

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss

**SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT**

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COMMONWEALTH OF MASSACHUSETTS,

Plaintiff

v.

BRANDON WINSTON,

Defendant

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DOCKET NO. MICR2012-1160

**TESTIMONY OF BRANDON WINSTON (Part 2 of 2)
EXCERPTED FROM JURY TRIAL - DAY 6
BEFORE THE HONORABLE MAYNARD KIRPALANI**

APPEARANCES:

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Woburn, Massachusetts
Courtroom 630
Tuesday, March 3, 2015

Christina O'Neill, Official Court Reporter
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<u>Witness</u>	<u>Cross</u>	<u>Redirect</u>
Brandon Winston (By Ms. Tagliareni)	3	
(By Mr. Zalkind)		-None-

Exhibits

-None-

Items for I.D.

-None-

BRANDON WINSTON, Previously Sworn.

1
2 THE CLERK: Sir, you're reminded you're still
3 under oath in this matter.

4 MS. TAGLIARENI: May I proceed?

5 THE COURT: Please.

6 MS. TAGLIARENI: Thank you.

CROSS EXAMINATION BY MS. TAGLIARENI:

7
8 Q Good morning.

9 A Good morning.

10 Q So when you went to the House of Blues with
11 Kamilah Willingham, when was that, approximately?

12 A That was in the middle of the fall.

13 Q Was that the fall of 2010?

14 A 2010, yes.

15 Q Okay. And when you went there with her that
16 night, nothing romantic happened between the two of you
17 that night; is that correct?

18 A That's correct.

19 Q And when you went to Ryles with Kamilah Willingham
20 and [REDACTED] that was also approximately the
21 fall of 2010; is that correct?

22 A Yes.

23 Q And nothing romantic happened between you and
24 Kamilah Willingham on that night; is that correct?

25 A Yes.

1 Q And nothing romantic happened between you and [REDACTED]
2 [REDACTED] on that night, as well?

3 A Correct.

4 Q And when Kamilah Willingham was texting you, as
5 you were shown in one of those exhibits, in November
6 and December of 2010, that didn't bother you, did it?

7 A No.

8 Q You guys were friends at that time; is that right?

9 A That's right.

10 Q And when you met with Kamilah Willingham at the
11 Cambridge Common when you talked about your girlfriend
12 at the time, do you remember approximately when that
13 was?

14 A January 8th, I believe.

15 Q So about six or seven days or so before the night
16 in question, the night of January 14th; is that right?

17 A Yes. Possibly a little farther on, yeah.

18 Q Possible a little what? I'm sorry.

19 A Possibly a few days later.

20 Q So you think it was around January 8th?

21 A Yes.

22 Q And drawing your attention to when you were in
23 Kamilah Willingham's apartment on the night of January
24 14th, you indicated that you and Kamilah and [REDACTED]
25 [REDACTED] at some point all did cocaine; is that right?

1 A That's right.

2 Q To your recollection, was anyone using an I.D.
3 card to move around the cocaine or make lines of
4 cocaine?

5 A Not to my recollection.

6 Q And you haven't been charged with anything, any
7 crime, relating to your use of cocaine that night; is
8 that correct?

9 A That's correct.

10 Q When you made that video for Kamilah's mom with
11 [REDACTED] and Kamilah, you indicated that [REDACTED] was in the
12 living room; is that right?

13 A I don't remember where [REDACTED] was when we were
14 making that video.

15 Q But she wasn't in it; is that right?

16 A She's not in that video.

17 Q And when you were at the Middlesex Lounge, you
18 said that at some point [REDACTED] came up to you and she put
19 her arms around your neck and she was kissing you; is
20 that right?

21 A That's right.

22 Q And Kamilah was right there, you said?

23 A Right there. Yes.

24 Q And that went on for some time; is that right?

25 A That's right.

1 Q And Kamilah was right there during that whole
2 time?

3 A Yes.

4 Q You also said that [REDACTED] and you were whispering
5 into each other's ears; is that right?

6 A That's right.

7 Q What were you two talking about?

8 A I don't remember.

9 Q When you were at the Middlesex Lounge, you never
10 talked to Kamilah about [REDACTED] condition?

11 A No.

12 Q So do you remember telling Sally [REDACTED] in June of
13 2011 that at the end of the night you spoke to Kamilah
14 and you said that [REDACTED] was wasted or drunk or out of
15 control?

16 A Yes.

17 Q So you did have a conversation with Kamilah about
18 [REDACTED] condition?

19 A I wouldn't say it was a conversation. And off-
20 hand remark, perhaps.

21 Q But what you told Sally [REDACTED] in 2012 -- 2011,
22 rather -- was that [REDACTED] was wasted or drunk or out of
23 control; is that right?

24 A Yes.

25 Q So are those the words that you said to Kamilah on

1 the night or in the early-morning hours of January
2 15th, 2011?

