

FOR IMMEDIATE RELEASE:
SEPTEMBER 23 , 2019 AT LOS ANGELES, CALIFORNIA

KNOW THE TRUTH: CHANEL MILLER

By Tom Lallas¹

“The only thing necessary for the triumph
of evil is for good men to do nothing”

Edmund Burke [1795]

On September 5, 2019, a feeding frenzy erupted among the mainstream media, bloggers and others² when articles were published regarding the imminent release of a new book about Chanel Miller, Know My Name. Miller, who was an intoxicated twenty-two (22) year old adult college graduate, and not a member of the Stanford community, met Brock Turner, a nineteen (19) year old Stanford freshman, in January 2015, at a Stanford Fraternity party, and the incident that occurred between them³ led to the prosecution and conviction of Turner for sexual assault, and a six (6) month jail sentence. Some media reports regarding the incident, criminal charges, trial, sentencing, and jail sentence have been distorted, inaccurate, malevolent, false, and untrue.

On the eve of the release of Miller’s book, which will enable Miller to monetize the incident at Turner’s expense, and receive from a publisher what may possibly be a million dollars or more, the familiar admonition of an iconic crime detective television series, Lt. Joe Friday of Dragnet, is instructive: “Just the facts, ma’am”. In the context of the prevailing cross-currents of conventional wisdom, it has become customary to demonize the accused and deify the woman identified as a victim. This report provides facts in the Trial Record not disseminated (widely, or perhaps at all) by the mainstream media demonstrating that Turner was not guilty of criminal conduct in any of his interactions with Miller.

A. Miller: The Undisputed Truth

At the time of the KA party, on the weekend of January 17-18, 2015 (the “KA Party”), **Miller was a twenty-two (22) year old adult woman, a graduate of UC Santa Barbara in June 2014, and who had never been enrolled as a student at, employed by, or otherwise affiliated with, Stanford.** Turner was a nineteen (19) year old second quarter freshman who was underage for purposes of all drinking laws and Stanford policies. **Miller concealed from, and did not disclose to, Turner,** at the KA Party or afterward, that Miller: (i) had a history of serious problems with

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² CBS News, USA Today, ABC 7 News, Washington Post, Rolling Stone, US News, Washington Times, Its Biography, SF Gate, and Heavy.

³ The source of the facts, testimony, exhibits and evidence cited herein is Appellant’s Opening Brief [AOB] filed on behalf of Turner. Trial transcripts and evidence admitted at Trial are available upon request.

alcohol; (ii) had a **history of blacking out after drinking at parties**, and elsewhere; (iii) **had blacked out** after drinking at parties prior to the KA Party **on four (4) or five (5) or more occasions**; (iv) **consumed four (4) shots of whiskey and a glass of champagne** at the Miller residence between 10:00 p.m. and 10:45 p.m. before going to the KA Party while Miller also **drank straight vodka** at the KA Party and **shotgunned beers**.

Miller’s blackout history was critical information that Miller wrongfully concealed from Turner. Toxicology evidence confirms that Miller’s blood alcohol content, at the time of the incident, was between 24 and 25%. **Expert testimony established at the Trial that a drinker in a blackout does not know she is in the blackout at that moment, and that a third party, Turner, with the drinker, would have no idea that the drinker is having a blackout.** Dr. Kim Fromme is a nationally recognized expert on the effects of alcohol intoxication related to alcohol-induced blackouts, sexual risk taking, and driving under the influence. 8 RT 707 [AOB 56]. Dr. Fromme described a blackout as a “period of amnesia during drinking in which the person is fully conscious and aware to be able to engage in all kinds of activities – walking, talking, driving a car, dancing, having sex, etc., they’re simply not just forming memories for those events.” 8 RT 721. [AOB 56]. One of the alcohol experts testified to a self-evident truth, that excessive alcohol consumption “can lead people to engage in behaviors when they are drinking that they might not otherwise engage in when sober and they might even later regret.” **Most importantly, when a drinker is in an alcohol blackout, an acquaintance of the drinker observing the drinker cannot tell that the drinker is in the midst of a blackout.** Furthermore, empirically, females are more likely to blackout than males and are also likely to blackout at lower amounts of alcohol consumption than males. Miller was in a blackout during the time she was dancing with Turner, while they were making out, and thereafter, even at the hospital.

