

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Please raise your  
3 right hand.

4 CHARLES BRODSKY,  
5 having been first duly sworn, testified as follows:

6 THE COURT: All right, sir. You may take  
7 the stand.

8 THE WITNESS: Thank you.

9 THE COURT: Mr. Stradley will take you on  
10 direct.

11 DIRECT EXAMINATION

12 BY MR. STRADLEY:

13 Q. Mr. Brodsky, you are an assistant district  
14 attorney in Harris County, Texas; is that true?

15 A. Yes, sir.

16 Q. And prior to Ms. Mickelson handling this case,  
17 you were assigned to this particular case that we're  
18 here on today; is that correct?

19 A. That is correct.

20 Q. Involving Arturo Petriciolet?

21 A. Yes, sir.

22 Q. Okay. And in the -- as both sides were  
23 preparing for trial, did you provide your file for the  
24 lawyers, myself and Mr. Chernoff, to look at your file?

25 A. I did.

1 Q. And in the interest of fairness, your office's  
2 policy is to have an open file so that nobody is hiding  
3 the ball, right?

4 A. That is the office policy.

5 Q. Okay. And at some point you -- you had the  
6 opportunity to -- to talk to the complaining witness,  
7 Ms. Leticia Gracia; is that correct?

8 A. Numerous times.

9 Q. Numerous times.

10 She called you many times and you talked  
11 to her in person; is that correct?

12 A. That's correct.

13 Q. And in the process of doing that, it appeared  
14 to me that you took some notes that reflected that --  
15 the conversation that you had with her.

16 A. I did take notes, yes, sir.

17 Q. And you perhaps didn't have to, but you did  
18 show those to us. So, we had some idea of what she  
19 said to you.

20 A. That's correct.

21 Q. Okay. Now, I have the -- a very specific  
22 question for you.

23 A. Yes, sir.

24 Q. In discussing the -- the specific time frame  
25 when Leticia Gracia came downstairs and just prior to

1 the shooting event, did Ms. Gracia tell you that Arturo  
2 -- that his gun was in a backpack?

3 A. That is in my notes, but my notes also say  
4 that she saw him pick up the gun from the table.

5 Q. Okay. So, do you -- well, it is -- it is in  
6 your notes --

7 A. Yes, sir, it is.

8 Q. -- that it says gun in backpack?

9 A. That is correct.

10 Q. And then I believe that your notes also  
11 reflect that the complaining witness, namely  
12 Ms. Gracia, did not see -- just exactly what I believe  
13 you said: Complaining witness not see pick up gun. Is  
14 that your notes as well?

15 A. It is.

16 Q. That's all I have, sir. Thank you very much.

17 THE COURT: Any direct -- I mean, cross?

18 MS. MICKELSON: Cross-examination, Your  
19 Honor?

20 THE COURT: Yes.

21 CROSS-EXAMINATION

22 BY MS. MICKELSON:

23 Q. Mr. Brodsky, you and I both know each other,  
24 correct?

25 A. That is correct.

1 Q. We work together on a daily basis?

2 A. We do.

3 Q. And I took over this case from you?

4 A. That is yes. That's correct.

5 Q. And before I got this case, you had this case  
6 for roughly 16 months?

7 A. I think around that time, yeah.

8 Q. And you met with Ms. Gracia on numerous  
9 occasions?

10 A. Numerous.

11 Q. You went to her home?

12 A. I did.

13 Q. Interviewed her family members?

14 A. I did.

15 Q. You met all the police officers?

16 A. I talked to them on the phone.

17 Q. Met with Dr. Brissett?

18 A. Talked with him on the phone.

19 Q. Okay. In regards to your notes in this case  
20 and from what your understanding is of this case from  
21 the very beginning, was it ever unclear to you if  
22 Ms. Gracia saw who shot her?

23 A. No. It was never -- it was -- it was clear  
24 who shot her.

25 MR. STRADLEY: Your Honor, I object that

1 that's an improper opinion. It goes to the -- it  
2 invades the province of the jury. And I'd ask that the  
3 Court instruct the jury to disregard Mr. Brodsky's last  
4 statement.

5 THE COURT: He can -- I'm going to permit  
6 him to testify as to his opinion based on conversations  
7 with her. He wasn't there, of course, but it's based  
8 on conversations with her.

9 You may proceed.

10 So, your objection is overruled.

11 MR. STRADLEY: Thank you, Your Honor.

12 THE COURT: All right. But with that  
13 understanding, ladies and gentlemen, it's based on his  
14 conversations with her.

