaining

1 to other scouts.

2 Q. Does it state anything about sexual contact?

3 A. No, ma'am, I don't see any part about sexual contact here.

4 Q. What does it relate about Mr. Hogan leaving the campsite or
5 attempting to leave the campsite?

6 A. It says at 3:30 a.m., he was awakened by the sound of
7 Hogan's vehicle being started up. He come out of the tent and
8 spoke to Mr. Hogan or Doug Hogan, and asked him why he was
9 leaving. Mr. Hogan told him that he was scared, that he had
10 said something that scared him.

11 Q. Did he state in there what it pertained to?

12 A. He said Mr. Hogan thought that he was making advances
13 towards him.

14 Q. What does it relate about being at the campfire afterwards?

15 A. It says he told him to turn off the truck. Mr. Hogan, Mr.
16 Walls, and two other scouts went to the fire and they discussed
17 the accusation of sexual advances.

18 Q. During that conversation, what occurred?

19 A. According to Mr. Walls' statement, after about 15 minutes
20 of discussion, Mr. Hogan got up and went to bed. And he stayed
21 around the campfire with the other two scouts. Then they all
22 went to bed.

23 Q. All right. Now if we could, would you please move to the
24 second statement? Is this the one that you took?

25 A. Yes, ma'am, this is -- I took these notes as he relayed

1 them to me.

2 Q. Did he review that document?

3 A. This one?

4 Q. [Nodded head.]

5 A. Yes, ma'am, he did.

6 Q. Did he make any corrections?

7 A. Yes, ma'am. Some places that words were misspelled or
8 placed in the wrong place, he crossed them out and initialed
9 those on both pages. Then at the end of the statement, he added
10 a little paragraph of his own in his own handwriting.

11 Q. First, looking at that statement, where does it say the
12 defendant slept when he went to bed at 11:30?

13 A. It says at 11:30 he went to bed in a tent with a Ron Goss,
14 the other scoutmaster.

15 Q. Is that different from the first statement?

16 A. No, ma'am. He said he went to his tent. I assume it's the
17 same tent.

18 Q. But in the first statement, does he mention Ron Goss?

19 A. No, ma'am, it doesn't.

20 Q. What did it relate regarding the event with Doug Hogan?

21 A. It says around 3:30 a.m., he was awakened by Hogan starting
22 his truck. Hogan was trying to leave. He asked him what was
23 going on. Doug said, "You scared me. You said something."
24 Doug appeared to be upset, but Doug never told him what he had
25 done to upset him. It says he went back to bed and went to

1 sleep.

2 Q. What about the addition that he added to the statement?

3 A. Okay. The addition he added to it says, "I quit talking to
4 him and hit him on the belt buckle with the back of my hand and
5 told him to get up and go to bed. I don't know whether he was
6 ignoring me or had gone to sleep."

7 Q. Who was he referring to?

8 A. Doug Hogan. Just above that, it says, "I did get down on
9 Doug Hogan in his treatment of girls and the way he talks about
10 them."

11 Q. Does he mention hitting the belt buckle on the first
12 statement?

13 A. No, ma'am.

14 MS. ALEXANDER: Your Honor, we'd like to have this
15 statement marked as State Exhibit 2.

16 THE COURT: Mr. Gammill, have you had a chance to
17 review it?

18 MR. GAMMILL: No, sir. I have the typed copy. I'm
19 sure this is identical, but we'll take a look at it. Your
20 Honor, when we have a break, I'll compare them. I'm sure
21 they're the same. All I have is the typewritten version.

22 MS. ALEXANDER: If we could just have it marked right
23 now, and then --

24 THE COURT: All right. I'll receive it subject to Mr.
25 Gammill having the opportunity at the break to review it.

1 And then I'll -- if you have any objections, raise them and
2 I'll reserve it to that time.

3 [State's Exhibit No. 2 was marked for identification.]

4 MS. ALEXANDER: I pass the witness at this time, Your
5 Honor.

6 THE COURT: Mr. Gammill?

7 CROSS EXAMINATION

8 BY MR. GAMMILL:

9 Q. Investigator Rainbolt, do you have your typewritten --

10 A. Yes, sir, I do.

11 Q. That might work better. Could you look at the paragraph
12 that begins "12 o'clock midnight"? I think that's page 2.

13 A. 12 o'clock midnight?

14 Q. Does it say, "Awakened by outburst at campfire"?

15 A. Yes, sir, it does.

16 Q. "Hogan is loudly complaining to other scouts about his
17 inability to have and keep girlfriends."

18 A. Yes, sir.

19 Q. "I get up and go to the fire to encourage him to at least
20 be quiet."

21 A. Yes, sir.

22 Q. Then he adds parenthetically, "Hogan had two-and-a-half
23 dates with my daughter. The last half date was when she got
24 tired of him before they even got to the Pizza Hut, and had him
25 bring her home. He has since embarrassed or insulted several of

1 daughter's friends." Is that what it says?

2 A. Yes, sir, it does.

3 Q. Then does it say, "I end up having a rather pointed
4 discussion with Hogan, pointing out some of his problems"?

5 A. Yes, sir.

6 Q. Then on the back page of the second statement -- I think
7 that would be page 5 -- does it say, "I did get down on Doug
8 Hogan and his treatment of girls and the way he talks about
9 them"?

10 A. Yes, sir, it does.

11 Q. And it's at that point that he says, "I quit talking to
12 him. I hit him on the belt buckle with the back of my hand and
13 told him to go to bed."

14 A. Yes, sir.

15 MR. GAMMILL: Pass the witness, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. ALEXANDER:

18 Q. Did the defendant also mention that he had written a
19 letter?

20 A. Yes, sir, it does -- or yes, ma'am.

21 Q. Did you have that in your possession at that time?

22 A. I had the original letter in my possession at that time.
23 I've since returned it to Mr. Hogan.

24 MS. ALEXANDER: If I could approach.

25 THE COURT: You may.

1 BY MS. ALEXANDER:

2 Q. Is that the letter to which we're referring?

3 A. [Reviewed document.] Yes, ma'am, it is.

4 Q. Did Mr. Walls say that he had written that letter?

5 A. Yes, ma'am, he did.

6 MS. ALEXANDER: I would like to introduce this and
7 mark it as State Exhibit 3.

8 THE COURT: Mr. Gammill, any objection?

9 MR. GAMMILL: No, sir.

10 THE COURT: It will be received without objection.

11 [State's Exhibit No. 3 was marked for identification
12 and was received in evidence.]

13 BY MS. ALEXANDER:

14 Q. Will you please read that letter?

15 A. It says, "Cledis" --

16 MR. GAMMILL: Your Honor, it just occurs to me if
17 we're going to follow the rules of evidence, that we're
18 outside the scope of cross. This is not proper for
19 redirect.

20 THE COURT: Mr. Gammill, she's already introduced it.
21 The Court is going to review it. I think that you might be
22 a little bit late for making that objection. Go ahead, Ms.
23 Alexander.

24 BY MS. ALEXANDER:

25 Q. Go ahead, Officer.

1 A. Up in the left-hand corner, it has "12/31/92." And then it
2 says, "Cledis, I want to apologize to all of you for the
3 incident at camp Tuesday night. It showed a" -- I can't make
4 out -- "flaw in my character that must be corrected, and I must
5 begin to do that immediately. There is a great amount of trust
6 placed in a man who works with young people, as I did, and I
7 violated it. I am ashamed of this, as I have let everyone
8 down from the scouts through my own family. It's now up to me
9 to change my life. As of Tuesday, I will have resigned all of
10 my positions with the scouts and will exempt myself from the
11 scout activities. I will turn over the Philmont account to one
12 of the other" -- I don't know what that word is -- "as soon as I
13 can find one to take it." It's signed "Jack Walls."

