

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEPHEN R. WINN,	§	
	§	No. 328, 2002
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. ID No. 0103012308
Plaintiff Below,	§	
Appellee.	§	

Submitted: December 17, 2002

Decided: March 19, 2003

Before **VEASEY**, Chief Justice, **WALSH** and **BERGER**, Justices.

ORDER

This 19th day of March, 2003, on consideration of the briefs of the parties, it appears to the Court that:

1) Stephen R. Winn appeals from his conviction, following a jury trial, of first degree rape, first degree kidnaping, second degree assault, terroristic threatening and criminal contempt. Winn contends that the trial court abused its discretion when it allowed the victim's prior consistent statement into evidence. We find the appeal to be without merit, and affirm.

2) On January 15, 2001, Winn became enraged when his live-in girlfriend, Donna Cleckley, told him that she wanted to end their relationship. He punched her

in the face, then tied her to her bed, beat her with a baseball bat and raped her. During the assault, he threatened to kill Cleckley. When Winn finished raping Cleckley, he gagged her and left her tied to the bed, while he went out in her car.

3) Cleckley stayed in her home for the next three days and sought no help even during the times that Winn was out of the house. When she felt that she had enough strength, Cleckley went to St. Francis Hospital and then to a battered woman's shelter. She later reported the attack to the police.

4) At trial, Winn objected to the introduction of Cleckley's prior consistent statement to the police, arguing that the statement was cumulative and unduly prejudicial.

5) The Superior Court acted well within its discretion in admitting Cleckley's statement to the police. Pursuant to 11 *Del.C.* §3507, a witness's prior statement is admissible if it is voluntary and if the witness is available to be cross-examined on it. It does not matter that the prior statement is consistent with the witness's in-court testimony. "[P]rior statements have independent relevance and may be used as substantive evidence of guilt."¹

6) Winn is correct that the prior statement was cumulative in the sense that it was consistent with Cleckley's trial testimony. The statement had probative value,

¹*Lowry v. State*, 1992 WL 115944, ** 4 (Del.Supr.)

however, because it helped establish Cleckley's credibility in a case where her delay in reporting the crimes could cast doubt on her account of the relevant events.

NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court be, and the same hereby are, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice