

1 MR. LESLIE: Judge, I actually
2 apologize. I would like to call Officer Booker
3 instead of Ms. Lopez first.

4 THE COURT: So, the witness is who?

5 MR. LESLIE: Officer M.L. Booker.

6 THE COURT: Please come to the stand
7 and every one is excused at this time. You may
8 proceed.

9 MR. LESLIE: Before we get started,
10 the State would also reoffer all the exhibits and
11 testimony from the guilt/innocence phase of the trial
12 for the punishment phase of trial.

13 THE COURT: And that is in.

14 MR. MOORE: Defense reurges all
15 objections that were made the first time.

16 THE COURT: All noted. Thank you, Mr.
17 Moore. You may proceed.

18 MR. LESLIE: Thank you Judge.

19 **MARJORIE BOOKER,**
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. LESLIE

23 Q. Could you please spell your name for the
24 record, officer.

25 A. Officer Marjorie Booker, that's

1 M-A-R-J-O-R-I-E, last name Booker, B-O-O-K-E-R.

2 Q. And Officer Booker, where do you work?

3 A. For the Houston Police Department.

4 Q. How long have you worked for the Houston
5 Police Department?

6 A. Twenty years in December.

7 Q. So, you were employed with the Houston
8 Police Department on December 8th of 2012?

9 A. Yes, sir.

10 Q. Were you working any special division or
11 with a patrol unit?

12 A. On that day I was working an extra job at
13 Discovery Green Park.

14 Q. And tell us a little bit about that extra
15 job, like how you get an extra job like that and what
16 were your duties?

17 A. I actually I was filling in.

18 MR. MOORE: Objection. May we
19 approach?

20 THE COURT: Briefly, yes.

21 MR. MOORE: For the record, Your
22 Honor, I object on the grounds of prejudice and fair
23 trial. To any mention of A rape allegation which I
24 believe is where she's headed.

25 THE COURT: Well, he asked her about

1 her extra job at this point. So, that's not sustained
2 at this point.

3 MR. MOORE: I will remake it.

4 THE COURT: Right. Thank you.

5 **(End of Bench Discussion)**

6 THE COURT: You may proceed.

7 MR. LESLIE: Thank you, Judge.

8 Q (MR. LESLIE) Officer, how do you get an
9 extra job like that?

10 A. The company hires us to do security at the
11 park. We walk the park and secure it. They also
12 have security guards there, too.

13 Q. And so for this extra job, what hours were
14 you working?

15 A. On that day I was working from three to
16 ten.

17 Q. And is that three p.m. to ten p.m.?

18 A. Yes, I believe. What date was that, again?

19 Q. It was December 8th of 2012.

20 A. I was either working from three to ten or
21 three to twelve. If the ice skating ring is there we
22 work from three to twelve.

23 Q. And when you are doing this extra job, do
24 you wear your HPD uniform?

25 A. Yes, sir.

1 Q. Have you encountered the defendant Andrew
2 Ealy in the past as part of your extra job?

3 MR. MOORE: Objection. Prejudice,
4 relevance.

5 THE COURT: Overruled.

6 THE WITNESS: In the past?

7 Q. Yes?

8 A. Not that I can recall, sir.

9 Q. Did you encounter him on December 8th of
10 2012?

11 A. I'm not sure it was him.

12 Q. Did you encounter anything out of the
13 ordinary that day?

14 A. Yes, sir.

15 Q. And tell us a little bit about those
16 details?

17 A. On that day, I was flagged down by a male
18 telling me that two black males were carrying a white
19 female.

20 Q. Did they tell you any other descriptions in
21 that?

22 A. Yes. That she appeared to be out of it and
23 she didn't have any bottoms on.

24 Q. And how did you respond when he told you
25 that?

1 A. At that point I went with that male to find
2 the person and to find the suspects and see what was
3 going on.

4 Q. And were you able to locate those
5 individuals?

6 A. Yes, I was.

7 Q. And where were they?

8 A. When I located them they still had the
9 female and they were carrying her, but they were
10 across the street from the park. So about on the
11 street there is like a little tree area, greeny area
12 right across from the park.

13 Q. Is that Discovery Green Park?

14 A. That's not considered the park, no. Where
15 they were where I located them they had crossed the
16 street by then.

17 Q. But they were coming from Discover Green?

18 A. Yes, sir, yes, sir.

19 Q. And is Discovery Green Park located in
20 Harris County, Texas?

21 A. Yes, sir.

22 Q. When you saw these two individuals carrying
23 this female across the road, what was her appearance?

24 A. She appeared not to be moving out of it,
25 just not doing anything, like I didn't know if she

1 was dead or what, she just appeared to may be
2 unconscious, I don't know.

