

APPENDIX: Characteristics of Eyewitness Misidentifications in DNA Exonerees' Trials

**Brandon L. Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong*
Ch. 3 (Harvard University Press 2011)**

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Abdal, Habib	V - CR	Line-up, photo array, show-up	Yes <ul style="list-style-type: none"> • Suggestive remarks • Live “line-up” consisting only of Abdal and a white man • Abdal only person repeated in various procedures • Det. showed victim single photo of Abdal 	“And the more pressure they put on, the less I would listen to them and the longer I took in making an identification...”	Yes <ul style="list-style-type: none"> • Initial non-identification • Discrepancies in description - Victim told police the man could be between 25 and 40. However, Abdal had a grey beard and was 43 years old. She described an attacker who was between 5’8” and 5’10” which was just a few inches taller than her. However, Abdal was 6’4” 	Victim described “pressure” police placed on her to identify Abdal “I then chose one man that looked closest to my description that I had in my head that I knew of the assailant” She told police “there were two differences still” when looking at him in person
Abbitt, Joseph	V (2) (J)	Photo array	No – acquaintance		Yes <ul style="list-style-type: none"> • Initial non-identification 	Second victim initially did not provide Abbitt’s name to police, and then only told sister that attacker “reminded” her of man who lived down street. And first victim initially identified man at bus stop, who police did not arrest. “When did the name Joseph Abbott come up? At the police station? A. No. Q. When? A. When I was at my sister’s, I told her that

¹ V indicates a victim eyewitness. E indicates a non-victim eyewitness. CR indicates a cross-racial identification, while IR indicates intra-racial identification. J indicates a juvenile at the time of arrest. Numbers of eyewitnesses of a given type, where there were more than one, are noted in parentheses.

² Only initial non-identifications, initial uncertainty or reported failure to observe the attacker’s face were coded as unreliable, as the Chapter describes. This column also notes, however, discrepancies between descriptions and the appearance of the defendant. The Chapter notes still additional features of the identifications that may have affected reliability in other ways, such as lighting conditions, duration, opportunity to view, age of eyewitness, and the other-race effect.

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						<p>man reminded me of the man that used to go out with my mom.”</p> <p>Second victim also said she was “blindfolded” during the attack, though added that she did see him briefly, explaining only “I guess he took it off.”</p>
Adams, Kenneth	E – CR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up • Shown only three photos in addition to three photos of defendants 	Witness recalled seeing “Maybe three pictures” in addition to those of the three defendants	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification • Did not i.d. until offered relocation 	<p>Q. When did you and the State’s Attorney decide that these people were the ones you saw? A. I decided that when I was going to be relocated.</p> <p>He added, “That’s when I decided to identify them”</p>
Alejandro, Gilbert	V – IR	Photo array, line-up, composite drawings	<p>Yes – acquaintance, BUT</p> <ul style="list-style-type: none"> • Suggestive remarks – not told suspect might not be in line-up and victim testified she was instead told that they had caught him • Suggestive line-up 	<p>Victim described that all of the others in the lineup were “fatter than him”</p> <p>Victim was told that the suspect was named Gilbert Alejandro:</p> <p>Q. Did they give you the name of the person that they thought had done this? A. Yes. Q. What name did they give you? A. Gilberto Alejandro. Q. They told you that before you ever saw him in the police station through this mirror, didn't they? A. Yes.</p> <p>“Well, I was working and they brought me from my work. Well, the police went over there and they told me they have already catch the man. I said, "Are you sure it's that man?"</p>	<p>Yes</p> <ul style="list-style-type: none"> • Could not see attacker’s face 	<p>Q: Did the person come in front of you or in behind you? A: I don't know. I couldn't see. I couldn't see anything.</p>

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				They say, "Yes." So then they brought me to the city police and they went and showed me him."		
Alexander, Richard	V – CR, E (4)	Photo array, line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up - only person with short sleeves • He was repeated in photo array and line-up • Eyewitness not told attacker might not be in line-up • Multiple witnesses viewed lineup at same time 	<p>A. To the best of my recollection, she had asked me something to the effect of would you consent to coming to the lineup to try to identify your attacker. Q. Did you believe that that person may be there at the lineup? A. I figured that being logical. Obviously, there would have been something to persuade the police that there might have been someone in that lineup that might have been the person</p> <p>“Were all of these witnesses in the same room? A. Yes.” [7 witnesses / victims present with 8 police]</p> <p>One victim “had gotten emotional” during line-up, with others present.</p> <p>“Do you remember, the first time the line-up came out was Richard Alexander the only person who had a cut-off t-shirt? A. I believe he was.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Witness could not see attacker’s face • Discrepancies in description, including tattoo, skin complexion • Initial non-identification, in which one eyewitness had picked out two other individuals (as did a non-victim eyewitness who did not testify at trial) and one identified noone • Initially uncertain 	<p>One victim initially told police “he looked similar, but she was not positive it was him,” when viewing photo array, She had seen only the attacker’s silhouette.</p> <p>Second victim unable to make identification from photo array and did not see attacker’s face. A third victim, at the line-up stated that “his build looked like the person she was attacked by...”</p> <p>Fourth eyewitness selected two other people from photo arrays: “Q. And these photo arrays, you picked out number three the first time [not Alexander]... A. Yes”</p>
Anderson, Marvin	V – CR	Photo array, line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – the photo of Anderson was the only color photo and the only one with an employee number • Not told that the attacker might not be in the array 	<p>Detective: Q. Now isn't it true that that photograph was an employee identification photograph from Kings Dominion? A. Uh, it was a one-on-one photograph of the I.D. card, yes, sir. A. Yes, sir. Now isn't it true that that photograph had either a social security number or some type of</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy in description, including facial hair and height 	

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				<p>employee number on the face of it and that made it completely different from the other photographs, sir? A. Yes, sir.</p> <p>Q. Now just before the line-up or during the line-up, had you told, uh, Miss Gardner anything? A. Did I tell her anything? Q. Yes, sir. A. I asked her to go in and look at the seven people in the room to see if she could identify the man that committed the crime. Q. So did you tell her that the suspect had been arrested? A. We asked her to go in and look at the people in the line-up to see if she could pick out the suspect.</p>		
Atkins, Herman	V – CR, E - CR (3)	Photo array, show-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Show-up – wanted poster with defendant’s photo shown to victim and eyewitness, repeated in photo array, and then in-court i.d. with one victim 		<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain - victim, when shown his photo in wanted poster, was not “100% sure” • Initial non-identification –second eyewitness did not identify him at the photo array, and only did so in court, where he was the only black person • Discrepancy - victim described attacker as skinny and bony, which he was not, with additional discrepancies as to hair length, facial hair, skin color, and shoe size (she said he had huge size 13 feet - he has size 10 ½); another eyewitness described attacker as having a lot of gums showing, which he did not have 	<p>One described him as a “lighter shade” and “tall and thin” with short hair “close to the scalp” and said his shoe size “was a 13. I know it was a very large size because we didn’t carry very many of the larger sizes.”</p>
Avery, Steven	V – IR	Photo array,	<p>Yes</p> <ul style="list-style-type: none"> • Repeated photo – he was 	<p>Sheriff testified before trial, “I believe she was</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy – eye color 	<p>“Q. Did your attacker have brown eyes?”</p>

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		line-up, composite drawing	<p>the only person repeated in photo and line line-ups</p> <ul style="list-style-type: none"> • Suggestive line-up - defendant was the shortest in line-up • Suggestive remarks – victim told she had identified the suspect and of his prior criminal record 	<p>informed that the person we had arrested would be in the lineup” but at trial stated victim may have been told that after making the identification</p> <p>Victim – “Q. When he showed you the photo lineup, you assumed he had a suspect in mind, isn’t that right? A. I believe so. Q. And you assumed that his picture was included with those photos, isn’t that correct? A. Yes, I assumed that, yes.</p>		<p>A. No, he had brown eyes – No, he had blue eyes. I originally said brown eyes to Judy Dvorak. When I picked out the photo in my hospital robe as I handed it to the Sheriff, I commented, ‘He’s got blue eyes, I was mistaken.’”</p>
Bain, James	V – CR (J)	Photo array	<p>Yes (acquaintance)</p> <ul style="list-style-type: none"> • Suggestive remarks - victim later said in a deposition that he had been asked to “pick out Jimmie Bain.” • Suggestive line-up - others in array did not have the very bushy eyebrows that victim described 	<p>“Q. Did the police department show you a bunch of pictures? A. Yes, sir. ... Q. How did they show them to you? . . . A. Yeah. I looked – he asked me can I pick out Jimmie Bains. Q. Can you pick out who? A. Jimmie Bain. And I picked him out. Q. All right. Now the man that you picked out – he said can you pick out Jimmie Bains and you picked him out. A. Yes, sir.”</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy – facial hair 	<p>“He got a moustache, a beard, and the moustache – because he got thick sideburns”</p> <p>“Q. Could you be mistaken, now? A. Yes, sir.”</p>
Barnes, Steven	E - IR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Defendant’s photo was the only one repeated in two arrays 	<p>Second line-up, conducted three years later before grand jury, did not contain photo of second person identified in first array; “Number five is not in here” and defendant’s photo was only one repeated in the two arrays.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification - eyewitness identified two photos, including Barnes and a filler, in the first array 	<p>Q. . . . And did you tell the Oneida County Sheriff’s Deputy who showed you this photograph that you had doubt as to whether it was number five or number four who was the person that you saw on Mohawk Street? A. I picked out number four and number five because there was a</p>

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Bauer, Chester	V – IR (4)	Line-up	No. Tape recorded line-up Victim identified him at line-up; another witness was an acquaintance, one did not testify, and the last saw him at a bar on the day of the crime and weeks later and identified him in-court		No ●Discrepancy in descriptions – hair color	doubt. Q. In your statement on January 26 you stated that the individual’s hair was medium brown and now you stated “dishwater blond”. What color would it be accurately described as? A. Right now, what I see now? Q. No. A. I would say dishwater blond. Q. Was there any reason you had called it medium brown on that particular day? A. I was pretty upset and pretty confused at the time.
Beaver, Antonio	V - CR	Line-up, mug shots, composite drawing	Yes ● Suggestive line-up - only person in lineup with problem with teeth that victim described ● Victim not told attacker might not be in line-up	Officer’s testimony: Q. And when you contacted [the victim], what, if anything, did you tell her with regards to viewing the lineup? A. Just that we had a suspect and we wanted her to look at the suspect in a lineup and see if she can identify him and if he was the same guy that robbed her. Q. Okay. Now there's also -- two people in this lineup have on baseball hats; right? A. I don't know; let me see it . . . A. In the photo, they do, yes. Q. Well, does this photo reflect the lineup? A. Yes. Q. And the two people that have on baseball hats just so happen to be the two people that aren't police	No ●Discrepancies in description - gap in teeth, facial hair, height, weight, age	Victim - "I was about 90 percent sure but I wanted to be a hundred percent so I was a hundred percent positive after I looked --" . . . "I was a hundred percent certain." Defense closings: "She told the police that the person that robbed her was 21 years old. We know that Mr. Beaver is 31 years old." "She told the police the person that robbed her was five ten. We know that Mr. Beaver is four inches taller than that. He is six two." "She told the police that the person that robbed her had medium skin. Mr. Beaver has dark skin tone."

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				<p>officers; right? A. Right. Q. And the description that you had of the robber was of a person wearing a baseball hat; right? A. Right.</p> <p>Q. Yeah. Only one person in that lineup has anything wrong with their teeth; correct? A. Correct.</p>		<p>"She told the police that the person that robbed her had a gap in his teeth similar to David Letterman's. Mr. Beaver's front teeth are broken. That is not the same as having a gap."</p>
Bibbins, Gene	V – IR	Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up – but properly conducted shortly after the incident. <p>However, prior to show-up, police took victim Bibbins' apartment, and she exclaimed "That's it, that's it," upon seeing a radio that she said was the one stolen from her.</p> <p>Fifth Circuit ruled in a post-conviction civil suit that "where the victim was shown the proceeds of the crime ante making a positive identification. The strong admonition against the use of showups, coupled with the fact that [the victim] was shown the proceeds of the crime, leads this court to believe that the Fifth Circuit would find the identification in this case to be "unnecessarily suggestive."</p> <p>Gary Wells concluded post-exoneration that "A show-up procedure in which the victim is shown "proceeds" from the crime has the counter-intuitive result of being highly suggestive. It often leads victims to incorrectly assume that the</p>	<p>Officer described placing Bibbins in a squad car, driving to the victim's building, the victim walked "eight, ten feet" from the car, and "I took my flashlight and shined it through the window and the victim id'd him."</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy in descriptions – he had short cropped hair the day of the assault, while victim described an attacker with curly hair 	<p>Q. Does he look different now? A. Yes. Q. How does he look different? A. His hair has grown and he doesn't have an earring and those same clothes on.</p> <p>Q. When you described the assailant -- assailant's hair, you never told the police that he had a jeri-curl? Did you tell that to the police? A. No, sir.</p> <p>Another suspect present when police elicited description testified victim told police that the assailant "had long, curly hair"</p> <p>Post-exoneration expert Dr. Gary Wells concluded "the probability of [the victim] giving such a detailed description of her attacker, matching an innocent man in nearly every respect, was "astronomically low." Bibbins hopes to have Dr. Wells testify</p>

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			police apprehended the true perpetrator.”			that the defendants must have fabricated the evidence by first apprehending Bibbins, and then later putting in their reports that [the victim’s] description of her attacker exactly matched him.”
Blair, Michael	E – CR (3)	Photo array, composite drawing	Yes <ul style="list-style-type: none"> • Eyewitness not told attacker might not be in photo-array 	Eyewitness testified - "He just said, I'm going to place a photograph of some certain--you know, had pictures of people, and I want you to study it carefully, and show me the person that--that you think you saw you're talking about."	No <ul style="list-style-type: none"> • All eyewitnesses had seen media images of Blair prior to line-up 	For example, one eyewitness learned that police had arrested someone, and “saw the – his picture in the newspaper the next morning” prior to viewing lineup
Bloodsworth, Kirk	E – IR (5)	Line-up, photo array, composite	Yes <ul style="list-style-type: none"> • Suggestive line-up - only three of the six photos in array were similar to descriptions. Defendant was only man in array whose hair matched composite image. • Eyewitness not told attacker might not be in line-up 	Q. Okay. Now, in the photographs that they showed you, some of those photographs did not have a mustache; isn't that correct? A. Yes. Q. Okay. One of those photographs the man had a beard didn't he? A. I'm not sure. Q. Okay. But if a person did have a beard and no mustache, if a person did have a beard in those photographs, obviously that's not the person that you saw on July the 25th isn't it? A. Right. Q. Now, I believe you told me earlier that some six photographs were different because the hair was different. THAT some was curly hair and some was straight hair; is that correct? A. Yes.	Yes <ul style="list-style-type: none"> • Discrepancy in descriptions - hair • One eyewitnesses was initially uncertain - she described initially not getting a good look and said she had seen doctors to try to forget what she saw 	Q. The last time we were here and we talked, I asked you about the color of the man's hair; is that right? You remember we talked about color? [. . .] A. Yes. Q. [. . .] You told me that the person did not have red hair; isn't that right? A. Right. Another eyewitness testified: Q. Can you describe the man you saw? A. Yes. He was tall, kind of heavy, blond.
Booker, Donte	V - CR	Photo array	No transcript			
Boquete,	V –	Line-	Yes	A. He asked me if -- if --	No	Q. Well, today, you're