15 MS. MICKELSON: Your Honor, may I  
16 approach the witness to show him his note --

17 THE COURT: You may.

18 MS. MICKELSON: -- and ask questions?

19 Q. (BY MS. MICKELSON) Now, Mr. Brodsky, we're  
20 referring specifically to one page in your legal  
21 notepad. That's what opposing counsel has been  
22 questioning you on. And I'd like to ask you in this --  
23 if your remember, in this paragraph right here on these  
24 series of lines, you write: Gun in backpack. Not on  
25 hip or ankle.

1                   That's obviously shorthand. What -- what  
2 was your understanding of that conversation?

3           A. That she didn't see it right when she --  
4 Ms. Gracia did not see the gun when the defendant came  
5 in the house right away. So, I think she was assuming  
6 that it was in the backpack.

7           Q. Now, the -- specifically the question again  
8 that Mr. Stradley just asked you about in your series  
9 of notes: Complaining witness not notice gun when  
10 defendant walks in. Complaining witness not see pick  
11 up gun.

12                   What exactly did Ms. Gracia explain to  
13 you that she did see?

14           A. She saw -- when she came downstairs -- and the  
15 defendant is already downstairs -- she saw him pick up  
16 the gun from the table and push back the slide and  
17 shoot her.

18                   MS. MICKELSON: No further questions.

19                   THE COURT: All right. Any redirect,  
20 sir?

21                   MR. STRADLEY: May I have just a minute,  
22 Judge?

23                   THE COURT: Yes, sir.

24                   (Brief pause)

25                   REDIRECT EXAMINATION

1 BY MR. STRADLEY:

2 Q. Mr. Brodsky, do you need to refer to your  
3 notes again?

4 A. I don't -- maybe.

5 Q. Maybe, right.

6 A. Thank you.

7 Q. I recognize that these notes were taken in  
8 regards to one particular conversation that you had  
9 among many. Okay.

10 A. That's correct.

11 Q. But I can only surmise from this one series of  
12 notes that you took.

13 Did Ms. Gracia ever tell you that the  
14 purpose for coming down the stairs was to get some  
15 water?

16 A. I don't -- I don't remember that.

17 Q. Okay. If she told you that, do you think you  
18 would have wrote it down?

19 A. Probably not.

20 Q. Okay. Well -- but you don't remember?

21 A. I don't remember that, no, sir.

22 Q. And did she ever tell you, that you can  
23 recall, that -- that she came down because an alarm was  
24 going off?

25 A. I believe it was Victoria -- no, I don't

1 remember Ms. Gracia saying that.

2 Q. Okay. As a matter of fact, based on your  
3 notes, it appears as though she told you that -- that  
4 the defendant got up and ran down the stairs --  
5 downstairs and she followed him because -- weird.

6 Did your notes reflect that?

7 A. May I have a moment?

8 Q. Certainly. It would be up above the backpack  
9 business.

10 A. I see it.

11 Q. And just so I can be specific. Did Ms. Gracia  
12 tell you that just prior to the shooting, that the  
13 defendant gets up and runs downstairs and she followed  
14 because -- weird?

15 A. That's what my notes say.

16 Q. Okay, sir. Thank you. Thank you for your  
17 professionalism.

18 THE COURT: Okay. Anything on recross?

19 MS. MICKELSON: Just briefly, Your Honor.

20 RECCROSS-EXAMINATION

21 BY MR. MICKELSON:

22 Q. Have you ever testified in a criminal court  
23 before?

24 A. Twice before.

25 Q. Okay. When are you usually called to testify?



1           A.    The two times were I witnessed something  
2 happen in the courtroom.

3                   MR. STRADLEY:   Your Honor, I object to  
4 relevance.

5                   THE COURT:    Sustained.

6           Q.    (BY MS. MICKELSON)   Have you ever testified in  
7 a case where you were once the prosecutor?

8           A.    No.

9           Q.    Okay.    Would you say this is unusual?

10          A.    I think so.

11          Q.    Okay.    And has Ms. Gracia -- in the 16 months  
12 that you've known her, has her story ever changed to  
13 you?

14          A.    No.

15                   MS. MICKELSON:   Pass the witness.

16                   MR. STRADLEY:    No further questions.

17                   THE COURT:    All right.    You may step  
18 down, sir.    Thank you.

19                   THE WITNESS:   Thank you, Judge.

20                   THE COURT:    Let me see counsel.

21                   You said you needed to approach on an  
22 issue; is that right?

23                   MR. STRADLEY:    I need -- yes, I do.

24                   THE COURT:    Okay.

25                   MR. STRADLEY:    Can we do that now?