14 MS. ALEXANDER: I pass the witness.

15 THE COURT: Mr. Gammill?

16 RE CROSS EXAMINATION

17 BY MR. GAMMILL:

18 Q. Trooper, did you know what the circumstances were for that
19 letter?

20 A. Based upon whose interpretation?

21 Q. Well, we're talking about Mr. Walls. Did Mr. Walls tell
22 you that Cledis Hogan had called him on the phone and threatened
23 to blow his brains out if he didn't send the letter?

24 A. Yes, sir, he did.

25 Q. Did you ask him what he was talking about in the letter?

1 A. No, sir.

2 Q. Did he not tell you that he had been very critical of
3 Doug Hogan to the point that he was embarrassed and ashamed that
4 he had treated a scout in the matter that he had treated him at
5 the campfire?

6 A. Yes, sir, he did.

7 Q. He did tell you that?

8 A. Yes, sir.

9 Q. Did he tell you that he had been in scouting for 32 years
10 and that he'd never had anything like that happen to him?

11 A. He told me he had been in scouting a long time, but I don't
12 remember the exact length of time.

13 Q. Did he tell you that he felt his function as a scout leader
14 was to build up young boys, particularly ones that had problems,
15 ego problems, problems with other kids and their adjustment?
16 Did he tell you that?

17 A. I don't know if that was in this conversation or not.

18 Q. But at any rate, he told you that he was extremely sorry
19 that he had been so critical and so ugly to Doug Hogan?

20 A. Something to that effect, yes, sir.

21 Q. And he told you that Cledis Hogan called him on the
22 telephone, wouldn't even let him talk, just said, "Listen"?

23 A. Yes, sir.

24 Q. And then Cledis told him how he was going to blow his
25 brains out?

1 A. Yes, sir, that's what he said.

2 Q. Did he tell you that he was afraid for himself and for his
3 family?

4 A. Yes, sir, he did.

5 MR. GAMMILL: That's all, Your Honor.

6 MS. ALEXANDER: I have nothing further of this
7 witness.

8 THE COURT: Subject to recall?

9 MS. ALEXANDER: No, Your Honor.

10 THE COURT: Mr. Gammill?

11 MR. GAMMILL: Have a nice Friday afternoon.

12 THE WITNESS: Thank you, sir.

13 THE COURT: I appreciate your help. Call your next
14 witness.

15 MS. ALEXANDER: Your Honor, the State has no further
16 witnesses. We would stand on our case.

17 THE COURT: Mr. Gammill?

18 MR. GAMMILL: Your Honor, with respect to the
19 contributing charge, there were two witnesses that offered
20 testimony. I don't think Mr. McConnell spoke about it, but
21 there are two witnesses that are equally balanced. One of
22 them has a motive in the state -- in this matter, because
23 there's a civil suit pending in Little Rock that seeks
24 damages in excess of the amount necessary for federal court
25 jurisdiction.

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And I would ask the Court to dismiss the contributin
charge, because there's no way that the Court can find
beyond a reasonable doubt that this gentleman offered any
wine to Doug Hogan. There's just no way from the evidenc
that's before the Court. That would be my first motion.

Your Honor, my second motion would be that assault in
the third degree is not a proper charge by the facts that
have been brought to this Court by the State's case. If
there was a violation of this young man, it was some sort
of sexual violation. I'd submit to the Court that there i
a statute that would apply if everything that Doug Hogan
said was true.

But if everything Doug Hogan said was true was true,
we don't have assault in the third degree, because there
was no testimony by him that Jack Walls took any actions
that would have placed him in imminent fear of physical
injury. "Physical injury" is defined as the infliction of
substantial pain, by the statute. Criminal laws are to be
strictly construed. There is no proof before the Court
that Doug Hogan was placed in imminent fear of physical
injury, and that charge should be dismissed.

THE COURT: Ms. Alexander?

MS. ALEXANDER: Your Honor, I believe that we have
shown a prima facie case on both charges. Further, I'd
like to add that he stated the definition of "physical

1 injury" is infliction of substantial pain. However, I must
2 point out that it also says, "Or the impairment of physical
3 condition." And we've had testimony that the actions that
4 the defendant took in trying to unbutton or undo his belt
5 buckle did place him in fear, that he was scared, as was
6 evidenced by both of the witnesses that the State called.
7 Doug said he was scared by these events and he felt that he
8 was assaulted. On that, we believe we pass a directed
9 verdict.

10 THE COURT: Anything else, Mr. Gammill?

11 MR. GAMMILL: No, Your Honor.

12 THE COURT: With respect to the assault charge, the
13 Court is going to deny Mr. Gammill's motion. There has
14 been a prima facie case at least at this point that
15 something did occur. The Court, in reviewing the testimony
16 that Mr. Gammill's pointed out -- I do have some concerns
17 about whether there was in fact a situation where Mr. Walls
18 in fact offered alcohol.

19 However, Mr. Gammill's argument goes to the weight of
20 the evidence and not necessary to whether it's a prima
21 facie case. And I think the Court -- to be candid with
22 everyone, the Court has some concern about whether that
23 charge is valid or not. I think it goes to the weight of
24 the testimony that the Court gives each witness.

25 I'm going to deny the motion at this time, but I

1 certainly believe that the Court has a problem with whether
2 or not there was contributing or whether a contributing
3 charge should have been filed. At this point, I'm going to
4 deny the motion, but it was well-taken, Mr. Gammill.

5 MR. GAMMILL: Your Honor, I'd like to call Karen Knox.

6 THEREUPON,

7 KAREN KNOX,

8 being first duly sworn or affirmed to tell the truth, the whole
9 truth, and nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GAMMILL:

12 Q. Karen, will you state your name for the Judge and for the
13 record?

14 A. Karen Knox.

15 Q. And Karen, are you aware that we're here about an incident
16 that allegedly occurred on December the 29th of 1992?

17 A. Yes, I am.

18 Q. And do you know that it involves a scouting camp-out?

19 A. Uh-huh.

20 Q. Karen, do you know or are you acquainted with Doug Hogan?

21 A. I knew of him.

22 Q. And do you recognize him seated at the table to my left?

23 A. Yes.

24 Q. Did you have an occasion to be at the Wal-Mart store in
25 Lonoke on the afternoon of this scouting camp-out?

*Karen
Knox*

- 1 A. Yes, I was.
- 2 Q. And was your daughter, Andrea, with you?
- 3 A. Yes.
- 4 Q. How old is Andrea?
- 5 A. She's 16.
- 6 Q. What is her classification in school?
- 7 A. She's a junior.
- 8 Q. And did you know that Doug Hogan was a junior?
- 9 A. No.
- 10 Q. He's told us that today. And did you and Andrea see Doug
11 at the Wal-Mart store?
- 12 A. Yes, we did.
- 13 Q. Did he make contact with y'all verbally?
- 14 A. At first he did with my daughter, and then --
- 15 Q. And were you in that area?
- 16 A. I was walking in front of my daughter, and we were going
17 back out to the parking lot. And I heard her scream, "Leave me
18 alone."
- 19 Q. And did you turn at that time?
- 20 A. Yes, and I turned and looked at him and said, "What do you
21 want?"
- 22 Q. To Doug?
- 23 A. Yes.
- 24 Q. Now this is before you knew anything about this problem
25 with Jack Walls?

1 A. There wasn't a problem.

2 Q. And so you said, "What do you want"?

3 A. Uh-huh.

4 Q. Did you have a conversation with Doug?

5 A. Yes.

6 Q. What was his demeanor, Karen?

7 A. He was wanting to know where the camp-out was. And he was
8 talking to Andrea, and he was trying to get her to take him out
9 there. And he kept pursuing, I guess, what he was wanting to
10 do, and that's when she yelled, "Leave me alone." And I turned
11 around and he looked at me just really wild-looking. And I told
12 him where the camp-out was. And I thought he knew where it was,
13 because he's been over -- or stayed over at Lonoke a lot and
14 around our house and around Jack's house a lot. So I just
15 assumed since he was a scout, that he knew where the place was,
16 because they camped down there a lot.

