

In supreme court of the united state washington DC.

Larry Lewis prose

State of Mississippi

no 21-78-58

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AUG 10 2022

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SUPREME COURT, U.S.

newly discovered Evidence under MRE 412

Re Petition ReHearing briefly is presented in good

Faith and not for delay For error of trial court in panola county

1. ground Defective indictment donot have a date time or place and the essential element of a criminal act. The evidence was admissible under Rule MRE 412. The state cant use reputation opinion or allegations of past sex offense under MRE 412 without source semen or injury of a medical examined see MCA section 9A-39-5 (F) (Aii) 99-49-1 (A) (1) Rule 41 M.R.C.P. threw 144 also 706 and also between the offense see Richardson v state 74 So 3d 317 324 miss 2011 Citation omitted.

2 ground insufficient Evidence was admissible under MRE 412 because you ~~used cant~~ cant use reputation opinion or allegations with out the source of semen or injury under MRE 412 citation omitted by the attorney general in Federal Court of him answers see Bush v state 89 So 2d 836 843 (miss 2005 see quoting Carr v state 208 So 2d 884 889 (miss 1968) The alleged victim was 16 year of age ~~when~~ ^{up} she made her story, under MCA 97-3-65 she was legal in Law. This is no Evidence of sexual intercourse in this case count 1 and 2 and through Dhs Report, she said this happen. The witnesses lying under oath at trial committe perjury at trial

3 ground insufficient Counsel under MRE 412. The Evidence was admissible under Rule 412 because counsel failed to attack Defect indictment insufficient Evidence Jury instruction second directed verdict and Jury For new trial All of this was ~~for~~ error Form Counsel

4 ground directed verdict should have been granted because the State could prove a date or time of Place the alleged victim was living with her Dad around the 4th and 5th July 2013 you cant be conviction of statutory Rape when alleged victim living in a another town with no contact to victim. no medical examined of a Rape Kit done while she under the age 16. direct verdict should have been granted under MRE of Evidence, because you cant use ~~reputation~~ reputation opinion or allegation unless the defendant is source of semen or injury

5 ground Nov should have been granted because under MRE 412 because cant use admissible Evidence to grand jury or Juror are a judge for a conviction because its false past Evidence that admissible in the court room to people

6 ground Jury instruction insufficient because of the Evidence under MRE 412 no DNA no physical examined of a Rape Kit in this case. no Evidence of medical examined to Juror for conviction, under MCA 97-3-65-1 Sect

The ground will support newly discovered Evidence for

OFFICE OF THE CLERK
SUPREME COURT, U.S.

F. application for Leave to proceed in the trial Court ^{2 25}
 For the circuit court of panola county under false evidence by the state in federal court the exh 12 & 13 is proof of citation omitted
 The attorney general for the state of mississippi prove that the evidence used at trial in circuit court of panola county and the testimony evidence on appeal in the mississippi court of appeal was admissible citation omitted when the District court made the state answers to count one and two of the charge a Rise in panola county for statutory rape in august 2016

ground for relief under application motion
 A miss code and motion for relief 99-39-5 know biological Evidence
 B miss code and 99-39-1 know DNA testing of biological Evidence
 C miss code and 99-39-3 know burden of proof
 D miss code ann 97-3-68 miss Rape Shield law enacted in 1977
 E Under Rule 412
 F motion for Directed verdict maclain v state 62 miss 1993
 G motion for Directed verdict to renew a second directed verdict
 H Page v state 99 so 2d 760 762 miss 2008
 I Rule 22 Jury instruction admissible citation omitted
 J Rule 25.1 motion for a new Trial admissible citation omitted on ground 1234567 united states v smith 331 us 1947
 K Rule 14.1 A 706 Appendi v united state 530 US 2000 under indictment admissible citation omitted to prove each of the count richardson v state 94 so 3d miss 2011
 L US 51 Amendment const art 3-27 miss code 99-7-21 m 99-7-23 demerck motion to the indictment
 M Rule 146 to dismiss indictment 99-1353 Conwill v state 94 so 2d miss 1992
 N new discovery evidence by the state on by citation omitted under admissible with out evidence rule 412
 O new discovery evidence by the state on by citation omitted under defective indictment no statute in indictment 97-3-65
 P omitted to Leave out or leave unmentioned to Leave undone fail omitted mean no evidence to conviction Petitioner of Statutory citation mean an official summon to appear as before court

The state prove a lie under false Evidence MRE 412
 There is ~~no~~ known evidence of sexual intercourse, in this case in 2013 2014 2015

Newly discovered Evidence warrants New trial

A motion to request forensic DNA testing of biological evidence under Mississippi code annotated section 99-39-51-F Supp 2012 Lewis claim of Prosecution attendant to conviction petitioner of know tested DNA and that testing would demonstrate by reasonable probability that the petitioner not been convicted of statutory rape. in 2016 of August. Results had been obtained through such forensic DNA testing at the time of the original prosecution. petitioner claim to Regarding the statute of Limitation section 99-39-52 ~~aff~~ which the Legislature Amended in 2009 to allow petitioner to file a PCR. Motion requesting DNA testing mandates. The Legislature enacted this new statutory provision in Pickle v. State 896 (2013)

B The record contains transcript of trial Judge abused his discretion when he said the state prosecution don't need physical or forensic DNA to convict ~~the~~ petitioner of statutory rape, all they need was her the victim to tell 12 stranger the juror that you stuck your penis in her vagina and they believe her. The court then confirmed once more for Lewis the state did not have to produce physical evidence to obtain a conviction, and Mississippi court appeal used the same evidence the victim testimony. The District court made the attorney general answers to count 1 and 2 for statutory rape. The attorney general stating in his motion that the prosecution for state and Mississippi court appeal that the testimony was citation omitted. citation omitted mean that the state failed to prove their case that the accused committed the crime charge because of the evidence

E petitioner states that the DNA testing would probably demonstrate with favorable result that Lewis would not have been convicted. Lewis is entitled to DNA testing under statutory rape in 2016 Fundamental constitutional right, clearly erroneous of the court denied Lewis DNA testing of 6th amendment right const. The court prejudice Lewis conviction without DNA testing and because the victim was 16 year of age she was legal miss code ann 97-3-65 petitioner can't be charge with statutory rape when a victim is 16 year of age under MS code ann 97-3-65

Newly discovered Evidence on ineffective assistance of counsel
 defense in this matter on defective indictment discovery violations due process of Law and in sentencing. Petitioner argues that jury were presented with false past admissible DNA testing of evidence to return a guilty verdict. Gaskin v. State 618 So 2d 1031 66 MS 1993 In order trial of rape to be accepted a factual basis for the trial must be established the accused committed the crime charged.

Request for DNA Testing 30 July 2022 3

Ground 3

Biological Evidence for statutory Rape from Forensic
against the petitioner of the victim in August 2016
to prove the petitioner did not commit statutory Rape

MCA Section 99-39-5(2)(a)(i) and MCA 99-39-23

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DNA testing under newly enacted statute which allowed allowed
petitioners to file a motion for post conviction relief requesting DNA
testing West Amc. 99-39-5(2)(a)(i) prose litigants Goodin v Dept
of Human Servs 772 So2d 1051 1054 (7) Miss 2000. Lewis claim there was
no sexual assault kit test (done) on me or the victim. Lewis repeated these
statement in his brief on appeal to this court. The victim was 16 year old
when she said this happen. She was legal under MCA 97-3-65. The legislature
made its purpose clear in subsection that biological evidence can solve old
crime enhance public safety, and settle claims of innocence MCA 99-49-1(9)
MCA 99-39-5(6) Provide any person sentenced by court of record

of State of Mississippi including a person currently incarcerated
may file a motion to request forensic DNA testing of biological evidence
if the person, that there exists biological evidence secured in relation to
the investigation or prosecution attendant to the petitioners conviction
not tested DNA evidence Petitioner request for DNA testing of
previously tested or untested biological evidence under MCA
Section 99-39-5(2)(i) and 99-39-5. Lewis Requests that the
court order DNA testing of the semen samples from the rape
victim here in August 2016. Lewis claim his innocence, and he claims
that his PCR motion based on the untested DNA under section 99-39-5(2)(i)
Petitioner states that the DNA testing would probably demonstrate
with favorable result that Lewis would not have been convicted
on appeal. Lewis argues that no rational trier of fact could have
found proof of guilt beyond a reasonable doubt that he had committed
statutory Rape, in count 1 and 2. The statute is straight forward
in that you must file your for DNA evidence testing or additional
DNA testing with the court. Petitioner would not have been convicted
favorable results had been obtained through such forensic
forensic DNA testing at the time of the original prosecution

