EXHIBIT 1

TO

DEFENDANT CITY OF DURHAM, NORTH CAROLINA'S MOTION TO DISMISS SECOND AMENDED COMPLAINT

STATE OF NORTH CAROLI	NA		File No.
	ounty		n The General Court Of Justice istrict 🛛 Superior Court Division
In Re: The Nontestimonial Ident	ification Of		
See Attachment	-	1	TESTIMONIAL ICATION ORDER
Address See Attachment		· ·	JLT SUSPECT)
City, State, Zip	<u> </u>	Offense	G.S. Chapter 15A, Art. 14
See Attachment		See Attachment	
To The Suspect Named Or Described	bove:		
You are ORDERED to appear at:	٠.		
03-23-2006 Time 4:00	l — — I	Location Durham P.D. Forensics Unit	t, 213 Broadway St., Durham, NC
The undersigned finds that there is profelony or Class A1 or Class 1 misdeme	bable cause to belie	ve that the offense name	d above, which is punishable as a
There are reasonable grounds to susper ordered here will be of material aid in confernse has been committed, to susper confirming or negating the suspicion, at the purpose of permitting nontestimon named above.	etermining whether ct that you committ are stated in the atta	you committed the offer ed it, and to believe that sched application and affice	use. The grounds to believe that are this Order will be of material aid in the desired to the control of the co
The methods to be used and the time	equired to conduct	the nontestimonial proced	dures are as follows:
Procedures For Nontestimonial Identification			
Photographic documentation and identification	n; DNA		
Photographs of face, torso, and upper extrem	nities: Cheek swabbing	20	Time Required 1 Hours Minutes
During the period of your appearance y statement except that required for voice	you will not be subje		
You may request the Court to modify hold the procedure at your residence,	the time and place f unless a line-up is or	or the identification procerdered.	edure ordered including a request to
You are entitled to be represented by state will appoint one if you so desire.	an attorney at the pi	rocedure, and if you cann	ot afford to retain an attorney, the
IF YOU FAIL TO APPEAR AS THIS OR	DER DIRECTS, YOU	MAY BE HELD IN CONT	EMPT OF COURT.
This information was furnished under	oath by the person(s		
David Saacks		Date	03 23 2007
Name Of Other Affiant	 	Signature	03-23-2006
Inv. Benjamin Himan, D.P.D.		1 Could	7. Stephens
		District Court Judge	ATRUECODY
			CLERK OF SUPERIOR COURT DURHAM COUNTY
			By_ 🗸
AOC-CR-205, Rev. 6/99 ©1999 Administrative Office of the Courts		Copy-Suspect Over)	Assistant Deput) Clerk Superior Court

