

Case Study for Cross Examination Practice- 10/27/2020

Victoria and Peter

Victoria, Complainant, First year at Loyola University Maryland (LUM)

Peter, Respondent, First year at LUM

Hannah, Witness #1, Resident Assistant (RA) at LUM

Alice, Witness #2, First year at LUM & Victoria's close friend

Around 11:30am on Saturday, December 13th, the Title IX Office at LUM received an online report from Hannah, an RA on the 3rd floor of Butler Residence Hall. Hannah's report stated that Victoria, a first year resident on Hannah's floor in Butler, had disclosed that she was sexually assaulted the night before, December 12th, by Peter, a fellow first year who lived in Bowman Residence Hall, directly adjacent to Butler. The Title IX Deputy Coordinator for Students scheduled a meeting with Hannah for 8:00am the following Monday to gather more information. Hannah decided to file a formal complaint. Notice of the allegation and investigation was given to the Complainant and Respondent.

Hannah's Statement as given to the Investigator

Hannah said she received a phone call around 10:00am from Jason, a desk assistant in Butler who had worked the late shift at the front desk of the residence hall the prior night. Jason informed Hannah that, at around 1:00am on Friday night (early Saturday morning), he saw Victoria walk in the front door of Butler appearing visibly intoxicated and looking "misty-eyed," as though she had been crying. As she walked by the front desk toward the elevators, Jason said he asked her if she was okay, to which she said, "Yeah, I'm fine, long night," before quickly turning the corner. Jason said he thought Hannah should check on Victoria, which Hannah agreed to do.

Hannah said she knocked on Victoria's door around 11:00am Saturday morning and that Victoria answered the door "looking rough." Hannah asked if she would mind coming down to her room to talk for a bit, to which Victoria reluctantly

agreed. Hannah said she had planned on having the typical alcohol talk and possibly referring the situation to student conduct, but was surprised by the direction the conversation took.

When Hannah asked Victoria to tell her about the prior night, Victoria said she hung out with some friends in Bowman Residence Hall then came back to her dorm. When Hannah asked if Victoria consumed any alcohol, Victoria said she didn't remember. When asked how she got back to Butler, Victoria said, "I honestly don't have much memory of last night." Hannah then explained LUM's alcohol policy and shared that Jason had observed her from the front desk entering Butler late the prior night, apparently intoxicated. Victoria did not respond, instead sitting silently looking down at her hands. Hannah added that Jason also mentioned that Victoria looked upset and asked if something had happened that night.

Hannah said she could see tears welling up in Victoria's eyes and that Victoria took a deep breath and said, "I did drink last night, but it wasn't my alcohol, it was Peter's. Our friend group was all over at his dorm room in Bowman, then everyone gradually left, and Peter asked if I'd hang around to talk. He was having relationship problems or something. And, I don't know if there was something in the drinks or what, but I just remember getting really drunk really fast, then everything started to get fuzzy and my memory of the night kind-of goes in and out. The last thing I really remember was sitting on Peter's bed, in his room, and we're talking about his ex-girlfriend or whatever, and then he just starts kissing me out of nowhere. I think I tried to pull away, but he just kept going. Then I just have a flash of memory where he's on top of me. Then I just remember waking up in my room this morning with a really bad headache."

Hannah said she tried not to ask too many questions, but did ask Victoria what she meant by “on top of me,” to which Victoria replied, “I guess he was having sex with me, but I just don’t really remember a lot.” Hannah said she told Victoria that she would need to refer this information to LUM’s Title IX Office, and that when Victoria asked why, Hannah said she told her it sounded like she had been sexually assaulted. Hannah said she explained LUM's policies on consent and incapacitation, adding that it sounded to her like Victoria did not have the capacity to consent. Hannah said she suggested that Victoria go to the student counseling center and to the hospital for a SANE exam, but that Victoria told her she didn’t want to go to either. Hannah said Victoria was still worried about getting in trouble for having consumed alcohol, but that she explained how LUM's amnesty policy applies to reported incidents of sexual assault. Hannah said after Victoria left her room, she immediately filed the online report to the Title IX Office, as she had been trained to do.

Victoria’s Statement to the Investigator

Victoria met with the Investigator and shared the following: Victoria explained that she and Peter are part of the same friend group, and that they and about five other friends had met up in Peter’s room in Bowman around 10:00pm that Friday night. When asked about her relationship with Peter, Victoria said, “I guess I would’ve called him a friend; I mean, we hung out a lot because we were part of the same friend group, but we weren’t like close or anything, he’s always kind of preoccupied with other girls. He’s known for being a player.”

Victoria said Peter had a couple bottles of vodka waiting when they got there and had purchased bottles of Gatorade from the vending machines downstairs with which to mix it. She said, “I don’t remember who was mixing drinks, I’m assuming it was Peter, but I just

remember someone handing me a red solo cup with a mixture of vodka and Gatorade.” Victoria said she remembered finishing one cup and drinking from a second but couldn’t remember if she finished it or not.

Victoria said, “I just remember snippets of what happened. I think we’d been there for a several hours, probably, then everyone started to head back to their dorms, and I remember Peter kinda whispering to me that he wanted me to stay after because he wanted to get my thoughts on his girlfriend situation, or something. Like I told Hannah, I don’t know if Peter put something in my drink or what, but it definitely hit me fast, just out of nowhere, I was out of it. I remember stumbling and slurring my words, and then just having a lot of difficulty concentrating while he was talking to me. Then I must have blacked out because I have this flash of being in his bedroom, sitting on his bed, and he’s going on-and-on about this girl. Then I have another flash of him abruptly kissing me, and then I like, push him off, I think, and then I have another flash, I guess sometime later, where I’m on my back, I think still on his bed, and he’s on top of me, raping me.”

Victoria said she had no recollection of leaving his room or of how she got back to Butler, explaining that the next thing she remembered was waking up in her room on Saturday morning feeling awful. Victoria told the Investigator that Hannah came to her room later that morning and that Hannah had informed her that a DA apparently saw her walking through the front doors of Butler late that night appearing drunk and upset, adding that she thought this was further proof of how intoxicated she was that night. The Investigator informed Victoria that there are interior surveillance cameras observing the entrances of all the residence halls on campus, and that they would acquire and review that footage. Victoria said that, after talking with Hannah, she felt like what happened was not okay and so she decided to file a formal complaint.

Peter's Statement

Peter met with the Investigator and the Investigator informed him that the University was investigating a situation involving Victoria that occurred on the night of Friday, December 12th. Peter explained that Victoria was a good friend of his who he had met during first year orientation, along with many of the others in their friend group. Peter said that he always thought Victoria had a crush on him, adding that her close friend Alice—who is part of their friend group and who was at the party in his room that night—had told him a few months prior that Victoria was interested in him, but that she considered him “emotionally unavailable” because of his on-again-off-again relationship with his now ex-girlfriend, Krista.

Peter explained that one of his older Bocce ball teammates had given him two bottles of vodka so that he could host his friends that night, and that he bought approximately 10 bottles of blue Gatorade as a mixer. He said everyone arrived around 9:00 or 9:30pm and that they “just hung out playing drinking games with a deck of cards” in the common area of his suite-style dorm room. Peter said he had also purchased a stack of red solo cups and that everyone mixed their own drinks throughout the night. Peter admitted that he got very drunk that night, adding that he thought everyone was pretty drunk by the end of the night, Victoria included.

Peter said everyone started leaving his room shortly after midnight, but that Victoria stuck around. Peter said he went to his room to lie down because “the room was starting to spin,” and that Victoria came with him and began asking him questions about his relationship with Krista while sitting on the edge of his bed. Peter added that he and Victoria had talked about Krista on a few prior occasions, and that he “always liked getting a girl’s perspective on all of it.” Peter said they talked about his

relationship issues for about 5-10 minutes and that, at one point, Victoria made the comment, "I don't know why you put up with her shit, I know I would treat you much better than that if I were your girlfriend." Peter said that, as she said this, she moved her hand to his genital area and began caressing his penis over his sweat pants. Peter explained that he did not have any romantic interest in Victoria, but that he "didn't necessarily have an issue with her wanting to get frisky." Peter said Victoria then lowered his waistband, pulled his penis out, and began performing oral sex on him. Peter said while she did this, he tried to reciprocate by putting his hand down her pants and fingering her.

Peter said this continued for about 5-10 minutes, at which point Victoria stopped and asked what was wrong, referencing the fact that he had still not achieved an erection. Peter said he "probably said something like, 'Sorry, whiskey dick.'" Peter said Victoria seemed to get upset and asked tearfully, "Is it me?" Peter said he "tried to let her down gently," but that she kept pressing, so he finally said something like, "I've just never had feelings for you like that. I can't help it if I'm not turned on."

Peter said Victoria got really upset and that he had to "go into damage control" for 10-15 minutes, but was eventually able to talk her down, adding that he "figured she was just drunk and being emotional." Peter said he thought Victoria left his room sometime around 1:00am, after which he made himself a sandwich, grabbed his computer, and started watching Netflix while lying in bed. Peter said that about an hour later, he got a text message from Victoria that read, "I'm still so drunk," to which he responded, "Yeah, me too." She replied, "Talk tomorrow?" to which he responded, "Of course." When the Investigator asked to see the text messages, Peter willingly provided his phone. The Investigator noted the timestamps on the text messages as being: 2:14am, 2:15am, 2:21am, and 2:21am, respectively.

Alice's Statement

Alice met with the Investigator the following week and said that she was confused by the Title IX Deputy Coordinator's email, adding that she had no idea why she had been asked to meet. When the Investigator told Alice that the University was investigating a situation that occurred on Friday, December 12th, Alice said she wasn't aware of anything that happened that night. When the Investigator said that it involved Victoria and Peter, Alice said, "No way am I getting in the middle of their drama." When the Investigator asked Alice to elaborate, Alice asked if she had to answer the Investigator's questions. After some back-and-forth, Alice ultimately refused to answer any questions or to provide any additional information and expressed her desire not to have any involvement in an investigation.

Video Surveillance Footage

The Investigator reviewed the surveillance footage from cameras observing the entryways of both Bowman and Butler Residence Halls, which showed Victoria leaving Bowman at 1:07am and entering Butler at 1:21am. In both videos, Victoria appears to sway slightly as she walks and does not walk in a straight line. The details of her face are difficult to make out due to the cameras' low resolution.