3 A Not exactly.

4 Q Well, what exactly did you say?

5 A I don't know.

6 Q When you were talking to Sally [REDACTED] you weren't
7 under oath; is that right?

8 A That's right.

9 Q But you were still telling her the truth; is that
10 correct?

11 A To the best of my ability, yes.

12 Q To the best of your ability? Is that what you're
13 saying?

14 A Yes.

15 Q Okay. But you weren't trying to purposely lie to
16 Sally [REDACTED] were you?

17 A No.

18 MS. TAGLIARENI: Your Honor, may I approach?

19 THE COURT: You may.

20 BY MS. TAGLIARENI:

21 Q Mr. Winston, I'm showing you what's been marked as
22 Exhibit 3. Do you remember Ms. Willingham taking that
23 picture?

24 A Yes.

25 Q And that was kind of playful, wasn't it?

1 A I'm not sure I understand the question.

2 Q Well, you're making a face in that picture; is
3 that right?

4 A That's right.

5 Q So were you being playful or silly at that time?

6 A Yes.

7 Q You indicated that when you got back to the
8 apartment, after you were in the cab ride with Kamilah
9 and [REDACTED] you offered to go to the ATM to get some
10 money to pay for the cab; is that right?

11 A That's right.

12 Q So when you got to the ATM, you used your card and
13 you used your pin number; is that right?

14 A That's right, yes.

15 Q You got the money out, and then you went back and
16 paid the cab driver?

17 A Yes.

18 Q And when you went to Kamilah's apartment, you said
19 that the door was ajar; is that right?

20 A Yes.

21 Q When you got back to Kamilah's apartment and you
22 got into bed with [REDACTED] you said yesterday that it was
23 very dim; is that right?

24 A Yes.

25 Q So how did you know it was [REDACTED]

1 A From the light that was available I could see it
2 was [REDACTED]

3 Q And where was that light coming from?

4 A I'm not sure.

5 Q Then in the middle of the night when you woke up
6 and you said that Kamilah was kissing you, how did you
7 know that it was Kamilah?

8 A I had rolled over to the opposite side from where
9 I knew [REDACTED] to be sleeping.

10 Q Did you see Kamilah?

11 A Well, we were touching, and I could feel her.

12 Q How did you know it was Kamilah then and not [REDACTED]

13 A Kamilah is a bit skinnier than [REDACTED]

14 Q When you got back to the apartment, why didn't you
15 and [REDACTED] go to Andreea's bedroom, if she was away?

16 A I don't know.

17 Q You got into Kamilah's bed; is that right?

18 A Kamilah's bed, yes.

19 Q Do you ever remember seeing Kamilah in her bed
20 when you were making out with [REDACTED] --

21 A No.

22 Q -- after you got back?

23 A No.

24 Q You indicated that at some point in that bed,
25 according to you, [REDACTED] was awake; is that right?

1 A Yes.

2 Q And you said that after about five minute or so
3 you passed out; is that right?

4 A Less than five minutes. Three to five minutes,
5 I'd say.

6 Q So you told Sally [REDACTED] three to five minutes, and
7 you also told Sally [REDACTED] at another point, five
8 minutes; is that right?

9 A That's right.

10 Q Okay. And when you passed out, was [REDACTED] still
11 awake?

12 A Yes.

13 Q But you said that you had to, when you first got
14 back there, you had to jostle her to get her awake; is
15 that correct?

16 A That's correct.

17 Q So when she woke up, did she experience some kind
18 of temporary sobriety at that point?

19 A I'm not sure.

20 Q Well, how would you describe it?

21 A She was awake. She was talking to me.

22 Q What was she talking about?

23 A I don't remember.

24 Q Were you saying anything to her?

25 A Well, at least, I told her to lift her arms up.

1 And I remember saying her name.

2 Q Did she say anything back to you when you told her
3 to lift her arms up?

4 A I don't remember. She lifted her arms up, though.

5 Q So you said at one point in your statement to
6 Sally [REDACTED] that she was groggy and that she made, she
7 barely responded, just like, Agh, sort of groggy
8 answer. Do you remember that?

9 A Yes.

10 Q And that's when you took her shirt off; is that
11 right?

12 A No. She sat up before that.

13 Q Did you start making out with her before you took
14 her shirt off?

15 A Yes.

16 Q And then while you were doing that, you took her
17 shirt off?

18 A Yes.

19 Q And how far did you get her bra off?

20 A I may have unhooked one of the two hooks in the
21 back.

22 Q So when you fell asleep, [REDACTED] was still awake; is
23 that right?

24 A Yes.

25 Q And the bra was still on her body?

1 A Yes.

2 Q But one hook out of two was undone?

3 A Perhaps. I'm not sure. I remember fiddling with
4 it.

5 Q Did it end up anywhere else on her body or was it
6 still generally in the same place?

7 A It was probably still rearranged a little bit, but
8 it was still on the body.

9 Q So still on the front of her body and on the back
10 of her body?

11 A Yes.

12 Q Still around her?

13 A Still around her, yeah.

14 Q Okay. And in June of 2011 you told Sally [REDACTED]
15 that this was a totally cool experience. Do you recall
16 telling her that?

