

1 defendant's statement. Should it become admissible,
2 there is approximately a three-second portion that
3 should be redacted. The defendant refers to himself
4 being in jail at that time. I did not believe that that
5 was admissible; so, I have redacted it and we have that
6 copy here.

7 *THE COURT:* Do we need to play it to have
8 it authenticated?

9 *MR. BURDETTE:* I'm going to authenticate
10 it with Sergeant Chappell. He was here early this
11 morning listening to it and he can authenticate both of
12 these.

13 *THE COURT:* Okay.

14 *MR. BURDETTE:* May I approach the
15 witness?

16 *THE COURT:* You may.

17 **R. W. CHAPPELL,**
18 having been first duly sworn, testified as follows:

19 **DIRECT EXAMINATION CONTINUED**

20 **BY MR. BURDETTE:**

21 Q. Sergeant Chappell, take a look at State's
22 Exhibit 125. Do you recognize it?

23 A. Yes, I do.

24 Q. Did you listen to it?

25 A. Yes, I have.

1 Q. What is it?

2 A. This is the statement that I took from
3 Mr. Aker.

4 Q. Do you recognize both the voices on there?

5 A. Yes, sir.

6 Q. Who are the voices?

7 A. They are mine and Mr. Aker.

8 Q. Anybody else?

9 A. No, sir.

10 Q. Is this a fair and accurate copy of the
11 conversation that took place between you and Nicholas
12 Aker?

13 A. Yes, sir, it is.

14 Q. Regarding State's Exhibit 125, have there been
15 any alterations or deletions made to this copy of the
16 statement?

17 A. There have not.

18 MR. BURDETTE: So, at this time, Judge,
19 State offers State's Exhibit 125 into evidence for the
20 record only. That's the unredacted copy.

21 THE COURT: Any objections?

22 MR. MARTIN: No.

23 THE COURT: Then it is admitted.

24 Q. (BY MR. BURDETTE) And then State's Exhibit
25 76, do you recognize it?

1 A. Yes.

2 Q. You've had the opportunity to listen to that
3 this morning?

4 A. Yes, sir.

5 Q. Is that an exact copy of State's Exhibit 125
6 except for the agreed redacted portion?

7 A. That's correct.

8 MR. BURDETTE: So, at this time, Judge,
9 State offers State's Exhibit 76 into evidence. I will
10 tender to opposing counsel.

11 MR. MARTIN: We have no objection.

12 THE COURT: Okay. Then it is admitted.

13 THE COURT: Are we ready at this time to
14 bring in the jury?

15 MR. BURDETTE: We are.

16 THE COURT: Mr. Martin?

17 MR. MARTIN: Yes, Your Honor.

18 THE COURT: Let's bring in the jury,
19 please.

20 (Jury in.)

21 THE COURT: Ladies and gentlemen, we have
22 been working without you. So, I apologize that you were
23 sitting alone; but we were doing other things on the
24 case.

25 We had Sergeant Chappell on the stand

1 when we adjourned last night and Mr. Burdette still has
2 him on direct.

3 MR. BURDETTE: May I approach the
4 witness?

5 THE COURT: You may.

6 Q. (BY MR. BURDETTE) Sergeant Chappell, I'm
7 showing you what's been admitted as State's Exhibit 76.
8 Take a look at it and tell me if you recognize it.

9 A. Yes, I do.

10 Q. What is it?

11 A. This is a copy of the statement I took from
12 the defendant.

13 Q. When did you take it?

14 A. May 8th, 2011.

15 Q. Remind us again, very briefly, where you were.

16 A. Temple Police Department.

17 Q. After you had arrested Nicholas Aker and
18 Brshai Peters?

19 A. Yes, sir.

20 MR. BURDETTE: Your Honor, at this time
21 may I publish State's Exhibit 76?

22 THE COURT: You may. How long is it?

23 MR. BURDETTE: Approximately 11 or 12
24 minutes.

25 THE COURT: Okay. I just wanted to let

1 y'all know how long it's goint to be.