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Orlando	CR	up, photo array	<ul style="list-style-type: none"> Line-up – and defendant was only person with bald head Eyewitness told suspect was in group 	<p>that they had quite a few Cubans at the Tom Thumb standing in the parking lot and asked me if I would care to ride around there to see if I can describe, you know, identify or describe or whatever the two guys that were in my apartment.</p> <p>Q. They didn't say to you they had somebody that matched the description?</p> <p>A. They said something about matching the description, also.</p> <p>Q. Okay. When you got to the -- to the Tom Thumb parking lot, did any of the other people in the parking lot have a shaved head?</p> <p>A. No, sir.</p> <p>Q. Did you tell Miss Curr at the -- at her apartment that you found somebody that met the description she gave?</p> <p>A. I don't remember exactly what I said at that time, but I do remember that -- telling her we have some some suspects.</p> <p>Q. That matched the description?</p> <p>A. Yes, sir.</p>	<ul style="list-style-type: none"> Discrepancy in descriptions - facial hair 	<p>saying that you -- indelibly remember this -- this face (indicating), can never forget it. You describe the eyes and everything and he has a big, black moustache right in the middle of it and set off with no hair around it. And in a deposition, under oath, closer to the time of the offense, you didn't remember. I'm just asking you if maybe your recollection has been refreshed since that time.</p> <p>A. No, it hasn't been refreshed.</p>
Bostic, Larry	V - IR		No transcript (pleaded guilty)			
Bravo, Mark	V – IR		No – but victim acquainted with defendant	Bravo was a nurse at the hospital where victim was a psychiatric patient, because she had manic-depressive disorder.	Yes <ul style="list-style-type: none"> Initial non identification, by victim who was a psychiatric patient 	<p>Q. Did she give a physical description, as well as she could?</p> <p>A. Yes, Really vague about the physical description.</p> <p>Q. By what she indicated to you, did you have any problem figuring out who she was talking about?</p> <p>A. No. She was pretty adamant and pretty clear that it was</p>

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						<p>Bravo, the supervisor, R.N. supervisor from unit 208. She was definitely clear on that.</p> <p>Victim admitted that she changed her story, “for fear because of the friendship the workers at the unit had.”</p> <p>She had initially said that the person who assaulted her was a patient, or a man from the street, and told a worker and the D.A. that she had the wrong person in jail.</p>
Briscoe, Johnny	V – CR	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – only person at line-up with only four people wearing prison jumpsuit, and only person repeated from photo array 	<p>Q. Okay. And three of the men [at the four-person lineup] have on pants and regular street clothes; is that correct?</p> <p>A. That is correct.</p> <p>Q. Okay. However, Johnny Brisco has a jumpsuit on with pants over it; is that correct?</p> <p>A. That is correct.</p> <p>Q. Now when you viewed that lineup in the city the photos that you were shown, Johnny Brisco is the only person who was in the lineup who was also in this group of photos; is he not?</p> <p>A. Yes.</p> <p>Q. Okay. So there is only one man whose photo you were shown who also appeared in this lineup?</p> <p>A. Yes.</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy in description – victim did not describe prominent facial hair and gold tooth 	
Brison, Dale	V – CR		<p>No</p> <ul style="list-style-type: none"> • Victim saw defendant on the street without police present – although, police did not follow up with any line-up procedure 	<p>Victim had “seen him on the streets of Oxford” before, prior to the assault. A few days after the assault, she then saw “the same guy that attacked</p>	<p>No</p> <p>Victim recalled seeing attacker’s face clearly and for 20 minutes.</p>	

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				me” in a group on the street near her apartment.		
Bryson, David	V, E (2)	Photo array, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – told person identified was in custody • Eyewitness not told attacker might not be in line-up 	<p>"Q: Do you remember making the following statements?... 'Did you know they had a person in custody when you got the phone call to inquire about the photographs? Answer: Yes.' Do you remember making that? A: I don't remember what I said. Q: Okay, and then the next question. 'How did you know that? Answer: Because they told me.' Do you remember making that answer in response to that question? A: Well, I just don't remember..."</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair and glasses 	<p>"Q: So there was no distinct mustache? It was just as if a man had let his beard grow without a razor touching it for two or three days? A: That's what it appeared to me. Q: Now during this time, you were not wearing your contacts were you? A: No, I wasn't.</p>
Bromgard, Jimmy Ray	V – IR	Line-up	<p>Yes</p> <ul style="list-style-type: none"> • Victim not told attacker might not be in line-up, and believed attacker was to be in line-up 	<p>Q. In respect to it, hadn't they also told you that they had a suspect in that lineup and they wanted to see if she could pick it out? A. Yes. Q. So you knew there was a suspect, someone that she was perhaps to pick out from that lineup, is that correct? A. Yes.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain of identification • Discrepancies in description 	<p>Q. And if we were to quit using percentages, would you say that you are, how would you describe how sure you are [about identification]? A. I am not too sure. Q. And he was standing then with his back to the door [where the light was]? A. Yes. Q. And yet you could see him clearly? A. No. Q. You could not see him clearly? A. Not too clearly. Q. You couldn't make out what his face looked like or anything at that time? A. Sort of. Q. Just sort of? A. Yeah.</p>
Brown, Danny	E – IR (J)	Photo array, show-up	<p>Yes</p> <ul style="list-style-type: none"> – Acquaintance – son of victim had met Brown because he had briefly dated victim 		<p>No</p> <ul style="list-style-type: none"> - Although inconsistent on whether there was a second man, an accomplice. 	<p>Q. Now, did you ever tell [Detective Marx] that you saw the other man standing in the living room with</p>

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			<p>However, photo array contained only three other individuals on back side (four were on each side)</p> <p>A show-up was then conducted at the police station. Police said this was done because defendant's alibi witnesses had insisted that a mistake must have been made. Officer described that "a decision was made to allow this – one-on-one, I will call it," although the two alibi witnesses were present in the room.</p>			<p>Danny? A. (Witness nodded affirmatively.) Q. Huh? A. Yes. Q. Did you ever tell him that the guy was standing there while Danny was choking your mom? A. Yes. . . . Q. Now you also told everybody here today that there was nobody with Danny; that he was all by himself. You said that, didn't you? A. Yes. Q. So it's got to be wrong somewhere, doesn't it? A. (Witness nodded affirmatively.)</p> <p>Q. So when you looked at whatever you saw, did you just see for a second? A. Yes. Q. Or a long time? A. See for a second. Q. For a second? You peeked? A. Yes. Q. And you ran back upstairs? A. Yes. Q. So is it true or is it fair to say, Jeffery, that whatever you were looking at, you didn't look at it very long at all, you just looked at it a real short time? A. Yes.</p>
Brown, Dennis	V – CR	Line-up, photo array, comp	<p>Yes</p> <ul style="list-style-type: none"> Victim not told attacker might not be in line-up <p>She identified Brown, who</p>	<p>Q. What was the status of Mr. Brown at that time [of the line-up]? A. At that time he was a volunteer fill-in.</p>	<p>No</p> <p>- But at one point testified that she only saw attacker's face briefly</p>	

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		osite drawing	was a volunteer filler.	Victim was told to say “if she recognized anybody in the line-up” and was asked at the line-up, “Is there anybody in the line-up that you recognize.”	when “his mask dropped off”	
Buntin, Harold	V - CR		No transcript			
Bullock, Ronnie	(V) (2)	Line-up, composite drawing	Yes <ul style="list-style-type: none"> • Suggestive line-up – defendant was only person with markings on face 	Q. Now, of the men that were in that lineup, only one individual had any distinctive markings on his face whatsoever, isn't that correct? A. Yes, sir. Q. Wouldn't you say the most distinctive aspect of the description that had been provided by Deanna Lynch were the bumps that she described on the man's face? A. Yes, sir.	No <ul style="list-style-type: none"> • Discrepancies in description – whether he had pock marks or scars on face 	Q. But you couldn't remember whether the man had any facial hair, could you? A. No. “Q. You didn't tell the police officer that you – That the man that attacked you had pot marks, scars, scratches on his face? A. I didn't say pot marks, I said bumps.” Also told police that he had “line on his forehead”
Burnette, Victor	V – IR	Show-up, composite drawing	No <ul style="list-style-type: none"> • Show-up – but properly conducted shortly after the incident 		No <ul style="list-style-type: none"> • Discrepancies in description – facial hair and glasses 	Described attacker as “About five eight, 160 pounds, long blond hair, blue jeans, mustache, beard.” Victim testified, however, that attacker had “curly” hair and she was “unclear” on whether he had a beard or not. Defendant wore glasses, without which he could not see well due to eye injury. He wore a beard and did not have curly hair. Defendant was 5'8” but weighed only 140 pounds.
Butler, A.B.	V – CR		No transcript			
Byrd,	V	Show	Yes		No	Q. Read for the jury

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Kevin		-up – in-court	<ul style="list-style-type: none"> Victim saw defendant at grocery store without police present. This not followed by a line-up or any other identification procedure to test whether the defendant was the attacker or the same person the victim saw at the grocery store (earlier photo array without D resulted in no i.d.) 		<ul style="list-style-type: none"> Discrepancy in description – wrong race 	<p>this particular statement on to the end, please.</p> <p>A. "The man that assaulted me was a white male, but he had an unusual color of skin. It was a honey brown color, but he was not black."</p>
Callace, Leonard	V - CR		No transcript			
Cage, Dean	V – CR	Voice -i.d., line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> Irregular i.d. conducted at defendant’s workplace Single voice i.d. (a voice show-up) conducted at the police station 		<p>No</p> <ul style="list-style-type: none"> Discrepancies in description – facial hair, skin. Cage had distinctive scars on his face, under his left eye, which the victim had never described. 	<p>Described “a mustache and rough skin” which Cage did not have when arrested a few days after incident</p>
Capozzi, Anthony	V – IR (4)	Line-ups	<p>Yes</p> <ul style="list-style-type: none"> Suggestive line-ups – defendant was the only person without facial hair and the shortest in lineup, and in second lineup, only one with short cropped hair 		<p>Yes</p> <ul style="list-style-type: none"> Initial non-identification Initially uncertain of i.d. – victim “unsure” and identified a filler initially – one victim could not see attacker’s face Discrepancies - included facial hair, weight, age, acne and failure to mention prominent scar on forehead 	<p>One victim “just saw the outline of his body” and not his face</p> <p>Q: Did you feel that, whether you were rushed or not, that you had to put a number down? A: Yes I did.</p> <p>Q: As I understand it, you put a number down on the sheet supplied to you by the police officer conducting the lineup. A: Yes I did. Q: What else did you put down? A: I put down I was unsure."</p> <p>Q: And you observed at the time, did you not, that Anthony, the person that you saw in the lineup and the person that you pointed to and picked out in the second lineup, was heavier or fatter I think is the</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						word you used, fatter than the person who did this thing to you in December of 1983, right? A: Yes.
Chalmers, Terry	V – CR	Line-up, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – detective told victim she had identified the same person in each procedure • Defendant repeated in four separate procedures • Suggestive line-up – defendant was the only one wearing a bright shirt 	<p>Q. After you viewed that [second] lineup do you remember Detective Rondina or one of the detectives telling you that you picked out the same person all along in the three prior photographic procedures, the three prior identification procedures?</p> <p>A. At the moment that I identified him, no. It was after when I was sitting down and talking to them that, yes, he told me that.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain of i.d. • Initial non-identification – victim initially picked defendant and one other person 	<p>Q: As I understand it, you put a number down on the sheet supplied to you by the police officer conducting the line-up. A: Yes I did. Q: What else did you put down? A: I put down I was unsure."</p> <p>"Q: And you observed at the time, did you not, that Anthony, the person that you saw in the lineup and the person that you pointed to and picked out in the second lineup, was heavier or fatter I think is the word you used, fatter than the person who did this thing to you in December of 1983, right? A: Yes."</p>
Charles, Clyde	V – CR	Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up conducted shortly after incident • But – prior to show-up described how suspect was wearing clothes just as victim had described 	<p>We went into the room and asked her if she could identify or make a positive ID in the suspect that we had, and she was, ...she was brought up there in a wheelchair to the emergency room door exit and she identified the subject right there.</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancy in description – facial hair (Charles had facial hair) 	<p>Q: What about facial hair? A: No facial hair. Q: Do you remember that or are you just guessing about that? A: He had no facial hair. Q: At all? A: That's right.</p>
Charles, Ulysses Rodriguez	V – CR (3)	Line-up, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Victim not told attacker might not be in line-up • Suggestive remarks - told to keep looking when identified another photo 	<p>One victim said that the side view of Charles "looks like him," but "they told me to continue, to keep looking," and "I did pick out another photo." She then "ran out of the room." The detective then told her to come back in, and told her "Look at the picture again," and this time she identified</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial (or subsequent) non-identifications by all three victims <p>Possible discrepancy in description – described "dark" skin, "scraggly hair and accent, did not describe gold tooth (victims said they did not see his teeth)</p>	<p>First victim: Q: And you were asked whether you could identify anybody in that lineup, weren't you? A: Yes. Q: And you said no didn't you? A: That's because I was scared...Q: You didn't identify anybody in that room, did you?</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				Charles.		<p>A: Not in that room.</p> <p>Second victim noted she did not identify defendant in photo array, stating "I just couldn't tell." Third victim said she was 99 percent sure at the time of the photo array, but said "I'm not" sure.</p> <p>Neither second nor third victim could not identify him in the live line-up. The third explained, "It was three years later."</p>
Chatman, Charles	V	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> Victim not told attacker might not be in line-up 	<p>Victim described "admonition to look carefully at the features" but to ignore any facial hair</p> <p>Officer recalled telling victim "to look through the photographs, all six photographs, from the first one to the last one, if there was anyone that could have possibly been the assailant to so advise me."</p>	<p>No</p> <ul style="list-style-type: none"> Discrepancy in description – did not mention missing teeth <p>Did not mention that had seen attacker previously in the neighborhood</p>	Victim got "a good glance" at attacker but said she did not notice his teeth.
Clark, Robert	V – IR	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> Suggestive remarks Suggestive line-up – and only person repeated from array to line-up Victim told attacker would be in line-up 	Did he tell you he thought the picture would be there of the person who had done this to you? Your answer: 'Well, he told me the person he had got a line on was someone...had saw him drive my car or something.	<p>Yes</p> <ul style="list-style-type: none"> Discrepancy in description – height and weight, described attacker as 5'7", where Clark is over 6'1" Initial non-id and initially uncertain – initially picked the mug shot of another man, and when first saw Clark's photo was not certain 	Q: So your statement at the time that you looked at the photo lineup was only that he looked very much like the person, isn't that true? A: Yes.
Coco, Allan	V – CR	Composite drawing, photo array	<p>Yes</p> <ul style="list-style-type: none"> Victim not told attacker might not be in line-up 	Officer recalled "I told her if she happens to spot the subject in question that these were possibilities, to point to the subject and handed her the lineup."	<p>Yes</p> <ul style="list-style-type: none"> Initially uncertain Discrepancies in descriptions, including tattoos, hair, facial hair victim also had PTSD, flashbacks 	"Q: Ma'am, you said that when you picked him out in the lineup, he didn't look the same or--he didn't look the same. Is that what you said earlier?"