MCA Section 99-39-5-1(7) DNA evidence will prove conclusively
that Larry Lewis did not statutory Rape the victim 2013 July 4th a
5th Ave 2014 and 2015. The trial court facts was clearly erroneous.
Presley v State 48 So3d 526 528-29 Miss 2010
Brown v State 731 So2d 595 548 Miss 1999. Petitioner want
the court of Panola county to produced a medical examined Rape
kit 2013 4th and 5th July to support this conviction in 2016.

The legislative history of Rule 412 MRE The ~~was~~ Law 327
The circuit judge clearly violate Rule 412 MRE in this case in August 2016
g Petitioner claim of New discovery evidence that alleged P6

A victim was 16 when he was charged with statutory rape under

g.1 MCA ~~she was~~ 97-3-65 she was legal. also when petitioner
was ~~in~~ secret indictment around 2 day of December 2015 under
97-3-65 MCA she was legal according to the statute 97-3-65
The attorney general took the statute MCA 97-3-65 and also
peace and dignity of the ~~the~~ State of Mississippi out of the
Indictment in federal court because the indictment was false.

charge general Affidavit of statutory rape on 13 day of October 2015 by Bryan
B arnold investigator for the Sheriff Department of Panola county

g2 under MRE 412 sex offense case. The county are the state ms.
cant go back to year ago and charge the petitioner with
statutory rape because under MRE 412 The evidence is admissible
in a criminal case involving an alleged sexual offense because
reputation or opinion of a victim past sexual behavior cant be
used unless you are source of semen pregnancy disease or injury
The trial judge cant admit evidence to a jury only the areas
where victim was examined under MRE 412. a subdivision

c Is designed to protect the privacy of the alleged victim by
g3 by excluding opinion or reputation evidence. Rule 412 is applicable
in all criminal cases in which a defendant is accused of a sexual offense
against another, if otherwise admissible nothing in this rule
precludes evidence of past false allegations by the alleged victim
of past sexual offense past false allegations. This protect
the defendant sixth amendment right Rule 412 ms. Rape
shield Law 97-3-68, Petitioner claim under MRE 412 the county
or the state cant go back to used evidence of statutory
rape in count 1 and 2 against the petitioner because alleged
victim was legal at the time F was charged with statutory rape
under MRE 412 sexual offense.

D.4 The Evidence is False under MRE 412 is it admissible ⁱⁿ court
g they cant used allegations of alleged victim past sexual offense
it false allegation under MRE 412 it violate the 6th amendment const
article sec 26 Petitioner is innocent of count 1. and in the
indictment in circuit court of Panola of Mississippi. The
attorney for the state ~~has not~~ admit in federal court in his
answers. The prosecution used false evidence under 412 MRE citation
omitted and the something in ms court of appeal citation omitted
of evidence. There is know evidence of sexual intercourse.

can use statement of the claim or ground upon which is based
petitioner bases his post conviction motion on the following federal
and state constitutional claim and asserts that he is entitled
to relief based upon each such ground.
exh 1 2 3 4 5 6 7 8 9 10 11 12 13 25
p 5

The attorney said in Federal court that the witnesses testimony
conviction with out semen injury was citation omitted false proof

New discovery Evidence go back to trial court

The attorney general for the state answers in Federal District
court on count one and two for statutory Rape against the
petitioner. The attorney general file a motion in Federal District
court and said the Evidence was a citation omitted
in trial of Panola county ~~and~~ and mississippi court of appeal
The state used false Evidence of testimony to gain a conviction

1 ground one false indictment on Evidence that was admissible
under 412 MRE The attorney general prove that Evidence ~~was~~ was
false in his answers to Federal court. The indictment is defect by
know date of time of place and ~~essential~~ know essential element
in indictment and know 99/1983 in indictment to be sentence.
Rule 14. 4. A demurrer or motion to quash indictment MCA 9A-7-2/
9A-7-23 14. 1706 improper indictment 5th amendment article 3 sec 27

