TIMOTHY"DUNK"DUNCAN CASE FILE

**WICHITA POLICE DEPARTMENT FACE SHEET**

**SUSPECT:** **VICTIM:**

**DATE OF CRIME:**

**LOCATION:**

TIMOTHY "DUNK" DUNCAN TESS TOMA

March 15, Last Year

The Pump House and Parking Area Located at 825 E 2nd Street in Old

Town, Wichita

**WITNESSES**

TESS TOMA will testify that on March 15, she went to the Pump House for the March

Madness celebration with several friends. DUNK DUNCAN began flirting with her

and bought her several beers. She was fine but then all of a sudden felt really high. DUNK asked her to go back to his dorm room. She followed DUNK to the parking lot across from the Pump House but does not recall anything else that happened. She woke up in the Emergency Room at Via Christi Hospital and had no idea why or how she got there.

ROCKY HOLTZ will testify to working as a bartender at the Pump House on March

15, last year. He served the victim alcohol because her identification stated she was 21, the legal drinking age. He refused to serve the victim anymore alcohol after about 10:30 p.m. because she was noticeably intoxicated. The victim was begging him to serve her just one more beer when

the suspect showed up to the bar and gave the victim his beer. The victim and suspect left the bar together. The suspect came back inside the bar a few minutes later but only stayed for a minute and went back outside. Shortly thereafter, the victim and one of the WSU cheerleaders,

KIMMIE KING, came back into the bar and the victim was bleeding from her knees and hands and was disheveled. KIMMIE asked him to borrow the phone so she could call 911.

KIMMIE KING will testify to being in the Pump House on March 15, for the basketball party. She saw her boyfriend, the suspect, flirting with the victim and buying her beer. She saw suspect and victim leave the bar together. She followed them outside and watched the suspect drag the victim to the parking lot and into a SUV and forced her to have sexual intercourse. She helped the victim up after the suspect left the victim bloody and lying on the sidewalk then went back inside the Pump House and called 911.

OFFICER BLAKE MITCHELL will testify to questioning the suspect about the alleged sexual assault. The officer obtained the victim's clothing and shoes from her and placed those items into evidence. He arrested the suspect a week after first questioning him after the victim's lab results showed traces of GHB in her blood. He collected a Missouri Valley championship medal that was found in the suspect's backpack at the time of his arrest and placed it into evidence.

DETECTIVE RONNIE FRISBEE will testify to the investigation which included obtaining witness statements and photographing the scene.

DR. KIM USHER will testify to treating TESS TOMA for her injuries.

DR. DRAKE REMOIRE will testify to testing the victim's blood at the hospital and finding that the victim had GHB in her blood. The toxicology report has been stipulated to by the defense.

**EXHIBITS**

Transcription of 911 call

Photographs of victim's injuries

Medical records of victim

Victim's clothes and shoes recovered by Officer Mitchell

Photos of truck Map of Wichita Toxicology Report

**WITNESS STATEMENTS**

**TESS TOMA'S Statement of March 15, last year**

I am 17 years old and am currently trying to get my GED at the adult education school in

Wichita. I have a part time job working at the IHOP as a waitress.

I admit that I have a troubled past so I hope that the police don't hold it against me. I dropped out of high school because the other kids always made fun of me. I joined a group made up of neighborhood kids to try and fit in and that is when I met DUNK DUNCAN. I think I have known him for 3 years now. I hooked up with him a few times but we never dated. I actually dated one of his best friends, JIMMY MYERS, but we recently broke up because JIMMY found my newspaper collage of DUNK. I used to cut articles out of the Wichita Eagle about all the great things DUNK did for the basketball team. I guess JIMMY was right.. .I did have a huge crush on DUNK.

On March 15, I went with a bunch of my friends from the neighborhood to the big party at the Pump House. I saved up my tip money to buy a new outfit just for the party because I knew all the cute guys from the basketball team would be there. I had to wear a lot of make-up so I looked like my fake ID. The bouncer/bartender, ROCKY, couldn't even tell that it wasn't me in the picture. I was glad he thought I was 21 because I really needed to drink a few beers to get the courage up to talk to DUNK.