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						A: I said that he was more clean-cut than he looked in the lineup."
Cole, Timothy	V – CR	Photo array, line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up - Cole's was the only color photo while the other five photos in the array were black-and-white. Cole was also the only person in the photos who was looking at the camera; the other five fillers were facing to the side. • Not told that culprit might not be in photo array or line-up • Cole repeated from photo array to line-up 	Victim testified at trial that when first presented with the photo array, "They asked me if I could pick him out of there, if any of them were him." She assumed at the line-up as well that officers believed they had a suspect in the line-up. The police had called and "they said they had found a suspect."	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain • Discrepancies in description included height and failure to note scarring across back 	<p>When first shown the photo array, the victim was not positive, until prompted by detectives: "I said, I think that is him."</p> <p>Q. And what did they reply after you said that?</p> <p>A. They said: 'Are you positive?' and I said: 'Yes, I am positive that is him.'"</p>
Cotton, Ronald	V – CR	Line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks 	Victim later recounted that "When I picked him out in the physical lineup and I walked out of the room, they looked at me and said, 'That's the same guy,' I mean, 'That's the one you picked out in the photo.' For me that was a huge amount of relief."	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification (one victim at line-up could not decide between two people and second victim could not identify) • Discrepancies in description - composite looked unlike defendant, and also scars not mentioned 	<p>And at the conclusion of that first time through at that lineup, isn't it true that you told Detective Gauldin, quote, 'It is between #4 and #5'?</p> <p>A: Yes, I told him that for certain reasons</p>
Cowans, Stephen	V – CR, E (4)	Line-up, photo array,	<p>No –</p> <p>But Cowans was repeated from the photo array to the line-up</p> <p>And members of line-up were in their mid-to-late twenties, while witnesses described a shooter aged 19-20 or so.</p>		<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain – several witnesses uncertain about identification 	<p>Victim when viewing photo array could not make identification; "I stated that I believed that was the person who shot me but I'd like to see him in person."</p> <p>Several eyewitnesses did not make an identification during the photo array, or the lineup.</p>
Cromedy, McKinley	V – CR	Show-up, mug shots, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Show-up • Suggestive remarks 	Victim saw man she recognized as attacker on street and called police. Police then asked her to come to the station, saying, "we think we have who you described to us, can	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – gap in teeth • Initial non-identification 	<p>Victim did not identify Cromedy's photo when looking at mug shots.</p> <p>"Q: Do you know whether or not she</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
		ng		<p>you come down and ID him.”</p> <p>Victim then viewed Cromedy in a holding cell with police officers in uniform.</p>		<p>looked at McKinley Cromedy's picture when she looked through those numbers of slides? A: Yes she did.”</p>
Crotzer, Alan	V (5) (J)	Photo arrays, show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up - one victim could not identify him in photo array, so was given single photo – and still could not pick him out. Another victim did identify him after being shown photo that two other victims had selected. • Victim not told attacker might not be in line-up 	<p>The detective asked “if any of the individuals he was showing looked at all familiar”</p> <p>One victim said “I believe I was [shown a single photo of Crotzger] Q. “You believe you were but you did not pick him out? A. That’s correct.”</p> <p>Additional victim testified that she “had seen one [photograph of Crotzer” that [two other victims] had signed.”</p> <p>“Q. You only identified it after you say [the two other victims] sign it; is that right? A. Yes, yes.”</p> <p>One of the other two who identified the photo of Crotzer similarly identified it only after his wife, also a victim, had identified it and signed the back of the photo.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification • Discrepancy in description - complexion 	<p>One victim described the attacker with the gun (identified as Crotzer” as light complected, which he was not. One victim did not identify from two different photo arrays, testifying “they just didn’t look positively enough for me to say definitely it is the person” – she then identified him at the preliminary hearing, where he was.</p> <p>Another similarly could not identify him from the photo array, and was then shown a single photograph of Crotzer, but could not pick him out. He did identify him at trial, stating, “There is a little difference between a picture and flesh.”</p> <p>Additional victim could not identify from photo arrays. She did then identify his photo, but only after being shown the photo that two other victims has selected and signed.</p>
Dabbs, Charles	V - IR		No – but Acquaintance		<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description - hair in cornrows, had no missing teeth 	<p>“What is it about the smile that you recall? A. He has some teeth missing.”</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Dail, Dwayne Allen	V – CR (J)	Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up - no line-up conducted; sole i.d. procedure conducted by State was in court 	<p>Defense lawyer argued in closings that “this girl cannot even identify this man and has not prior to sitting in this courtroom, actually identified this man. Never pointed him out to anyone ever.”</p> <p>Prosecutor argued in closings, “We have another prior eyewitness identification on the 16th of October, 1987, as I argued, which was seeing him on the street, which I would say is much stronger than the police line-up type of thing.”</p>	No – although testimony of victim not obtained	
Davidson, Willie	V	Show-up, photo array	<p>Yes – though acquaintance of victim</p> <ul style="list-style-type: none"> • Show-up – had stocking placed over his head by police in front of victim • Suggestive remarks 	<p>Victim acknowledged that Davidson had a stocking “over his face the night he was at the detective bureau.”</p> <p>Davidson was asked - “You are positive are you not, that the detective kept pulling down a woman's stocking over your face and asking Miss [], is this it, is that it? A: Yes”</p> <p>The detective denied saying “is this it,” but acknowledged pulling the stocking over Davidson’s head in front of the victim – “I just pulled it down and she looked at him.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain • Could not see attacker's face since he was wearing stocking mask 	<p>Attacker was wearing a “stocking cap” over his face</p> <p>Did not initially provide police with the name Willie Davidson, explaining, “In fact, I didn’t hardly know what I was doing anyway because I just didn’t know.”</p>
Davis, Cody	V – IR (2)	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – only three others in 30 photos shown in arrays had tattoo on neck 		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification – at line-up said he looked the closest to the attacker • Discrepancy in description - wrong location of tattoo 	<p>Described “an individual roughly 5-8, 5-10, sort hair, kind of bald, like a crew-cut, and he had a tattoo on his neck...”</p> <p>The tattoo was on the right side of his neck, and was “like a prison tattoo” was “all dark” and looked like</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						<p>“Chinese characters”</p> <p>His tattoo said “Cody” and was on the left side, not the right side of his neck.</p> <p>Defendant at trial was “a lot thicker” and had “shorter hair” at time of incident</p> <p>Agreed that when show photo array, said that Davis looked “the closest” to the person who committed the crime</p>
Davis, Dewey	V – IR		No – but Acquaintance		No	
Davis, Gerald	V – IR		No – but Acquaintance		No	
Daye, Frederick Renee	V – CR, E - IR	Photo array, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up - only one photo had dark complexion or the hair described • Victim not told attacker might not be in line-up 	<p>“He told me he was going to show me about five pictures, and if there was any man in any of the pictures that looked similar or like the man that was there, that attacked me.”</p> <p>Victim testified that only the defendant’s photo, “one” photo in array had combed back, shiny hair she had described</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description - hair, facial hair, could not recall height, weight 	<p>Described hair that was combed back straight, and facial hair (but could not recall if it was a full beard or not)</p>
Dedge, Wilton	V	Photo array	No	Victim was acquainted with Dedge’s brother.	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description - height, weight, victim initially described person much larger and a foot taller than Dedge 	<p>In taped interview with police, victim described attacker as “about six” feet tall, and initially described attacker as about 200 pounds, later 160 pounds, and “big, muscular.”</p> <p>Dedge was 5’5” and 125 pounds.</p>
Diaz, Luis	V – CR (8)	Line-up, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – photo array consisted of a driver’s license of Diaz but mug shots of others 	Police told one victim “that they were holding a man in custody and they had a few men in the lineup that they would like	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in descriptions- hair color, weight, height, facial hair • Initial non- 	For example, one victim said she had a “clear picture” of the attacker at trial, while earlier had told police

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
			<ul style="list-style-type: none"> • Suggestive remarks – officer twice told one victim to look a second time at array with Diaz’ photo in it; when she still was not certain, they brought him for a live line-up, and he was the only person repeated from arrays to line-up; she was also told that another victim identified Diaz. Another was told Diaz’ name and that he had been arrested before the live line-up. Victims also saw images of Diaz on television after his arrest. • Victim(s) not told attacker might not be in line-up <p><u>Brady</u> – lawsuit alleged that police did not disclose non-id and suggestive lineup and remarks</p>	<p>me to view.”</p> <p>One victim was told “Do you want to look at it again” and was shown the line-up repeatedly until identified Diaz.</p> <p>Another victim was told Diaz’ name and that he had been arrested; she was upset that she had not identified Diaz at the line-up, and was told not to worry and that she would have another chance; she viewed a video line-up several times before identifying Diaz.</p> <p>Defense lawyer commented on the photo array, that “It happens that one of the photographs is radically different than the other five that sticks out like a sore thumb.”</p> <p>Detectives drew attention to that photograph, telling one victim that it was an “old photograph” when she asked “why this was different from the rest because the others looked like typical mug shots . . . and the other one did look noticeable different. . . .”</p> <p>That victim was also told that “there were other girls and they think this was all connected.” She also agreed she was told that police “had a person in mind” when called to look at the photos.</p> <p>Another described in her deposition that she was uncertain at the line-up and was told by officers “that was ridiculous.”</p>	<p>identifications</p> <ul style="list-style-type: none"> • Initially uncertain • Non-identifications - 23 women, all assaulted by the “Bird Road Rapist,” were brought for lineups, five identified D, others identified other persons, and 9 identified none 	<p>she had only a “fuzzy” recollection and had said she was “not positive” at the line-up. She agreed that she had been uncertain, but that “over a year later, [her] mind has cleared up, and [she] has a sharper picture of the man. . . .”</p> <p>One victim initially identified another man in line-up, explaining she did so because she “wanted to get out of the room.”</p> <p>Diaz was 5’3” and weighed 134 pounds, had no facial hair, and spoke very few words of English. Victim’s descriptions varied and many did not remotely resemble Diaz. For example, one described a man that was “six foot two” and 220 pounds, with a mustache. Others described an attacker who was 5’9” or 5’10”. One described him as a “white male.” Others described a man who spoke fluent English, or with a “moderate Latin accent,” one said the attacker “had no accent.”</p>
Dillon,	E –	Comp	Yes		Yes	Eyewitness testified:

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
William	IR	osite drawing	<ul style="list-style-type: none"> No identification procedures conducted following composite or pre-trial. 		<ul style="list-style-type: none"> Discrepancies in description - hair, facial hair – moustache Initially uncertain - witness half-blind 	<p>"I'm not a thousand percent sure. Are you?"</p> <p>Eyewitness described "medium" thick moustache, which Dillon did not have, and hair that was "much shorter." Also described man as six foot or six foot one, where Dillon is six foot four inches. Also stated at trial that composite was not accurate, and that mustache was not right shape and should not have been black.</p> <p>Eyewitness also noted "I am half-blind, legally," but added that he was able to get a look at the assailant through his good eye.</p>
Dixon, John	V	Photo array	<p>No</p> <ul style="list-style-type: none"> But repeated photo in two photo arrays 		<p>Yes</p> <ul style="list-style-type: none"> Discrepancies in description - facial hair Initially uncertain 	<p>Victim stated that Dixon "bears a strong likeness" to the attacker but had "slightly different facial hair"</p>
Dominguez, Alejandro	V – CR	Show-up, photo array, mug shots	<p>Yes</p> <ul style="list-style-type: none"> Show-up Suggestive remarks <u>Brady</u> – "the criminal prosecutor testified that he was never told about any showup used in [victim's] identification of Dominguez." 	<p>Police told the victim, "Watch the one sitting on the chair. Tell me if that is the one that hit you."</p> <p>The building security guard "had gotten him to come downstairs. I walked by when he was in the security office. I walked by and identified him."</p>	<p>No</p> <ul style="list-style-type: none"> Discrepancies in description – height and pierced ear 	<p>Victim described the rapist as about 5'8" with curly black hair and a "diamond studded earring."</p>
Doswell, Thomas	V – CR, E - CR (2)	Photo array	<p>Yes</p> <ul style="list-style-type: none"> Suggestive Line-up – his was only photo marked with an "R" Victim not told attacker might not be in line-up 	<p>The detective "asked if she could identify the individual who committed the assaults..."</p> <p>"Out of all those photographs there was</p>	<p>Yes</p> <ul style="list-style-type: none"> Initial non-identification Discrepancies in description - facial hair, bruises on face, neck brace 	<p>Defendant had "a Fu Manchu type of mustache" when arrested, unlike the attacker, who had "a full beard."</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
			<p><u>Brady</u> – victim later alleged that detective pressured her to identify Doswell. She stated in affidavit that “[t]he only reason I picked [Doswell] out in the courtroom is because Detective [] told me to and I was afraid of him.”</p>	<p>only one photograph with an R on it? A. Right. Q. That happens to be the one you picked? A. Right. Q. That didn’t affect your determination was to who it might be, did it? A. No. Q. How about the fact that of all the photographs here, none of the individuals displayed any portion of their body besides the head? A. When I was shown these pictures I seen numbers and looked at the faces only...”</p>		<p>He had no cuts on face, where the victim had “hit him on the side of the head.”</p> <p>He had brown eyes, unlike the dark black eyes the victim described: “His eyes are different from the eyes you saw that day; is that correct ma’am? Yes.”</p>
Dotson, Gary	V – IR		No transcript – victim later recanted her identification and admitted she fabricated the crime report			
Durham, Timothy	V – IR	Photo array	No		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification at hearing • Discrepancies in description – described pock marks and scarring on face of attacker – although at trial modified this to describe a “rough” complexion 	Durham had a beard at preliminary hearing, at which the victim was unable to identify him.
Echols, Douglas	V – IR	Show-up	<p>No</p> <ul style="list-style-type: none"> • Show-up – but properly conducted shortly after the incident 		No	
Elkins, Clarence	V – IR (J)		No – victim eyewitness was an Acquaintance – no identification procedures used		<p>No</p> <p>No description was provided to police. However, six year-old victim did not initially say that “Uncle Clarence” did it, but only after speaking to her mother and father and an officer, did she identify him.</p> <p>She saw the attacker’s</p>	

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
					face only briefly, "only once," which was "when he punched me."	
Erby, Lonnie	V – IR (5)	Photo array, line-up, show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up • Suggestive line-up • Suggestive remarks • Victims not told attacker might not be in line-up 	<p>First victim was also told that the man she identified in the line-up was the same that she had identified in the photo array.</p> <p>Second victim noted, "Was this the one man, one picture you picked out, was he the only man who had a beard or moustache? A. Yes, sir."</p> <p>Third victim was shown a photo of Erby from the St. Louis Post Dispatch prior to viewing the line-up. "They said, 'can you identify this man from the paper,' and I looked at it."</p> <p>Fourth victim testified: "Sixth district came and picked me up from the house. And they told me that they needed me down to the station to identify the man because they believe that they have him." They told her that they had arrested someone.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification • Discrepancy in description – facial hair, hair 	<p>One victim did not initially identify Erby, explaining, "I didn't recognize him, I was scared," so was asked to "go take a second look" at the line-up.</p> <p>In police report, one victim described a moustache, but no beard – at trial she testified that he had a "little beard." Two other victims described no facial hair in their testimony. An officer said one had mentioned a beard. One victim described "short" hair, while another described longer hair and another described a medium afro.</p>
Evans, Jerry Lee	V, E	Photo arrays	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – officer provided victim information concerning suspect and told her they had a suspect. <p>According to Dallas County D.A., Dallas police officers "were leading and encouraging" victim to pick defendant and were "enthusiastically encouraging" after identification.</p>	<p>At trial the victim testified that the officer "said that was the man that – he said, 'Yes, that is the person that we have been looking at as a possible suspect."</p> <p>The officer told the victim at or just after the i.d. procedure "that [the defendant] had one previous arrest for something -- for carrying a weapon and that wasn't necessarily the weapon, but he also had on spiked</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair • Initial non-identification and initially uncertain – eyewitness could not identify defendant from photo array 	<p>Eyewitness testified that "His hair is a little bit different" and "he looks a lot lighter skinned" than in photo from array. She testified that "he looks different today than he did then" and "he looks different today than he did that night." The attacker had different facial hair. The victim said he had "some facial hair" but not amounting to a</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				bracelets or something like that.” The victim described the attacker as having a black glove with metal-looking spikes on it. At grand jury, the victim recalled the officer having told her, "they looked up and found that he had been charged once for wearing or carrying a weapon and the weapon was spiked knuckles."		beard. The victim "was a little hesitant at first because his hair was different than it was the night that I happened and there was one picture that had hair similar to it and I said,"This guy's hair is like it, but his face doesn't look like it." The defendant testified that he has had a mustache and a small amount of hair on his chin, but he never had facial hair on the sides of his face.
Evans, Michael	E – CR	Composite drawing	Yes <ul style="list-style-type: none"> • Suggestive remarks - Eyewitness said in deposition in civil rights case brought post-conviction that police suggested names to her and that she was “ quite sure” police mentioned the name Michael Evans to her during interviews and before she identified him. She also said that police detained her for ten hours pressuring her to name names. • <u>Brady</u> – eyewitness had received a \$1,250 cash payment from the Illinois Law Enforcement Commission for alleged relocation expenses when she named Michael Evans; new trial was granted when this was uncovered. 		Yes <ul style="list-style-type: none"> • Discrepancies in description - eyewitness said she lied about description initially – discrepancies included hair, shape of face, shape of nose, glasses, skin color, age. She was not wearing glasses at the time and did not see well without them. • Initial non-identification - prepared composite and did not identify Evans or Terry to police, although at trial said knew well who Evans and Terry were 	“You were misleading the artist in describing the person to the artist, if you are telling the truth now? A. Yes, sir, I am telling the truth now and I was misleading the artist” She described second person she saw, later identified as Evans, as “medium brown complected,” and with “very black eyebrows” that “almost looked like they were painted,” and “slim build,” between 19 and 25 years old, and with a small moustache. Evans was 17 years old.
Fappiano, Scott	V – IR (2)	Mug shots, photo array, line-	Yes <ul style="list-style-type: none"> • Suggestive line-up 	Defense lawyer argued that “The only person who stands out in that picture, and primarily because of height, is Mr. Fappiano.	Yes <ul style="list-style-type: none"> • Non-identification by third eyewitness, who did not testify at trial 	

