

North Carolina Defender Trial School
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PLENARY SESSION FACT PROBLEM

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State v. Forbes

Your client, John Forbes, is charged with second-degree forcible rape and rape of a 13, 14, or 15 year-old by a person more than four but less than six years older. John is 20 years old. The victim, Darlene Hampton, is his fifteen year old niece. They are slightly less than five years apart in age.

At trial, the State will call as witnesses Darlene Hampton; her mother, Tiffany Hampton; police detective Jill Carter, who made the arrests and took statements from the defendant and the victim; police officer Bob Young, who accompanied Detective Carter; and Dr. Alice Mack, a gynecologist who examined Darlene Hampton.

Information from the police complaint report dated 5/13/2024

Darlene lives with her 30 year-old mother, Tiffany Hampton, and her mother's boyfriend, Rollo. Rollo has prior convictions for assault and sexual battery on a former girlfriend. Although Tiffany has never filed any charges against Rollo, she has checked in at the local battered women's shelter twice during the three years she has lived with him. Both times she went back to him in less than a week. Darlene's father disappeared when she was two, and neither Tiffany nor Darlene has seen him since. Tiffany Hampton is John Forbes' sister.

Darlene, Tiffany, Rollo, and John Forbes are all white people. They all live in the same working-class/poor neighborhood, in a mid-sized city. The neighborhood is about 70% white, and 30% black.

On May 12, 2024, Darlene went to a neighborhood park, where she ran into her uncle, John Forbes. They returned to her home together for dinner. Darlene and Tiffany both say nothing unusual happened at dinner. The next morning, when Tiffany was doing the laundry, she noticed what she thought were semen stains on Darlene's underwear. They had a loud argument, and Tiffany threatened to throw Darlene out of the house if she didn't "stop fooling around with those boys at school." Darlene denied having sex with anyone. The next day, Tiffany again warned Darlene. Darlene responded by telling Tiffany that John Forbes had raped her in the park. Tiffany immediately called the police.

Police Officer Carter interviewed Darlene that afternoon, with Officer Young also present. But Darlene refused to talk to Carter about any of the sexual details, saying only that she met John at the park, that "he slapped my face a few times," and that he "kissed me on the lips." After hearing this, the officer went to the house John shares with his grandmother. Carter spoke with John, who denied hitting Darlene but said that he had kissed her. Carter's report notes that John Forbes "appears slow mentally and is very quiet and reluctant to speak, but was able to understand and answer questions. His grandmother refused to allow him to talk with us unless she was present."

The officer took no action against anyone.

Information from the police complaint follow-up report dated 5/15/2024

Two days later, at Tiffany's request, the police again interviewed Darlene. This time she told the officers that John raped her. After a few minutes, though, Darlene changed her story, saying that she and John had consensual sex in a public bathroom at the park and that "I knew he wanted it, but the retard was so dumb, I had to show him what to do."

Police officers then telephoned John Forbes and asked if he would mind coming to the stationhouse so they could ask him a few more questions about Darlene. John said that he would speak with them, and about an hour later he walked to the station. They read him his *Miranda* warnings, and he signed a waiver. The officers then asked him, "what really happened between you and Darlene?" John told them that he and Darlene were in love, that they were going to get married, and that he would never treat her as badly as "the others did." He insisted that he never hit her. John admitted "having sex" with Darlene at the park and said that she told him it was OK, because they were going to be married. He signed a written statement to that effect. After speaking with the officers for about an hour, John went home.

The next day, the officers met with the prosecutor. At the prosecutor's direction, they returned to John's home and arrested him for rape. John has been released to the custody of his grandmother pending trial.

Your first interview with John Forbes

John Forbes gives you the following information:

He is 20-years-old and has lived with his grandmother all his life. He now works at a neighborhood McDonald's, where he has been employed for about three years. He went to school until the 5th or 6th grade, but didn't like it, so he left to go to work.

Tiffany Hampton is his older sister. He likes Darlene and says they are going to be married someday. He denies ever hitting her, and doesn't want to talk about sex, except to say "sex is OK if you are going to be married."