17 Q. Did he go on and leave y'all alone?

18 A. I told him where the place was. I said, "I'm not taking
19 you down there, but I will tell you where it is." And I told
20 him where it was.

21 Q. Where do you live in relation to Jack Walls?

22 A. Right across the street.

23 Q. And for the Court's information, is Jack married to your
24 husband's sister?

25 A. Yes, he is.

1 Q. So do you have contact with Jack from time to time?

2 A. Daily.

3 Q. Did you tell Jack about this incident?

4 A. Yes, I did.

5 Q. When did you tell him?

6 A. I don't remember, Randy. I can't remember if I told him
7 later on that night or if I went back home right after the
8 incident happened and told him. I just can't remember.

9 Q. But did you tell him in that same day?

10 A. Yes.

11 Q. Before you went to bed that night?

12 A. Right, yes.

13 MR. GAMMILL: Pass the witness, Your Honor.

14 THE COURT: Ms. Alexander?

15 CROSS EXAMINATION

16 BY MS. ALEXANDER:

17 Q. Ms. Knox, you're stating to the Court that Doug Hogan, whom
18 you don't know very well, came and asked your daughter in your
19 presence where the campsite was?

20 A. Right.

21 Q. And that you did not know him before this, right?

22 A. No, I knew him. I had seen him over at Jack's house quite
23 a bit with the scouts and with his father. And I had seen him
24 earlier that year, because we had had some trouble at our house
25 concerning him.

1 Q. So you already had bad feelings --

2 A. No, I did not.

3 Q. -- against this individual?

4 A. No, I did not.

5 Q. You had some bad experiences with this individual?

6 A. Right, but it was never brought up in any way.

7 Q. You're saying that he just walked up and accosted you and
8 your daughter?

9 A. Yes.

10 Q. Did he already state that he had already been at the
11 campsite --

12 A. No.

13 Q. -- or was he merely asking your daughter if she was going
14 to the campsite?

15 A. No, he asked her to take him down there, because he did not
16 know where it was.

17 Q. Meaning he would follow in his truck?

18 A. I don't know.

19 Q. So you don't know if he was in a vehicle?

20 A. I assumed he was, because he went to the parking lot.

21 Q. At that time, was he with Chris Houchens?

22 A. I didn't see Chris.

23 MS. ALEXANDER: I pass the witness.

24 MR. GAMMILL: Your Honor, I have no redirect. And at
25 this time, I would excuse Karen from the Rule if Angie

1 would.

2 MS. ALEXANDER: That's fine with me.

3 THE COURT: You're excused, Ms. Knox. You're welcome
4 to stay in the courtroom or you're free to leave.

5 MR. GAMMILL: Your Honor, I would also excuse her
6 daughter, Andrea Knox, because I think her testimony would
7 be duplicative.

8 THE COURT: Okay.

9 MR. GAMMILL: If we could let Andrea know that she's
10 not under the Rule.

11 THE COURT: If you would, Mr. Bailiff, would you let
12 Andrea Knox know that she doesn't have to stay back there?
13 She's welcome to come in the courtroom or free to go. Call
14 your next witness.

15 MR. GAMMILL: Your Honor, I would like to call Jamie
16 Spears.

17 THEREUPON,

18 JAMIE SPEARS,
19 being first duly sworn or affirmed to tell the truth, the whole
20 truth, and nothing but the truth, testified as follows:

*Jamie
Spears*

21 DIRECT EXAMINATION

22 BY MR. GAMMILL:

23 Q. Jamie, would you state your name for Judge Rogers and for
24 the record?

25 A. Jamie Spears.

- 1 Q. And Jamie, how old are you?
- 2 A. 15.
- 3 Q. Where do you live?
- 4 A. Lonoke.
- 5 Q. What grade are you in?
- 6 A. Ninth.
- 7 Q. Ninth?
- 8 A. [Nodded head.]
- 9 Q. How long have you lived in Lonoke?
- 10 A. All my life.
- 11 Q. Do you know Mr. Jack Walls, III?
- 12 A. Yes, sir.
- 13 Q. How long have you known Mr. Walls?
- 14 A. Probably three or four years.
- 15 Q. Does he have a daughter your age?
- 16 A. Yes.
- 17 Q. What is her name?
- 18 A. Sarah.
- 19 Q. And are you and Sarah friendly?
- 20 A. Uh-huh.
- 21 Q. Jamie, we're here in regard to an incident that supposedly
- 22 occurred out at Mr. Walls' farm in December 1992, while you
- 23 would've been on your Christmas break. Do you recall a scout
- 24 camp-out at his farm in late December of 1992?
- 25 A. Uh-huh.

1 Q. Did you attend that camp-out or some part of it?

2 A. Yes, sir.

3 Q. Did you go with Sarah?

4 A. Uh-huh.

5 Q. How did you get out there?

6 A. I think my dad brought me to their house, took me to their
7 house. And they took me to the farm.

8 Q. Out to the farm?

9 A. Uh-huh.

10 Q. And would this have been the Walls' farm?

11 MR. WHITEAKER: Your Honor, I'm sorry; I don't mean to
12 interrupt, but I'm having a hard time hearing.

13 THE COURT: Hearing her?

14 MR. WHITEAKER: Yes. If she could speak up or the
15 air-conditioner could be turned down.

16 THE COURT: Jamie, could you speak up a little louder?
17 The air-conditioner is turned off, but if you'll just speak
18 up a little bit so everyone in the room, at least sitting
19 at these tables, can hear you.

20 THE WITNESS: Okay.

21 BY MR. GAMMILL:

22 Q. Do you remember what time you went out to the Walls' farm
23 with Sarah and Mr. Walls?

24 A. It was in the afternoon, I think.

25 Q. Were there others out there besides you, Sarah, and Mr.

1 Walls?

2 A. Uh-huh. There was quite a few people.

3 Q. And do you recall seeing Doug Hogan there?

4 A. Yes, sir.

5 Q. And do you recall the first time that you saw him out at
6 the Walls' farm that afternoon?

7 A. Uh-huh.

8 Q. Where were you?

9 A. We were by where they -- I don't know what it's called --
10 where their tents were and stuff when he drove up.

11 Q. And did you have any conversation with him at that point in
12 time?

13 A. Not really, not there.

14 Q. Did you somewhere else that afternoon?

15 A. [Nodded head.]

16 Q. Where was that, Jamie?

17 A. It was by this big water -- I mean, diesel tank thing.

18 Q. Well?

19 A. Yes.

20 Q. Water well?

21 A. Uh-huh.

22 Q. Diesel tank?

23 A. Uh-huh.

24 Q. Who was at the water well?

25 A. Doug and Josh Aukes and Wade Knox. And that's about all I

1 in. You're free to go or you can stay in the courtroom,
2 whatever you wish to do. Call your next witness.

3 MR. GAMMILL: Your Honor, our next witness is Josh
4 Aukes.

5 THE COURT: For the record, I think it's Clearly
6 Canadian.

7 THEREUPON,

8 JOSH AUKES,

9 being first duly sworn or affirmed to tell the truth, the whole
10 truth, and nothing but the truth, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. GAMMILL:

13 Q. Josh, would you state your name for the record and for
14 Judge Rogers, please?

15 A. Josh Aukes.

16 Q. And Josh, how old are you?

17 A. 12.

18 Q. And where do you live?

19 A. In Lonoke at 201 Hamburg.

20 Q. And are you, by any chance, a participant in scouting?

21 A. Yes.

22 Q. How long, Josh, have you been in scouting?

23 A. For a long time.

24 Q. Ever since you could?

25 A. Yes.

Josh
Aukes

1 Q. And Josh, do you remember a camp-out that occurred in
2 late December of 1992?

3 A. Yes.

4 THE COURT: Mr. Gammill, excuse me one second. Ms.
5 Alexander, would you approach the bench?

6 MS. ALEXANDER: Yes, Your Honor.

7 [Counsel conferred with the Court off the record.]