When Miller’s sister Tiffany Miller (“Tiffany”) left the KA Party to take care of and attend to her friend, Trea, who was feeling sick from excessive drinking and “was not doing well at all”. Tiffany: (i) just thought [Miller] **would be fine if** [Tiffany] left (ii) believed that Miller “**appeared to be fine**”; and (iii) observed that “[Miller] seemed drunk but **not out of control** at all” and “still, like, speaking totally fine.”⁴ After consuming significant amounts of alcohol as described above, **Miller was able to, and did, dance on a table at the KA Party.**

Miller gave her consent when Turner: (i) asked her if she would like to dance at the KA Party; (ii) kissed Miller, and she was responsive to his kiss, after they had danced for about ten (10) minutes at the KA Party; (iii) asked Miller if she wanted to go back to Turner’s dorm, and Miller said sure; and (iv) asked Miller if Miller wanted Turner to touch her with his finger, and she said yes, while the two (2) of them were kissing, petting, and making out on the ground near the basketball court.

While Miller and Turner were “grinding” on the ground near the basketball court, and at all times, Turner had his pants on, Turner’s belt buckle was fully buckled, and Turner’s pants zipper was fully zipped up. Turner’s DNA was nowhere on or in Miller’s underwear.

⁴ These quotations are all from the transcripts of the preliminary hearing and/or the trial.

When Miller was examined by the Valley Medical Center Sexual Assault Response Team (“SART”) **there was no evidence of sperm in her vagina.** The DNA expert who examined Miller determined that **her vaginal swabs were negative for semen** and that although Miller’s underwear contained a mixture of DNA from two individuals, with Miller as the major contributor, that **“Brock Turner is excluded as a possible contributor to the minor DNA component”.** The only item of Miller’s clothing examined by the DNA expert was **Miller’s underwear,** and it **contained no evidence of Turner’s DNA.** 7 RT 500 [AOB 52].

B. Pre-KA Party Events.

As of the weekend of January 17 – 18, 2015, Miller was 22 years old, and was living at home with her parents in Palo Alto after having graduated from U.C. Santa Barbara in June 2014. [AOB 16]⁵ On that weekend, Miller’s younger sister, Tiffany Miller (“Tiffany”) was home from Cal Poly where she was attending college, and had made plans to get together with some of her college friends who were also home during winter break. [AOB 16-17] One of Miller’s sister’s high school friends was a Stanford student named Julia, who belonged to the Kappa Gamma sorority, which was co-sponsoring a party that Saturday night with the Kappa Alpha fraternity, to be held at the Kappa Alpha fraternity house. [AOB 17] Miller decided to accompany her sister and her sister’s two friends, Colleen and Trea, to the Kappa Alpha party. [AOB 17]

Before the party, **Miller consumed four shots of whisky and a glass of champagne at the Miller residence** (the other young women all imbibed comparable quantities), after which Miller’s mother drove them to the Stanford campus and dropped them off around 11:00 p.m., when they entered the Kappa Alpha house and continued drinking vodka and beer. [AOB 17]⁶

C. KA Party.

At some point shortly after midnight, Miller, her sister, and Julia **left the Kappa Alpha house to urinate in some nearby shrubbery.** [AOB 17] When they returned to the party, they stayed outside on the patio talking to Turner and a friend of his. The conversation was characterized as “group chat” by Colleen. [AOB 17] **Miller’s last recollection of the evening** is standing on the Kappa Alpha patio and **drinking beer with her group.** [AOB 18]

From the combined accounts of Colleen, Julia, and Miller’s sister, **all of the young women were intoxicated but functioning adequately, except for Trea,** who was displaying symptoms of excessive intoxication by slurring her words and acting sleepy. [AOB 18] Miller’s sister asked Julia if she could take Trea to Julia’s dorm room to rest and recuperate. [AOB 18] At 12:14 a.m., Colleen called an Uber for herself and Miller’s sister to take Trea to the dorm. [AOB 18] Miller’s sister told Miller what they were doing, and **at that time Miller “seemed fine”** according to her sister. [AOB 18] **No one,** neither Miller’s sister, nor Julia, Colleen nor anyone else at the party, **testified that Miller had done anything to alert them that she may have been excessively**

⁵ At the time of the KA party, Miller was not enrolled, employed by, or affiliated with, Stanford.