I admit that I took a few drags off a joint and had a couple of beers before I was calm enough to go up and talk to DUNK. He acted like he didn't really remember me from the neighborhood at

first but then he began chatting it up with me. I was so excited that he was actually paying me attention because he could have had any girl in that bar. I couldn't believe the WSU star basketball player was actually flirting with me. I needed another beer to continue talking to him but ROCKY said he was cutting me off. I don't know why because I felt perfectly fine. I was used to drinking at least 8-10 beers on weekend nights. DUNK went to the bathroom and left me at the bar. I was begging ROCKY to give me one more draft beer when DUNK returned to the bar and handed me his drink.

DUNK and I continued to flirt with each other while I drank his beer. He then asked me if I wanted to leave the bar and head back to his dorm room. I was all for it at first but then I started feeling really high all of the sudden. It was a really weird feeling that I have never experienced all the years I've been drinking and smoking weed.

I remember walking out to the parking lot across from the Pump House and then waking up in the Emergency Room at Via Christi Hospital.

My knees and hands were scrapped and bleeding and my new clothes were all tom.

The police officer drove me home from the hospital and waited while I changed clothes. I gave him my tights, skirt, and sweater, which were ripped and bloody, and my shoes, which looked like I had scuffed them on the ground. I have no idea how any of this happened. All I know is

that I felt horrible when I woke up and it wasn't like any other hangover I have ever experienced.

**Transcript of Sedgwick County 911 Emergency Call**

Victim: TESS TOMA March 15, last year

Transcript of cassette tape# E-11118

LOTT: This is Bridgette Lott with the Sedgwick County Communication Center. The following taped incident has been recorded from the Sedgwick County Communication Center 911 master tape for March 15 beginning at 2300 hours.

MCC: Caller: MCC: Caller:

MCC: Caller: MCC: Caller:

MCC: Caller:

911 Emergency

(sobbing)

Are you okay?

My name is KIMMIE KING. I am a cheerleader at WSU and just saw one of the basketball players assault someone.

Can you tell me where you are?

At the Pump House in Old town on Second Street.

Do you know the name of the person who was assaulted?

No, I tried to ask her but she seems to have passed out. She must be in college at

WSU because she was at the bar but I've never seen her before. Can you tell if she has been hurt?

Yes. Her knees and hands are all scraped up and her clothes are all tom. I saw her being assaulted! (sobbing)

MCC: Caller:

MCC: Caller:

MCC:

Caller: MCC: Caller: MCC:

BREAK MCC:

Caller:

MCC: Caller:

MCC: Caller: MCC:

Caller: MCC: Caller:

Does she need an ambulance?

No. One of the male cheerleaders can carry her to the car and we can bring her to the hospital.

Just sit tight with her and I'll send the police there to help. Did you say you knew the person that assaulted this young lady?

Yes, it is the star basketball player for the Shockers, DUNK DUNCAN. (sobbing) Did you see where he went?

He's back in the bar...he is acting like nothing happened. (sobbing)

I want you to hold on while I contact the police. Okay? Okay.

Don't hang up.

I have the police on the way. Can you tell me where DUNK DUNCAN lives? Yes. He lives in the Wheatshocker dorm.

Can you tell me what happened?

There was a big party at the Pump House for the basketball team. I thought I was dating one of the star basketball players until I saw him flirting with this girl. It was really crowded in the bar so I lost track of him a few times. The next thing I know he is buying this girl drinks and then leaves with her. I followed him outside and watched as he forced her into his truck and then had sex with her.

She definitely was assaulted! (sobbing)

Ma'am, are you still there? Yes. I am still here.

Okay. The police should be on the way to the Pump House. He will make sure the young lady gets medical attention.

Okay, they are here. Okay.

I am going to hang up now. (sobbing) Thank you.

**KIMMIE KING'S Statement of March 15, last year**

I am a cheerleader for Wichita State University. I know DUNK DUNCAN because he is a basketball player and I cheerlead at the games. We have known each other a couple of years. I was dating DUNK at the time the Wichita State basketball team won the Missouri Valley championship. I met him at the Pump House to celebrate the victory.