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
		up		You could see he's inches below the two people who sit next to him. I mean really inches."		
Fears, Joseph	V – IR, E (3)	Photo array	No – victim was an Acquaintance		No <ul style="list-style-type: none"> Discrepancies in description – facial hair, hair, one witness' inability to provide any description 	One described a mustache, while another a goatee. One described a short afro, while another described hair that was slicked down. A third eyewitness said, "I couldn't describe something from that night. It was almost a year ago."
Fountain, Wiley	V – IR	Photo array	Yes <ul style="list-style-type: none"> Suggestive line-up – defendant only person with cap and jogging suit like victim had described attacker wearing 	"Q. And it didn't help at all that he had those clothes on that looked kind of like what you described earlier, did it? A. Yes. Q. It did help, didn't it? A. Yes. Q. And he was the only one that was dressed that way in those photographs, wasn't he? A. Yes."	No <ul style="list-style-type: none"> Discrepancies in description – facial hair, moustache 	One victim affirmatively told police that he did not have any facial hair. "Q. And you're telling this jury that the person that attacked you kissed you on the neck and then kissed both your breasts for about five minutes, and you were not able to tell anybody that he had facial hair, that is, a mustache? In fact, you told them just the opposite, didn't you? You told them he didn't have facial hair? A. Yes." Later at the parole hearing, she for the first time said that "it looked like he had a mustache, but I couldn't tell if it was a mustache or just a shadow on his face."
Fuller, Larry	V – CR	Photo array	Yes <ul style="list-style-type: none"> Suggestive Remarks Defendant's photo only one repeated in two arrays Victim not told attacker might not be in line-up 	Officer told victim that second photo had been taken the morning of the identification, that it was taken at Fuller's house, and that he had previously	Yes <ul style="list-style-type: none"> Initially uncertain Discrepancies in description – facial hair, age 	Initially told officer that the photo looked a lot like the attacker, but "I said that I felt funny identifying somebody from an old

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				<p>been imprisoned for armed robbery. The victim described that the officer “just asked me to look at the pictures.”</p>		<p>picture, and I would like to see a more current picture.”</p> <p>Victim testified “I had told the police that I didn’t remember any facial hair.” She blocked out the goatee in the photo with her finger and then identified him.</p> <p>Described attacker as “somewhere in his 20’s,” while Fuller was 32.</p>
Giles, James	V – CR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Victim not told attacker might not be in line-up • Multiple eyewitnesses present at array 	<p>Victim testified, “after I had identified it and said, 'This is definitely him,' my husband said, 'I stumbled on that picture, too.'”</p> <p>Officer said only “Do you recognize any of these men?”</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – age, two prominent gold teeth that the victim did not describe, facial hair 	<p>Defense lawyer pointed out in closings, “Now, what is unusual to me is that he has got two gold teeth, two prominent gold teeth. No mention of that.”</p> <p>Victim testified that attacker had no prominent mustache or other facial hair.</p>
Godschalk, Bruce	V – IR (2)	Photo array, line-up	No		<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair • Initial non-identification 	<p>One victim looked at photo array three times before making an identification, first saying “His eyes are looking up, but he's awfully damn close,” the second time saying, “Number four... I'm really getting -- I've got very strong feelings about number four,” and the third time saying, “Yes, I'm sure, number four.”</p> <p>Godschalk wore a mustache at the time, while the victims described the attacker as clean-shaven.</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Gonzalez, Hector	E - IR	Show-up, line-up	Yes <ul style="list-style-type: none"> Victim not told attacker might not be in line-up Show-up properly conducted immediately following the incident and in its vicinity 	Officer recounted instructions to eyewitnesses: "As they come to view the lineup, I explained to them there's going to be six individuals sitting on the other side of the one-way glass. If they recognize anybody, to tell me what number and under what circumstance"	No	
Good, Donald Wayne	V, E (2)	Composite drawing, photo array, line-up	Yes <ul style="list-style-type: none"> Suggestive line-up – As Fifth Circuit found in summary judgment ruling, Good had shown that the line-up was "fabricated," where the officer "stated he planned to frame Good for failing to cooperate" and to "fix" the photo array by underexposing his photo to darken it and make it better match the composite, as well as hide a tattoo and scar on his face. 	As the Fifth Circuit described, the plaintiff argued that the detective "proceeded to take several pictures of Good. He repeatedly altered the light settings on the camera with each picture in an effort to make Good's photograph better match the "dark tan" skin tone of the suspect in the police sketch"	Yes <ul style="list-style-type: none"> Discrepancies in description, skin tone, facial scar and tattoo Initial non-identification (by second eyewitness) 	
Gossett, Andrew	V – IR	Show-up	Yes <ul style="list-style-type: none"> Show-up – prosecutor showed single photo to victim 		No <ul style="list-style-type: none"> Discrepancies in description – height and weight. Victim did describe prominent scar, which Gossett had. 	
Gray, David A.	V – IR, E – IR		No		Yes <ul style="list-style-type: none"> Non-identification by one eyewitness 	
Gray, Paula	E - IR		No – eyewitness Acquainted with defendant		Yes <ul style="list-style-type: none"> Initial non-identification – did not make an identification until offered police assistance and relocation 	See Adams.
Green, Anthony	V – CR	Photo arrays	Yes <ul style="list-style-type: none"> Suggestive line-up – only photo with identifying information Suggestive remarks – told victim that they had a suspect and that his name was Tony 	Victim testified that the Officer "told me his name was Tony." The assailant had said his name was Tony. Officer recalled "we told her we had some	Yes <ul style="list-style-type: none"> Initially uncertain of identification 	No identification was made when first viewing the photo array; "I wasn't sure and I didn't want to be sure either."

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
			<ul style="list-style-type: none"> • Repetition of only the defendant's photo • Victim not told attacker might not be in line-up 	photographs that we had possibly the suspect in this situation."		
Green, Edward	V – CR		No transcript			
Green, Kevin	V – IR		No – eyewitness Acquainted with defendant (her husband)		Yes <ul style="list-style-type: none"> • Initial non-identification – had told police she lost all memory of what transpired 	"Q: And you lost your memory; is that correct? A: Yes."
Gregory, William	V – CR (2)	Show-up, photo arrays	Yes <ul style="list-style-type: none"> • No transcript exists, but arrest report and judicial opinion describe a Show-up, conducted after second victim failed to identify defendant in photo array 		Yes <ul style="list-style-type: none"> • Initial non-identification – records describe that both victims initially failed to pick defendant from a photo array. One victim could not see attacker's face, as he wore a stocking mask. • Discrepancies in the description, including as to facial hair, eye color, height and hair length 	
Harris, William	V – IR	Yearbook, photo array, line-up, attempted composite drawing	Yes <ul style="list-style-type: none"> • Victim not told attacker might not be in line-up • Suggestive line-up – others had mustaches 	<p>"Was there a time that a officer . . . asked you if you knew a person named William Harris? A. Yes. . . . Q. Did they ask you whether that was the man who assaulted you? A. Yes. Q. And what did you tell them? A. No." [This is referring to the son of the defendant]</p> <p>Harris only person repeated from year-book photo array to in-person line-up.</p> <p>"Well, of course she knew what the procedure was about, that it was to look at these men for the purpose of seeing if any of the men could be the person</p>	Yes <ul style="list-style-type: none"> • Initially uncertain of identification • Discrepancy in description – described person 5'7" or so and 165 to 175 lbs, but he was 6' and 185 lbs, and victim could not describe attacker well or prepare a composite 	<p>Officer testified – "She had told me that the best that she could recall was that the individual was black, he was a male, she estimated his height to be about five foot eight; and also she had said he probably weighed approximately 160 pounds; and that, you know what he was wearing; and that he had short, what they call short-cropped, Afro-type hair-do "</p> <p>Victim testified: "And you never told the deputy that the assailant was five foot seven? A. No."</p> <p>"Q. Did you--do you recall testifying in</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				<p>involved. And so there wasn't a lot in the way of instructions given at that moment. She was just asked to stand and look at these men."</p> <p>"Q. So you were trying to match the other people in the lineup with Mr. Harris --</p> <p>A. (Interposing) That's correct, yes sir.</p> <p>Q. (Continuing) -- As opposed to any description that might have been previously given by the victim?</p> <p>A. Exactly, yes, sir."</p>		<p>what's been referred to as the, as a, at a previous hearing in this matter on January 10th of 1986? A. Yeah. Q. And do you recall at that time answering questions to the effect that your assailant was approximately five foot eight? A. No, I don't remember that particular question.</p> <p>Q. And you were--do you recall how that, how that worked or what transpired when you were down there trying to draw up the composite? A. I just couldn't do it. Q. And why was that? A. I don't know, I just couldn't do it. Q. Was it because you didn't, weren't able to identify enough characteristics, facial characteristics to draw up the composite? A. I don't know the reason for it, but I just, I just didn't do it.</p>
Harrison, Clarence	V – IR (2), (E)	Show-up, composite drawing, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Show-up – showed second eyewitness composite prepared by the first • Victim not told attacker might not be in line-up • Suggestive line-up 	<p>Victim asked "if the photograph of the person who committed the crime against her's photograph was among the six."</p> <p>Second victim showed Harrison's photo first - "Q: Did he show you this picture before he showed you the other pictures or after he showed you the other ones? A: He showed me this picture first. Q: Showed you this picture</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancy in description – facial hair, mustache and goatee • One witness unsure 	<p>Attacker "was clean-shaven," but most people in photo array had mustaches or beards.</p> <p>Second victim wavered between saying he had a mustache and no beard, and both. She said "well, it might have been" a mustache, and added "Like I said, I forget</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				first.” She saw the composite, “a big old picture” on the detective’s wall when viewing photo array.		faces too quick.” She added that “I am not one hundred percent sure.”
Hatchett, Nathaniel	V - CR	Show-up	Yes <ul style="list-style-type: none"> • Show-up –in-court, no identification procedure conducted previous to that 		No – but no details of description provided and victim did not get good look at attacker	Victim briefly saw attacker initially and “saw him a couple of times while he was driving,” but “He threatened me not to look at him or he would kill me.” At trial, victim described only a black man who wore a hood. The description police received was of a “tall black male wearing dark clothing and reported to have a polo-type sweater shirt or jacket and dark baggy pants.”
Hayes, Travis	E – CR (2)	Show-up, line-up, photo array	Yes <ul style="list-style-type: none"> • Eyewitnesses not told attacker might not be in line-up • Show-up – eyewitness presented with the two suspects at scene – and then again in “line-up” or with just the two suspects again at the police station (see Mathews). 	“Q. Now Lieutenant, are you aware whether or not the two Defendants were placed together for purposes of identification prior to that? A. Yes. Q. And who was that done with? A. That was done with Lieutenant [], with the two witnesses, as well as the two Defendants. Q. So, the two Defendants were together in that identification procedure? A. Right, it was for a clarification purpose, because there was - - to make sure we had the person that was picked out as being the shooter and the other person as being not picked out.”	No – witnesses did not describe him with any detail; one called him “the short guy” for example.	
Henton,			No transcript			