⁶ There are discrepancies on this point in that one witness testified the women were dropped off in front of the fraternity house while the other said it was at the Book Store/Student Union parking lot, about a ten (10) minute walk away from the KA House.

intoxicated. [AOB 18] Miller had been calling her boyfriend in Philadelphia, where it was 3:00 a.m. The boyfriend described her speech was “rambling,” and one of her voice mails to him at 12:16 a.m. contains a mixture of some slurred speech and some concise diction. [AOB 18]

At 12:29 a.m., Miller called her sister, who was still attending to Trea, but the sister could not hear what Miller was saying, and asked her to call her back. [AOB 18] Miller also called Julia but did not reach her. That was the last call or text from Miller’s phone that evening. [AOB 18]

D. Turner and Miller at the KA Party.

At about 12:30 a.m., Turner saw Miller dancing by herself, went up to her and told her he liked her dancing. [AOB 19] Turner asked her if he had met her earlier, and then asked if she had a sibling because he had been talking with someone who looked a lot like her. [AOB 19] Miller responded that her sister was there. 9 RT 845. [AOB 19] Turner asked if she would like to dance with him, and she said “sure.” They danced inside near the door of the patio. [AOB 19] **After dancing for about 10 minutes, he kissed her, and she was responsive.** [AOB 19] **Turner asked if she wanted to go back to his dorm, and she said “sure.”** Turner asked her name while they were dancing, but he did not remember it. He had given her his name. [AOB 19]

E. Turner and Miller Leave the KA Party.

Turner put his arm around her shoulder, and they walked away from the party. [AOB 19] There is no testimony from any source that Turner carried, dragged, or otherwise maneuvered Miller as they walked away from the party. [AOB 19] There were no independent witnesses to any interaction between Turner and Miller around the time that they left the party. [AOB 19]

F. Consensual Sexual Conduct In Plain View by the Basketball Court.

Turner testified that as they left a concrete path they were walking on to take a shortcut, Miller immediately slipped and “kind of fell down.” [AOB 19] She “grabbed onto me to try and prevent her fall and that caused me to fall as well.” [AOB 19] **They began kissing, and engaged in consensual sexual conduct** that Turner described as “fingering” her. [AOB 19]

Contrary to published reports, when Turner and Miller were making out on the ground, and the incident occurred, they were not “behind a dumpster.” Instead, they were in plain view next to a concrete basketball court where they were eventually observed by two graduate students.⁷

After they fell, they “laughed about it,” Turner asked if she was okay, and she said she “thought so.” [AOB 61] At that point, they started kissing. After some kissing, “she rolled on her back, and I rolled on her front while we were still kissing.” [AOB 61] After some more

⁷ The enclosed photographs show the (i) location where the incident occurred, (ii) KA House, (iii) patio at the KA House, (iv) bushes where Miller, her sister and their friends urinated, (v) concrete path, and (vi) concrete basketball court. The pictures conclusively demonstrate that the accusation that Turner sexually assaulted Miller behind a dumpster, which was repeated at least 47 times in Turner’s trial, was false.

kissing, **Turner asked her “if she wanted me to finger her,” and she said “yeah.”** Turner “took off her underwear.” Significantly, Turner’s DNA was not found on Miller’s underwear, but a laboratory examination revealed the presence of the DNA of another person on her underwear, indicating that her underwear retained traces of DNA from an unidentified third party, but not Turner. Turner got up on his knees and took off her underwear from her dress. 9 RT 851. [AOB 61] **Miller assisted and “lifted up her hips to help me.”** [AOB 61] He then got back on top of her, kissed her, and fingered her. Turner was asked “When you say ‘fingered her,’ did you put a finger from your hand into her vagina,” and Turner answered, “Yes, I did.” 9 RT 852. [AOB 61] Turner also touched her breasts by moving her dress down. Turner fingered her and “thought she had an orgasm. [AOB 61]

During that time, he had asked her if she liked it, and she answered “uh-huh.” [AOB 61] Miller had her arms around his back and at one point wrapped around his neck. [AOB 61] Miller was “moaning initially and breathing heavily and then it just increased more frequently,” which gave him the impression that she had an orgasm. [AOB 61] At that point, he stopped fingering her and started kissing her. They then started “dry humping each other,” which means “grinding each other’s hips against each other.” 9 RT 853. [AOB 61-62]

G. Graduate Student Witnesses.

At approximately 1:00 a.m., two graduate students were bicycling toward the Kappa Alpha party, and saw Turner on the ground immediately adjacent to the concrete basketball court, on top of a female who appeared to be inert. [AOB 20] **Turner was fully clothed with his pants buckled and his zipper up,** but was “thrusting aggressively” on top of her. [AOB 20]

