

Evidential materials

1. Statement of the complainant, Marjorie Wong
2. Witness statement by Teddy Johnson
3. Extract from a statement by D/Sgt Chan Chi Wai
4. Extract from a statement by Dr Peter Larkin
5. Proof of evidence of the defendant, Martin Leung, made to his solicitors
6. Witness statement by Nancy Fan

Statement of the complainant, Marjorie Wong

1. My full name is Marjorie Man Wong. I was born in Hong Kong on 28 April 1993. In May of this year, I graduated from the Pearson-Hollard School of Design here in Hong Kong with a Bachelor of Arts degree in design. There were 33 graduates in my year.
2. On Saturday, 10 May 2014, a graduation party was held at the Horizon Yacht Club in Sai Kung in the New Territories. All the graduates were there together with a few boyfriends and girlfriends. It was a toga party; I mean we were all dressed like Roman senators. But, being design students, it was pretty much an avant-garde fashion parade too.
3. I don't normally drink very much but on this occasion I was celebrating and there was a lot of champagne. I think one of the parents had supplied it. The champagne went right to my head and by 11 o'clock that night, with all the music and the talking, I was very drunk. I confess that I had a couple of puffs of cannabis too, just as an experiment.
4. It was about that time, that is, about 11 o'clock, that Martin Leung asked me to dance. Martin and I had been friends throughout our three years at the School of Design. We often collaborated on design projects and often went out in a crowd. Our relationship, however, was not a romantic one, at least not on my part. There was one occasion about a year ago, again when we had all had a bit to drink, when Martin attempted to take our relationship to a more intimate level. I told him then that I liked him very much as a friend but in no other way. In fact, we had an argument about it. My best friend, Rosalie Pang, witnessed it and acted as a mediator so that within a matter of minutes we were friends again. Martin has known all along that I have a serious boyfriend, an advertising executive, named Brett Chung, and that we are thinking of getting married one day. After that one incident about a year ago, Martin and I resumed our friendship and I imagined that the incident was just history.
5. That was why I had no suspicion when, after we had danced, Martin told me that he had a headache from the noise of the music and suggested that we walk outside to get some fresh air. He had his arm around my shoulder and was calling me by endearing names such as "darling" and "beautiful". But we all talk to each other like that. We are art students and very tactile by nature. It means nothing. When we walked out onto the lawn, my head began to spin badly and I felt sick. I wanted to go back inside and told Martin so. I was afraid I would be sick and wanted to be near a toilet. I also thought that if I could just find a chair and sit down for a time I would be

alright. I remember I tried to pull away from Martin but he would not let me go. He kept holding my wrist no matter how much I tried to pull away. For a moment or two I was quite frightened. He seemed so insistent. I remember telling him as firmly as I could that I wanted to go back inside. But Martin can be very convincing. He said that the very worst thing for the two of us was to go back into the smoky atmosphere with the loud music and that if we could find somewhere to sit in the fresh air we would be fine. He would find us a spot to sit down by the trees. My judgement must have been clouded by the alcohol and the cannabis but his suggestion seemed sensible to me.

6. So I went with him past the trees where there was still lawn and we could sit. I felt so bad that I lay down and closed my eyes. He sat next to me. I thought he was genuinely concerned for me. On more than one occasion I heard him say that if I just lay there for a time I would feel better. It was about that time that I must have fallen unconscious from the alcohol.
7. I do not know how long I lay there for but I awoke feeling very confused. It was as if a heavy weight had been placed on me and I felt sharp pain in my private parts. It took me a moment or two to realise that Martin was on top of me and having sexual intercourse with me. No, I didn't feel him removing my clothes. But I was in a flimsy toga and it would have been easy for him. When I realised what was happening, I immediately cried out. I don't remember exactly what I said but it was something like: "My God, what are you doing? No, no." When I cried out he must have taken fright because he immediately climbed to his feet. Then he turned and, as best as I remember, he walked away.
8. The shock was so bad that I was violently sick. I remember I was crawling on my knees and crying. It was at that time that Teddy Johnson, a fellow graduate and a good friend, came over to me. He asked me what was the matter. I don't remember now what I said to him. You tell me that he remembers me saying: "How could I have agreed? Oh God, what will Brett say?" I may well have said that. I was devastated at what had happened to me and was thinking of my boyfriend's reaction. But when I said "How could I have agreed?" I was talking about my eventual agreement to walk with Martin across the lawn and passed the trees. I was not talking about any agreement to have sexual intercourse. I never agreed to have sexual intercourse with Martin, not in any way. He took advantage of me when I fell unconscious. I remember clearly saying to Teddy Johnson as he helped me back across the lawn that Martin had raped me. That is why he suggested that I call the police.

