

## **EXHIBIT 1**

## STATE OF NORTH CAROLINA

File No.

DURHAM County

In The General Court Of Justice  
☐ District ☒ Superior Court Division

## In Re: The Nontestimonial Identification Order Of

Name And/OR Description

See Attachment

Address

See Attachment

City, State, Zip

See Attachment

Offense

See Attachment

APPLICATION FOR NONTESTIMONIAL  
IDENTIFICATION ORDER  
(ADULT SUSPECT)

G.S. Chapter 15A, Art. 14

The undersigned prosecutor applies for a nontestimonial identification order directing the person named or described above to appear as follows for the requested nontestimonial identification procedures:

Date	Time	Location
03/23/2006	4:00 PM <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Durham PD Forensics Unit 213 Broadway St. Durham, NC

## Requested Nontestimonial Identification Procedures

- 1 photographs of potential injuries sustained on the suspects during the alleged offenses located on their torso or upper extremities.
- 2 mug shot photographs for line-ups
- 3 swabbings of the mouth to provide DNA evidence for a link between the victim and suspects.

There is probable cause to believe that an offense punishable as a felony or a Class A1 or Class 1 misdemeanor has been committed and reasonable grounds to suspect that the person named or described above committed the offense. The results of the requested nontestimonial identification procedures will be of material aid in determining whether this person committed the offense.

The facts establishing the matters stated in the preceding paragraph are set forth in the affidavit on the reverse.

Date	Signature Of Prosecutor
03/23/2006	<i>David J. Smith</i>

☒ Modification of Seventy-two (72) Hour Rule

The undersigned prosecutor, being first duly sworn, requests that the seventy-two (72) hour rule be modified for the following reason:

- ☒ a. delay will adversely affect the probative value of the evidence sought.
- ☐ b. it appears likely that the person named or described above may not appear for the nontestimonial identification procedure.

## Facts Supporting Reason Checked Above For Modification Of Seventy-Two (72) Hour Rule

The injuries sustained by the suspects during the alleged rape and sexual assault will be lost if not immediately discovered and documented. Currently, the injuries would be 10 days old.

## SWORN AND SUBSCRIBED TO BEFORE ME

NOTE: Prosecutor must be sworn only if he/she seeks a modification of the seventy-two (72) hour rule.

Date	Signature Of Judge	Date	Signature Of Prosecutor
3/23/06	<i>Mark J. Stephens</i>	3/23/06	<i>David J. Smith</i>

# AFFIDAVIT FOR NONTESTIMONIAL IDENTIFICATION PROCEDURE

I, the undersigned affiant, being first duly sworn, say that:

1. I have probable cause to believe that an offense punishable as a felony or Class A1 or Class 1 misdemeanor was committed.

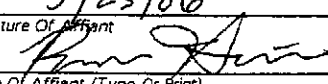
<b>Offense</b> See Attachment	<b>County in Which Offense Committed</b> Durham	<b>Offense Date</b> 03/13/2006
<b>Facts Which Establish Probable Cause</b> See attachment		

2. I have reasonable grounds to suspect that the person named or described on the reverse committed the offense.

<b>Facts Which Establish Reasonable Grounds</b> See attachment
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3. The results of the nontestimonial identification procedures requested on the reverse will be of material aid in determining whether the person named or described on the reverse committed the offense.

<b>Reasons Why Procedures Will Be Of Material Aid</b>
<ol style="list-style-type: none"> <li>1 The photographs used for mug shots will give the availability of the suspect's current hair styles, complexion, and body mass for photographic line ups to identify the suspects.</li> <li>2 The photographs of the torso and upper extremities will give documentation of injuries consistent with the assault that will be lost if not immediately discovered and documented immediately.</li> <li>3 The DNA obtained through the mouth swabbings will prove a link between the suspects and victim in this case.</li> </ol>

<b>SWORN AND SUBSCRIBED TO BEFORE ME</b>		<b>Date</b> 3/23/06
<b>Date</b> 23 March 2006	<b>Signature Of Affiant</b> 	
<b>Signature</b> Ronald L. Stephens	<b>Name Of Affiant (Type Or Print)</b> Benjamin Himan	
<input type="checkbox"/> District Court Judge <input checked="" type="checkbox"/> Superior Court Judge		<b>Title Or Position</b> Investigator

ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**IN THE MATTER OF: 610 N. Buchanan Blvd. Durham, NC 27701**

The undersigned prosecutor applies for a nontestimonial identification order directing the persons named or described below to appear as follows for the requested nontestimonial identification order.