17 A Yes.

18 Q What made it a totally cool experience?

19 A I was having fun.

20 Q Why were you having fun?

21 A We were dancing. We were talking, smiling,
22 laughing, making out. It was fun.

23 Q What made it totally cool back at the apartment?

24 A I'm not sure I understand that question.

25 Q Well, would you say that the whole night was a

1 totally cool experience?

2 A My impression at the time was yes.

3 Q So what, back at the apartment, made it a totally
4 cool experience?

5 A Well, back at the apartment not much really
6 happened. The totally cool part was probably mostly on
7 the dance floor.

8 Q When you were talking to Sally [REDACTED] though, in
9 June of 2011, when you described it as being a totally
10 cool experience, you were talking about how you were
11 confused by Kamilah Willingham's questioning of what
12 you had done to [REDACTED] is that right?

13 A Yes.

14 Q So what Kamilah Willingham was questioning you
15 about wasn't what you had done at the Middlesex, it was
16 what you had done back at the apartment; is that right?

17 A That is right, yes.

18 Q So what about being back at the apartment made it
19 a totally cool experience, in your words, in June of
20 2011?

21 A Because it was a continuation of what had went on
22 at the Middlesex Lounge.

23 Q Did you think that [REDACTED] was flirting with you when
24 you were at Kamilah's apartment before you went to the
25 Middlesex Lounge?

1 A No.

2 Q Was she flirting with you at the Middlesex Lounge
3 before she came up to you and put her arms around your
4 neck and kissed you?

5 A No.

6 Q You told Sally [REDACTED] that when you first got to
7 the Middlesex you wanted to get away from them, meaning
8 [REDACTED] and Kamilah, for a little bit. Do you remember
9 saying that?

10 A Yes.

11 Q Why did you want to get away from them for a
12 little bit?

13 A Because I wanted to talk to some new people.

14 Q And you said at the end of the night when [REDACTED] was
15 getting her coat, that she was talking to some other
16 guys; is that right?

17 A Yes.

18 Q How did that make you feel?

19 A It made me feel like I wasn't sure whether or not
20 she would come back to me.

21 Q Did it make you feel jealous?

22 A Not really. No.

23 Q When you woke up in the middle of the night, you
24 say that Kamilah was kissing you; is that right?

25 A Yes.

1 Q Do you remember what [REDACTED] was wearing at that time
2 in the middle of the night?

3 A No.

4 Q So you didn't see [REDACTED]

5 A Well, I knew she was there?

6 A How did you know she was there then?

7 A I must have seen a dim impression of her. It was
8 a bed with three people in, and it was very close
9 quarters, so. Somehow I knew she was there.

10 Q So in that dim impression, could you see if she
11 was wearing anything on the top of her body?

12 A No.

13 Q You couldn't see that?

14 A No.

15 Q Could you see if she was asleep?

16 A No. But I knew she was asleep.

17 Q How did you know she was asleep then?

18 A She didn't say anything.

19 Q Did you say anything to her?

20 A I perhaps said her name.

21 Q And you didn't touch her at that point; --

22 A No.

23 Q -- is that your testimony?

24 A Yes.

25 Q Did Kamilah ever have to pull your hair at any

1 point in the middle of the night?

2 A No.

3 Q When you were back at the apartment with [REDACTED] and
4 you were in the bed with her, before you passed out,
5 you said that she was still awake; is that right?

6 A Yes.

7 Q And were her jeans still on?

8 A I'm not sure.

9 Q So when you walked into Kamilah's apartment, [REDACTED]
10 was already on the bed; is that right?

11 A Yes.

12 Q And she was asleep at that point?

13 A She was laying down.

14 Q So she was awake?

15 A When I said her name and jostled her, she was
16 awake.

17 Q Before you said her name and jostled her, was she
18 asleep?

19 A I don't know. I wasn't in the room.

20 Q What was that?

21 A I wasn't in the room.

22 Q Okay. So you go into the room, --

23 A Yeah.

24 Q -- and she's laying down?

25 A Yeah.

1 Q Okay. Is she awake?

2 A She was laying down.

3 Q Why did you need to jostle her if she was awake?

4 A Perhaps she was half asleep. Yeah.

5 Q But you don't recall taking her jeans off?

6 A No.

7 Q Even though you told Kamilah on January 17th that
8 you did?

9 A I don't remember saying that.

10 MS. TAGLIARENI: I have no further questions.

11 Thank you.

12 THE COURT: Redirect?

13 MR. ZALKIND: I have no questions, your Honor.

14 THE COURT: All right, Mr. Winston, you may
15 step down.

16

17 **(Testimony concluded.)**

18 **(Defendant steps down.)**

19

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CERTIFICATION

I, Christina O'Neill, Official Court Reporter, do hereby certify that the foregoing, Pages 1 through 18 inclusive, is a true and accurate transcription, to the best of my knowledge, skill and ability, from the record of the court proceedings in the above-entitled matter.

I, Christina O'Neill, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Administrative Format.

I, Christina O'Neill, further certify that I neither am counsel for, related to, nor employed by any of the parties to this action in which this hearing was taken, and further certify that I am not financially nor otherwise interested in the outcome of the action.

Christina O'Neill

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Date

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