2 insufficient Evidence was admissible under 413 MRE ~~Sex Offense~~ ~~Offense~~ ~~Offense~~

A The witnesses was false testimony at trial under Rule 412 you
cant used Reputation or opinion of past sexual behavior unless
you source of semen pregnancy disease or injury to a judge or
in grand jury. Cant used allegations of past false allegations
by the alleged victim of sexual offense subdivision 6th
Amendment article 3 sec 26 5th amendment 3 article sec 27

3 assistance of counsel 6th Amendment article - sec - 26 failed to
~~attack~~ witnesses testimony at trial failed to ^{to} attack the defect
indictment failed to ^{attack} jury instruction and second directed
verdict and motion for new trial NOV.

4 Sentence violation 8th Amendment ~~of~~ of USCA Petitioner
constitution Right violation 5th 6th 8th 14th Amendment
articles 3. -26-27. The attorney general admit to all then ground
by citation omitted in Federal court on his answers.

5. The victim was 16 year of age when she made her story up she
was legal under MCA 97-3-65 The state cant go back to and
half year to prosecuted according to R412 MRE Rape shield Law 97-3-68

6. Emergency Relief under false evidence of testimony by the state.
The state prove a lie under false evidence in the of mississippi

7. The ~~was living~~ victim ~~living~~ was living with her Dad around
the 4th and 5th July 2013 the summer of 2013 The victim said this
at trial to support the allegations. Lewis had no contact with
victim around the 4th and 5th of July 2013
6

There is no Evidence from a 16 year old victim for Statutory Rape PA
under MCA 97-3-65 she is legal in Law in Mississippi
ground 1. MRE 412 SEX OFFENSE case admissible false
Evidence, The trial court without Jurisdiction because victim legal at 16
under MCA 97-3-65 and Relief MCA 99-39-5-1 abc ef

A The victim was 16 year of age when ~~made~~ she made up
her story up. the county and State cant bring charged
because the alleged victim was 16 years of age when
she made her statment she was legal under miss code
ann 97-3-65. under MRE 412 sexual behavior its is
admissible Reputation opinion or allegations unless you
are the source of semen pregnancy or disease or injury. The
Judge can only admissible Evidence where the areas
about which the victim may be examined. The trial court
was without Jurisdiction to go to trial and to impose
sentence. The conviction and the sentence was imposed
in violation of the constitution of the united state or the
constitution of the united State or the constitution of law of
Mississippi.

B subdivision is designed under MRE 412 to protect the
privacy of the alleged victim by excluding opinion or reputation
evidence of the victim past sexual experience. This rule is
applicable in all criminal case. In which a defendant is
accused of a sexual offense against another, if otherwise
admissible nothing in this rule precludes evidence of
past false allegations by alleged victim of past sexual
offense. Past false allegations shall include any
such allegations made prior to trial provision as to intended
to protect the defendant Sixth Amendment right under
Rules 412 of Mississippi Rules 412 Rape shield law under MCA 97-3-69
Thonston v. State 376 so 2d 1343 miss 1979

C see Goodwin v. State 566 so 2d 1142 1990 Federal MRE
412. Lewis challenges the fact for basis clearly erroneous to
be conviction of statutory rape with out DNA are with
out physical Evidence. The ~~cannot~~ state of Mississippi cant
prove statutory rape with out a medical examined two years
ago. William v. State 872 so 2d Miss Ct app 2004 Lewis challenges and
claim to conviction by a grand jury without penetration to consti-
tution the essential element of sexual intercourse, petitioner
claim now can be convicted without any physical Evidence,
of Biological evidence of a sexual assault examination kit such forensic DNA test
The victim was 16 years of age she is legal under MCA 97-3-65. so there was no rape kit done
There was no investigation done of rape because victim was legal you cant get evidence
from a 16 year old female for statutory rape you cant get nothing but a story that legal

~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ ~~138~~ 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Request for DNA Testing form this court 9
ground. That the prosecution attendant to the petitioner's conviction not tested. DNA testing that would provide a reasonable likelihood of more probative results and that testing would demonstrate by reasonable probability that the petitioner would not have been convicted if favorable results had been obtained through such forensic DNA testing at time of the original prosecution. Under MCA section 99-39-5-1-F it is also an exception to the time bar and successive writ bar. MCA section 99-39-5-2(i) and MCA 99-39-23.