8 THE COURT: I'm sorry to interrupt, Mr. Gammill.

9 Please proceed.

10 BY MR. GAMMILL:

11 Q. Let's see, Josh; we know that you were a scout and that you
12 were at the camp-out on December the 29th of 1992. Do you
13 remember what time you got out there?

14 A. Around -- about 4:00.

15 Q. And how many people do you remember being out there, Josh,
16 just briefly?

17 A. Their names or how many?

18 Q. Well, you can give me some names.

19 A. John Goss was out there, Wade --

20 Q. Wade Knox?

21 A. Yes. Chris Houchens,, Doug, and --

22 Q. Doug Hogan?

23 A. Yes. And Steven Parker, Cash Acrey, and Jamie Spears, and
24 Sarah Walls were out there for a little bit.

25 Q. Could there have been others that you just can't think of?

- 1 A. [No response.]
- 2 Q. It's not critical.
- 3 A. Oh, Mark McConnell and Keith Eaton. And that's --
- 4 Q. That's what you remember?
- 5 A. [Nodded head.]
- 6 Q. Was Mr. Walls there?
- 7 A. Yes.
- 8 Q. Was there another adult there?
- 9 A. Ron Goss..
- 10 Q. Is that John's dad?
- 11 A. Yes.
- 12 Q. Did you get out to the camp-out before Doug Hogan did?
- 13 A. Yes.
- 14 Q. Do you recall when he came out there?
- 15 A. Yes. It was about an hour after everybody else got there.
- 16 Q. Was he with anybody when he came?
- 17 A. Chris Houchens rode out there with him.
- 18 Q. And did you talk to Doug when you saw him?
- 19 A. Yes, just a little bit.
- 20 Q. And did he bring anything with him?
- 21 A. Yeah. He had a box in the back of his truck.
- 22 Q. He had a box in the back of his truck. What size box?
- 23 A. About that tall. [Indicated.]
- 24 Q. A foot-and-a-half tall?
- 25 A. Yes.

- 1 Q. How wide was it?
- 2 A. About like that. [Indicated.]
- 3 Q. A foot-and-a-half wide. Did it have lids on it or flaps?
- 4 A. It just had two flaps.
- 5 Q. Were the flaps closed?
- 6 A. They were -- two of them, yes.
- 7 Q. Did you ask Doug about the box?
- 8 A. Yes. I asked him what was in it.
- 9 Q. What did he say?
- 10 A. "Pussy in a box."
- 11 Q. Doug Hogan told you that?
- 12 A. Yes.
- 13 Q. Josh, later in the evening, did your camp-out participants
- 14 eat supper?
- 15 A. Yes.
- 16 Q. Did you at any time leave the camp-out area, the campfire
- 17 area, and go to another place?
- 18 A. Yes. Me and Doug and Chris, we went down to this well.
- 19 Q. To the well, uh-huh. Okay.
- 20 A. And Wade Knox walked down there later. And I went to use
- 21 the rest room, and I got back and Doug had a cup, a Carlisle
- 22 Bison cup, and it had something that smelled like alcohol in it.
- 23 Q. How do you know that?
- 24 A. I smelled it. He put it over there towards me.
- 25 Q. He what?

1 A. He put it over there towards me. [Indicated.]

2 Q. For the record, you're motioning that he extended it
3 towards you.

4 A. Yes.

5 Q. Did you take the cup?

6 A. No. I smelled it.

7 Q. You smelled of it?

8 A. [Nodded head.]

9 Q. Did he tell you what it was?

10 A. No. He was calling it "jungle juice."

11 Q. "Jungle juice." Josh, later that night, was there a time
12 when you were at the campfire with Doug?

13 A. Yes.

14 Q. What was the discussion?

15 A. He was talking about past dates that he had been on, and
16 how nobody would go out with him. And he was talking about
17 Sarah Walls, and he called her a whore.

18 Q. Was that at the campfire?

19 A. Yes.

20 Q. Does Doug cuss?

21 A. Yes.

22 MS. ALEXANDER: Your Honor, could we please get to
23 some relevant questions?

24 MR. GAMMILL: Well, Your Honor --

25 MS. ALEXANDER: I don't see how that's relevant to the

*Jungle
Juice*

1 charge of assault in the third degree.

2 MR. GAMMILL: Well, my client, as the Court already
3 knows, is going to testify that Doug was talking loudly at
4 the campfire and cussing. And I was just trying to ask
5 Josh if Doug was cussing.

6 THE COURT: I'm going to let you go, Mr. Gammill, but
7 the Court is well aware that that occurred, so let's not be
8 duplicative as we talk about it.

9 MR. GAMMILL: Well, Your Honor, if you already know it
10 occurred, I'll move on.

11 THE COURT: Well, you told me that, Mr. Gammill, just
12 a minute ago, so go ahead.

13 BY MR. GAMMILL:

14 Q. Josh, was Doug cussing at the campfire?

15 A. Yes.

16 Q. Did you have an occasion to be in the tent that evening
17 with Wade Knox?

18 A. Yes.

19 Q. Where was Wade?

20 A. He was laying on the floor and he had a cramp. And
21 Doug jumped on him and he started hunching him.

22 Q. Doug Hogan?

23 A. Yes.

24 Q. What do you mean, he jumped on him?

25 MS. ALEXANDER: Your Honor, again, the relevancy --

1 MR. GAMMILL: If that doesn't bear on the victim's
2 character and his actions for the evening, I don't know
3 what would.

4 THE COURT: Just a second, Mr. Gammill. I think if
5 Mr. Gammill can tie that into something -- I assume Mr.
6 Walls is going to testify that he got on to him for some of
7 these actions. I'm going to let him do that. I assume,
8 Mr. Gammill, that's where you're going with this.

9 MR. GAMMILL: Yes, sir.

10 THE COURT: And if you're not, then I'm going to
11 strike the testimony. So I'm going to go ahead and let you
12 do that on the assumption that you're going to tie that
13 back in at some point in time. You may proceed.

14 BY MR. GAMMILL:

15 Q. Finally, Josh, let me ask you this. Do you know how late
16 you stayed up that night?

17 A. I stayed up till about 12:00.

18 Q. Do you recall when you went to bed?

19 A. Yes. It was about 12:00 or 1:00, somewhere around in
20 there.

21 Q. Did you go to bed because you wanted to or because someone
22 told you to?

23 A. Jack told me to.

24 MR. GAMMILL: Pass the witness, Your Honor.

25 THE COURT: Ms. Alexander?

CROSS EXAMINATION

1
2 BY MS. ALEXANDER:

3 Q. Josh, I want to go back over how big the box is that we're
4 talking about in the back of the truck. Would you tell us again
5 how big you said it was?

6 A. About that tall and about that wide. [Indicated.]

7 Q. What kind of box was it?

8 A. It was just a regular cardboard box.

9 Q. Brown?

10 A. Yes.

11 Q. So it must have been pretty big.

12 A. About that big. [Indicated.]

13 Q. Bigger than a chemical set?

14 A. Than a what?

15 Q. Than a chemical set, like a white boxed chemical set.

16 A. It was just a brown box.

17 Q. So if Mr. Hogan gets back on the stand and says, "No, I
18 didn't have a big brown box; I had a little chemical set box in
19 the back of my truck and that's it," would he be telling the
20 truth? Could he be telling the truth?