The Medical Report of Dr. Alice Mack

Dr. Alice Mack, is a gynecologist who does forensic examinations of sex crime victims for the police department. Dr. Mack examined Darlene three or four days after the alleged crime. Dr. Mack testified that Darlene had previously had sex, but there was no physical evidence that could identify any particular partner. The doctor also mentioned bruises and abrasions all over Darlene's body, but none on her face.

The Medical Report of Dr. Frank Liu

Dr. Liu is a psychiatrist who examined John Forbes on June 14, 2024, at your request. Dr. Liu reports that John Forbes has an IQ of 56, which places him in the intellectually disabled range. Forbes is functionally illiterate and dropped out of school in 7th grade when he was 16

years old. He can barely write his name and cannot read at all. He works full-time at a neighborhood McDonald's and lives with his grandmother. The court held that he was competent to stand trial.

The response to your discovery requests and motions

You received a police report and a public school incident report that reveal the following:

In March, 2024, Darlene was suspended from school for a month because of several incidents of "promiscuous behavior" on school grounds. She was told that if she was caught again, she would be permanently expelled. When she told her mother about the suspension, Darlene had a screaming fight with her mother and Rollo. The fight was so loud that neighbors called the police. Darlene insisted that she was not sexually involved with any of the boys at school, but that she had been sexually assaulted at school by two teachers, the principal, and the school nurse. Rollo told her, "I don't care who did what. If you don't stop screwing around, you'll answer to me." The police investigated Darlene's accusations and determined that they were utterly unfounded. Neither teacher was at work on the day the abuse allegedly occurred. The principal and nurse were in a staff meeting with ten other people for the entire time.

John Forbes's statement to the police

I am 20 years old and live with my grandmother. I work at McDonald's. I am making this statement voluntarily and of my own free will. Nobody has coerced me to make it. I want to help Darlene and help the police.

Darlene is my sister Tiffany's daughter. I know that she is 15 years old. I am 20 years old. On May 12, 2024, I was walking in the park when Darlene came up to me and said hello. We talked for a while and she kissed me. I kissed her back. Then we went behind the bathrooms at the end of the park and had sex. I love Darlene and would never treat her as bad as the others do. She says we are going to get married someday. Sex is OK if you are going to get married.

Your interview with John Forbes's grandmother

John has been slow since he was a little boy. He never did learn to read, and he got social promotions until he was old enough to drop out of school. I knew he wouldn't be able to get by on his own, so I guess he'll be living with me for the rest of my life. I've put away a little money to provide for him when I'm gone. I got John that job at McDonald's through this program they have to hire kids who are a little slow. He's worked there for three years, and they like him a lot.

I just don't know what's wrong with Darlene. Her mother got in trouble when she was real young and just keeps picking the wrong men. Darlene seems to be the same way. She's always making fun of John. Once she convinced him to eat a can of dog food by telling him it would make him run as fast as a dog. It just isn't right.

Your interview with the manager at McDonald's

I can't believe John would rape anyone. He's a nice kid, and he does a real good job here. Always shows up on time and is always polite to everyone. He sweeps out the store and the parking lot, handles the garbage cans, and cleans up when the customers spill something or leave a mess. I wish I could give him a more responsible job, but he's a little slow and doesn't know how to make change, so I can't have him working the cash registers.

Your interview with Detective Jill Carter

I'm not happy about this case. I don't know what happened in that park, but this whole thing stinks. I have a 12 year-old son, and I'm going to lock him in the basement if I hear that Darlene Hampton ever comes within a mile of him. I told the prosecutor about this, but he says they have a zero tolerance policy if the complainant is under age. So if there's a complaint, I have to make an arrest.

Elements of crimes charged

Second-degree forcible rape requires vaginal intercourse by force or with someone who is mentally disabled, mentally incapacitated, or physically helpless. It is a Class C felony.

Statutory rape of a person who is 13, 14, or 15 years old requires vaginal intercourse of a person who is 13, 14, or 15 if the defendant is more than four but less than six years older than the person. Consent is not a defense. It is a Class C felony.