The statute is straight forward in that you must file your request for DNA testing or additional DNA testing with the court. You must show that specific DNA evidence does exist. Whether it was tested or not whether previously tested evidence could be additionally tested, and that the testing would show a reasonable probability that you would not have been convicted. Testing will demonstrate a reasonable probability that he would not have been convicted. MCA 99-39-5-2(i) allowing petitioners to file a motion for relief requesting DNA testing biological evidence to test which is required under section 99-39-5-2(i). Lewis had requested DNA testing of all biological evidence in this case.

In case involving of felony sexual assault all evidence must be preserved under MCA 99-44-1-4 sup 2012 in relation to an investigation or prosecution of a crime. MCA 99-44-1-3 preserving biological evidence can solve crimes, and settle claims of innocence. Lewis also argues that the circuit court erred in denying his request for DNA testing claiming under 99-39-5-2(i) Lewis claim that his challenge to the ~~statute~~ insufficient evidence constitute a constitutional right violation and therefore fundamental constitutional right. Lewis states that the DNA testing would probably demonstrate with favorable result that Lewis would not have been convicted, section MCA 99-39-5-2(i) which the legislature amended in ~~2009~~ 2009 to allow petitioners to file a motion requesting DNA testing mandate. The legislature enacted this new statutory provision in 2009 and Lewis filed for relief pursuant to its provisions under section MCA 99-39-5-1-F 99-39-5-2(i) and 99-39-23 and 99-44-1-3 1-4 1-5.

new discovery evidence of the indictment. Lewis claim in Federal court that his indictment failed to charge him each count of the statute provision of law which the defendant is alleged to have violated. Lewis claim that the trial ~~should~~ court should consider the following factor ① The time period between the offense, ② whether the evidence proving each count would be admissible to prove each of the other count, and ③ whether the crime are interwoven. Richardson v State, 74, so 3d 317 324 (Miss 2011) citation omitted. Petitioner claim you cant be charge with statutory rape when victim is 16, and the state cant go back two years ago if illegal under

LEWIS claim under rule 14.4, b. Petitioner raised by MCA 97-3-65 and MRE 412
demurrer or motion to quash the indictment may be brought in a motion to ~~dis~~ dismiss. Miss code ann 99-7-21 - 99-7-23
Petitioner raised a demurrer to quash the indictment under 99-7-21 - 99-7-23 because the indictment is legal insufficiency of a defect in the indictment because the indictment ~~to charge~~
~~an offense in count one and two~~

Failure of the indictment to charge an offense in count one and two, of a date and the essential element of criminal act, see Baker v State 95 so 3d 692 (2012) see proof, ex 3
no person shall be held to answer for a capital, or otherwise infamous crime unless on a presentment or indictment of a Grand Jury as amend 1, Miss const art 3. § 27

Petitioner is raised this motion to dismiss the indictment in count 1 and 2 under rule 14.1. ~~at~~ ~~the~~ ~~date~~ the date and, if applicable the time at which the offense alleged to have been committed. The victim gave testimony at trial that she was living with her dad the summer of 2013 around ~~the~~ 4th 5th of July and Charlene Turner mother gave declaration ~~and~~ same testimony at trial. I was indictment for ~~active~~ active the petitioner never committed in panola around July 4th and 5th see ex 4. I cant be conviction statutory when victim living in another town petitioner had no contact with victim on the ~~date~~ 4th or 5th July 2013, petitioner asked that the indictment in count 1 and 2 be dismiss because of the date in the indictment

The state took the Statute out of indictment
because it defect ~~and every thing else~~ and no
citation omitted essential elements of criminal act.