21 A. No, because I remember a brown box.

22 Q. Let's also talk about the cup that you saw him with. What
23 kind of cup is that?

24 A. A Carlisle Bison cup. It was white.

25 Q. It was white. It wasn't a coffee cup?

1 A. No.

2 Q. It was a white cup?

3 A. Yes.

4 Q. Do you know where he got it from?

5 A. No.

6 Q. Did you look inside to see what was in it?

7 A. Yes, I looked at it. I smelled it.

8 Q. What color was it, the liquor?

9 A. I couldn't see. It was dark.

10 Q. You just know it was a white cup?

11 A. Yes.

12 Q. And you could read the front of it and it said "Carlisle
13 Bisons"?

14 A. Bisons. He had -- there's a light that was shining on it
15 at one time.

16 Q. What did it smell like? Did it smell like wine?

17 A. Yes, sort of.

18 Q. Sort of?

19 A. I don't really --

20 Q. Are you familiar with the different smells of alcohol?

21 A. Yes, but --

22 Q. Don't want to get too far into that topic, do we?

23 THE COURT: I'm going to invoke the Fifth Amendment
24 for him.

25 MS. ALEXANDER: It could've been wine. Let's leave it

1 at that.

2 THE COURT: Since he's not represented by counsel, I'm
3 going to protect him.

4 MS. ALEXANDER: Is his mother and dad here?

5 THE COURT: Proceed.

6 BY MS. ALEXANDER:

7 Q. Did you ever ask what was in the cup?

8 A. No. He was just referring to it as "jungle juice." I
9 remember him saying that one time.

10 Q. Did he say where he got it from?

11 A. No.

12 MS. ALEXANDER: I'll pass the witness.

13 MR. GAMMILL: No redirect, Your Honor. And we would
14 not wish to have him remain under the Rule.

15 THE COURT: Ms. Alexander, may he be excused?

16 MS. ALEXANDER: Yes, we will excuse him, Your Honor.

17 THE COURT: Mr. Aukes, you're free to go. You can
18 stay in the courtroom or you can go and leave, or you can
19 do whatever you need to do.

20 MR. GAMMILL: I know you're about ready for a break,
21 Your Honor. I have a short witness, if the Court would
22 permit.

23 THE COURT: All right.

24 THEREUPON,

25

WADE KNOX,

1 being first duly sworn or affirmed to tell the
 2 truth, and nothing but the truth, testified as

3 DIRECT EXAMINATION

4 BY MR. GAMMILL:

5 Q. Wade, would you state your name for the J
 6 record, please?

7 A. Wade Knox.

8 Q. And how old are you, Wade?

9 A. 14.

10 Q. Where do you go to school?

11 A. Lonoke County.

12 Q. What classification are you?

13 A. Huh?

14 Q. What level, what grade?

15 A. Eighth.

16 Q. Are you involved in scouting?

17 A. Yes, sir.

18 Q. Were you at the camp-out that occurred in
 19 1992 just shortly after Christmas?

20 A. Yes, sir.

21 Q. I won't ask you who was there. Your friend
 22 has testified and told the Court that. I will ask
 23 you remember Doug Hogan being there?

24 A. [Nodded head.]

25 Q. Do you remember when he came? Do you remember

the box

Doug said,

testimony with Doug

or he would

there that

1 up?

2 A. That afternoon.

3 Q. Was he in his vehicle?

4 A. That Suburban thing.

5 Q. The Suburban thing that he drives?

6 A. [Nodded head.]

7 Q. Did he have anything in the back of it?

8 A. A sleeping bag and a box.

9 Q. And a box. Was there any conversation about the
10 between him and Josh Aukes?

11 A. Uh-huh.

12 Q. What was the conversation?

13 A. Josh asked him what he had in the box, and Doug said
14 "Pussy in a box."

15 Q. Later that evening, did you have any conversation
16 about alcohol, whether you would've initiated it or he
17 have?

18 A. He told me he had some.

19 Q. He told you he had alcohol?

20 A. [Nodded head.]

21 Q. Did he tell you that he was going to drink it there
22 night?

23 A. [Nodded head.]

24 Q. Did he say he had it with him?

25 A. Yes, sir.

1 Q. At the camp-out?

2 A. [Nodded head.]

3 Q. Finally, Wade, later that evening, were you in a tent at
4 the campsite?

5 A. [Nodded head.]

6 Q. Did you have a cramp in your leg?

7 A. [Nodded head.]

8 Q. Tell the Court where you were and what happened.

9 A. I had a cramp in my leg, and it was hurting. And Doug
10 jumped on me and started humping me.

11 Q. Humping you?

12 A. [Nodded head.]

13 Q. What did you do?

14 A. I hit him.

15 Q. Were you offended?

16 A. I was mad.

17 Q. Mad?

18 A. [Nodded head.]

19 MR. GAMMILL: Pass the witness, Your Honor.

20 THE COURT: Ms. Alexander?

21 MS. ALEXANDER: I have no questions.

22 THE COURT: May this witness be excused?

23 MR. GAMMILL: Yes, sir.

24 MS. ALEXANDER: Yes, sir.

25 THE COURT: Mr. Knox, you're free to go. You can stay

1 in the courtroom, or you can leave. You're excused.

2 MR. GAMMILL: Do you want another witness, Your Honor?

3 THE COURT: Yeah, let's go ahead.

4 MR. GAMMILL: Rob Everett.

5 THEREUPON,

6 ROBERT THOMAS EVERETT, JR.,

7 being first duly sworn or affirmed to tell the truth, the whole
8 truth, and nothing but the truth, testified as follows:

9 DIRECT EXAMINATION

*Rob
Everett*

10 BY MR. GAMMILL:

11 Q. Rob, would you state your name for the Judge and the
12 record, please?

13 A. Robert Thomas Everett, Jr.

14 Q. How old are you?

15 A. I'm 19.

16 Q. Are you commonly called "Rob" or "Robbie"?

17 A. "Rob."

18 Q. So is it all right if I call you "Rob"?

19 A. That's perfectly fine with me.

20 Q. And Rob, are you in school anywhere?

21 A. Yes, I am. I'm currently enrolled at UCA.

22 Q. What is your classification?

23 A. Freshman, second semester.

24 Q. Rob, do you know Jack Walls?

25 A. Yes, I do.

1 Q. How long have you known him?

2 A. For about seven years.

3 Q. How have you known him?

4 A. I met him originally through scouts. I was involved in
5 scouts. And from there -- he's now not only a family friend,
6 but a personal friend also.

7 Q. How long did you know him in the scouting program?

8 A. As I said, I met him originally in my 5th grade year
9 through scouts. And I've known him in scouting all the way up
10 until he was terminated.

11 Q. And were you associated with him that entire time in
12 scouting?

13 A. He was -- at the time, he was the scoutmaster for the Boy
14 Scout troop. I was in Cub Scouts and was fixing to go into the
15 Boy Scouts the next year.

16 Q. What is the Order of the Arrow?

17 A. The Order of Arrow is a selected group of Boy Scouts.
18 You're inducted in by your Boy Scout peers. It's kind of an
19 elite group. We take the camping a little bit further, a little
20 bit more extreme. We also have a dance team, which we still do
21 rituals and we do dances at the Camporees for the people, not
22 only for entertainment, but also just to let us know a little
23 more about the Indian traditions.