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Eugene Hicks, Anthony	V - CR	Line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive lineup – Hicks was only very dark complected person in line-up • Victim not told attacker might not be in line-up, and instead was told that a suspect had been detained for her to identify 	<p>Officer testified “I told her -- there was someone in custody” when telling victim to come to police station to view line-up.</p> <p>Victim testified that police said “something to that effect” that they had a potential suspect, and that as a result she was “hoping that there would be someone” when she viewed the line-up.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair - mustache, scarring above eyes, cleft chin; victim initially said would not necessarily be able to identify her attacker • Initially uncertain 	<p>Victim said that Hicks “looked brighter and had a cleft in his chin” than the attacker, following the line-up.</p> <p>Police report noted that the victim appeared “hesitant for just a moment before she marked the witness identification form.”</p> <p>Victim testimony: “A: He fit the description. He was the man. Q: But you never saw his eyes, you never saw the mustache. A: Yes, I guess that's correct.”</p> <p>“Q. Now when looking at the assailant, did you notice any scars above the eyes? A. No.”</p> <p>Defendant had such scars as well as a mustache, which the victim did not observe.</p>
Holdren, Larry	V – IR (2)	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive lineup – 3 of 5 photos were wrong hair color, other photo was D's twin but a wrinkled photo; defendant’s photo was repeated in two separate photo arrays 	<p>The Judge commented - "This is not a very good photo array... I do think that this -- that there is a suggestive aspect of the photo array.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description –hair • Initially uncertain (the second witness) 	<p>Victim said attacker “had dirty blond hair” that was “longer than it is right now.”</p> <p>Officer testified that Holdren had hair that was “brown” or hair that “could be” black.</p> <p>Victim had described attacker as “cleancut” while Holdren had a beard and mustache.</p> <p>Second eyewitness was not certain and</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						testified “When I picked that photograph out, I believe I said that is similar to him or a good likeness or resembles him or however I said it”
Holland, Dana	V – IR (2)	Photo array, Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive lineup – defendant was only person wearing prison pants • Victim not told attacker might not be in line-up • Suggestive remarks • Show-up in second case, conducted properly, shortly after incident 	<p>Victim had been told “if there was anybody arrested matching the description she gave on the original report, that she would be asked to view a lineup.”</p> <p>Officer then told victim prior to lineup that they had a suspect who was arrested and who had her identification.</p> <p>Officer noted that at the lineup “I believe Mr. Holland was wearing a full prison uniform,” although he claimed that a table blocked some of that from view.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>“A. They asked me is this the man that raped me. Q. And when they asked you that, what did you say? A. I hesitated and then I said no.”</p> <p>She then “started to cry some more” and “I identified the defendant.”</p>
Honaker, Edward	V – IR (2)	Photo array, line-up (in court), composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive lineup • Suggestive remarks • Hypnotized victim and her boyfriend • Victim not told attacker might not be in line-up <p><u>Brady</u> – suppressed that hypnosis had been conducted and statement that victim did not get good look at attacker</p>	<p>Victim testified “I believe they called me at work and told me he had come up with a suspect.”</p> <p>Victim and boyfriend were asked to pick him out together in crowded courtroom at a preliminary hearing.</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description –missing teeth and scar 	<p>Honaker displayed in court how he had “a scar that runs from here to here where I had a gallbladder operation” which the victim did not describe.</p> <p>He was also missing “all except two” of his teeth, which victims did not describe.</p>
Hunt, Darryl	E – CR, E – IR (3)	Photo array, line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – defendant was one of two persons in 5 person array with no facial hair and braids 	<p>“Q. Do any of the three people with facial hair have their hair in braids or pigtails? A. No Sir. Q. So there are two people in there who don’t have facial hair but who do have pigtails? A. Correct.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification – initially identified person who was in jail at time of murder • Discrepancies in description – whether attacker had braids or jheri curls, height, weight 	<p>When viewed photo array, witness told police he was “not positive he was the person.”</p> <p>Second witness identified person initially who was in jail at time of murder.</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				<p>Q. Is Mr. Hunt one of those two people? a. Yes, he is.”</p> <p>Hunt was the only person repeated from the photo array to the line-up.</p>		<p>First witness described hair in “pigtails” and braids, while a third described “a straight-type jheri curl” and testified “No, it was not in corn rows or braids.”</p> <p>Third eyewitness thought Hunt’s photo in the newspaper “resembled” the man he saw, but identified him only in a lineup. He added that the composites prepared by the other witnesses “didn’t resemble anyone I’d seen.”</p>
Jackson, Willie	V – IR	Photo array and line-up	No		<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair, hair 	<p>"You did tell the police officer that the man who attacked you had short hair?" A. "Yes, he wore his hair close cut, not short. He wore his hair about so long from his head. ... It was freshly cut." Q. "Are you absolutely positive about the length of his hair?" A. "Yes, it was not long."</p>
Jean, Lesly	V – CR		<p>Yes</p> <ul style="list-style-type: none"> • Hypnotized victim <u>Brady</u> – did not disclose use of hypnosis 		No transcript	
Jimerson, Verneal	E – IR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – see Adams 		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification, see Adams 	
Johnson, Albert	V – CR (2)		No transcript			
Johnson, Arthur	V - IR		No transcript			
Johnson, Calvin	V – CR, E – CR (4)	Show-up, Photo array, Line-	<p>Yes</p> <ul style="list-style-type: none"> • Show-up – in court – and Johnson was repeated in photo arrays and line-up, and for one victim, also the 		<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair, hair • Initially non- 	<p>Second victim “couldn’t say for sure” whether attacker had facial hair but told police that it was not a</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
		up	show-up		identification – two victims picked fillers in line-up	<p>beard. A third victim described “some” facial hair. The Fourth said “I don’t remember a beard.”</p> <p>She testified that at the lineup “I picked the wrong one, and I knew it.” She explained “I just wanted to get this thing over with” and “I wanted to get out of there.”</p> <p>Third victim did not identify him in photo array, but did in line-up. Fourth victim did identify him in photo array, but identified filler in lineup, and then identified him in court, explaining, “I am a little more relaxed today, though.”</p>
Johnson, Larry	V - CR	Mug shots, Composite drawing, Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – redrawing of composite 	Prosecutor requested four weeks before trial that the composite be redrawn to add a mustache – police artist explained “One is a face without a mustache and one is a face with a mustached penciled in.”	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair, hair • Voice non-identification 	<p>Victim described attacker to the officers as having a "clean shaven pudgy face"</p> <p>Yet he had a ‘mustache, light beard’ when arrested the day following the incident.</p> <p>“Did you identify any of the voices of being the voice of the person who attacked you that night? A. I really couldn't concentrate on their voices. No, I did not identify them.”</p>
Johnson, Richard	V – CR	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – told victim that police had detained attacker and to come to see if she could identify him 	<p>“He said you need to come in for a lineup, we think we have him.”</p> <p>While viewing photo array, victim was silent</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair, mustache and weight • Initially uncertain – told police “I think that’s him” 	Victim testified “I said he weighted I think around 170, 175” “I said he was heavier than I originally estimated.”

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				and looking at the photo of the defendant. The detective broke the silence and asked, "Is there something about that one and I said yes, I think it's him."	when viewed photo array but "from a picture it was hard to tell."	<p>Did not describe mustache or scars on his face. "And if you had noticed that he had a mustache, you would have told the police about the mustache, right? A. Yes." "Did you notice that scar when this person was attacking you? A. No."</p> <p>"When you were looking at this picture for five minutes, you weren't sure that that was the guy, right?" A. "No, not absolutely."</p> <p>Initially told one officer attacker had a dark complexion, and then told a different officer that he had a medium complexion.</p> <p>Victim recalled being "not absolutely" sure when viewing photo array.</p>
Johnson, Rickey	V - IR	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Only 3 photos included in array <p>(Subsequent line-up was suppressed where defendant was not advised of right to attorney)</p>		<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – did not described gold tooth, weight 	Victim described attacker as "medium build" but agreed that defendant had a small build. Victim did not describe prominent gold tooth.
Jones, David Allen	V – IR	None	No – eyewitness Acquainted with defendant		No – though vague description provided	
Jones, Joe	V – CR, E – CR (3)	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – told they had a suspect who might be in the group • Victim not told attacker might not be in line-up • Show-up at preliminary hearing 	"And this person you saw that you now have identified as the person who did this to you, he was heading down towards the courtroom where you were heading, right? A. Yes. Q. And you knew at	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	Victim identified a filler in the photo array – "And once you put the folder out in front of her, what happened? A. She looked it over very careful, and then

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				<p>the time that the police had somebody in custody? A. Yes. Q. They had a person who had been charged with the offense of assaulting you? A. Yes. Q. And you knew that it was time for your hearing and that's the time that you saw Joe Jones, right? A. Yes. Q. You were expecting to see the person who was accused of assaulting you at that time? A. Yes.”</p> <p>When provided photo array, victim told - "And I explained to her that we had a possible suspect, and that he might be in this group."</p> <p>Officer asked victim to look again after choosing a filler in photo array – “Do you recall that after your response to him, he asked you again, look at them, even after you told him that that's the one, or you're pretty darn sure. He had you look at them again, didn't he? A. Yes. Q. And you looked at them again, didn't you? A. Yeah. Q. Those six photographs, right. And you picked the same photo again, didn't you? A. Well it was the one I picked first, yeah.”</p>		<p>picked out picture No. 3. Q. And whose picture was that? A. That was not the suspect. I don't recall whose name it was.“</p> <p>“Q. What did she say when she picked out or how did she pick out No. 3? A. She pointed to the picture. Q. And said? A. And I, well, she said, ‘That's the one.’ And I asked her if she was sure. Q. And she said, ‘Pretty darn sure’? A. Yes, sir.”</p>
Jones, Ronald	V – IR, E – IR (2)	Photo array, line-up	No because Acquainted, and no evidence of suggestion in line-up used for victim in prior case		No	
Kotler, Kerry	V - IR		No transcript But – apparent <u>Brady</u> issues – “police reports stated that the victim did not actually positively identify the defendant’s picture but described him only as a “look			

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			<p>alike.” Furthermore, as recorded in police reports, the victim’s description of the defendant was inaccurate for age, height, and weight. The defense was never informed about those reports.” Edward Connors, et al., U.S. Dep’t of Justice, Convicted By Juries, Exonerated By Science: Case Studies In The Use Of DNA Evidence To Establish Innocence After Trial 18 (1996)</p>			
Lavernia, Carlos	V - CR	Photo arrays	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – none in photos resembled defendant • Prior identification suppressed by court • Victim not told that attacker might not be present in line-up 	<p>Victim was shown the five photos from the array and agreed the others “nowhere near resembles” defendant and that the only photo that did resemble the defendant was his photo, which she identified.</p> <p>Victim was simply presented with photo array and asked “Are any of these the man that attacked you?”</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – did not identify prominent silver tooth with star on it or multiple tattoos 	<p>Victim said she saw “nothing unusual” about attacker’s teeth and did not see the numerous tattoos defendant had on his arms.</p>
Lindsey, Johnnie	V – CR (2)	Photo arrays	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – photos included dates of arrest and only two men in photos were shirtless 		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	
Lyons, Marcus	V - CR	Photo array, line-up, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – only one in six was wearing a shirt and tie and only one repeated • Victim not told attacker might not be in line-up 	<p>Officer told victim – “I related to her that I had a series of photographs that I would like her to look at, and in looking at them, to look carefully and only identify a picture if she knew that was the offender.”</p> <p>"And as a matter of fact, among those six photographs, is there one photograph that the collar of a dress shirt and a tie is clearly visible? A. Yes. Q. And that is to the exclusion of the other six,</p>	<p>No</p>	

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				<p>correct? A. Correct. Q. And that one photograph is of my client, Marcus Lyons, correct? A. That's correct."</p> <p>The victim "saw the photo lineup with my client's picture in it one day and five other people, and the next day, she saw a physical lineup with my client standing in it and five people that presumably she had never seen before and certainly are not included in that photo lineup, correct? A. That's correct. Q. But there is one guy that was the same both days, right? A. That's correct."</p>		
Mahan, Dale	V – IR		No transcript			
Mahan, Ronnie	V - IR		No transcript			
Maher, Dennis	V - IR, E (4)	Show-up, Line-up, Photo array, composite drawing	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up • Show-up – one victim brought to courtroom to identify him and another shown a single photo • Victim not told attacker might not be in line-up <p><u>Brady</u></p>	<p>Victim brought to courthouse to view defendant in the "arresting box. "Q. And for what reason did he say he would meet you? A. To take me to the courtroom to try to make a positive I.D. of the man who assaulted me."</p> <p>There were three men in the arresting box – and she identified another person, a filler – "I said there was a man in the arresting box who resembled my assailant."</p> <p>One eyewitness was shown a single photograph of the defendant by the police: "Q. And on that day, were you shown a photograph? A. Yes, I was. Q. Were you able to</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – facial hair, mustache • Initial non-identification – one victim picked a filler in the arresting box at a courtroom identification procedure • Initially uncertain 	<p>"Q. Did he have a mustache on? A: I am not sure? Q: Did he kiss you that night? A. Yes, I did. Q. And you still don't know whether or not he had a mustache on? A. No, I do not."</p> <p>"Q. when you selected that photograph, did you express any degree of certainty as to whether that person depicted your assailant? A. I was 99 percent sure. Q. Did you indicate anything that would make you 100 percent sure? A. Only if I saw him in person."</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				identify that photograph? A. Yes, I was.”		
Marshall, Michael	V	Show-up, composite drawing	Yes <ul style="list-style-type: none"> Show-up 	Eyewitness was asked, “Did I have a little free time to run by there to identify the gentleman that might be the one that had robbed my mom or took her car.” Show was conducted days after the incident and “while the defendant was in hand cuffs and lying on the ground surrounded by officers.”	Yes <ul style="list-style-type: none"> Initial non-identification 	In addition, the description of the suspect was very vague, simply a black man, or a skinny black man with short hair
Matthews, Ryan	E – CR (2)	Show-up, Photo array	Yes <ul style="list-style-type: none"> Show-up properly conducted immediately following incident Eyewitness not told attacker might not be in line-up 	“It was more like, ‘We think we got the suspect and the car. Would you identify it?’”	Yes <ul style="list-style-type: none"> Discrepancies in description – height One witness could not see the face of the gunman, who wore a mask 	“Q. This person you saw running down the street with the mask on, how tall do you think he was? A. He was approximately 6’0”. Q. Six foot? A. Approximately. I’m not sure. Q. He wouldn’t have been 5’4”, 5’5”, huh? A. I’m actually unsure. It’s been a while. It has been a while.” Second eyewitness also described shooter as six feet tall.
Mayes, Larry	V – CR	Photo array, line-up	Yes <ul style="list-style-type: none"> Hypnotized victim <u>Brady</u> – use of hypnosis not disclosed to defense – and forbidden by police department policy at the time. Suggestive remarks Victim not told attacker might not be in line-up Suggestive line-up - Defendant’s photo was repeated in multiple arrays – and one array included two separate photos of defendant, but single photos 	After picking filler, victim was instructed as follows - “They told me to stop and take a good look; asked me if I wanted them to say anything, if I wanted them to turn; to really concentrate.” After “Two or three minutes” she then identified Mayes. An officer described, “I was in the room when she first came in the door. She was looking at No. 5 subject [a filler]. She said,	Yes <ul style="list-style-type: none"> Initial non-identification – picked filler at line-up – and <u>Brady</u> – officer later testified in civil cases that victim’s photo array identifications were initially “tentative.” Discrepancies in description – age, facial hair. Did correctly describe gold tooth, which Mayes had. 	Victim explained she picked filler in line-up because “I was nervous. I wanted to get it over with and get out of there.” Victim descriptions became more detailed after hypnosis. However, victim could not recall if attacker identified as Mayes had facial hair (Mayes had a mustache). Victim also described

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			of the others – she was shown and “selected two (2) photographs” of Mayes, “[o]ne a side view, and one of a straight face of the same individual.”	‘No. 5.’ Q. Anything other? A. Just No. 5. So I grabber her and I said, ‘Come on in the room, and shut the door and look at everyone and see if he is in here.’ Q. Okay. And did she look? A. She studied all five subjects and made the statement, ‘No. 4. That’s him. It looks like him. Yes, that is him.’ I asked her, ‘Are you positive, []?’ And she said, ‘Definitely, yes.’”		the two attackers as “young” and was asked, “Q. How young? If you could give us approximate ages? A. Early twenties. Q. Have you since had any occasion to learn the ages of Mr. Hill and Mr. Mayes? A. Yes. Q. How old is Mr. Hill? A. He is 19. Q. How about Mr. Mayes? A. 30,” something.”
McClendon, Robert	V – IR (J)	Photo array, line-up	Yes <ul style="list-style-type: none"> Victim not told attacker might not be in line-up But – acquainted with defendant (father)	Officer asked victim, “if the man who was responsible, who did what he did, was in the photograph.”	Yes <ul style="list-style-type: none"> Could not see attacker’s face – blindfolded during attack 	At hospital victim gave statement that “I think it was my dad but I may be wrong because my eyes were covered a lot... I don't want my dad to go to jail if he really didn't do it,” but recanted that statement at trial, testifying “I never made the statement.”
McGee, Arvin	V – CR	Photo array, composite drawing	Yes <ul style="list-style-type: none"> Victim not told attacker might not be in line-up 	Victim recalled that the officer “just laid them down. He just laid them down and told me to look over them carefully.”	Yes <ul style="list-style-type: none"> Initial non-identification Discrepancies in description – hair 	Initially selected a filler from photo array, testifying, “I picked out a man that resembled him.” In second array, selected defendant's photo, but only after “I studied that picture for awhile,” for about 15 minutes. Description changed from “short” hair to at trial, collar-length to shoulder-length hair. Initial description included hair in a “jeri curl” and a “neat mustache.”
McGowan, Thomas	V – CR	Line-up, Photo array	Yes <ul style="list-style-type: none"> Suggestive remarks – told victim “You have to be sure” post-identification Suggestive line-up 	Describing the photos in the array, an exhibit at trial, the victim testified that three of the 7 photos were black-and-white	Yes <ul style="list-style-type: none"> Initial non-identification Initially uncertain 	Victim testified, “When I first saw them, I knew he wasn't in there so I marked none. And