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9. I have not told my boyfriend, Brett, what has happened. He is very jealous. I am very afraid that he will break up with me.

Witness statement by Teddy Johnson

1. I have known Marjorie for three years. We were in the same class at the School of Design. It was not a big class and pretty much all of us in the class were friends. Marjorie is a very happy person, quite flamboyant and affectionate. She and Martin Leung have always been close friends. They did a lot of projects together. I think the best way to describe them was as buddies. To my knowledge they were never romantically involved with each other.
2. On the night of the graduation party we were all drinking champagne. The music was pretty loud too. We were all in a very good mood, celebrating our degrees. I remember seeing Marjorie and Martin dancing. In the slow dances they were holding each other close but I didn't think anything of it. That's the way Marjorie is, she and a lot of the girls in the class.
3. The next time I saw Marjorie was much later, somewhere around 11.30 that night. I was with my girlfriend and we went outside. Quite a few couples were doing that. I remember that we were sitting and talking when I heard a woman suddenly cry out. It was something like: "No, no, what have you done?" But I can't be sure of the exact words. I was sufficiently alarmed, however, to tell my girlfriend to stay there while I went to investigate.
4. I walked a short distance, I don't remember how far, and came across Marjorie. She was crawling on her hands and knees. There were tears in her eyes and it looked as if she had been sick because there appeared to be vomit on her toga. When she saw me, the first thing she said, repeating it two or three times, was: "How could I have agreed?" I didn't know what she was talking about. At that time I thought she was just ill or very drunk. I helped her to her feet and, after I had called my girlfriend, we walked together across the lawn back to the club. Marjorie was very uncertain on her feet and I think pretty much out of it. Marjorie did not say anything during that time but, as far as I could see in the dark, I think she was crying. It was only when we got to the entrance to the club that Marjorie said to me that she did not want to see Martin. I asked her why. After all, they were good friends. It was then that she said that she had been raped by him. Obviously that came as a shock. My girlfriend and I sat with her to try and find out what had happened. Marjorie was clearly very worried about her boyfriend, somebody she called Brett, and his reaction if he found out. Initially, when I said the matter should be reported to the police, she resisted the idea because that way her boyfriend was bound to find out. She also said that Martin was a friend. I told her that, by his actions, Martin had

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demonstrated that he was no friend. It was then, although she was still very unwilling, that she agreed to let me call the police.

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Extract from a statement by D/Sgt Chan Chi Wai

1. On Sunday, 11 May 2014, at 10:00 hours, I went to the Horizon Yacht Club in Sai Kung where I spoke to the manager, Pedro Silva. He informed me that the club maintained two CCTV cameras, one at the front entrance and one at the rear overlooking the sliding door that led to the lawn that itself went down to the sea. I asked him if the cameras had been working the night before when the graduation party took place, particularly the camera overlooking the lawn. He confirmed that was the case and removed the video cassette for me. I marked it with the identification number: 11/5/2014: 10:00 and took it into my custody on the basis that we would study it without delay and if it did not assist us that we would return it to the club. Mr Silva said that they only had a limited number of video cassettes and, if at all possible, wanted this one returned to him.
2. I returned with the cassette to my headquarters. Later that day, together with WPC Wong Mei Ling, I looked at the video cassette, paying special attention to the time period 22:30 to 24:00 hours.
3. Although we knew from a site visit early that day that the CCTV camera at the rear of the club was focused only on an area of about 20 m out across the lawn and would not therefore be capable of recording what may have happened at or close to the scene of the alleged rape, it was still of interest to us. This was because the alleged victim had described an incident close to the sliding doors at the rear of the club when she said that the arrested person, Martin Leung, had wanted to take her across the lawn and into the darkness and that, initially at least, she had physically resisted his attempts to do so. We wished to see if the video recording gave evidence of any such incident.
4. The recording quality of the videotape was poor. It was very grainy and not fully focused. Nor was the lighting particularly good. It was therefore doubtful whether we could identify any particular person appearing in the video.
5. However, we were able to see a number of the persons at the party standing outside the clubhouse and talking. We were also able to see a number of couples, by which I mean men and women, walking through the sliding doors at the rear of the clubhouse and out onto the lawn until they were lost from the view of the camera. Between 22:30 hours and 24:00 hours, we counted a total of 14 couples walking out through the sliding doors together and onto the lawn. In respect of those couples, we played the video twice but were unable to see anything suggesting that one of the

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couples had stopped to talk to each other within the view of the camera and, more particularly, that there had been any sort of physical resistance shown by the female to walking further away from the club.