2 (State's Exhibit 76 published.)

3 MR. BURDETTE: May I continue?

4 THE COURT: You may.

5 Q. (BY MR. BURDETTE) All right. Officer
6 Chappell, I would like to ask you a couple things in
7 regards to that statement given there by the defendant.

8 Now, initially, he indicates to you
9 that -- when he says he was going through his little
10 go-through, he just ended up, quote, taking his money
11 and shooting him. Do you recall that?

12 A. Yes.

13 Q. Then later when you asked him if he took his
14 money or demanded anything, he said no?

15 A. Correct.

16 Q. So, there is a difference there between what
17 he initially said and what he later said; is that right?

18 A. Yes.

19 Q. Okay. Can you describe his demeanor at the
20 time if it changed from the beginning to the end?

21 A. Yes, it did.

22 Q. In what way?

23 A. Initially, he was calm. He was very direct,
24 very pointed, and he doesn't -- I mean, he responds to
25 the questions that I'm asking, but very flat affect.

1 Later on, I think after he finally
2 realized through some of the questioning what he had
3 really done, his demeanor changed. Then I could see
4 some emotions coming from him.

5 Q. Then after that emotion, you can hear more of
6 a shutdown. He quit answering your questions; isn't
7 that right?

8 A. Yes, that's correct.

9 Q. Now, how many people have you interviewed or
10 taken statements from during the course of your career?

11 A. Wow. I have no idea, but it's a bunch, a
12 thousand at least.

13 Q. So, is that something common that you see when
14 people are giving statements or confessing that they
15 have changed from time to time?

16 MR. MARTIN: I'll object to what's
17 common, Judge. It's not relevant.

18 THE COURT: Okay. Sustained.

19 Q. (BY MR. BURDETTE) Did you have any other
20 reason or information at this time to believe that
21 Nicholas Aker was not the shooter?

22 A. No, I didn't.

23 Q. Did you believe that he was the only shooter?

24 A. No, I didn't.

25 Q. At any point there during the course of his

1 statement, did he name anybody else? Brshai Peters,
2 Norris Briscoe or Jasmine Stelly?

3 A. He didn't.

4 Q. Did you ever hear that maybe he intimated that
5 he was with somebody else, without saying their name or
6 their involvement?

7 A. Yes.

8 Q. Okay. What type of statement did he make that
9 indicated maybe he was with someone else?

10 A. It was more of the -- when I mentioned, Did
11 y'all call a cab, he didn't say "me," but he didn't
12 correct me either.

13 Also, the wheelchair, when I asked him
14 what happened to the wheelchair, I knew he wasn't the
15 one in the wheelchair. He never mentioned what -- I
16 mean, he said, I don't know what happened to the
17 wheelchair.

18 So, again, these are indicators that
19 someone else was with him, but he is not going to tell
20 me their names or give me any information on them. He's
21 only going to talk about what he himself did.

22 Q. Okay.

23 MR. BURDETTE: I'll pass the witness at
24 this time.

25 THE COURT: Mr. Burdette, thank you.

1 Mr. Martin.

2 MR. MARTIN: Yes, Judge.

3 **CROSS-EXAMINATION**

4 **BY MR. MARTIN:**

5 Q. Sir, at the beginning I think before you gave
6 him his rights, you say something -- correct me if I am
7 wrong -- I got to read you your rights. We just
8 discussed this.

9 A. Yes, sir.

10 Q. I hear you say that the statement starts about
11 5:22, but he had been in y'all's custody for some period
12 before 5:22, right?