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			<ul style="list-style-type: none"> Victim not told attacker might not be in line-up 	<p>photocopies or poor quality. Of the four color photos, all were mug shots with the defendants holding police department booking placards. One placard said "Garland Police Department" and three said "Police Department, Richardson Texas," which was the city where the crime took place. McGowan was one of the just three photos of men who appeared to have been arrested in Richardson.</p> <p>When showing victim photo array, the Detective instructed her, "I just want you to look through this and see, you know, if the guy who did this to you is in here."</p> <p>The victim testified: "They were handed to me. And I took the first one and put it behind the other one. Then I took this one, I looked at it and laid it aside. Then I took all the rest of the photographs and I shuffled them like this and looked at them quite a long time. And then when I got back to the beginning, I took this one and I looked at it. When I laid this one aside the first time, I said, 'I think this is him.' Detective [] said I have to be sure, and when I picked it up the second time, I said, 'I know this is him.'"</p> <p>"... when I laid the second picture aside, I said, 'This is - - I think this is him.'" And he said, 'You have to be sure.' So I looked at the</p>		<p>then I told Detective [] that I thought one of them looked like him. And I told him the reason I was saying that is because I couldn't - - I couldn't accurately describe him the way he looked. So, I said number five or six looks like him. He said, "Well, you have to put what you think." So, I marked six and I said this is not him but it's similar to what he looks like."</p> <p>"Because it would be easier for me to describe a black female, for some reason, than it would a black male. I just said he is black, he is this tall, and weights this much. I couldn't - - I didn't know how to accurately describe the way his face looked."</p>

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				<p>rest of the pictures and put them all back together, and I handed him the picture. And I said, 'I know this is him.'"</p> <p>"He said, 'You have to be positive.' And I said, 'I'm very positive.'"</p>		
McKinney, Lawrence	V – IR		No transcript			
McMillan, Clark	V - CR	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – told victims that they made arrest “based on their description” 		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>Victim said in statement to police, “I couldn’t see very good because he made me put my jacket over my head.” She said she did not know if she could identify the attacker if she saw him.</p>
McSherry, Leonard	V – IR, E (3) (J)	Photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – leading questions to eyewitness 	<p>Officer described how police posed leading questions to the 7 year-old victim: “We were trying - - the child was under a lot of strain and stress, so we were not asking her direct questions like you are asking. They were more kind of trying to help her go along with what we were trying to emphasize.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification – eyewitness initially picked filler, as did victim • Discrepancies in description – age, facial hair 	<p>Officers ignored victim’s initial descriptions - “We knew she was confused and did not put too much credibility to anything she was saying.”</p> <p>Victim said that the attacker was older than her father and even “Older than grandpa” where the defendant was in his 30’s.</p> <p>Officer testified, “At that time, we began walking down the hall, and then [the victim] did speak to me. Q. What did she say? A. [the victim] spontaneously said, 'I wrote number six, but the stranger was number three.'”</p>
Mercer, Michael			No transcript			

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Miller, Billy Wayne	V – IR	None pre-trial	Yes <ul style="list-style-type: none"> • Show-up – in-court – police conducted no pre-trial identification procedures 		No	
Miller, Neil	V - CR	Show-up, Photo array, composite drawing	Yes <ul style="list-style-type: none"> • Show-up – arranged in hallway at courthouse prior to hearing contesting suggestive photo array • Suggestive remarks – told victim to go with first impression 	Officer testified she told victim, after she identified two photos, the first of which was one of the defendant, that “if she had a first impression, that the best thing to do was go with her first impression.” The defense lawyer scheduled a hearing to argue that a new lineup should be conducted. In the courthouse, just before the hearing was to take place, the prosecutor walked the victim past Neil Miller in the hallway outside. Yet even after telling the victim that her attacker might be in that hallway, she still was not sure, and just thought he might be her attacker. She was not positive until she followed Neil Miller into the courtroom, where it was obvious who he was, looked at him again, and said “This is him.”	Yes <ul style="list-style-type: none"> • Initial non-identification (chose two photos) • Discrepancies in description – hair, hair color, weight 	Victim was “pretty positive” after photo array, but after courthouse show-up, and by the time of trial, was “very certain.” Victim described a man of medium build, 150-60 pounds, while the defendant was of a small build and only 140 pounds. Victim said attacker had short brown hair, but defendant had black hair, and a shaved head.
Miller, Jerry	V – CR, E (3)	Show-up, Photo array, lineup, composite drawing	Yes <ul style="list-style-type: none"> • Show-up – first identification procedure conducted at trial • Suggestive remarks 	Victim acknowledged at trial that the prosecutor had told her that “two other people have said he is the attacker.” Victim was never asked to participate in a photo array or lineup to that included Jerry Miller (although this was not entirely clear because she did not recall array and it was not preserved; if she did see Miller’s photo she did not identify him). In contrast, two non-victim	Yes <ul style="list-style-type: none"> • Initially uncertain (and uncertain at trial) • Discrepancies in description – facial hair - goatee 	Victim was tentative at trial, saying “that young man over there looks like him.” She had told police she “wasn’t sure” whether she would be able to identify her attacker. Victim had picked out “two possibles” in photo array but did not identify either one. One eyewitness described a “light mustache” and “peach

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				eyewitnesses were shown such a photo array, in which one identified Miller and one only tentatively identified him.		fuzz” but no goatee. One eyewitness not certain of identification when viewing photo array.
Mitchell, Marvin	V – IR		No transcript			
Mitchell, Perry	V – CR	Photo array	No	“She went straight to it, picked it up and said this is the man that raped me. I said are you positive? She said absolutely”	No	
Moon, Brandon	V – CR (2)	Composite drawing, photo array, line-up	Yes <ul style="list-style-type: none"> • Suggestive remarks • Defendant was only person repeated in two procedures 	<p>"Q. Now, you didn't actually tell the police that it was Mr. Moon at that time, did you? [of photo array]</p> <p>A. No, sir.</p> <p>Q. As a matter of fact, you told the police that you just weren't sure about it, is that right?</p> <p>A. I said that it looked like the man that I "X'd".</p> <p>Q. All right. In other words, it looked like a man that you "X'd" but you didn't tell the policeman that it was the man?</p> <p>A. Not at that time.”</p> <p>“Q. Did any other participants of either lineup appear twice?</p> <p>A. Not that I remember.”</p> <p>Second victim who testified in state's rebuttal case was told, that the police “got a phone call that they had found someone that might fit the description would I come down to identify someone in a lineup.”</p>	Yes <ul style="list-style-type: none"> • Initially uncertain 	<p>Victim asked to see live-line-up because she was not certain of identification – and asked that all participants wear a cap like that the attacker wore – she said, “I asked to please see him with the cap.”</p> <p>In addition, could not describe whether attacker had facial hair or color of his eyes.</p> <p>“Q. Why couldn't you tell the police whether the man had a mustache or not?</p> <p>A. I really don't know.”</p>
Moto, Vincent	V - CR		No transcript			
Nesmith, Willie	E (2)		No transcript			
Newton, Alan	V – IR, E	Photo array,	No <ul style="list-style-type: none"> • But possible suggestive 	One victim recalled, “Q: Did they tell you what to	Yes <ul style="list-style-type: none"> • Initial non- 	One victim was not sure at line-up and

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	- CR (3)	line-up	remarks – told a victim to expect to see culprits in the lineup	expect at the lineup? A: They told me to expect for the guys to be there but not to be afraid because they can't see me but I could see them.”	identification – two victims told the prosecutor in court that they were not sure the defendant was the attacker • Discrepancies in descriptions – long nails, facial hair, scar on face	asked men to speak in turn to be sure. She later told the prosecutor that she was not sure she had identified the right man: “Q: Do you remember saying in that conversation to the District Attorney that you were not sure that the man in the courtroom was the man who had done this to you? Do you remember saying that? A: Yes, I do.” A second victim, later explaining that she was “nervous” had told the prosecutor that she did not see in court the man who attacked her.
O'Donnell, James	V - CR, E - IR (2)	Mug shots, composite drawing, photo array, line-up	Yes • Victim not told attacker might not be in line-up • Defendant repeated from photo array to line-up	Detective testified: “I stated to her that I wanted her to look at the lineup and let us know if she recognized anyone.” Others in line-up did not resemble initial description (nor did O'Donnell – and O'Donnell's long hair was pulled back and hidden)	No • Discrepancies in description – composite and initial description, of a man with stubble and dark short hair, looked nothing like defendant, who had long red hair and prominent fu-manchu mustache	“She indicated to you that the perpetrator of the offense had no mustache; is that correct? A. Yes, it is.” She indicated that the attacker had hair that was “short” and had no facial hair.
Ochoa, James	V	Show-up	Yes • Show-up		Yes • Initially uncertain	When shown initial photo on computer, victim said it "looks like" the culprit, and that the suspect on screen had the wrong complexion.
Ortiz, Victor	V - IR	Show-up	Yes • Show-up –victim saw defendant months after attack, asked defendant to meet him at her school the next day, and pointed him out to police, who arrested him absent any other		No	

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
			identification procedure			
Peacock, Freddie	V – IR	Show-up, photo array	Yes <ul style="list-style-type: none"> • Show-up –victim acquainted with defendant 	Victim noted that in photo array, the others in array "didn't look like him." Following photo array, show-up conducted.	No – little description provided, but victim acquainted with defendant	Victim could not describe details about face, except "he got some hair on his face"
Pendleton, Marlon	V – IR	Line-up, show-up	Yes <ul style="list-style-type: none"> • Suggestive line-up – defendant was only person in line-up with hair shaved on sides, and only person with hair in braids in back. • Show-up - victim was shown defendant in handcuffs prior to viewing lineup, and did not see any other lineup participants prior to the lineup. 	"He was in handcuffs with officers. Q. And who else was in handcuffs at that time, Ma'am? A. No. Q. The only person in handcuffs prior to you making this identification was this man? A. Yes."	No <ul style="list-style-type: none"> • Discrepancies in description 	Victim described attacker as having rotten teeth and 170 pounds, while Pendleton was about 135 pounds and had teeth in good condition.
Phillips, Steven	V	Photo array, composite drawing	Yes <ul style="list-style-type: none"> • Suggestive line-up – others in photo array did not match description • Victim not told attacker might not be in line-up 	Officer agreed that none of the others in the photo array had the receding hairline or mustache (but no beard) that the victim described. Victim recalled "He just asked me to look at them and see if I could identify anyone, and that was all. There was virtually no conversation between the two of us."	Yes <ul style="list-style-type: none"> • Victim could not see attacker's face • Discrepancies in description – hair, eye color 	Described attacker as having "deep blue eyes" and "dark hair" Attacker had a sweat shirt hood up "loosely around the top of his head" and had a rag covering his face "from the tip of the nose down."
Pierce, Jeffrey Todd	V – IR (2)	Composite drawings, photo array	Yes <ul style="list-style-type: none"> • Suggestive line-up 	Judge denied motion concerning line-up – "Well, I'm going to overrule your objections. I've observed the photographs. All the persons depicted therein have some of the similarities that have been described by the witness, several of them, they all similar features. All right." Victim had described an attacker with "a hazel color" eyes (and asked the initial composite, with blue eyes, to be changed). "Q: But, in answer to my question, isn't number two	Yes <ul style="list-style-type: none"> • Initial non-identification • Discrepancies in description – hair, height, eye color – two very different composite drawings prepared 	Victim described attacker who "had blond hair and it was long," and to his shoulders Victim testified that she did not identify Pierce, who police pointed to outside her apartment, because, "I was hysterical and, like I said, still in a state of shock and I just said I don't think so and we just left and went to the hospital. I never, they never -- I never went over and got to look at the

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				<p>the only photograph in that set of six that has hazel eyes? A: Actually, number two, his eyes look brown or that's the way I perceive them.”</p> <p>Pierce was placed in line-up wearing a tan shirt, which the victim had described the attacker wearing – defense lawyer argued that “No other person is wearing a possible beige T-shirt with some kind of writing and emblem on it that fits her description.”</p>		<p>man's face.”</p> <p>Victim initially “just could not recall the color” of the attacker’s eye’s. Victim initially described attacker as “very blond headed” and a “natural blond” which Pierce was not; victim admitted that “as he’s sitting here right now, he is not a ‘very blond’ person.”</p> <p>Victim had composite redrawn – “Q: Would you please point out what it was about the composite drawing that you were dissatisfied with. A: Mainly the hair. It just didn't look right. It just did not look like the man who had raped me.”</p> <p>The defense lawyer argued: “The evidence will be that the first composite was of a blond person whose hair was below his shoulders, was falling out of sight from the head-on picture. The evidence will be it was all frizzed up and kind of curly and ill kept, very full, had a very full face, didn't look anything like this Defendant.”</p>
Piszczek, Brian	V - IR	Photo array, composite drawing	Yes <ul style="list-style-type: none"> Victim not told attacker might not be in line-up – instead told to look in photo array for person who assaulted her 	Officer testified “I advised her that I was going to show her a mugshot, a photo line-up consisting of single photographs. And I gave her instructions that she was to be looking for the individual that had	Yes <ul style="list-style-type: none"> Initial non-identification – did not tell police acquainted with attacker initially Discrepancy in description – ear piercing 	Initially told police that attacker’s name was Tim or Tom. “Q: Did you ever tell the people at the hospital you knew who it was that committed this crime? A: No. Q: You