24 Q. And were you or are you in the Order of the Arrow?

25 A. Yes, I was.

1 Q. And was Doug Hogan?

2 A. Yes, he was.

3 Q. Chris Houchens?

4 A. Yes.

5 Q. Chase Tucker?

6 A. Yes.

7 Q. Was Jack Walls associated with that?

8 A. Yes, he was. He was our ~~advisor~~.

9 Q. So did you know him well, then, through that?

10 A. Yes, I knew him very well.

11 Q. And did you get to know Doug?

12 A. Yes, I did.

13 Q. How long have you known Doug?

14 A. I met Doug my ninth grade year, so I've known him about
15 four years.

16 Q. How often would you see him in scouting?

17 A. Scouting -- we had Camporees twice a year, both in the fall
18 and in the spring. Being from -- I'm from Lonoke. And being
19 that Carlisle and Lonoke are so close to each other, we would
20 usually ride together to summer camps, cleanups at Greers Ferry
21 and Little Rock. We also attended Order of the Arrow meetings a
22 couple of times that we both went to.

23 Q. At some point in time, Rob, did you become aware that Doug
24 alleged that an incident had occurred on December the 29th of
25 1992?

1 A. Yes.

2 Q. Did Doug contact you about that incident and have a
3 conversation with you?

4 A. Yes, he did.

5 Q. Do you remember what he said about it?

6 A. Yes, I do.

7 Q. What did he say?

8 A. He called me about a month after the incident had happened.
9 And he didn't waste very much time, socially speaking, asking me
10 how I was doing, things like that, and told me that the night of
11 the camp-out, roughly around one o'clock a.m., that Jack Walls
12 had asked him to masturbate him. And Doug, ~~at the time,~~ got
13 scared and tried to go back to his truck to leave. And then
14 from there, Jack told him to come back, get away from the truck,
15 and to go into Jack's tent, there, I guess, to pursue more
16 sexual advances. And from there --

17 Q. Doug said that Jack wanted him to go into the tent?

18 A. Yes, into Jack's tent. And from there, Doug did come back,
19 but he stayed at the campfire. He slept there that night.

20 Q. Were you there at the camp-out?

21 A. No, I was not.

22 Q. Had you been invited?

23 A. Yes, I was invited. And I had even paid fees for the food
24 to be there. I was not able to be there because of a work
25 conflict. I had been called in to work earlier that evening.

1 Q. Where do you work?

2 A. I worked at Brightwell's Family Food Center at that time.

3 Q. In fact, did Jack Walls come by Brightwell's?

4 A. Yes, he did. He came by before I had gotten off work, a
5 couple of hours before. And I had let him know earlier that I
6 wasn't going to be able to make it to the camp-out. And he came
7 by, as I was outside taking groceries to someone's car, and
8 asked me if I was still going to be able to make it. And I
9 informed him that I wasn't going to be able to.

10 Q. Rob, through your association with Jack over the years in
11 scouting, did you formulate any opinions as to his character for
12 truthfulness or untruthfulness?

13 A. I did. And he seemed to be a very truthful person. I
14 never had any fears or worries about coming to him with
15 anything, any problems, not only as scoutmaster, but also like a
16 father figure.

17 Q. And would you know what his reputation among the scouting
18 community, your peer group, would have been in regard to his
19 character for truthfulness or untruthfulness?

20 A. The same, for the large part. I know a lot of the boys --

21 Q. You don't have to get specific, but just reputation-wise,
22 what are you telling the Court?

23 A. That he was well-honored. He was considered very truthful.
24 I mean, if you ever needed anything -- talk to him, any concerns
25 at all, you know, you would have no fear about going to him for

You were not there.

ou the story of

tory that he told

he told you? In

ich I can't

and and he says

lk about what had

the rest of the

m your story --

elling a lie?

; is that correct?

l Mr. Walls that

e afternoon. And

1 any reason.

2 Q. And by the same token, over that per-

3 you were associated with him at various fu-

4 camping, weeks, whatever you did -- did yo-

5 with him?

6 A. Yes, I did.

7 Q. How long would you have been there?

8 A. I was there for two weeks.

9 Q. And Mr. Walls was there?

10 A. Yes.

11 Q. Over this period of years when you wer-

12 him, did you ever form an opinion as to his

13 preference or tendencies?

14 A. Yes, I did.

15 Q. What is your opinion of Mr. Walls?

16 A. That he was not homosexual, that he had

17 intent to have any reason to go about -- to

18 Q. Based on your experience, did he ever c-

19 indication that he had those kind of tendenc-

20 A. None at all.

21 Q. Thinking again about the reputation amc-

22 among your peers, did you hear, reputation-w-

23 those kind of tendencies?

24 A. I've never heard anything like that.

25 MR. GAMMILL: Pass the witness, Yo

1 THE COURT: Ms. Alexander?

2 CROSS EXAMINATION

3 BY MS. ALEXANDER:

4 Q. I want to make sure I understand this. You were not there
5 on the night we're discussing, right?

6 A. Correct.

7 Q. Second of all, you said that Doug told you the story of
8 what occurred that evening, right?

9 A. Yes, ma'am.

10 Q. Would it surprise you, though, that the story that he told
11 here today is a little bit different from what he told you? In
12 fact, he did not add the end of your story, which I can't
13 remember you told. But if Doug gets on the stand and he says
14 that, "We went back over to the campfire to talk about what had
15 occurred, and then I tried to leave and stayed the rest of the
16 time" -- and that's a little bit different from your story --
17 would he be telling the truth or would he be telling a lie?

18 A. He would be telling a lie.

19 Q. Now, you were invited to go to the outing; is that correct?

20 A. Yes, ma'am.

21 Q. But you did not go? ,

22 A. Correct.

23 Q. And how soon before the event did you tell Mr. Walls that
24 you were not going?

25 A. I was called into work at 3 o'clock in the afternoon. And

1 I actually had my mother to call him and let him know that I
2 wasn't going to be able to go. They called me in rather
3 quickly. So I'm going to say probably somewhere between 3 and 4
4 o'clock.

5 Q. That same day?

6 A. Yes.

7 Q. Did you get off at 8:00?

8 A. No, I got off at 9 o'clock.

9 Q. But that was too late to go out to the outing?

10 A. Uh-huh.

11 MS. ALEXANDER: I have no further questions, Your
12 Honor.

13 THE COURT: Mr. Gammill?

14 MR. GAMMILL: I would ask the Court to excuse Rob from
15 the Rule.

16 THE COURT: Ms. Alexander, do you have any objection?

17 MS. ALEXANDER: I have no further questions.

18 THE COURT: Mr. Everett, you're free to go. You're
19 excused. You can stay in the courtroom or you can go,
20 whatever you want to do. The court reporter needs a short
21 break. She'll be pleased to know that we'll stop now.
22 And for those of you, ladies and gentlemen, who are
23 interested in this case, we'll be taking about a ten-minute
24 recess while we handle another little matter. We'll start
25 back up at about 3:30.

1 [A break was taken.]

2 THE COURT: Mr. Gammill?

3 MR. GAMMILL: Your Honor, rather than calling further
4 witnesses to testify in regard to the character of the
5 defendant, I would just like for these individuals to
6 stand. They've come at -- some at great distance and all
7 at great expense to them, time-wise, because they're busy
8 and time is precious to them. Joe Melton, Wallace
9 Brantley, Hickey and Henry Hempstead -- they're not in
10 here -- Hunter Roberts -- just remain standing, if you
11 would, gentlemen -- Bill I. Fletcher. Your Honor, these
12 gentlemen all live in the area or else they've known the
13 defendant all his life. One of them is a college roommate,
14 one is an Army roommate, one is an across-the-street
15 neighbor, one is a representative and active in the
16 community. They would all testify, if they were called,
17 Your Honor, that he has a reputation in the community for
18 honesty and veracity, and that his character with regard to
19 sexual tendencies is nothing other than straight, so far as
20 the reputation in the community. Having said that, if it's
21 all right with the State, Your Honor, I would not call them
22 to testify individually.

23 THE COURT: Ms. Alexander, does the State having any
24 objection to allowing Mr. Gammill to present the testimony
25 in that fashion?

