

told her he was one of the perpetrators (Exhibit "A").

9.a. Facts to Support Grounds.

The trial of this cause took place in September of 1998. During trial Angela Truitt, the complaining witness, testified that on January 23, 1998, she was with her boyfriend at his house in Gary, Lake County, Indiana. They had been drinking alcohol and playing cards most of the night. They had an argument which caused her to leave the house between 3:00 A.M. and 5:00 A.M. She intended to make a phone call from a pay phone outside the apartment to get a ride home (R. p. 159). On her way to the pay phone she was approached by three men who took her to a nearby house where she was allegedly raped. One of the men wore his hair in an afro, one in braids, and the third wore a ski mask. During the trial she identified the Petitioner Vernon Bateman as the one with the braids (R.p. 180). She testified she had never seen Vernon Bateman before (R.p. 162 & 199). She testified all three had intercourse with her, and one ejaculated in her. The results of a sexual assault kit were not introduced by the State. Although she testified the Defendant had held a gun on her, a gun found at the scene did not contain the fingerprints of Petitioner (R.p. 243).

After Angela Truitt reported the alleged rape she went to Methodist Northlake Hospital in Gary, Indiana. A physician performed a pelvic examination during which samples were taken for evidence of sperm, hair, etc. (R.p. 126). The samples were placed in a sexual assault kit which was given to the police (R.p. 130). The Chief Investigating Officer, Det. Mary Banks, received the sexual assault kit from the hospital (R.p. 143). The results of the sexual assault kit were never introduced into evidence by the State and the whereabouts of the kit and the results were unknown (R.p. 244).