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				<p>sexually assaulted her.”</p> <p>When victim identified the defendant almost immediately, she was told to look again to make sure.</p>		<p>did not do this? A: No. Q: When the police first came on July 29th, did you tell them that you knew who committed the crime? A: No.”</p> <p>And “six weeks after what happened, still I was still hysterical. More down the line, things come back to your memory and not as bad as it was in the beginning.”</p> <p>Victim described how the attacker wore a distinctive earring, “a cross with a turquoise” and “it has a chain, too.”</p>
Pope, David Shawn	V – IR	Composite drawing, photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – told victim to sit alone after line-up and to make a “more definite” statement • Suggestive line-up • Victim not told attacker might not be in line-up 	<p>“Then they took me upstairs to the police room and they said, you know, “Is that the man? Are you sure?” And then they left me in the room. They said, “Why don't you think,” you know, to make a definite statement, so they left me in the room.”</p> <p>They left her there for “maybe five minutes” and told her that “this is real serious” and “we want you to be real positive.”</p> <p>“Q. Is there one person that photograph [the photo array] that is blond and tan, more tan than the others? A. More than the others. Q. And that is the Defendant, isn't it? A. Yes.”</p> <p>Victim agreed that the others had light hair but</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification • Discrepancy in description – hair color 	<p>Victim looked at photo-array and said “I am not sure.”</p> <p>At the in-person lineup a half hour went by from the time she initially saw it until she told police “I am definite.”</p> <p>Defendant was not as blond as attacker was – “his hair is not as blonde.”</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				were not blond.		
Powell, Anthony	V – CR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks • Victim not told attacker might not be in line-up • Suggestive line-up 	<p>Victim testified that the detective "told me that I had picked the one he arrested," and "He said that I picked out the right one."</p> <p>Police officer present at identification procedure testified that victim was upset after identification, and that detective "said, don't worry. You chose the correct person."</p> <p>Victim testified - "He just said to look through the pictures; and, when I see the person, take it to the side and put it on the table and keep looking through the pictures."</p> <p>Victim testified that only one or two in the ten photo lineup had a round face like Powell, and that she told the detective she knew at least one or two in the lineup.</p>	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description of attacker, including hair and facial hair 	<p>Powell had a mustache and short but even hair. The victim described to police an attacker with no facial hair, and a "high top" haircut, though at trial said it was a low top haircut.</p> <p>Victim had described letters cut into the back of the attacker's hair, but at probable cause hearing admitted "there's no letters now."</p>
Rachell, Richardo			No transcript		<p>No</p> <ul style="list-style-type: none"> • Discrepancy in description – victim did not describe facial deformity and significant speech impediment 	
Rainge, Willie	E – IR	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – shown only three photos in addition to three photos of defendants 	See Adams.	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification – did not identify defendants until after offered police relocation 	
Reynolds, Donald			No transcript			
Robinson, Anthony	V - CR	Show-up, line-up	<p>No</p> <ul style="list-style-type: none"> • Show-up – properly conducted shortly after the incident 		<p>No</p> <ul style="list-style-type: none"> • Discrepancy in description – victim did not describe scars, pock marks 	<p>"Q: Well, okay. Were there any marks on his body? A: I didn't notice any marks. Q: Any scars on his body? A: Not that I noticed. Q: Any</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						<p>chickenpox bumps all over his body? A: Not that I noticed.</p> <p>“A. I didn’t notice any marks. Q. Any scars on his body? A. Not that I noticed.”</p> <p>In statement to police, told them that she did not get a good look at the attacker.</p>
Rodriguez , George	V – IR (J)	Photo arrays , line-up	<p>Yes</p> <ul style="list-style-type: none"> • Victim not told attacker might not be in line-up • Defendant’s photo repeated in three procedures, and did not provide any other procedure that included second photo victim identified 	<p>“I told her to thumb through the photo album and the pictures and take her time and study the faces and that if she saw anyone that she recognized as far as being associated with this incident that she should not say anything until she viewed all the pictures and then she should call that to my attention that she recognized whatever pictures they were.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification – picked two photos from line-up • Discrepancy in description – tattoos 	<p>Picked another photo from line-up and told police that “it looked like him.”</p> <p>Victim did not see any tattoos on attacker.</p> <p>She saw attacker’s face for only three or four seconds.</p>
Rollins, LaFonso	V	Composite drawing, line-up	No		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>“A: We had her view the lineup, yes. Q: And at that time that she viewed the lineup, she didn't identify anyone, did she? A: She couldn't positively identify anyone.”</p> <p>“Q: Isn't it a fact that you were unable to pick anybody out of the physical lineup, meaning real people? A: Yeah. And you were unable to identify anybody in the physical lineup? A: That's right.”</p>
Rose, Peter	V – CR, E (3) (J)	Show -up, Composite drawi	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – pressure to identify someone, said otherwise would close case 	<p>“Q: During that interview with her, didn't you tell her at some point you were looking, either you or Mr. Foster, were looking at</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>“Q: Did they ask you who did this to you? A: Yeah. Q: What did you tell them? A: I don't know. Q: Did</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
		ng, photo array, lineup	<ul style="list-style-type: none"> • Shown single photo of Rose 	<p>maybe dismissing the case? A: I don't recall if we said we were going to dismiss it necessarily. We wanted to bring it to an end. Q: And bring it to an end because you investigation wasn't having any luck bringing up anybody, was it? You didn't have any leads as to who this person might be at this particular point, right? A: Right. Q: And you confronted her about that? A: Yes.”</p> <p>Witness was given a warning that the suspect might not be present: “A summons admonition has to do with showing a photo lineup. It is an admonition that is given to the witness that has to do with keeping an open mind. The fact that the person who committed the crime may or may not be among the photographs you're going to be shown. The fact that you shouldn't discuss your selection with anybody else. The fact that it is just as important to free innocent person's suspicions as it is to find guilty person's (sic) responsible for what they have done. It is actually a formal admonition that we have usually attached to the back of the photo lineup that we prepare to show the witnesses”</p>		<p>you know? A: Yeah. Q: Why did you tell them you didn't know? A: Because I didn't want to tell them.”</p> <p>“Q: And they told you that they were confused because they had different descriptions, right? They wanted you to clear that up? A: Yes.”</p> <p>Officer testified, “Q: In fact, with respect to this naming of Pete as the party responsible for the events that occurred to her on the 29th of November of last year, she expresses some reluctance to do that initially, right? A: Yes, sir.” And “Q: At no time in this interview does she say Pete did it, does she? A: Not during the interview.”</p> <p>Later showed victim single photo of defendant: “Q: Now when you showed the victim a picture of the defendant, did you include that in a photo lineup? A: No, I did not. Q: Why didn't you include that in a photo lineup? A: Because she had already identified the defendant, both to the Lodi Police Department”</p>
Ruffin, Julius	V – CR		No transcript			
Saecker, Frederic	V – IR	Line-up	No identification at trial		Yes • Identified defendant at	"When I was looking through the lineup, I

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
					line-up by his “general build,” but did not see attacker’s face • Non-identification at trial – stated could not identify him by appearance	was going by the figure that I saw, the shadow that I saw, in the house.”
Salazar, Benjamin	V – CR	Show-up, photo arrays	Yes • Show-up – shown single photo of Salazar	After initial photo array, showed victim two more recent single photos of Salazar. “Q: And in going through those books did you pick out a picture of a person that you knew was the person who had sexually assaulted you? A: Yes Q: And did you finally learn who that person was? A: I saw the picture and I told Sergeant Merrill that it looked like him and he showed me a recent picture. And when I saw that one I knew it was him.”	Yes • Initially uncertain • Discrepancies in description – height, position of tattoos	Victim never described tattoos, which Salazar had on arms and hand, and described attacker as 5’5” or 5’7” while Salazar was 5’2”
Sarsfield, Eric	V - IR	Composite drawing, Show-up, photo array	Yes • Show-up • Victim not told attacker might not be present	“Q: Now, up to this point when they had been showing you photographs, did they give you any instructions or did they tell you anything? A: No. They said, "Just look through them and see if someone looks familiar.” Police conducted a show-up of the defendant, at which she did not identify him - “So then you knew that the only non-police person in the room was the suspect, didn’t you? A. Yes.”	Yes • Initial non-identification • Initially uncertain • Discrepancies in description – height, hair, tattoo on arms	As noted, victim did not identify Sarsfield at show-up. Then, “I was 95 percent sure that was him” but not positive, after viewing photo arrays and show-up. “Q: Yet when you saw the defendant in person, you said the lighting was such - - it was dimmed in the room -- and so you couldn’t make a positive identification; didn’t you? A: At that point, no.” At trial she was certain, and said - “That is him. I am 100 percent sure.” “Q: Did the witness in your presence identify

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						<p>Eric Sarsfield as the man who committed the rape? A: No, not -- no."</p> <p>Victim described a blue cross tattoo on the attacker's right arm; defendant had not tattoo. Victim's description to police was of a man with "blond hair but at trial changed description to "dark blond hair, brown hair"</p>
Scott, Samuel	V	Photo array	No		No – very little description given, except that victim identified him "by his curls"	
Scruggs, Dwayne D.	V – IR (J)	Mug shots, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive line-up – defendant only person in army jacket • Suggestive remarks – told victim that all photos were of persons who had committed sexual assaults 	<p>"I explained to her that the photo file that we have are all individuals who have been arrested for rape or a sex assault."</p> <p>Victim recalled that the officer also "Said to be absolutely sure and that the pictures were not up-to-date"</p> <p>"After I had a conversation with her and after the taped statement, then I felt the clothing was important in this case" Officer then took a photograph of Scruggs wearing an army-green jacket. The victim describe the attacker as having worn a "green Army jacket without the hood."</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain 	<p>Victim stated in taped statement taken following photo array, that "A. About 98%. Q. About 98% sure that this would probably be the guy? A. Yes."</p> <p>By the time of trial, however, she was "positive."</p>
Shepard, David	V - CR		No transcript			
Smith, Billy James	V – IR	Show-up	<p>No</p> <ul style="list-style-type: none"> • Show-up – conducted properly immediately following incident 		No	<p>"Q: Was there any doubt in your mind then that he was the one? A: No. Q: Is there any doubt in your mind now that</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Smith, Frank Lee	E – IR (3)	Composite drawing, photo array, line-up	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – one witness told by police that they had caught culprit • Repeated his photo in multiple arrays • Victim not told attacker might not be present <p><u>Brady</u></p>	<p>“They said, look at these photographs. They say, if you see the man you seen that night on that day, just point him out and I point him out.”</p> <p>“In fact, when the police showed you the pictures to you to let you know that they caught him, they told you that was him, right? A. That’s correct.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description - scar, whether attacker wore glasses, discrepancies between the different witnesses regarding hair, facial hair, build • One witness could not see face of perpetrator • Initially uncertain 	<p>he’s the one? A: No.”</p> <p>Second eyewitness did not see face clearly - “Didn’t you tell the police numerous times that you could not recognize the person’s face? A. Yes, I did... Q. You based your identification on the person’s shoulders? A. Yes.”</p> <p>Third eyewitness said only that “I said he looked like the guy” when viewed photo array. He explained he had reservations about the height of the man, and police told him he should not be concerned, that all in the array were about six feet or six foot one.</p> <p>Police suggested to the third eyewitness that the attacker might have a scar, and he testified, “No, I don’t remember a scar,” but recalled he might have seen a scar of some kind.</p> <p>The eyewitnesses described a man who was husky, like a football player. None described the man as wearing glasses. Descriptions of facial hair varied from full beard to a possible mustache.</p>
Smith, Walter D.	V – CR	Line-up	No (unknown)		<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – height, weight, voice 	Appellate documents described “disparity in the descriptions originally given by the

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						victims to the police with respect to the height, weight and voice characteristics of their assailant and the actual height, weight and voice characteristics of the Petitioner.”
Snyder, Walter	V - CR	Show-up, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Show-up • Suggestive remarks 	<p>The officer told the victim that the defendant lived across the street from her: “Q. So, you were told that he lived across the street. A. Right.”</p> <p>Following non-identification in photo array, Officer asked victim to come to police station, where Snyder was kept waiting in lobby by another Officer.</p> <p>When victim picked up, but did not identify, Snyder’s photo in array, victim recalled that the Officer asked her “Is there anything familiar about that picture?”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>The victim selected three photos from the photo array, not the defendant, and picked on which she thought most resembled the attacker. The defendant “would have been in whatever group of pictures that you had put aside? A. Right.”</p>
Sutherlin, David	V – CR (3)	Line-up	No (unknown)		<p>Yes</p> <ul style="list-style-type: none"> • Discrepancies in description – hair, facial hair • Uncertain at trial (news accounts) 	
Sutton, Josiah	V	Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-up 	Victim shown Sutton sitting in a police cruiser, five days after the crime.	<p>No</p> <ul style="list-style-type: none"> • Discrepancies in description – height, weight 	<p>Victim described attacker later identified as Sutton as 135 pounds and 5’ 7” and certainly shorter than the victim who was 5’ 10.” Sutton was 6 feet tall and 200 pounds at the time.</p> <p>In addition, victim could “not clearly” see his face, as there was only a moment before that attacker pulled a</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						wool cap over his face.
Taylor, Ronald	V – CR	Line-up	Yes <ul style="list-style-type: none"> • Suggestive line-up and video line-up – “because: (1) appellant was the only suspect wearing a white undershirt matching W.A.’s description of the suspect; and (2) the videotape showed a victim from another attack crying and becoming sick when appellant stepped forward.” 		Yes <ul style="list-style-type: none"> • Could not see face of attacker • Discrepancies in description – weight. Did notice missing tooth – but did not mention it in initial statement. 	Victim told police she could not see attacker’s facial features in the dark. Victim “remembered” missing tooth only when shown video lineup.
Terry, Paul	E - CR	Composite drawing, line-up	No		Yes <ul style="list-style-type: none"> • Initial non-identification • Discrepancies in description – eyebrows, skin color, nose shape, glasses, hair, age 	See Evans on admittedly inaccurate composite prepared
Thomas, Victor Larue	V - CR		No transcript			
Thurman, Phillip Leon	V		No transcript			
Tillman, James	V – CR	Show-up, photo array, mug shots	Yes <ul style="list-style-type: none"> • Show-up 	“Q. Yes, did you then suggest that she look at another more recent photograph of this man? A. I asked her if she wanted to, yes. Q. And then, in fact, you went and got one and showed it to her, right? A. Yes, sir. Q. And this confirmed your identification, is that right? A. Yes.”	No <ul style="list-style-type: none"> • Discrepancies in description – height, facial hair 	Victim described “long sideburns” while defendant had none. She described attacker who as 5’7” to 5’10”; defendant was 5’5”
Toney, Steven	V – IR	Photo array, mug shots, line-up	Yes <ul style="list-style-type: none"> • Suggestive line-up – only four photos in array and defendant’s photo was the only one repeated • Victim not told attacker might not be present 	“Q: What did she ask you when she showed you the set of photographs? A: If any of these were the one of the men that attacked me.” Officer showed victim only four photos in photo array. He was then the only person repeated in a	Yes <ul style="list-style-type: none"> • Initially uncertain • Discrepancies in description – age, height, skin color, teeth, facial hair 	Victim described a man who was “A black male. Five eight to five ten. Medium, husky build. Short hair. Piercing eyes.”

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
				live-line-up, which the victim requested “because sometimes photos don’t do the person justice.”		
Turner, Keith	V – CR	Photo array	No <ul style="list-style-type: none"> • Although transcript suggests that victim not told attacker might not be present – and victim expected attacker to be in line-up 		No <ul style="list-style-type: none"> • Although there may have been discrepancies in description – age, height, weight 	“I described him as about 5-8 or 5-9, about 140 pounds. I said, about, no more than 30 years old, and he was not dark-completed.”
Vasquez, David	E		No transcript – court file indicates that people identified Vasquez as having been in the neighborhood of the victim’s house at the time of the crime			
Velasquez, Eduardo	V – CR	Show-up, voice i.d.	Yes <ul style="list-style-type: none"> • Show-up – properly conducted immediately following the incident • Suggestive remarks 	Police strongly encouraged victim to identify the suspect - “Then I expressed that it was important that she did look at this person, because we had the suspect, person, in the immediate area, and he did fit the general description, and if she would look at him and identify him, it would make the investigation much easier, because if she did not look at this person immediately, which he had volunteered to come and do, that we would not be able to locate him at a later date, it would make the investigation much more complex and it would be harder to summons him in, we would have to bring him to court.” “A: I don't remember the exact word, whether she used suspect or -- I knew that they had someone who fit the description, the general description, that the would be bringing for me to see.”	No <ul style="list-style-type: none"> • Discrepancies in description – height, weight, facial hair – mustache, goatee 	“He asked me to describe the man who had raped me, and I described him as about five ten to five eleven, I asked Officer Pollard how much he weighed and tried to -- I gave a guess of -- he thinks I said about a hundred seventy pounds, I'm not sure.” Defendant was “about five-eight, five-eight and a half, a hundred forty-five pounds.” Victim described curly hair – but not mustache or goatee, which the defendant wore.

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Villasana, Armand	V - CR	Line-up, composite	No transcript (But according to reports, defendant was the only Hispanic person in line-up)			
Waller, James	V – CR, E (2)	Show-up	Yes <ul style="list-style-type: none"> Show-up 	<p>Victim and eyewitness were brought to defendant’s apartment to see him questioned by police, where they identified him, the day after the incident.</p> <p>“A. The manager told them that they had a report on the black guy that molested me and so they went down there and checked it out. Q. Okay. Did you -- did you later go over there and see them talking to the man? A. Yes. Q. And did you tell the police officers that was the man? A. Yes.”</p>	No <ul style="list-style-type: none"> Discrepancies in description – height, hair style 	<p>Defendant was six four – eyewitness described seeing a person who was about 5’5.” Various described attacker as wearing hair in an afro or a “corn curl row.”</p> <p>“What part of his face could you see? A: The upper part. Q: Okay. Everything above the bandana? A: Uh-huh.”</p>
Waller, Patrick	V – CR (4)	Photo array, line-up	Yes <ul style="list-style-type: none"> Victim not told attacker might not be present Suggestive remarks 	<p>Dallas Morning News found that: “After one witness hesitated to identify exoneree Patrick Waller from a photo lineup, prosecution notes show, the lead detective pointed to Mr. Waller’s picture and said two other eyewitnesses had identified him. The witness remained uncertain and was not called to testify at trial.”</p> <p>One victim agreed she was warned “that you pick out only that person you know to be the suspect in this case; don’t pick anybody that you think might be the person. . .”</p> <p>Second victim told “If you see anybody you</p>	Yes <ul style="list-style-type: none"> Initial non-identification Discrepancies in description – gold teeth, Waller did not wear glasses, hair length 	One victim who did not identify the defendant in a photo array testified “I couldn’t look at it. I was scared. I turned pictures over to look at them, and I saw it and I just flipped them back over.”