1 MS. ALEXANDER: No, sir.

2 THE COURT: It's so stipulated, and the Court will
3 accept that stipulation.

4 MR. GAMMILL: Thank you.

5 THE COURT: Anything else, Mr. Gammill?

6 MR. GAMMILL: The defendant will rest and renew the
7 motions that were made earlier.

8 THE COURT: Any rebuttal?

9 MS. ALEXANDER: No, Your Honor. We're ready for
10 sentencing or the verdict.

11 THE COURT: Anything else from either the defense or
12 the prosecution?

13 MR. GAMMILL: No, sir.

14 MS. ALEXANDER: I'd just like to note that there were
15 people here also to attest to the credibility and
16 truthfulness of the plaintiff here, Mr. Hogan.

17 THE COURT: It is so noted. There are two cases
18 before the Court -- two charges against Mr. Walls. One
19 being contributing to the delinquency of a minor. The
20 other being third-degree assault. The Court always has
21 concern when these types of charges are pending. I hear
22 these cases all too often. And as most of you know, I'm
23 sitting on this case because Judge Svoboda recused because
24 of possible conflicts. And so unfortunately, I have the
25 duty to preside over these type proceedings and it's never

1 a pleasant one.

2 However, the Court must make these difficult
3 decisions. And any time you have these type of charges and
4 allegations, it's always a concern. And unfortunately
5 these things -- these allegations are made. And from time
6 to time, the Court has to hear them. And that's what we're
7 here today for.

8 I'm going to take the initial charge, the first
9 charge, which is contributing to the delinquency of a
10 minor. That basically stems from the allegation that the
11 defendant had offered the affiant in this case, Mr. Hogan,
12 an alcoholic beverage. And under the statute, that's
13 certainly -- assuming that occurred, is a criminal offense.

14 The Court, in reviewing the testimony of Mr. Hogan, as
15 well as other witnesses -- Mr. Hogan testified that the
16 defendant had offered him or gave him a cup, coffee cup of
17 wine in front of Mr. Houchens. And the Court, again, has
18 to weigh the testimony of all the persons who testified in
19 making its decision.

20 The burden of proof is on the State beyond a
21 reasonable doubt as to whether in fact a crime has been
22 committed. And in reviewing my notes, which I have taken
23 copiously during the proceeding, it appears to the Court
24 that Mr. Houchens, who, according to Mr. Hogan's testimony,
25 was in the immediate vicinity of the alleged incident --

1 Mr. Houchens adamantly denies or certainly convinced me
2 that in his presence, at least, none of this occurred. And
3 Mr. Hogan testified that in fact it did occur.

4 There was some discrepancy with some other witnesses
5 as to what type of container, and so forth. No one else
6 apparently saw the incident other than Mr. Houchens and Mr.
7 Hogan and obviously the defendant. But again, whether it
8 occurred or not, the State has the burden of proving that
9 beyond a reasonable doubt. And certainly based on the
10 weight of the evidence of the State's own witnesses, by the
11 way -- Mr. Houchens was called by the State.

12 He testified that he didn't see that happen, that that
13 didn't occur, and very emphatically said it didn't occur.
14 And obviously, Mr. Hogan testified to the opposite of that.
15 And as counsel pointed out on cross examination, there may
16 have been some ulterior motive, not that there was, but
17 certainly suggested that there could have been an ulterior
18 motive.

19 Based on the evidence that's been presented by the
20 prosecution and by Mr. Gammill -- and by the way, there was
21 testimony based on stipulation of all the parties and by
22 the testimony of witnesses called by Mr. Gammill that the
23 veracity of the affiant certainly is in question. And
24 certainly there's some reason to believe that -- even his
25 friends believe that he tended to overstate what would

1 otherwise be the truth.

2 So based on all those factors and, again, based on
3 everyone's testimony that the Court heard today, the Court
4 finds that the State has not met its burden with respect to
5 the contributing to the delinquency of a minor.

6 The second charge, which is certainly more troubling
7 even than the first is the third-degree assault. And
8 again, for the record and for those who are curious, the
9 statute is very simply that a person commits assault in the
10 third degree if he purposely creates apprehension of
11 immediate physical injury on another person.

12 And again, there's some key phrases and words in there
13 that has specific legal meaning, as far as the Court is
14 concerned. And again, this is the one charge that is even
15 much more troubling than the first. Any time there's
16 allegations of potential sexual advances, whether they be
17 in this situation or in a heterosexual situation, it always
18 concerns the Court. And I'm concerned that in this case,
19 regardless of the Court's decision -- it's a sad commentary
20 when we have to hear these type things.

21 But at any rate, the charge is assault. And in
22 reviewing all the testimony and all the -- even Mr. Hogan's
23 testimony where he says that at some point in time, he
24 could have left, but he didn't leave. His testimony was
25 that he was fearful he might get stuck again, whatever the

1 reason. But at some point in time, they apparently had a
2 discussion. The party broke up, if you will, and they all
3 went their separate ways and went to sleep.

4 Now the Court is concerned, not so much as to what
5 actually happened, but under the technical requirements of
6 the statute. Obviously, Mr. Hogan was not physically
7 restrained. He could've left at any time. In fact, there
8 were several witnesses -- even Mr. Houchens said that he
9 simply asked him not to go at that late hour, not because
10 of anything other than to cause a disturbance.

11 But the Court is mainly really concerned that
12 something -- there was some discussion, and it really
13 wasn't developed. And I'm not sure what -- and I'm not
14 here to decide that. But obviously something occurred
15 where there was some type of misunderstanding. Mr.
16 Houchens had indicated that he just believed this whole
17 ordeal was a big misunderstanding.

18 Whether there were sexual advances or not, the Court
19 today is not here to decide that, because that was not the
20 charge before the Court. The charge before the Court is
21 the assault charge which involves the elements that I
22 discussed and mentioned to you all. Those elements, in the
23 Court's opinion, have not been proved beyond a reasonable
24 doubt by the State.

25 I personally believe that there may be other charges

1 that may have been filed, but weren't. And so therefore,
2 we're not here to decide those, and we're simply here to
3 decide what's before the Court. There is no lesser
4 included offense for third-degree assault. The State must
5 prove those elements beyond a reasonable doubt.

6 Again, the burden of proof is beyond a reasonable
7 doubt. And with the civil case pending, that's not, again,
8 something this Court needs to decide. The burden in a
9 civil case is much less than the burden in a criminal case.
10 So again, I'm not making any determination of whether there
11 were sexual advances or not. That, again, was not before
12 the Court. And so, therefore, that's a separate issue.

13 But based on the elements of assault in the third
14 degree, the State has simply failed to prove those
15 particular elements. Based on the Court's ruling, the
16 Court finds the defendant not guilty of assault in the
17 third degree.

18 Mr. Gammill, I do not have the docket in front of me.
19 If either one of you would like to reduce that to a written
20 order, certainly we can do that, or I will make a notation
21 in the docket, because there may be some ramifications.

22 MR. GAMMILL: I'll send you a short written order.

23 THE COURT: If you would, send it to Ms. Alexander for
24 her approval and submit it to me for my signature. I would
25 appreciate it if you would get it done within a reasonable

1 time. And I understand sometimes that gets to be a
2 problem. But let's say within ten days, Mr. Gammill.

3 MR. GAMMILL: Yes, sir.

4 THE COURT: So that we can move on. Are there any
5 other matters that need to be taken up before the Court
6 adjourns?

7 MR. GAMMILL: No, sir.

8 THE COURT: Any motions, Ms. Alexander, or any other
9 matters that need to be taken up?

10 MS. ALEXANDER: No, sir.

11 THE COURT: I would like to compliment both sides, the
12 prosecution and Mr. Gammill for the defense, for trying
13 this case. It's a very difficult situation. There are
14 very sensitive issues, and it was tried very professionally
15 on both sides. I want to appreciate and thank counsel for
16 both sides for conducting themselves in a very professional
17 manner. Anything else?

