

1 it was a stupid mistake I made to have sex with him.

2 MR. SMITH: After May '94 the incident that you told
3 Randy about, isn't that true?

4 THE WITNESS: Yes. I explained to Randy what had
5 happened as -- mostly asking for advice on what
6 happened, on what I should do.

7 MR. SMITH: Maybe I am not making myself clear. I
8 apologize if I'm not, but Lisa, did you go to Randy and
9 and say to Randy that Joe was doing something but
10 whatever you said to him was untrue; that he wasn't
11 really doing that?

12 THE WITNESS: He wasn't -- the only thing I said to
13 Randy was just that what had happened on that day, and I
14 asked him what I should have done about it.

15 THE COURT: Did I understand it to be Randy
16 Anderson; that's what you just explained to me when I
17 asked you about the circumstances?

18 THE WITNESS: Yes.

19 MR. SMITH: Yes, Judge. May I have him brought in
20 the courtroom?

21 THE COURT: Lisa, you go wait in the courtroom
22 across the hallway where you were sitting before.

23 JOSEPH LOUIS THEROUX, having first been duly sworn,
24 testified as follows:

25 DIRECT EXAMINATION BY MR. SMITH:

1 Q Mr. Theroux, where do you live?

2 A 102 Sefton Avenue, Warwick, Rhode Island.

3 Q How old are you?

4 A Eighteen.

5 Q Do you know a Lisa Lupino?

6 A Yes.

7 Q And did you know her in 1994?

8 A Yes.

9 Q Did you go out with her as boyfriend and girlfriend?

10 A Yes.

11 Q Did you ever have any relation with Lisa Lupino?

12 A To the effect?

13 Q Sexual intercourse?

14 A No.

15 Q How long did you go out with her?

16 A Say approximately four to five months.

17 Q And I take it then you broke up with her. Was that in

18 '94?

19 A Yes, I think it was still '94.

20 Q About when was it that you broke up with her?

21 A It was close to Christmas, I think.

22 Q And after breaking up with her did you learn of

23 something that she said about you?

24 A Yes.

25 Q What did you learn?

1 A I learned that I -- from a friend of mine that I
2 supposedly raped her.

3 Q And what, specifically, did this friend tell you?

4 MR. REGINE: Objection.

5 THE COURT: Well,--

6 MR. REGINE: Wasn't elicited from Miss Lupino,
7 unless he talked to Randy Anderson, this defendant.

8 THE COURT: I don't know so much offered for the
9 truth, or for other purposes. I will permit him to
10 respond. What did you hear?

11 THE WITNESS: I heard that she told my friends that
12 I raped her.

13 Q What is your friend's name?

14 A Carrissa Ferla.

15 THE COURT: Ferla?

16 THE WITNESS: F- E -R -L -A, C-A-R-R-I-S-S-A.

17 THE COURT: Is that a female?

18 THE WITNESS: Yes.

19 Q Did you?

20 A No.

21 MR. SMITH: That is all I have.

22 CROSS-EXAMINATION BY MR. REGINE:

23 Q Mr. Theroux, there was occasion when you were with Miss
24 Lupino where you started to engage in some type of
25 sexual relations, kissing, touching, correct?

1 A Yes.

2 Q And you were coming on to her, isn't that fair to say?

3 A It was mutual.

4 Q And -- but, sometime she said no, correct?

5 A No.

6 THE COURT: No? She didn't -- she didn't say no?

7 Q Well, were there two incidents? I mean, you went out
8 with her four months, correct?

9 A Yes.

10 Q Was there ever an incident in which she said, "No, I'm
11 not ready," and you guys stopped your continuing, you
12 know, sexual contact?

13 A There was a time she said no; we did stop.

14 Q There was a time. That was my question--

15 A I thought you meant by it continued.

16 Q Not the last time where you guys engaged in consensual
17 sex. My question to you was there was a time where you
18 were coming on to her and at some point during that she
19 said, "No, not right now," correct?

20 A Yes.

21 Q And you did stop after that, correct?

22 A Yes.

23 Q And then there was consensual engaging after that?

24 A Yes.

25 Q Concentrating on that first time -- may I have a moment,

1 Judge?

2 THE COURT: I want to be sure I'm clear about
3 something. Some point you and Lisa did have consensual
4 sexual intercourse, is that correct?

5 THE WITNESS: No.

6 THE COURT: It's not correct?

7 THE WITNESS: No.

8 THE COURT: I have heard two different answers from
9 you already, I'm not quite sure which one I'm supposed
10 to be concentrating on, Mr. Regine.