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Wallis, Gregory	V – IR	Photo array, composite drawing	No	recognize, let us know.”	No • Discrepancy in description – location of tattoo	<p>Victim described that “He had tattoos all over him” and she tried to memorize them. His left arm had one with “a woman’s face with long, flowing hair, and big, pretty eyes.” She helped prepare a composite of the tattoo.</p> <p>“Q. And as you described and as you remembered that tattoo, the description you gave to the police officers of it being on the left shoulder, you were mistaken? A. Yes.”</p> <p>Officer described defendant’s tattoo as “more on the back” than what she described, and he initially “chose not to show the lineup” since he was sure this was not the attacker based on her description, “[i]t appears to be a different tattoo,” and he did not want to “contaminate the witness.”</p> <p>Victim did not notice large tattoo that said “Wallis”</p> <p>Victim agreed that defendant’s appearance also looked “somewhat different” from that she had described; his hair was darker, he had more of a beard.</p>

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
Wardell, Billy	V – CR (2)		No transcript			
Waters, Leo	V – IR	Composite drawing, Photo array, Show-up	<p>Yes</p> <ul style="list-style-type: none"> • Hypnotized victim • Following tentative photo array identification at which she did not make positive identification, victim was asked to identify him in courthouse show-up 	<p>Hypnotist testified, “The state of hypnosis is a state of relaxation. We carry many thoughts within our mind at one time. By eliminating many thoughts through relaxing the mind, quieting the mind, we can focus usually on what we’re interested in remembering...”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain • Discrepancy in description – hair color, eye color, weight, age 	<p>During photo, victim said that “maybe” the defendant was the attacker, and “it’s very close.” When asked to come to courthouse for show-up, she said she “was fairly sure.” By trial she was “absolutely sure it was him.”</p> <p>Victim’s description added key details only after she had been hypnotized.</p> <p>Defendant testified his beard was red and hair blonde, he never wore glasses and was about 290 pounds. Victim described an attacker with a salt and pepper beard and “dark brown hair,” with “wire frame, silver glasses,” green eyes, and weighing “about 200 pounds.” She said that at trial “he’s grown a beard and it’s a different color,” where the one she saw was “about a week’s worth of beard and salt and pepper.” Defendant did not have green eyes either.</p>
Webb, Mark	V - IR		No transcript			
Webb, Thomas	V – CR	Photo arrays	No transcript – but his was one of two photos repeated in both black and white and then a color line-up, and the second photo repeated did not match the victim’s description.			
Webb,	V –	Photo	Yes	Detective testified that two	Yes	“Well, as best I can

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Troy	CR	arrays	<ul style="list-style-type: none"> • Suggestive line-up – only four of the photos matched description regarding age of culprit • Second photo array conducted, with an older photo of the defendant in the second array, the only photo repeated 	of six photos in array “don't meet the age description.”	<ul style="list-style-type: none"> • Initially uncertain 	recall, I asked her something about a hundred percent. She nodded, no, she couldn't be one hundred percent. I said, well, ninety-nine? And she said, yes. Whether she said ninety-nine first, I don't know; but I think I suggested it as a way of working down from a hundred percent sure.”
Webster, Bernard	V – CR, E (3)	Line-up	No – little description of line-up		No – vague description of attacker	
White, John	V – IR	Composite drawing, line-up, photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive Remarks – detective told victim he had caught somebody • Repeated photo – defendant's was only person in live line-up whose photo victim had seen in array 	<p>“He said he had caught somebody. He wanted to know -- they wanted me to go see -- to a lineup.”</p> <p>Officer explained that because he thought photo did not look like the defendant, he conducted a live line-up.</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain • Discrepancy in description –age, facial hair – mustache, speech 	<p>Officer recalled that victim said "Well, on this photograph, on John White, I know I've seen him before and I'm almost positive that he's the person that raped me.”</p> <p>Victim was not wearing glasses during attack, did not describe a mustache, but rather called the attacker “clean shaven.” Sheriff recalled the victim having described a person who was “in his late 20s, medium height, round face, no moustache.” On age, having described the attacker as a “black man” but at trial as a “kid,” she testified “I don't know age too much. I said he could be around twenty, maybe in his late thirties, I wouldn't know.”</p>
Whitfield, Arthur	V - CR, E	Mug shots,	<p>Yes</p> <ul style="list-style-type: none"> • Show-up – showed single 	Police showed victims a single photograph of the	<p>Yes</p> <ul style="list-style-type: none"> • Initially uncertain 	One victim initially chose six photos from

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Lee	(3)	show-up, Line-up, Photo array	photo of Whitfield to victim after line-up <ul style="list-style-type: none"> • Suggestive line-up • Victim not told attacker might not be present – one victim told police had the attacker before line-up 	defendant, nude and of his genitals, after line-up. The first victim was told, “Just come down for a lineup, that they had a man that might possible be the person” First victim said there was only one other man with a light-complexion in the line-up. Second victim testified: “Q. Were any others in the lineup the same complexion as this man? A. No.” Both victims present at police station for line-up, so before second victim viewed line-up, she saw first who “came in and started crying. I knew then she saw the man that raped her and she just cried.”	<ul style="list-style-type: none"> • Discrepancy in description – facial hair 	mug shots, stating, and recalled at trial, "I picked his and a few other ones out." Officer read at trial description the victim gave as "shaven" but claims she was "unsure of whether or not he did have any facial hair or not" - yet defendant had a beard and mustache. Victim testified, “I said I don’t believe he had any facial hair.”
Whitley, Drew	E – IR		No – but Acquainted with victim		Yes <ul style="list-style-type: none"> • Initial non-identification • Could not see attacker’s face – covered by stocking • Discrepancies in description – weight, voice 	He initially failed to identify the defendant to the police, later explaining that he was afraid. The attacker’s face was covered by a stocking mask, and he varied whether the attacker had a young voice or a deep voice, a heavier weight or similar weight to the defendant.
Williams, Dennis	E – IR	Photo array	Yes <ul style="list-style-type: none"> • Suggestive line-up – see Adams 		Yes <ul style="list-style-type: none"> • Initial non-identification – see Adams 	
Williams, Michael Anthony	V – IR	None pre-trial	No – Acquainted with victim		No	
Williams, Willie	V – CR, V, E (3)	Composite drawing, mug	Yes <ul style="list-style-type: none"> • Suggestive remarks – told victim suspect may be in photo array, and told other victim before show-up that 	Officer testified: “After showing the composite drawing, she informed me that – she stated that that’s him, that’s him”	No – although on victim described medium complexion, while another described dark complexion	

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		shots, show-up, photo array	<p>man had been arrested for something else</p> <ul style="list-style-type: none"> • Show-up – first live identification by both victims was at preliminary hearing, where defendant was brought before them by police • Show-up - one victim shown other victim’s composite drawing prior to preparing one. Also brought victim to apartment of second victim while she viewed photo array. 	<p>“I informed her that I had a spread, some pictures for her to look at, one of the pictures that I think may be the suspect...”</p> <p>First victim – “they told me they had arrested the man for something else, to bring him to let me see him. If that wasn’t him they would keep looking. They brought him in and they said take a look but we need to know if this was him.”</p>		
Willis, Calvin	V – IR, E – IR (3) (J)	Photo array	<p>Yes</p> <ul style="list-style-type: none"> • Suggestive remarks – victim told to pick a photo without a beard and told defendant’s name – also question whether line-up was suggestive and whether she in fact identified the defendant – all records of line-up where lost. • Victim not told attacker might not be present 	<p>Police told victim not to select photos with a full beard and detective had mentioned defendant’s name to her prior to showing her photo array. Others may also have suggested the defendant’s name and the victim’s testimony was highly variable on this issue.</p> <p>Victim testified that after she did not pick anyone out in photo array: “Q. They told me, what happened? A. Yes. Q. They told you what happened. A. Yes. Q. Then could you pick someone out? A. No. Q. Couldn’t pick anyone out again? A. No. Q. Did they tell you about Calvin then? Is that when they told you about Calvin? A. Yes.”</p> <p>Detective testified: “Q. What are you going to say to a ten year old child, I</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification • One victim could not see attacker’s face 	<p>At trial, victim said she did not identify defendant from photo array, and said she did not see his photo in the array. Police testified she did see his photo and did identify him.</p> <p>Another victim did not see attacker’s face and could not describe attacker physically.</p>

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				<p>need you to pick out the one that raped you? A. That’s what we said. Q. That’s what you said, I want you to pick out the one that raped you? A. That’s right. You have got six pictures there.”</p> <p>However, victim testified that “she showed me some pictures and then she told me to pick the ones that didn’t have a full beard.”</p> <p>Police lost line-up photos and line-up report, contrary to department procedures. The victim and relatives of the victim present at the line-up said that it had only three or four photos, not six as the detective recalled.</p>		
Willis, John	V		No transcript			
Woodall, Glen	V – IR, V, E (3)	Photo array, show-up, voice identification	Yes <ul style="list-style-type: none"> • Show-up • Hypnotized <u>Brady</u> 	Second victim described show-up following voice identification procedure in which police "brought Mr. Woodall out and sat him in the chair in front of me”	Yes <ul style="list-style-type: none"> • Non-identification by first victim who could not see attacker, who wore mask; second victim could not see attacker’s face either • Discrepancies in description – second victim could not describe attacker and did not mention facial hair or beard 	First victim explained, “Q: ...have you ever identified anyone other than the defendant as your attacker? A: I have never identified anyone. Q: You have never identified anyone? A: I couldn't identify him.” Second victim in her statement, had said, “I didn't see him so there's no way I could you know tell whether or not it was him.” She could see “back side” of head, and identified him “from the shoulder’s down,” but no mention of facial hair.
Woodard, James Lee	E	Photo array	Yes <ul style="list-style-type: none"> • Eyewitness not told 	Eyewitness was not told that the suspect might or	No <ul style="list-style-type: none"> • But eyewitness saw car 	Eyewitness testified, “I can't recall a lot.

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			<p>suspect might not be present in photo array.</p> <p>Eyewitness was acquainted with Woodard, having seen him in the apartment complex before.</p>	<p>might not be in the photo array – “They didn't say anything because I was looking at the photographs.”</p>	<p>speeding away from apartment complex. She did not upon first interview with police tell them that she knew who the person was and the name of the person who she saw assaulting the victim in a car. Officer testified that eyewitness “said she did not know the name of the person” she had seen. She later said she had already known Woodard and had recognized him.</p>	<p>You see, I was drinking that night. You know, I was tipsy.” Eyewitness had told police she was woken up by the sound of screaming, but testified that she had in fact been awake for some time.</p>
Woods, Anthony	V – IR (J)	Photo array, show-up	<p>Yes</p> <ul style="list-style-type: none"> • Show-ups at defendant’s jail cell, and with single photograph 	<p>After victim did not identify defendant’s photo in array, she saw him walk by and people in the neighborhood “went and caught him.” She was then brought to his jail cell for a show up. “Q. And when you went to his cell at the Police Department on October 10 Anthony Woods was alone in that cell? A. Yes.”</p> <p>“Q. While you were at the Police Station and Anthony Woods was at the Police Station, isn’t it true that you were told by the police that you had seen Anthony Woods’ photograph earlier? A. Yes. Q. They told you that? A. Yes. Q. And they showed you the photograph that you had seen. A. Yes.”</p>	<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification 	<p>Victim did not identify defendant’s photo in array. “Q. You did not pick out anybody in that book as the person who had assaulted you that morning, did you? A. No.”</p> <p>She later explained that he looked younger in the photo and that his hair looked different, although she did not see her attacker’s hair.</p>
Wyniemko, Kenneth	V - IR	Composite drawing, line-up	No		<p>Yes</p> <ul style="list-style-type: none"> • Initial non-identification - <u>Brady</u> – not disclosed at trial • Initially uncertain – at line-up, and said was 60% 	<p>“You told the police officer, I don't know how much good it will be because I mean he had the mask on, I would say, about 95</p>

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					certain about composite • Could not see attacker's face, since blindfolded	percent of the time, you know. The only time he didn't was when I was in a position that he knew I couldn't see him, correct? A: Uh-uh, The Court: Answer? A: Yes." "And I believe you testified that the composite was in your estimation a 60 or 65 percent accuracy of what the perpetrator looked like based on what you were able to observe? A: Yes"
Yarris, Nicholas	E – IR(2)	Composite drawing, photo array	No		Yes • Initial non-identification • Initially uncertain • Discrepancies in description – height, hair, no glasses	Q: And so would it be fair to say at least at the Preliminary Hearing on February 18, 1982, which was the first time you saw Mr. Yarris in person, other than the times you claimed to see him in the mall, you were not able to say with certainty that it was the individual you saw in the mall? A: I wasn't sure until that night. Q: And would it be fair to say you are not sure now? A: Yes, I am sure." Another eyewitness stated, "Well, I had somewhat of a doubt, but I specifically told him four. The reason I had the doubt is because this picture here is a lot more clean cut looking than Mr. Yarris I had seen." One eyewitness

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						described, “At that time did you tell the detective that the individual had dark-colored brown or black hair which was straight down to the shoulders? A: I said it was darkish and down about to his shoulders in the back.” Defendant had reddish blonde hair.
Youngblood, Larry	V – CR (J)	Photo array. Show up	Yes • Show-up	Victim saw and identified defendant coming out of elevator at preliminary hearing. Youngblood was at the time “handcuffed and that the deputy was near him.” Victim nevertheless asked, “Is that him,” and officer asked the victim if he could identify him.	Yes • Discrepancies in description – hair, scar, limp, which eye had eye patch • Initially uncertain • Initial non-identification	When shown photo array, victim was “pretty sure” and identified another man in the array as a possible assailant. “Q: And isn’t it true that you said that it would be either this one or that one? A: Yeah. Q: Okay. And isn’t it true that a lawyer from our office then said, why don’t you put an X by the two that you think it might be; do you remember that? A: Uh-huh” “Q: And there are two X’s on this photograph, aren’t there? And those are the two people that you picked out as the two people that you thought — A: Uh-huh Q: — had raped you? And you didn’t know which one, did you? A: (no verbal response). Q: You have to answer out loud. A: Well, I really think

Name of Exoneree	Witness Type ¹	Line up procedures used	Suggestive Procedures	Quotes from testimony	Unreliable Identification ²	Quotes from Testimony
						<p>it's No. 3.</p> <p>...</p> <p>Q: Really think it's No. 3, okay, which would be the top right-hand one with the X.</p> <p>But you also told the lawyer that you thought it might be, I guess it would be No. 5, the middle bottom one, didn't you?</p> <p>A: Uh-huh. I don't think so any more. He is too young."</p> <p>Victim described attacker as being blind in his right eye (defendant was blind in his left eye) (However, officer who prepared composite said victim was unable to tell him which eye, though he right eye marked in composite; victim's mother recalled him saying "I think it was the right eye but I'm not sure.").</p> <p>Victim described a man with a "short Afro, a little beard, a little mustache," although in one early description said hair was curly and not an afro. Victim described attacker as having "some grey" hairs; the defendant had none. Defendant had a prominent scar on his forehead that the victim did not describe and he walked with a limp.</p>