H. Miller Was Lying on the Ground in Plain View.

Miller was lying on the ground next to the basketball court, asleep or passed out, with her underwear off and with her dress hiked up to her waist. [AOB 20] She was treated by paramedics, and woke up at the Valley Medical Center three hours later. [AOB 20] Turner was taken into custody. [AOB 20]

I. Results of Medical Examination.

Forensic testing established that neither semen nor Turner’s DNA was detected in Miller’s vaginal swab. [AOB 20] **There was no DNA of Turner detected on Miller’s underwear or on any other part of her body.** [AOB 20] There were three identifiable traces of Miller’s DNA on Turner: one under his left fingernail, one under his right fingernail, and one on his right finger. [AOB 20]⁸

J. Cellphone Timeline.

10:30 p.m. Miller, her sister, and their two friends engage in pre-party

⁸ The evidence and testimony do not indicate whether this DNA came from Miller and Turner while they were holding hands together, as opposed to any later sexual conduct between the two of them.

drinking at the Miller residence.

- 11:00 p.m. Miller's mother drops the four young women off on the Stanford campus where they join the Kappa Alpha party and continue drinking.⁹
- 11:30 p.m. Turner and his friends join the Kappa Alpha party and continue drinking.
- 11:54 p.m. Miller calls her boyfriend in Philadelphia, wakes him up, and engages in a two-minute conversation in which the boyfriend characterizes her speech as slurred and sometimes incomprehensible.
- 12:00 a.m.+ Miller, her sister, and Julia, leave the party to urinate behind some shrubbery, all are acting silly, and they return to the Kappa Alpha patio where they drink beer and chat with Turner and his friends.¹⁰
- 12:16 a.m. Miller leaves a voicemail for her boyfriend, in which she vacillates between some slurred speech and some concise diction.
- 12:17 a.m. Colleen calls for an Uber to take her, Miller's sister, and Trea to Julia's dorm room for Trea to recuperate from excessive intoxication. Miller's sister informs Miller of this, and describes Miller's condition then as seemingly "just fine."
- 12:19 a.m. Miller's boyfriend calls her and describes her speech as rambling.
- 12:29 a.m. Miller calls her sister, who is still attending to Trea, and the sister asks Miller to call her back. Miller then called Julia but did not reach her.
- 12:30 a.m.+ Turner approaches Miller and within a few minutes, they leave the party and begin walking together in the direction of Turner's dorm room.
- 1:00 a.m. Two graduate students bicycling toward the Kappa Alpha party encounter Turner and Miller on the ground, adjacent to the Kappa Alpha basketball

⁹ Some third parties believe the women drove themselves to the party but the Stanford Police and Santa Clara County District Attorney's Office have not produced license plate numbers that were collected by the Stanford Police and referenced in their official report the night of the incident.

¹⁰ Miller's friends took photos and/or videos of these events but the Stanford Police returned the cell phones and related evidence to the women the next morning even though the photos, videos, and telephone timelines could have constituted material, probative evidence.

court, 116 feet from the Kappa Alpha patio. Turner is fully clothed on top of Miller, and “thrusting aggressively.” Miller is inert, with her underwear off and her dress hiked up to her waist. The graduate students confront Turner, another student calls the police, and Turner is arrested. [AOB 21-22]]

K. Conclusion

Turner had no way to know that Miller was experiencing an alcoholic blackout because Miller concealed both her history of severe blackouts and prior intoxication from Turner, and Miller functioned adequately under the circumstance and did not know, in all reasonable probability, that she was in the throes of a blackout. All of the making out and other activity between Miller and Turner during the incident was consensual. The facts described above confirm that Turner committed no crime, and was not guilty of any criminal conduct.

A Picture Is Worth a Thousand Words



The view the two Swedish graduate students had of Doe and Turner . . . in full view of all passersby, IN FRONT of the dumpster and a 15- to 30-second walk from the fraternity outdoor patio.

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Kappa Alpha fraternity house on right, Jerry House on left

1. KA patio
2. Path where Turner and Doe walked from the KA patio
3. Where Turner and Doe were making out
4. Where graduate students tackled Turner
5. Path the graduate students came in on bikes
6. Area in bushes where Doe, Doe's sister, and their friend went to urinate an hour earlier

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