18 [No response.]

19 THE COURT: Court will be adjourned.

20 [The above-entitled hearing was concluded.]

21

* * * * *

YOUR RIGHTS

NAME: CHARLES (JACK) WALLS III PLACE ASP CID OFFICE LONOK
 DATE 7-28-93
 TIME 9:25 AM.

Before we ask you any questions, you must understand your rights.

1. Do you understand that you have the right to remain silent?
 Response Yes CW
2. Do you understand that anything you say can and will be used against you in court?
 Response Yes CW
3. Do you understand that you have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning?
 Response Yes CW
4. Do you understand that if you cannot afford a lawyer, one will be appointed for you before any questioning if you wish, at no cost to you?
 Response Yes CW
5. Do you understand that if you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time? You also have the right to stop answering at any time until you talk to a lawyer.
 Response Yes CW

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

SIGNED Charles Walls III

WITNESS James Beibel

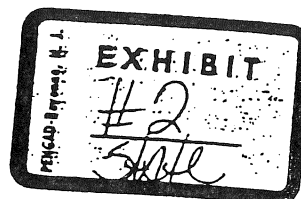
WITNESS _____



90-804-93

Regional Review Committee

- 2:30 pm Arrive at camp with local scouts, my daughter and her friend.
- 5:30 pm Day Hogan and another Carlsbad scout arrive in Day's '62 panel van.
- 6:00 pm Hogan leaves camp to drive around, against my direction, gets stuck, I have to go pull him out.
- 8:30 pm I take my daughter and her friend back to our home. My sister-in-law, who lives next door, complains to me about Hogan's menacing actions that afternoon at Wal-Mart. He finally follows her from store onto parking lot, where she meets her daughter. It is there that he identifies himself and rudely tries to persuade her daughter to take him to the campsite.
- 7:30 pm Back at camp, sitting around campfire drinking coffee and listening to scouts running around. Hogan goes through my trench, burns hole in had liner. Then goes in woods and cuts tree down.
- 11:30 pm Go to bed in my tent.
- 12:00 Awakened by outburst at campfire. Hogan is loudly complaining to other scouts about his inability to have and keep girlfriends. I get up go to fire to encourage him to at least be quiet. (Hogan had 2 dates with my daughter. The last 1/2 was when she got tired of him before they even got to the Pizza Hut, and had him bring her home. He has since embarrassed or insulted several of my daughter's friends. End up having rather pointed discussion with Hogan, pointing out some of his problems. Other scouts drift away. Conversation continues a few more minutes. Hogan leaves. I go back to my tent. Conversation had no words indicating desire for sexual contact.



My tent was approximately 60 feet from the campfire - it was the farthest tent away. Hogan's vehicle, in which he and the other scout were sleeping, was about 30 feet away.

3:30 am. I was awakened by Hogan's vehicle starting up. I come out of tent to see what was going on. Doug says he is leaving - says I scared him. Other scout sitting in van slings shoulder. Another scout is standing on other side of truck.

I tell him that particularly if he is scared, he has no need to be out driving this time of night. Ask him to turn off truck, talk about problem. He shuts off truck, hands me the keys. I give them to the other scout. The four of us go to the campfire, build it up, and discuss what's on Doug's mind. He says I made some sort of statement which led him to believe that was making advances toward him. I pointed out that I didn't make any kind of statement, or moves, that we were sitting around a bright campfire, and that other scouts were around - certainly unlikely circumstances. The other two scouts listened. After about 15 minutes of discussion, Hogan goes to bed, I continue talking with the other 2 scouts. Then we all go to bed.

8:00 am. Awaken scouts. eat breakfast, go home.

10:00 am. Receive call from Hogan's dad. He says do not say a word, just listen. He is going to take his shotgun and blow my head off unless I write him a letter of apology and resign.

from Scouting. I agree to do this, to give the situation time to cool off, and maybe talk to him. I write the letter and apologise for upsetting Doug. However, the letter now is being presented as an open admission to an attempted assault. It and my name were both used at a scout meeting last week.

I went to the Scout Council office several weeks ago and presented these facts to the Council Executive. He could give me no insight into the actual allegations, but because of the varied stories that the Hogans are telling, I can only tell what happened that night.

7-28-93

9:35 AM.

Charles "Jack" Wells III

W/M 10-29-46

108 Hamburg St

Lynch Co.

676-6985

crw I've been having problems with Clitis Hogan for several years. This started when Jack Young was up for Eagle scout, Clitis Hogan would not provide his paper work, Jack father found another troop and asked me to get the Eagle summary together which I did.

at an ~~English~~^{Eng} Eagle ceremony in ^{England} ~~England~~ I was a statement that I had seen some 13 year old boys make Eagle Scout who were not qualified but that ^{crw} ~~that~~ these 2 boys were now char qualified. Clitis Hogan got the impression that I was taking a shot at Doug Hogan who made Eagle scout at 13. I was not taking a shot at Doug Hogan.

Clitis Hogan and I are both big in the scouting program. We started getting at odds over the young boys Eagle summary.

I didn't exclude boys in Doug Hogan's case group from the outing on 12-29-92, I did not tell Doug to come alone to the outing. The invitation was for everyone on the team. Everyone I invited did not show up at the outing.

Doug Hogan dated my daughter a couple of times. She finally broke it off with him because of his vulgar ~~talk~~^{crw} talk around her. He even called her vulgar name.

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I normally ^{CSW} ~~at~~ carry a 45 revolver in my pocket I normally take it out when on a sent duty. I got behind 12-28-52, and neglected to take it out of my pocket

I now took it out of the pocket ^{during the supper}. Doug Hogan went through my pocket and had a hole in the head liner with a light.

at ~~11:30~~ ^{11:30} PM I went to bed in the tent with Rex Goss, the other adult ^{CSW}

at midnight I was awoken by loud tapping from Doug Hogan at the camp ^{CSW} fire. Everyone was in bed when I went to bed. They were supposed to be up.

I got up and quieted them down. around 3:30 AM I was awake by Doug Hogan starting his truck engine. Doug Hogan ^{CSW} was trying to leave, I asked him what was going on? ~~CSW~~ Doug said you scared me. You said something. Doug appeared to be upset. Doug never told me what I had done to ~~CSW~~ set him.

later on I was told by Duke Hutchins that I had said something to Doug in the form of being adverse to him.

I did not physically punish Doug for leaving that night. I did talk Doug into staying. Doug gave me the keys and I gave them to Chris Hutchins.

Everyone went back to bed and went to sleep

the letter I wrote to Chris, I was apologetic for losing my temper with Doug. Chris checked in the morning and I had a shaman if I did not like the letter

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over

I was trying to protect my family and if anyone from the scouts was who it took, it would do it.

I do not recall saying anything to Day Hagan that would have any sexual solicitation. I did not ask for or offer to give a plea job, or to do any masturbation with Day Hagan.

I did get down on Day Hagan in his tent of girls and in the way he talks about it. I quit talking to him and hit him on the belt buckle with the back of my hand and told him to get up and go to bed. I don't know whether he was ignoring me or had gone to sleep.

Cleves.

I want to apologise to all of you for the incident at camp Tuesday night. It showed a flaw in my character that must be corrected, and I must begin to do that immediately.

There is a great amount of trust placed in a man who works with young people as I did, and I violated it. I am ashamed of this as I have let everyone down from the Scouts through my own family. It is now up to me to change my life.

As of Tuesday I will have resigned all my positions with the Scouts and will exempt myself from future Scout activities. I will turn over the Philmont account to one of the other advisors as soon as I can find one to take it.

Jack Wall

