

1 THE COURT: All right. Thank you,
2 sir. You're free to go.

3 State, call your next.

4 MR. GILLIAM: State calls Deputy
5 Richard Berrios.

6 THE COURT: All right. Come on up
7 here, Deputy.

8 THE BAILIFF: Judge, this witness
9 has not been sworn.

10 THE COURT: Come up here, sir.
11 Please raise your right hand.

12 *(Witness sworn.)*

13 THE COURT: Have a seat, please.

14 You may proceed.

15 **RICHARD BERRIOS,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. GILLIAM:**

19 Q. Deputy Berrios, could you please
20 introduce yourself to us?

21 A. My name is Deputy Berrios, District 4
22 Patrol.

23 Q. And what's your first name, Deputy?

24 A. Richard.

25 Q. Do you mind spelling it just for the

1 record?

2 A. R-I-C-H-A-R-D.

3 Q. And your last name?

4 A. B-E-R-R-I-O-S.

5 Q. And how are you currently employed?

6 A. Excuse me?

7 Q. How are you currently employed?

8 A. With Harris County Sheriff's Office

9 District 4 Patrol.

10 Q. How long have you been a deputy with the
11 Harris County Sheriff's Office?

12 A. Approximately eight months.

13 Q. Prior to working for the Harris County
14 Sheriff's Office as a deputy, what was your
15 employment?

16 A. I was a detention officer.

17 Q. Where were you a detention officer?

18 A. At the 1200 Baker Street Jail.

19 Q. Is that in Harris County, Texas?

20 A. Yes, sir.

21 Q. And I'm going to take you back to
22 January 27th of 2014. What were your job
23 assignments on that day?

24 A. I was a floor rover. Just make -- you
25 know, maintain security on the floor. And if they

1 ever needed me, then I respond to anything, or
2 security basically.

3 Q. And on January 27th of 2014, did you
4 have an incident with Weylin Allford?

5 A. Yes, we had conducted a health and
6 safety search of his cell. While conducting the
7 search, I discovered a yellow brush which was
8 sharpened with a point, you know, and it appeared to
9 be -- to me it was a shank.

10 Q. Where did you find that yellow hairbrush
11 sharpened to a point?

12 A. Near his mattress.

13 Q. Was it under his mattress, on top of his
14 mattress, where on his mattress?

15 A. Under his mattress.

16 Q. And do you see the -- do you see Weylin
17 Allford in the courtroom today?

18 A. Yes, sir.

19 Q. And will you identify him by where he's
20 sitting and an article of clothing?

21 A. Yes, sir.

22 Q. Will you?

23 A. Wearing a striped shirt, long-sleeved
24 (indicating).

25 MR. GILLIAM: Your Honor, may the

1 record reflect the witness identified the defendant?

2 THE COURT: It will so reflect.

3 Q. (By Mr. Gilliam) So after you found
4 this sharpened hairbrush, what point -- or what part
5 of the hairbrush was sharpened?

6 A. The handle was sharpened.

7 Q. What was the hairbrush made out of?

8 A. The hairbrush, it was sharpened with a
9 point from the handle. It was wrapped around with
10 newspaper and appeared to be, like, a torn bedsheet,
11 you know, kind of like a grip, I guess.

12 Q. I'm going to show you what I've marked
13 as State's Exhibit No. 12. Do you recognize this?

14 A. Yes, sir.

15 Q. And what is this?

16 A. That's the weapon that I found in the
17 cell.

18 Q. And is it in the same or substantially a
19 similar condition as to when you found it?

20 A. Yes, sir.

21 MR. GILLIAM: Your Honor, at this
22 point in time I'd offer State's Exhibit No. 12 into
23 evidence and tender to Defense counsel.

24 MR. SCOTT: We have no objection,
25 Your Honor.

1 THE COURT: All right. No
2 objection, it's admitted.

3 (State's Exhibit No. 12, Shank,
4 offered and admitted.)

5 MR. GILLIAM: May I publish it to
6 the jury, Judge?

7 THE COURT: You may.

8 MR. GILLIAM: I'm just going to
9 hold up the box because it's --

10 (State's Exhibit No. 12 published.)

11 Q. (By Mr. Gilliam) What did you do once
12 you found that shank?

13 A. I took it and secured it and completed
14 the cell, you know, search and gave it to my
15 supervisor.

16 Q. How long had you been a detention
17 officer?

18 A. At the time, I believe approximately
19 five years.

20 Q. Have you ever had run-ins or dealt with
21 shanks made in the Harris County Jail before?

22 A. No, sir.

23 MR. GILLIAM: Pass the witness,
24 Your Honor.

25 THE COURT: Defense?

1 MR. SCOTT: Yes, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SCOTT:

4 Q. Deputy, when you say you went in to
5 inspect and found this, where exactly were you, do
6 you remember? What cell? What block? What
7 anything?