11 Q Did you say you didn't have sex with her?

12 A We have never had sexual intercourse. We have had
13 foreplay but it's never got into that.

14 Q What kind of foreplay was it?

15 A Just kissing, and touching.

16 Q You tell me what exactly did you engage in in terms of
17 the contact with her?

18 A Kissing, just touching and --

19 Q Touching the genital areas of each other's body?

20 A Yes.

21 Q With other parts of your body, not hands?

22 A Yes.

23 Q And during this touching, engaging in touching genital
24 areas of the body some point she said no, correct, one
25 of these occasions?

1 A In one, yes.

2 Q She said stop; and, at that point, you did stop,
3 correct?

4 A Yes.

5 Q Did you ever talk about that with her about why she said
6 no, or why it came about?

7 A No. I just figured myself it was too early.

8 Q You never actually asked her, or went over with her what
9 her feelings were on that day, exactly why she told you
10 to stop, correct? .

11 A Yup.

12 Q Was that the first time that you had really started --
13 engaged in a close touching with her on this first day
14 she said no?

15 A Was the first time we have ever --

16 Q Really, really close?

17 A Yes.

18 Q Was it your first time as a boy, too, with a girl?

19 A Well, besides kissing; yes.

20 Q And how about her? Did you know it was really her first
21 time getting that close to someone?

22 A I had no idea.

23 Q She said no; you -- then you stopped?

24 A Yes.

25 Q And then after that there was consensual stuff; went a

1 little further, correct?

2 A Yes, sir; different day.

3 Q When you heard from this girl who said her last name
4 again was --

5 A Ferla.

6 Q Ferla, that she heard Lisa Lupino say that you raped
7 her, did you ask her what she meant by that? Did you ask
8 Lisa what she meant by that?

9 A I never talked to Lisa after that.

10 Q Did you ask this girl Ferla what she heard or meant by
11 the word "raped?"

12 A She just said she heard exactly from Lisa that she got
13 raped.

14 Q You raped her?

15 A Yes.

16 Q And you never explored "What did you hear about that?
17 What did she tell you? What did she mean?"

18 A I never. That was the last I heard of.

19 Q There was occasions where during the course of touching
20 and getting very, very close to her there was a "no"
21 from her and you did stop, correct?

22 A Yes.

23 MR. REGINE: May I have just a moment?

24 THE COURT: Yes.

25 Q Did you ever inquire from this woman, Miss Ferla, how

1 many times, or where she heard it, or under what
2 circumstances Lisa told her about this?

3 A No.

4 Q You never called Lisa up to find out what she was
5 talking about?

6 A I wasn't allowed to.

7 Q Allowed to by who?

8 A My father.

9 Q To your knowledge, did she ever -- was there ever any
10 contact besides anyone else, any friends, any police, or
11 DCYF involved?

12 A That-- no.

13 Q About this incident, talking to you about what she said
14 and what you said?

15 A No.

16 Q To your knowledge, no one ever followed up in terms of
17 finding out exactly what she meant when she said that?

18 A No.

19 Q Where were you when the incident -- strike that. At
20 what point in that first engaging contact with her where
21 she said no, what point were you at when she said no?

22 MR. SMITH: Object, only one reason, save the Court
23 time. After listening to testimony of both Lisa and
24 this witness I have no desire to get in that area. That
25 may short circuit this entire proceeding at this point.

1 THE COURT: When you say you have no desire to get
2 into the area are you telling me you're going to
3 eliminate from further cross-examination the issue as to
4 whether or not she falsely accused this witness of
5 sexually assaulting her?

6 MR. SMITH: That is correct.

7 THE COURT: That takes care of the hearing, I think.

8 MR. REGINE: I believe so. Under the statute there
9 is going to be no attempt to speak with her about that.

10 THE COURT: Never mind under the statute, counsel
11 already agreed he is not going to inquire.

12 MR. REGINE: And also how about as to at least the
13 sexual engagement of prior sex with him under the -- not
14 a false accusation under the one statute but under the
15 Rape Shield statute, at least question her about prior
16 sex.

17 THE COURT: I don't get any indication from Mr.
18 Smith he intends to inquire as to whether Lisa ever had
19 sex with this man.

20 MR. SMITH: Or anybody else, for that matter.

21 MR. REGINE: I thought he indicated he was going to
22 make an offer of proof. Okay. Thank you.

23 THE COURT: All right, Mr. Theroux, you're excused.
24 Let's go back to our courtroom and we'll go back to
25 work. Do you have further questions of that witness?