3 Q. How was she dressed?

4 A. From what I recall by the time I got over
5 there because it was dark, so, I know she had a top
6 on. I don't recall what color. And she didn't have
7 any bottoms on.

8 Q. And when you say no bottoms on --

9 A. No pants, no underwear.

10 THE COURT: Officer, I am just going
11 to ask you to wait till he finishes asking the
12 question because Mary Ann can't take both of you.
13 Thank you.

14 THE WITNESS: No problem.

15 THE COURT: You may proceed.

16 Q (MR. LESLIE) So no pants, no underwear; is
17 that correct?

18 A. No, sir.

19 Q. And you said that she was out of it. Do
20 you mean that she was drunk?

21 MR. MOORE: Objection, leading.

22 THE COURT: Overruled.

23 THE WITNESS: When I approached the
24 complainant I tried to talk to her, I got no reaction
25 from her so, I called the ambulance, she appeared to

1 be under the influence of something, but I called the
2 ambulance to have that checked out.

3 Q. And did you notice the odor of alcohol
4 about her?

5 A. I didn't notice anything.

6 Q. About how long did it take for the
7 ambulance to arrive?

8 A. I would say maybe ten to 15 minutes.

9 Q. And you said that this was an extra job, so
10 did you call HPD to respond to the--

11 A. At the time I called for the ambulance, I
12 also called for a unit to check by with me because I
13 had two males I was holding in case they were
14 suspects so, yes.

15 Q. Was one of these, one of the males that you
16 encountered that day, do you see him in the courtroom
17 today?

18 A. I don't recall. It was so long ago.

19 Q. Did you obtain any ID from the two
20 individuals that you saw that day?

21 A. At the time, the officer that checked by
22 they got all the information on these two males and
23 they also took care of interviewing them.

24 MR. MOORE: Objection. May we
25 approach?

1 *THE COURT:* What is your objection?

2 *MR. MOORE:* I reissue the objections I
3 made earlier on our last. Okay. Let's give you a
4 moment to fix your phone.

5 *THE WITNESS:* I thought I did.

6 *THE COURT:* It's okay.

7 *THE WITNESS:* It's off now.

8 *THE COURT:* Your objection at this
9 point is overruled. So, I am going to let him ask
10 the question that he is asking at this point.

11 *Q* (*MR. LESLIE*) Did you have any further
12 involvement in this case?

13 *A.* After the officers came to the scene they
14 took over. So, no, sir.

15 *Q.* So, you didn't transport either suspect?

16 *A.* No, sir.

17 *Q.* And did either of the suspects make any
18 statements to you about what they were doing?

19 *MR. MOORE:* Objection, there is a
20 motion in limine on file on this point.

21 *THE COURT:* That's overruled as to
22 that objection. Is there any other objection?

23 *MR. MOORE:* Relevance, prejudice,
24 38.22, hearsay confrontation.

25 *THE COURT:* Hearsay is sustained.

Marjorie Booker - November 6, 2014
Direct Examination by Mr. Leslie

1 MR. LESLIE: Judge, we would argue
2 these would be statements against penal interest.

3 THE COURT: All right. That would be
4 admissible if we knew who were they made by, but I
5 don't know who they were made by.

6 MR. MOORE: Objection on
7 confrontation.

8 THE COURT: That's sustained at this
9 time.

10 Q (MR. LESLIE) So, you had no further
11 involvement in the investigation of this offense; is
12 that correct?

13 A. No, sir.

14 MR. LESLIE: Pass the witness.

15 THE COURT: All right. Any questions,
16 Mr. Moore?

17 MR. MOORE: I have no questions of
18 this witness.

19 THE COURT: You may step down. You
20 want to excuse her or keep her on call?

21 MR. LESLIE: She can be excused,
22 Judge.

23 THE COURT: Okay. You may be excused.
24 Thank you, Officer. Please call your next.

25 MR. LESLIE: The State calls Stevie

1 Kersey.

2 *THE BAILIFF:* The witness has been
3 sworn, Your Honor.

4 *THE COURT:* Thank you. All right.
5 You may proceed.

6 *MR. LESLIE:* Thank you, Judge.

7 **STEVIE KERSEY,**
8 having been first duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 *BY MR. LESLIE*

11 Q. Ask you please and spell your name for the
12 record?

13 A. Stevie Kersey. S-T-E-V-I-E, K-E-R-S-E-Y.

14 Q. And Ms. Kersey, how old are you?

15 A. Twenty-eight.

16 Q. And without-- you don't have to give an
17 exact address, but where do you live now?

18 A. In Dayton.

19 Q. Dayton, Texas?

20 A. Yes, sir.

21 Q. And I apologize she's taking everything
22 down that you say. You have to either say yes or no.

23 Okay. In 2012, were you homeless?

24 A. Yes. Wait, no. Not 2012.

25 Q. In December of 2012, were you homeless?