	INCTUIOTION TO	CED UNIO CUE CE DE DESCRIPCIONES DE CONTRACTOR DE CONTRACT
	INSTRUCTION TO	
1. This Order must be served person procedure.	hally at least seven	ty-two (72) hours before the nontestimonial identification
2. I find, for the reasons stated by	he prosecutor in th	e application for the nontestimonial identification order,
		eventy-two (72) hours before the nontestimonial procedure.
Therefore, the order must be so	ived within the time	e indicated below.
		Time In Which Order Must Be Served Prior To Procedure
		Immediately
		03-23-2006
	• 1	Signature / Signature
· .		TEMPORA F. CARIFFERS
		District Court Judge Superior Court Judge
		OF SERVICE STATE OF SERVICE
I certify that this Order was received	and served as follow	·
Date Served Time Served	ПАМ ПРМ	Signature Of Suspect
		<u> </u>
By delivering to the named suspec	tipersonally a copy of	of the order.
Suspect WAS NOT served for the	following reason:	
		•
Date Received Date Of Ret		Name Of Law Enforcement Officer
Bale ricesves	7	
City, County	4	Agency
	MODIFICA	TION ORDER
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AOC-CR-205, Side Two, Rev. 6/99 01999 Administrative Office of the Courts		Assistant Deputy Ciex Superior Court
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IDENTIFICATION ORDER			l		,
DURHAM COUNTY In The General Court Of Justice District Superior Court Division In Re: The Nontestimonial Identification on Order Of			·	•	
DURHAM COUNTY In The General Court of Justice District Superior Court Division In Re: The Nontestimonial Identification Order Of Superior Court Division APPLICATION FOR NONTESTIMONIAL IDENTIFICATION ORDER (ADULT SUSPECT) G.S. Chapter 15.A. Art. 1 For Attachment The undersigned prosecutor applies for a nontestimonial identification order directing the person named or described above to appear as follows for the requested no intestimonial identification procedures: See Attachment The undersigned prosecutor applies for a nontestimonial identification procedures: See Attachment The undersigned prosecutor applies for a nontestimonial identification procedures: See Attachment The undersigned prosecutor applies for a nontestimonial identification procedures: See Attachment The undersigned prosecutor applies for a nontestimonial identification procedures: Superior State St					File No.
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See Attachment The state 249 See Attachment 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: The undersigned prosecutor applies for a nontestimonial identification procedures:	See Attachment			IDENTIF	ICATION ORDER
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1 photographs of potential injuries sustained on the suspects during the alleged offenses located on their torso or upper extrements. 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 are 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. Dive 03/23/2006 Modification of Seventy-two (72) Hou 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. Pacts Supporting Repson 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 EFORE ME NOTE: Prosecutor must be sworn only if the she seeks a modification of the seventy-two (72) four IDE IDE COLORED TO SUBSCRIBED TO EFORE ME SWORN AND SUBSCRIBED TO EFORE ME Subscribed Above for Modification of the seventy-two (72) four IDE IDE COLORED TO SUBSCRIBED TO EFORE ME Subscribed Above for Modification of the seventy-two (72) four IDE IDE COLORED TO SUBSCRIBED TO EFORE ME Subscribed Above for Modification of the seventy-two (72) four IDE IDE COLORED TO SUBSCRIBED TO EFORE ME Subscribed Above for Modification of the seventy-two (72) four IDE IDE COLORED TO SUBSCRIBED TO EFORE ME Subscribed Above for Modification of the seventy-two	Date 03/23/2006	1	□ AM ☑ PM	Durham PD Forensics Unit	113 Broadway St. Durham, NC
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Offense			County In Which Offense Committed	Offense Date	
See Attachment	. 1.		Durham	03/13/2	2006
Facts Which Establish P	robable Cause		·		
See attachment	·				
				•	
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I have reasonable	e grounds to suspect th	at the person nan	ned or described on the reverse	committed the offens	se.
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STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE DISTRICT/ SUPERIOR COURT DIVISION

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 Spencer Young, 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 #\$ 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 A TRUE COPY CLERK OF SUPERIOR COURT DURHAM COUNTY

Assistant Deputy, Clark Superior Court

JUDGE Stephens

Assistant District Attorney

DATE: 3/13/06

DM -1.1

I Name and Description of Subjects (continuation)

Kenneth J. Sauer, W/NI, 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

Nach 7. The Men,

DATE: 037/01. 2006

A TRUE COPY CLERK OF SUPERIOR COURT DURHAM COUNTY

Assistant Copun Clerk Surerior Court

Assistant District Attorney

DATE: 3/23/06

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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, 9-25-1986 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, 47-1983 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/VI, 6-18-1983 623 University Pl. Swathmore, PA

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

CLERK OF SUPERIOR COURT

DURHAM COUNTY

ASSISTANT

Assistant District Attorney

DATE: 3 /23/06

DATE: 23 Mal. 2006

STATE OF NORTH CAROLINA DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE DISTRICT/ SUPERIOR COURT DIVISION

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. 40 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, WM, 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 Dike University Durham, NC

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

A TRUE COPY CLERK OF SUPERIOR COURT DURHAM COUNTY

k Superior Court

Assistant Deputy, Ole

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))

REMALL J. Septens

Assistant District Attorney

DATE: 3/23/06

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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 traumatic experience.

Wind I. Stoppen

DATE: 93 70/A1. 2006

Assistant District Attorney

DATE: 3/23/16

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CLERK OF SUPERIOR COURT
DURHAM COUNTY

Lssistant Deputy

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.

Assistant Deputy, Clerk

JDGE

DATE: 23 Mal. 2016

Assistant District Attorney

DATE: 3/23/06

B. Ac. 3/13/20