6. Being satisfied that the video recording did not advance the police investigations, I returned the video cassette to the club later that same day.
7. On 22 September 2014, I was informed that the solicitors representing Martin Leung wished to have sight of the video recording that I had seized on the morning after the alleged rape. I immediately went to the club where I spoke to Mr Silva. He informed me that the video cassette would have been re-recorded many dozens of times since May of this year. However, he was able to locate the video cassette bearing the identification numbers that I had given it on the morning of Sunday, 11 May 2014.
8. The video cassette was given to Police Headquarters for forensic examination. That report, a copy of which is attached hereto, confirmed that it was not possible to recover any of the recording made on the night of 10 May 2014.

Extract from a statement by Dr. Peter Larkin

(A medical doctor and specialist in forensic pathology with 15 years' experience in that field, having testified as an expert on numerous occasions in the courts of Hong Kong and Singapore.)

1. Ms. Marjorie Wong gave a blood sample to the police at 02:00 hours on Sunday, 11 May 2014 for the purpose of ascertaining her blood alcohol concentration. The results are contained in the report attached to this statement and marked 'A'. For my purposes, the report revealed a blood alcohol concentration (BAC) of 0.12.
2. In order to place that report into context, I have had the opportunity to meet Ms Wong, to take a brief statement from her and to measure her weight.
3. At the time the blood sample was taken, Ms Wong was 21 years of age. At the time I measured her weight two months later she weighed 44 kg. She informed me that, to her knowledge, there had been no noticeable change in her weight during the intervening period.
4. Ms Wong said that she had only begun to consume alcohol when she started her tertiary education and then it was on rare occasions, maybe once every 6 to 8 weeks. She would normally drink white wine. She had only consumed champagne on one previous occasion that she remembered and that was just a single glass. She told me that she was very wary of drinking alcohol as it went to her head, made her flushed and often sick.
5. On the night in question, I am told that Ms Wong was drinking champagne. Alcohol in a carbonated form such as champagne will make its effects known more rapidly than other forms of alcohol.
6. Against this background, although every individual's reaction to alcohol consumption is different, but bearing in mind her young age, her weight and her relative lack of tolerance for alcohol, it can safely be said I believe that at about 11:30 hours on the night of 10 May 2014, with a BAC of approximately 0.12, Ms Wong would have been suffering a significant impairment of her motor functions including in all probability slurring of her speech and difficulty with balance. Although it cannot be said with any scientific certainty that she would at the time have been incapable of consenting to sexual intercourse, she would certainly have been suffering a loss of good judgement and, at best, her reaction to matters directly concerning her well-being would have been severely dulled, that is,

materially time-impaired and quality-impaired. Any feelings of well-being experienced earlier would be starting to be replaced by anxiety and restlessness. If, as she said, she lay down and closed her eyes, it would not be surprising that she lost consciousness. Vomiting too is a common symptom.

Proof of evidence of the defendant, Martin Leung, made to his solicitors

1. My full name is Martin Leung. I was born on 12 January 1993 and I was therefore 21 years of age when I graduated from the Pearson-Hollard School of Design.
2. Marjorie Wong and I were in the same class at the School of Design for the full three years of the undergraduate course. We were very close friends. We often worked together and we confided in each other a great deal. Almost from the beginning, I realised that I was in love with Marjorie. Her feelings towards me, however, were much more complex. Over the past year, on two or three occasions, we were intimate with each other, not to the extent of having sexual intercourse but to the extent of kissing and touching and expressing what we meant to each other. On each occasion, however, within a day or two, Marjorie would have a change of heart and tell me that she loved me as a friend but no more. I was aware that she had a boyfriend, a man several years older than her who came from a wealthy family. Marjorie herself comes from a relatively modest family and she often told me that, because of her talent, her family wanted her to marry well, that is, to marry somebody rich.
3. On the night of the graduation party, we were all very buoyed up and celebrating. Somebody had donated a lot of champagne and by about 11 o'clock that night we were all of us, to a greater or lesser degree, under the influence of the champagne. Marjorie came to the party on her own. Apparently her boyfriend, Brett, was on business in Thailand.
4. Marjorie is always affectionate but that night, towards me, I found her to be very affectionate. At first, I was confused. Was it simply her mood of celebration and the champagne or was she trying to tell me that she had feelings for me that went beyond friendship? It was Marjorie who suggested that we dance and we must have been on the dance floor for close to an hour. During the slow numbers she held me very close and kissed me several times in a very intimate way. I knew for certain then that she was telling me that her feelings for me went beyond friendship.
5. I was of course excited by this and wanted to be alone with her. Any man in love with a woman would want the same thing. I suggested to Marjorie that we go outside and walk across the lawn down towards the sea. She agreed without hesitation. Indeed, she took my hand and led me out through the doors onto the lawn.