8 A. I believe it was 2J2B cell.

9 Q. And were you alone or were you with
10 anyone else?

11 A. I was with other officers.

12 Q. And you say that this happened when?

13 A. January 27th, 2014.

14 Q. This -- this hairbrush, once this
15 happens, what exactly did you do with the hairbrush?

16 A. I secured it.

17 Q. All right. Then what did you do with
18 it?

19 A. I took it to my supervisor, you know.

20 Q. And then you turned it over to him, I
21 assume; is that correct?

22 A. Yes, sir.

23 Q. Was that the last time you saw that
24 hairbrush?

25 A. That's the last time I saw it.

1 Q. Does anybody in the Harris County Jail
2 who wants a hairbrush get a hairbrush?

3 A. Excuse me?

4 Q. Anybody in the Harris County Jail that
5 wants a hairbrush, do they get a hairbrush?

6 A. I think at the time you could have got
7 it through commissary. So they can purchase it.

8 Q. They go to commissary; and that's just a
9 place where you go buy different items that you're
10 allowed still to have within the jail, right?

11 A. Yes, sir.

12 Q. All right. So if a person wants a
13 hairbrush and they've got the money or whatever it
14 takes -- type of barter that you have, they go to
15 the commissary and then they buy a hairbrush,
16 correct?

17 A. Yes, sir.

18 Q. And then the next day they can go back
19 and they can buy another hairbrush if they've got
20 the money, right?

21 A. Yes, sir, if they're -- if they have
22 no -- any disciplinary, you know, restrictions.

23 Q. Right. If --

24 A. If they have any disciplinary
25 restrictions, they're not allowed to buy commissary

1 for a certain amount of time.

2 Q. Okay. But just assuming, just assuming
3 there's no discipline issues going on, a fellow
4 could go buy, what, any number of brushes that if he
5 had a desire for brushes?

6 A. Any number, I do not know; but I believe
7 so. They could buy one.

8 Q. So if you have an instrument that is
9 a -- say a brush, and then a person such as yourself
10 catches an inmate with a brush and you think it's a
11 weapon, then how soon after that can this same
12 person then turn right around and go buy another
13 brush/weapon at commissary?

14 A. The brush is round from the handle. As
15 far as this one was pointed.

16 Q. Yes, sir, I understand. Does the
17 commissary sell them in a pointed fashion?

18 A. No, sir.

19 Q. All right. So they've got to be
20 converted some way or other to be a point, right?

21 A. I believe so, sir.

22 Q. And this one had a point, correct?

23 A. Yes, sir.

24 Q. How long would it have been after the
25 defendant bought that brush and put a point on it

1 that he would have been allowed to buy another brush
2 so he could put a point on it?

3 A. As far as that, I would not know the
4 answer, sir.

5 Q. If there's no disciplinary thing pending
6 against him, then he could have gotten it as soon
7 thereafter as he wanted, correct?

8 A. I believe so.

9 Q. All right. And where exactly did you
10 find this pointed-handled brush?

11 A. Under the mattress.

12 Q. Under his mattress?

13 A. Yes, sir.

14 Q. All right. And you called that a health
15 and safety search; is that correct?

16 A. Yes, sir.

17 Q. Prior to you going in there, the
18 defendant had been ordered to be handcuffed; is that
19 correct?

20 A. Yes, sir.

21 Q. And had he complied to being handcuffed?

22 A. Yes, sir.

23 Q. And who handcuffed him, do you remember?

24 A. Detention Officer Lopez.

25 Q. I'm sorry. Again?

1 A. Detention Officer Lopez.

2 Q. All right. To your knowledge, when
3 something such as that, that is, the sharpened brush
4 would have been recovered by you, do you think there
5 are any records kept anywhere that would show that
6 that had been a situation in dealing with Inmate
7 Allford?

8 A. Can you repeat the question again?

9 Q. Once -- once a -- in this case a
10 hairbrush was found by you and it was sharpened and
11 you confiscated it and turned it over and thought it
12 might be a weapon. Are any records of that kept so
13 later on people might look at that and say, "Well,
14 he's had one too many hairbrushes," or anything like
15 that?

16 A. I did a report and, you know, it was
17 submitted, approved by my supervisor. Beyond that
18 it's out of my hands. It's on the supervisors.

19 Q. Okay.

20 MR. SCOTT: I'll pass the witness,
21 Your Honor.

22 THE COURT: State?

23 MR. GILLIAM: Nothing further, Your
24 Honor.

25 THE COURT: All right. May the

1 deputy be excused, gentlemen?

2 MR. GILLIAM: Yes, Your Honor.

3 MR. SCOTT: Yes, Your Honor.

4 THE COURT: All right. You're free
5 to go. Thank you.

6 Call your next.

7 MR. GILLIAM: State calls Frank
8 Spicher.

9 THE COURT: All right.

10 THE BAILIFF: Spicher?

11 MR. GILLIAM: Yes.

12 THE BAILIFF: Your Honor, this
13 witness has not been sworn.

14 THE COURT: All right. Please
15 raise your right hand.

16 *(Witness sworn.)*

17 THE COURT: Have a seat, please.

18 MR. GILLIAM: May I proceed, Judge?

19 THE COURT: You may.

20 **FRANK SPICHER,**

21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MR. GILLIAM:**

24 Q. Will you please introduce yourself to
25 us?