I was upset when I saw DUNK flirting with TESS TOMA. I saw DUNK buy TOMA a few beers and then leave the Pump House with her. I watched as they went out to the parking area located across from the bar. I saw DUNK drag TOMAto a black SUV and then force her to have sexual intercourse with him. I watched as DUNK left TOMA on the sidewalk bleeding and he went back into the Pump House like nothing happened. I went to help TOMA because I felt sorry for her. I brought her back into the bar and called 911. I just can't believe he did this to me!

**ROCKY HOLTZ'S Statement of March 15, last year**

My name is ROCKY HOLTZ. Yes, my uncle is LOU HOLTZ but don't hold that against me. I live at 3963 Live Oak Street, Wichita. I work as a bartender at the Pump House at 825 E 2nd Street, Wichita.

I was working the evening of March 15 at the Pump House. It was a great night for business because everyone was there for the basketball team's party. They just won the Missouri Valley Championship and learned they were going to be in the Big Dance so the entire town was excited and wanted to celebrate. I was glad it was so busy because I needed some tip money to pay off some debts.

I usually just work behind the bar but had to check IDs and serve because we were so slammed. I didn't have time to be as thorough as I normally would to make sure everyone was of age. I wasn't sure if some of the basketball players were 21 but I served them anyway because they deserved it after getting into the NCAA tournament. I really liked the star basketball player, DUNK DUNCAN. I definitely remember him being in there that night because he is so tall you can't miss him. I served him some drinks but can't remember exactly what he was drinking. I think it was draft beer because I remember one of the girls he was with kept begging me for another drink and I wouldn't serve her anything else because she already had too much to drink. I remember telling her no over and over again and then DUNK came over and gave her his beer. I just thought, oh yeah, my boy is going to get lucky with her tonight because she was already hammered.

It wasn't even thirty minutes later when one of the cheerleaders came in the bar crying hysterically saying she needed my phone to call 911. I couldn't even understand a word she was saying. I gave her the phone and she called 911. She told the 911 operator that the girl DUNK had been with had been assaulted in the parking lot.

I remember DUNK walking back into the bar minutes later and sitting back down in a booth with some of his boys. He seemed calm to me so I'm not sure what happened. All I know is that girl was drunk and she was flirting with him all night.

O**FFICER MITCHELL'S Statement of March 15, 16 and 22, last year**

I was directed by DETECTIVE FRISBEE to provide an Officer's witness statement regarding the arrest of TIMOTHY "DUNK" DUNCAN and the additional investigation.

At about 11:00 p.m. on March 15, I was working a one-person marked patrol unit near Hydraulic and Douglas. I heard the radio report of an assault at the Pump house in Old Town. The man was seen dragging a woman across the pavement and forcing her to have intercourse with him in a dark colored SUV in the parking lot across from the Pump House. The suspect was then seen going back inside the Pump House and sitting at a table with some of his friends. Shortly after hearing the report, I was dispatched to the Pump House. Upon arriving, the suspect had already left the bar, but I was able to speak to KIMMIE KING, the young lady that called 911 and reported the assault. She knew the suspect and informed me that he lived in the Wheatshocker

that she saw her boyfriend, DUNK DUNCAN, flirting with TESS TOMA and buying her beer. KING said that she saw DUNK and TOMA leave the bar together so she followed them outside and watched DUNK drag TOMA into the truck and force her to have sexual intercourse. KING indicated that she helped TOMA up after DUNK left her lying on the sidewalk bloody and then went back inside the Pump house and called 911.

I then transported the victim, TESS TOMA, to Via Christi hospital so she could be treated for her injuries. A rape kit was performed on the victim and she was treated for abrasions to her knees and hands. The victim reported she had been drinking and was feeling sick. She was advised to rest at the hospital for a few hours before being discharged. I transported TOMAto her home and took custody of her skirt, tights, and blouse, which were torn and bloody. I also took custody of her shoes that were all scuffed up on the toes. I then placed the clothing and shoes into evidence.

I went to the Wheatshocker Dormitory the morning of March 16 to question DUNK DUNCAN about the encounter with TOMA. He informed me that he had consensual intercourse with her. I was unable to make an arrest since there were no lab reports available. I knew that he was leaving town the next day for the NCAA basketball tournament but told him to be available when he returned in case there were any follow up questions I needed to ask.