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6. We found a quiet spot and we sat down. Yes, as she walked across the lawn she was a little unsteady on her feet and occasionally would mix up her words. She was laughing a lot too. We were both under the influence of the alcohol that we had consumed. But Marjorie knew exactly what she was doing. She was the one who kissed me, doing so on my lips. She then lay back and smiled at me. I told that I loved her and she said that she loved me to. I then began to touch her intimately. She did not resist. She was wearing a toga which was easy to move. She did not say anything but all the time she was looking at me and smiling. She was not unconscious. In my mind she knew fully what was happening and I believed she was consenting to it.
7. When we began to have sexual intercourse there was no suggestion of any objection on her part. Then suddenly she seemed to have a complete change of mind. She started to push me away and to say: “No, no.” As soon as she did that, I stopped. I got to my feet. She had changed her mind before about her affections for me but this was so sudden.
8. Marjorie got to her knees and was then violently sick. Several times she said to me: “How could I have agreed to you becoming my lover? I have a lover, Brett.”
9. When I heard this, I was so flustered and upset that I walked away. I could not stay at the party any longer. I went home. The next morning, I was arrested at my home by the police on a charge of rape. Having received legal advice, I declined to make a cautioned statement.
10. However, I did agree to give a DNA sample which proved that Marjorie and I had had sexual intercourse, a matter which I have never denied.

Witness statement by Nancy Fan

1. My name is Nancy Fan. I am a graduate of the Pearson-Hollard School of Design and presently work as a website designer for Web Genius Limited. The defendant, Martin Leung, is an ex-boyfriend of mine. We met at school. I went to the School of Design one year ahead of him and it was essentially on my recommendation that he came to the School in the following year.
2. During that first year, when we were both undergraduates at the School, our relationship as girlfriend and boyfriend remained very strong. However, in the following year, that is during my last year as an undergraduate and his second year, our relationship came under considerable stress. I noticed that he became increasingly irritated with me and would make excuses not to see me.
3. After my graduation and in his last year at the School we argued constantly. He made a number of excuses to avoid seeing me. I recall that it was on an afternoon sometime in January 2014 during a telephone conversation that Martin told me that he was very interested in another girl. He did not give me the name of that girl but told me that she was in his same year at the School. He said that our relationship was now over and that we should break up.
4. I was very upset and could not concentrate at work for the rest of the afternoon. I decided to visit Martin at his room on the School campus to see if there was not some way of rescuing our relationship. Martin had been my only boyfriend. My parents adored him and I was hoping that we could build a life together.
5. I got to Martin's residence at about 9.30 that night. His room was on a corridor. At one end of the corridor, close to the lift, was a pantry where students who lived on that floor of the residence could make themselves tea and use the microwave.
6. I remember that, as I walked past the pantry, I saw Martin with another girl. They were in each other's arms and were kissing. I was shocked and stood there in the doorway looking at them. They immediately became aware of my presence. I said to Martin: "I want to talk to you." He looked very embarrassed and said: "Yes, of course."

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7. The girl, however, did not look embarrassed at all. She was smiling and laughing and introduced herself as Marjorie. She said something to me about the two of them working late on a design project and being excited because they believed they had come up with an exciting and original idea. She must have realised that I was Martin's girlfriend because she said to me: "Your boyfriend is a very talented man. Be careful or I'll steal him off you." Then she left, giving Martin another kiss but this time on his cheek.
8. The lights in the pantry were on. They were very bright. Although I did not know her well, I recognised the girl who called herself Marjorie. I had seen her on the campus on a number of occasions. Her name is Marjorie Man Wong.
9. After she had left, Martin and I argued. He did not deny that Marjorie was the other girl, the cause of our break-up.
10. I did not see Martin again, not until he approached me to make this statement.