In the instant case, Larry Lewis was charged with one count of statutory rape of a child under the age of fourteen under Mississippi Code § 97-3-65(1)(b) (Count 1) and one count of statutory rape under Mississippi Code § 97-3-65(1)(a) (Count 2). He was charged in an indictment, which reflects that it was issued in the State of Mississippi, Seventeenth Circuit Court District in the Second Judicial District of Panola County. SCR, Vol. 1, pp. 6-7. Regarding Count 1, the indictment states, in relevant

part, that Larry Lewis: The indictment do not have the statute in it count 1 and 2 of the Sexual Penetration of Sexual ORAL of the male section seven

on or before the 4th day of July in the year of our Lord, 2013, in the District, County and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully, and feloniously have sexual intercourse with [the victim], a child under the age of fourteen (14) years of age and twenty-four (24) or more months younger than LARRY D. LEWIS and not the spouse of LARRY D. LEWIS

The indictment is fraud under prejudice count 1 and 2.
SCR, Vol. 1, p. 6. With regard to Count 2, the indictment charges that Lewis:

between the 5th day of July in the year of our Lord, 2013, and the 4th day of July in the year of our Lord, 2015, in the District, County and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully, and feloniously, have sexual intercourse with [the victim], a child at least fourteen (14) years of age, but under sixteen (16) years of age and thirty-six (36) or more months younger than LARRY D. LEWIS; and the said LARRY D. LEWIS being at that time a person seventeen (17) years of age or older and not the spouse of [the victim]

Id. In Ground One, Mr. Lewis contends, as he did in state court, that the indictment failed to give specific dates for the crimes stated in the indictment. He raised this claim challenging the sufficiency of the indictment in the Mississippi Supreme Court on post-conviction review, and the state court found the claim to be without merit. *See* Exhibit B. This finding is in accordance with state law, which provides that, "in cases involving sexual abuse of a child[,] a specific date is not required so long as the defendant is 'fully and fairly advised of the charges against him.'" *Hines v. State*, 126 So. 3d 985, 987-88 (Miss. Ct. App. 2013) (citations omitted); *see also Anderson v. State*, 62 So. 3d 927, 938-39 (Miss. 2011) (specific dates not required in child sexual assault cases if the defendant is "fully advised of the

omitted mean the state fail on the indictment because
the indictment defect on -10- ground under Rule 412
you cant used opinion or reputation or allegation to get indictment
by Grand Jury it is admissible in ~~indictment~~ under rule 412 MRE
EG The state committed ~~fraud~~ is ~~fraud~~ case.
FRAUD

Exh. 12

citations omitted by the state
under admissible evidence conflicts in favor of
the prosecution and mississippi court appeal
new discovery evidence by the state of citations omitted

States v. Vargas-Ocampo, 747 F.3d 299 (5th Cir. 2014) (Jackson also "unambiguously instructs that a reviewing court, 'faced with a record of historical facts that supports conflicting inferences must presume—even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution.'" (citations omitted).

admissible evidence under MRE 412
As noted above, Larry Lewis was charged with statutory rape of a child under fourteen (Count

1) and statutory rape (Count 2) and was found guilty on both counts. To support his claim of insufficiency of the evidence, he notes the lack of DNA or other physical evidence. The trial court

Required

explained to Mr. Lewis that the law does not require forensic evidence in sex crime cases:

MCA Sect
99-39-52-A ii

~~DNA is Required under MCA 99-39-52-A ii~~ for sexual assault
[F]orensic evidence is not required for somebody to be convicted of having sexual intercourse with somebody that they're not supposed to be having sex with. ... [The only thing required to convict him was for the victim to] sit on that witness stand, tell 12 strangers that you stuck your penis in her vagina, and they believe her.

~~This is the Law Forensic testing of DNA to prove statutory rape.~~
SCR, Vol. 2, pp. 16-17; see also, *id.*, p. 22. The court then confirmed once more for Lewis that the State

The State convicted Lewis without sexual assault examination kit of rape and did not have to produce physical evidence to obtain a conviction. *Id.*, p. 17. This explanation comports because the victim was legal under MCA 91-3-65 she was 16 half year old with Mississippi law. See *Price v. State*, 898 So. 2d 641, 651 (Miss. 2005).

at the time of statement, there is no evidence the state can use against for statutory rape.