On March 22, the results from TOMA'S blood test came back showing GHB in her blood. I was able to use that information to arrest and charge DUNK with the sexual assault of TOMA. At

the time of arrest, I found a Missouri Valley Basketball Championship medal in his backpack and placed it into evidence as there was a similar medal reported stolen in another case.

**Medical Report regarding TESS TOMA**

*VIA CHRISTI HOSPITAL Date:* March 15

*Patient:* TESS TOMA

*Address:* 102 Mayfield St.

Maize, KS

SSN: XXX-:XX-4321

*PH:* (316)555-2001

*Parent or Guardian:*

Betty Catalani

102 Mayfield St.

Maize

*PH:* (316)555-2001

*Transported By:*

Officer Blake Mitchell

1000 Spurrier Avenue

Wichita Police Department

*Attending Physician:*

Dr. Kim Usher

*PH:* (316)555-7908

*ID NO:*

1515

*----------------------------------------------------------------------*

*Attending ER Nurse*

Sandy Hill, RN

*Initial Observations:*

*IDNO:*

091456

The patient is a 17 year old female brought into the Emergency Room at 11:25 p.m. by

Wichita Police Officer Blake Mitchell. She has abrasions on her hands and knees and is

bleeding from both areas. Photographs were taken of hands and knees.

*Additional work-up:*

PAST MEDICAL HISTORY: Child birth with no prenatal care at age 14

CURRENT MEDICATION: Ritalin

ALLERGIES: Penicillin

PHYSICAL EXAMINATION:

Pelvic: Vaginal and cervical slides for sperm cytology: Specimen Type: Slides (2)

Result: No sperm identified

Vaginal and cervical swabs for semen identification: Result:

Prostatic Specific Antigen Negative

Prostatic Acid Phosphatase Negative

Vulva: abrasion both labia

Vagina: one vaginal tear left

Extremities: Superficial sliding abrasions of left and right knees and hands with embedded grease and sandy dirt, largest area 1.5 X 3.0 cm.

LABORATORY DATA: Blood Alcohol Content .15%; small traces of THC;

\*GHB- 15 gms was found in blood after being sent off to and tested by toxicologist Dr. Drake

Remoire of the University of Kansas Medical School.

EMERGENCY ROOM COURSE: Patient's hand and knee wounds were anesthetized with 1% Xylocaine with epinephrine.

ASSESSMENT: Status post assault with:

1. Vulva-abrasion both labia

2. Vagina-one vaginal tear left

3. Superficial abrasions of skin of both hands and knees

PLAN: The patient may go home. Follow up in 24 to 48 hours with her primary care physician or return to the Emergency Room if any problems. She was prescribed Doxcycline 100 mg twice a day.

*Patient's reporting:*

in Old Town. She admits to drinking several beers and taking a "hit" off a marijuana

cigarette but says she felt fine. She said she remembers drinking a beer that one of the basketball players, DUNK DUNCAN, gave her and then leaving the bar with him. She said she remembers feeling a high that she had never felt before. She states the next thing she remembers is waking up in the ER and feeling very sick. She complains of soreness

to her neck, knees and hands. Patient states she has no idea how she received the

abrasions to her knees and hands.

*Physician's signature Nurse' Signature Date*

*03/15/LY*

**WICHITA POLICE DEPARTMENT DETECTIVE RONNIE FRISBEE'S FOLLOW-UP INVESTIGATIVE REPORT**

DETECTIVE FRISBEE is assigned to the Criminal Sexual Conduct Unit (CSC) of the Wichita Police Department. DETECTIVE FRISBEE has been with the Department for 10 years; for over three years FRISBEE was assigned to Patrol and then for five years in the Controlled Substances Division before being assigned to the CSC Unit. DETECTIVE FRISBEE's follow-up investigative report is as follows:

March 16, last year

At 8:00a.m., I received and reviewed this case report for follow-up investigation. I requested an officer's witness statement from responding OFFICER MITCHELL.