**I. Name and Description of Subjects**

Matthew Zash, W/M, 10-18-1983  
610 N. Buchanan Durham, NC

Michael SpencerYoung, W/M, 10-7-1986  
Duke University Edens Hall 2C Room 205 Durham, NC

William Wolcott, W/M, 4-13-1983  
3832 Hanover Ave Dallas, TX

Matthew Wilson, W/M, 12-29-1984  
206 Oregon St. Apt. #N Durham, NC

Robert Wellington, W/M, 01-18-1986  
HH Dorm Duke University Rm # 203 Durham, NC

Michael Ward, W/M, 5-1-1985  
206 Oregon St. Apt. W Durham, NC

John Walsh, W/M, 8-20-1984  
206 Oregon St Apt #S Durham, NC

Christopher Tkac, W/M, 9-15-1986  
Giles Dorm #226 Duke University Durham, NC

Bret Thompson, W/M, 9-2-1983  
1000 McQueen Dr Durham, NC

Daniel Theodoridis, W/M, 2/24/1987  
Pegram Dorm # 313 Duke University Durham, NC

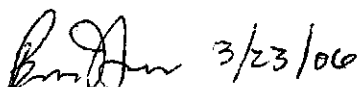
Robert Schroeder, W/M, 7-17-1986  
Edens Hall #2C Rm. 203 Duke University Durham, NC

  
JUDGE

DATE: 03 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06

ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**I     Name and Description of Subjects (continuation)**

Kenneth J. Sauer, W/M, 2-11-1984  
8 Davidson Ave East Rockaway, NY

Sam Payton, W/M, 4-29-1987  
Pegram Dorm # 313 Duke University Durham, NC

Daniel Oppedisano, W/M, 12-24-1984  
206 Oregon St Apt. F Durham, NC

Nicholas O'Hara, W/M, 9-28-1985  
205 Oregon St Apt. C Durham, NC

Glenn Nick, W/M, 3-23-1984  
75 Lincoln St Garden City NY

Ryan McFadyen, W/M, 5-11-1986  
Edens Hall #2C Rm. 204 Duke University Durham, NC

Tony McDevitt, W/M, 9-26-1984  
206 Oregon St. #S Durham, NC

Kevin Mayer, W/M, 5-19-1986  
Edens Hall #2C Rm. 202 Duke University Durham, NC

Breck Archer, W/M, 1-20-1984  
206 Oregon St Apt. N Durham, NC

Casey Carroll, W/M, 12-17-1984  
206 Oregon St. Apt I Durham, NC

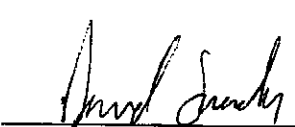
Mike Catalino, W/M, 6-24-1987  
319 Bassett Dorm Duke University Durham, NC

Tom Clute, W/M, 10-26-1986  
226 Giles Dorm Duke University Durham, NC

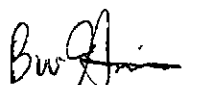
Kevin Coleman, W/M, 1-1-1984  
194 Beechwood Rd. Ridgewood, NJ

  
JUDGE

DATE: 23 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06

ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**I      Name and Description of Subjects (continuation)**

Josh Coveleski, W/M, 7-26-1985  
Edend Dorm #2C Rm. 302 Duke University Durham, NC

Ned Crotty, W/M, 9-26-1986  
308 Aycock Dorm Duke University Durham, NC

Matt Danowski, W/M, 8-12-1985  
206 Oregon St Apt. #W Durham, NC

Ed Douglas, W/M, 12-1-1983  
221 Anderson Apt. L Durham, NC

Kyle Dowd, W/M, 11-6-1984  
1000 McQueen Apt 10103 Durham, NC

David Evans, W/M, 4-7-1983  
610 N. Buchanan Durham, NC

Collin Finnerty, W/M, 9-10-1986  
Edens Hall 2C Rm. 203 Duke University Durham, NC


Dan Flannery, W/M, 3-16-1984  
610 N. Buchanan Durham, NC

Gibbs Fogarty, W/M, 11-7-1986  
308 Aycock Dorm Duke University Durham, NC


Zack Greer, W/M, 2-12-1986  
Edens Hall 2C Rm. 202 Duke University Durham, NC

Erik Henkelman, W/M, 6-18-1983  
623 University Pl. Swathmore, PA


Jay Jennison, W/M, 9-12-1985  
Edens Hall 2C Rm. 301 Duke University Durham, NC

  
JUDGE

DATE: 23 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06

ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**I     Name and Description of Subjects (continuation)**

Ben Koesterer, W/M, 10-28-1985  
Edens Hall 3B Rm. 401 Duke University Durham, NC

Fred Krom, W/M, 1-7-1985  
206 Oregon St Apt. F Durham, NC

Peter Lamade, W/M, 4-22-1984  
206 Oregon St. Apt. I Durham, NC

Chris Loftus, W/M, 6-28-1986  
Edens Hall 2C Rm. 205 Duke University Durham, NC

Dan Loftus, W/M, 12-31-1984  
205 Oregon St. Apt. C Durham, NC

John Bradley Ross, W/M, 8-10-1985  
Edens 2C Rm. 204 Duke University Durham, NC

Reade William Seligmann, WM, 3-3-1986  
Edens 2C Rm. 301 Duke University Durham, NC

Stephen Dearnley Schoffel, WM, 7-7-1986  
Bassett Rm. 319 Duke University Durham, NC