Mr. Lewis challenged the sufficiency of the evidence to support his convictions during direct appeal of his convictions, and the state appellate court thoroughly addressed his claim. After setting forth the elements necessary to find Lewis guilty of the two counts of statutory rape, the state court held:

admissible under MRE 412, under Federal Rules can be used in evidence by law

The facts established that Lewis and J.T. began a sexual relationship when J.T. was thirteen years old. J.T. reported that Lewis put his penis into her vagina on several occasions. At the time, Lewis was approximately fifty years old or older. J.T. also testified that her relationship with Lewis continued until she was sixteen years old.

However, Lewis asserts that there was no direct evidence to link him to the crime of statutory rape. This Court has previously held that "[w]itness testimony alone is sufficient to secure a conviction." (citations omitted). admissible evidence under MRE 412

Furthermore, Meredith Rawl, an expert in the field of child abuse and forensic interviewing, conducted a forensic interview of J.T. Rawl testified that based on her

I was denied due process of the law by citations omitted
omitted mean the 13. State fail prove there case.

E.g because they did not have evidence

The Trial Judge said the state do not need DNA or physical evidence if the victim is under 16 year of age. The trial judge is in violation of MRE 412 under Federal Rules. That the Law

The victim was legal under 97-3-65 at this time she made history of assault
 There is no evidence of history of assault in this case.

RCC No: 15-0639

Client Type: SA - Child

Rape Crisis Center

FORENSIC NURSING EVALUATION

Name: Junnita Turner	Date(s) of Assault: AGE 13 UNTIL 3 MONTHS AGO	Date of Exam: 10/1/2015
DOB: 7/5/99 Age: 16 Gender: Female	Time of Assault: no Evidence	Time of Exam: 1120
Race or Ethnicity: Black or African American		

History of Assault: All witnesses repeat this story at trial for conviction of Statutory Rape.

16 Y/O FEMALE REPORTS THAT LARRY LEWIS HAD SEX WITH HER FROM THE TIME SHE WAS 13 YEARS OLD UNTIL ABOUT 3 MONTHS AGO, WHEN SHE TOLD A WOMAN AT SCHOOL ABOUT IT. JUANITA STATED LARRY HAD SEX WITH HER MANY TIMES AND HE USED A CONDOM TWICE. HE WOULD EJACULATE, BUT NOT INSIDE HER VAGINA. NO ORAL OR ANAL PENETRATION. JUANITA REPORTS THAT LARRY LEWIS WAS HER MOTHER'S BOYFRIEND UNTIL JUANITA WAS 15. LARRY IS IN HIS 50'S.

The victim was 16 when she report false statement of sexual intercourse, no semen or injury in evidence false report of sex evidence admissible under rule 412 MRE

cant be used as evidence in criminal case of sexual offense. This was false evidence at trial to be used for a conviction of Statutory Rape to petitioner. The evidence was false

because it admissible under rule 412 MRE they cant go back and prosecute two years ago with out evidence
 This is proof for the court no evidence of statutory rape to be prosecuted for sexual intercourse.

Assailant Activities During Assault:	Patient's Post Assault Activities:
Lubricant Use? Unknown	Urination: N/A Sponge Bath: N/A Defecation: N/A
Condom Use? twice	Douche: N/A Bath/Shower: N/A Oral Activity: N/A
Foreign Object Use? Unknown	

Physical Symptoms AFTER assault:		Assessed: Negative ("X" all that apply)		
Headache	Nausea	Vaginal Pain	Oral / Pharyngeal Pain, Swelling or Bleeding	Penile Discharg.
Dizziness	Vomiting	Vaginal Itching	Extremity Pain, Swelling	Rectal Pain
Chest Pain		Vaginal Discharge		Rectal Itching
Abdominal Pain	Vulvar Discomf.	Vaginal Bleeding		Rectal Bleeding

Other symptoms after assault: None (not listed above)

Patient's Emotional Reaction to Assault: Not Observed by FN

Please "x" all the following descriptions that apply:			None
Agitated	Loud	Tearful	Other behavior(s):
Fidgeting	X Quiet	Tense	
X Cooperative	Sobbing	Trembling	Response to Questions: Briefly Answers Questions
Listless	Staring	Yelling	

Investigating Agency: Panola County, MS

Signature of Nurse Examiner: K Gable

Gable, K.

R&I Number:

Date: 10/1/2015

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CONFIDENTIAL

appendix ~~ABUSE~~ 13