March 17, last year

I attempted to contact witness KIMMIE KING, but she was not at home. I just wanted to ask her some follow up questions regarding the events that took place at the Pump House on March 15. She was in route to Chicago for the first round of the NCAA basketball tournament. I contacted her on her cell phone and we arranged to meet once she returned home from the tournament.

That date would be determined based on the outcome of the Shockers' run in the tournament.

I contacted ROCKY HOLTZ at the Pump House. He is the bartender at the Pump House where the suspect and victim had been drinking before the alleged assault took place. Said assault occurred in the parking area across from the Pump House. I arranged to meet him at the bar at

11:00 a.m. to look at the scene.

At 9:00a.m. I called victim TESS TOMA on her cell phone and made arrangements to meet with her at the IHOP at 10:30 a.m. when she got off work to obtain a written statement and medical

release. I obtained a written statement and medical release once I met with her. She had been treated at Via Christi Hospital.

At 11:00 a.m. I drove victim TOMA to the Pump House so that she could walk me around the scene. I instructed TOMA to stay in the car while I went inside to talk to the bartender HOLTZ. I asked HOLTZ if I could walk around the bar with TOMA and take some photographs and he agreed.

I went to my vehicle and got victim TOMA and she walked me through the Pump House and showed me where she and suspect DUNK had been hanging out. She showed me where HOLTZ was during the times that she and suspect were talking. I took several photographs of the inside of the Pump House.

Victim TOMA and I went outside, following the path that she traveled when she left the Pump House. She showed me where she thought DUNKS' truck was but she was not certain because everything became blurry at this point. I took photos of the parking area across from the Pump House. Victim TOMA stated that she didn't remember anything that happened in the parking lot. The next thing she knew was that she was waking up in the ER at Via Christi Hospital. I drove TOMA back to the IHOP where she was going to work a second shift.

I returned to the Pump House at 2:00 p.m. and met with witness ROCKY HOLTZ. I obtained a written witness statement from him in which he said that victim TOMA had too much to drink so he refused to serve her anymore. HOLTZ also said that he remembers suspect DUNK

DUNCAN talking to TOMA at the bar, leaving for a few minutes and then coming back and

giving TOMA his beer. HOLTZ said the only reason why he remembered that happening on such a busy night was because he had cut off TOMA. HOLTZ said he knew DUNK was giving her the beer so he could "hook up" with TOMA. HOLTZ recalls DUNK and TOMA left the bar together and that DUNK returned to the bar by himself about thirty minutes later. HOLTZ said a few minutes later a Shocker cheerleader, KIMMIE KING, came inside the bar and was crying hysterically and wanted to borrow the bar phone to call 911. KING stated there had been a

sexual assault outside of the bar in the parking area. HOLTZ said DUNK left within minutes and then the Wichita Police arrived looking for him. Police then took victim TOMA to the ER at Via Christi Hospital.

I returned to the station and found that OFFICER BROOKS had completed an Officer's report and left it on my desk. He left a note stating that there may be a supplemental report. He was informed that the TOMA'S blood was being sent to a toxicologist at University of Kansas Medical School to determine if anything else was present and would make an additional report if findings warranted such report.

I requested suspect DUNK DUNCAN' booking photo and criminal history, if any.

March 24, last year

I received a supplemental report from OFFICER BROOKS stating that he arrested suspect DUNK DUNCAN for sexual assault after receiving the toxicologist's report indicating that victim TOMA'S blood test came back showing an elevated level of GHB in her blood.

I tried to contact witness KIMMIE KING at 9:00 a.m. to see if she could come to the station so I could get her statement regarding the events of March 15 at Delaney's Tavern. I knew that Wichita State lost in the first round of the NCAA tournament so she should have already

returned home. I left her several messages on her cell and home phones but to no avail. At 2:00 p.m. 1decided to contact KING at her apartment. She was at home but claims she had her phones off because she was trying to catch up on her sleep. I asked her if she would be willing to talk to me about the events of March 15. We arranged to meet at the Wichita Police Department on March 25 but KING never showed up. I really only needed to ask a few follow up questions so I decided not to worry about it. I received a copy of victim TOMA's medical records from Via Christi Hospital and toxicology report from University of Kansas Medical School.

I notified Communications to preserve witness KING'S 911 tape.