Adam Scott Langley, WM, 7-19-1986  
Edens 1A Rm. 414 Duke University Durham, NC

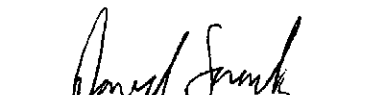
Edward Codrington Carrington VII (AKA "Bo"), WM, 6-23-1986  
HH 203 Rm. 203 Duke University Durham, NC

**II     Offenses**

First Degree Forcible Rape (N.C.G.S. 14-27.3), First Degree Kidnapping  
(N.C.G.S.14-39), First Degree Forcible Sexual Offense (N.C.G.S. 14-27.4),  
Common Law Robbery (N.C.G.S. 14-87.1), Felonious Strangulation (N.C.G.S.  
14-32 4(b))

  
JUDGE

DATE: 23 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06

ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**III Facts That Establish Probable Cause**


On 3/14/06 at 1:22am, Durham City Police Officers were called to the Kroger on Hillsborough Road. The victim, a 27 year old black female reported to the officers that she had been raped and sexually assaulted at 610 North Buchanan Blvd. The investigation revealed that the victim and a co-worker had an appointment to dance at 610 North Buchanan Blvd. The victim arrived at the residence and joined the other female dancer around 11:30pm on 3/13/2006. The victim reported that they began to perform their routine inside of the residence. After a few minutes, the males watching them began to get excited and aggressive. One male stated to the women "I'm gonna shove this up you" while holding a broom stick up in the air so they could see it. The victim and her fellow dancer decided to leave because they were concerned for their safety. After the two women exited the residence and got into a vehicle, they were approached by one of the suspects. He apologized and requested they go back inside and continue to dance. Shortly after going back into the dwelling the two women were separated. Two males, Adam and Matt pulled the victim into the bathroom. Someone closed the door to the bathroom where she was, and said "sweet heart you can't leave." The victim stated she tried to leave, but the three males (Adam, Bret, and Matt) forcefully held her legs and arms and raped and sexually assaulted her anally, vaginally and orally. The victim stated she was hit, kicked, and strangled during the assault. As she attempted to defend herself, she was overpowered. The victim reported she was sexually assaulted for an approximate 30 minute time period by the three males. During a search warrant at 610 N. Buchanan on 3-16-2006 the victim's four red polished fingernails were recovered inside the residence consistent to her version of the attack. She claimed she was clawing at one of the suspect's arms in an attempt to breath while being strangled. During that time the nails broke off. The victim's make up bag, cell phone, and identification were also located inside the residence during the search warrant. Finally, a pile of twenty dollar bills were recovered inside the residence totaling \$160.00 consistent with the victim claiming \$400.00 cash in all twenty dollar bills was taken from her purse immediately after the rape. The victim was treated and evaluated at Duke University Medical Center Emergency Room shortly after the attack took place. A Forensic Sexual Assault Nurse (SANE) and Physician conducted the examination. Medical records and interviews that were obtained by a subpoena revealed the victim had signs, symptoms, and injuries consistent with being raped and sexually assaulted vaginally and anally. Furthermore, the SANE nurse stated the injuries and her behavior were consistent with a traumatic experience.

  
JUDGE

DATE: 23 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06



ATTACHMENT FOR APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER

**IV Facts That Establish Reasonable Grounds**


The victim stated she did not think the names the suspects were providing her were their own. She stated one male identified himself as Adam, but everyone at the party was calling him Dan. In addition, the witness/co-worker stated the men at the party told her they were members of the Duke Baseball and Track Team to hide the true identity of their sports affiliation – Duke Lacrosse Team Members. In a non-custodial interview with Daniel Flannery, resident of 610 N. Buchanan and Duke Lacrosse Team Captain; Mr. Flannery admitted using an alias to make the reservation to have the dancers attend the Lacrosse Team Party.

The State believes there is an exigent circumstance where if the suspect's injuries are not located immediately and preserved, the evidence will be lost forever. All of the parties named in this application with the exception of the last five were named by the three residents of 610 N. Buchanan as being present at the party. The three residents stated during the non-custodial interviews that their fellow Duke Lacrosse Team Members were the ones who attended this party. They knew everyone there, and stated there were no strangers who showed up at the event. Due to the fact that the residents of 610 N. Buchanan stated that all the attendees were their fellow Duke Lacrosse Team Members and that there were so many attendees, all of the white male Duke Lacrosse Team Members were listed since they were all aware of the party and could have been present.


It is the States belief the suspects used each others names to disguise their own identities and create an atmosphere where confusion would become a factor in this event should problems arise in the future where any actions or conduct would be questioned. The DNA evidence requested will immediately rule out any innocent persons, and show conclusive evidence as to who the suspect(s) are in the alleged violent attack upon this victim. Numerous persons who attended this party are seniors at Duke University and have permanent addresses outside of the State of North Carolina making it difficult if not impossible to collect the DNA evidence in the future when necessary.

  
JUDGE

DATE: 23 Mar. 2006

  
Assistant District Attorney

DATE: 3/23/06

 3/23/06