13 A. Yes.

14 Q. Do you recall -- I forgot -- about what time
15 he was arrested at the Sam's parking lot?

16 A. Sometime around noon, I guess.

17 Q. He had been in police custody for five hours,
18 give or take?

19 A. Give or take, yes, sir.

20 Q. I believe you said this was at the Temple
21 Police Department, the police station that you did this?

22 A. Yes, sir.

23 Q. Yes. Now, if this had been in Houston, we
24 might have had a videotaped statement. I believe y'all
25 facilities like that over there, right?

1 A. Yes, that's correct.

2 Q. But in Temple, you got to take what you can
3 get?

4 A. Yes.

5 Q. Was it just you and Mr. Aker in the interview
6 room when he gave you this statement?

7 A. Yes.

8 Q. Is that where you had talked to him before you
9 turned the recorder on when you talk about: We
10 discussed this earlier?

11 A. Yes.

12 Q. When you do that, are you trying to see what he
13 will say? What he's like? What he's feeling?

14 A. No, sir.

15 Q. Would it be part of your routine to talk to
16 someone, a suspect like Mr. Aker, before you turned on
17 your recording device?

18 A. Yes.

19 Q. Did you do that in this case?

20 A. Yes, I did.

21 Q. So, how long have y'all been together, say,
22 just the two of you, discussing this case, before you
23 turned on the tape reporter?

24 A. Maybe five to ten minutes.

25 Q. Was he emotional or -- strike that.

1 How did he appear to you in that five to
2 ten minutes?

3 A. That's kind of a unique question. He's not
4 uncooperative. He's calm.

5 Q. Yes, sir.

6 A. Relaxed, but I also think a bit fearful.

7 Q. Obviously, y'all have told him that he is
8 under arrest for, right?

9 A. Yes.

10 Q. And we hear the tape. It speaks for itself.
11 I believe you said when he says, Man took us home and I
12 shot him, you said something, like, That was quick and
13 easy. And later you say, I see emotion from you. I see
14 you have a heart.

15 Was he -- I can hear something in the
16 background. Was he crying then or --

17 A. Yes.

18 Q. I take it from your statement, you thought
19 that crying was real and legitimate?

20 A. Yes.

21 Q. He wasn't faking that crying?

22 A. No, sir.

23 Q. And he did tell you he was the one that had
24 used the .38?

25 A. Correct.

1 Q. Which is -- not that I know much about it --
2 that's the long gun, the revolver?

3 A. Yes, sir.

4 Q. And even said something about being
5 embarrassed about why he shot him and it was personal.
6 You remember him saying something like that?

7 A. Yes.

8 Q. But he still would not give up the names of
9 the people that was with him out there?

10 A. Correct.

11 Q. But he certainly knew -- like you told him --
12 that you had B in custody because they were arrested
13 together in the parking lot?

14 A. Correct.

15 Q. So, he knew y'all had arrested Brshai?

16 A. Correct.

17 Q. And I assume he knew that you guys had gone
18 back to the apartment and had at least detained Norris
19 and the woman?

20 A. I don't know if he knew that or not.

21 Q. All right. Was he transported to the Temple
22 Police station by himself?

23 A. Yes.

24 Q. Did you yourself ever interview Brshai, B?

25 A. No, sir.

1 Q. Would that have been Officer Carr?

2 A. Yes.

3 Q. Did B give a recorded statement like that?

4 A. No.

5 Q. Did the other two?

6 A. Yes.

7 Q. Did both of them or just --

8 A. Both Jasmine and Norris.

9 Q. Gave statements?

10 A. Yes.

11 Q. But B did not?

12 A. Correct.

13 Q. I believe, again, after he said again I didn't
14 take nothing, somewhere in there I thought he said -- I
15 can barely hear -- I speak for myself or something like
16 that?

17 A. I believe he was referring to I only talk
18 about what I did. That's all.

19 Q. Same thing. He was talking to you about what
20 he did. He did not want to talk about what the others
21 did?

22 A. That's correct.

23 Q. Thank you, Sergeant.

24 MR. MARTIN: I'll pass the witness.

25 THE COURT: Okay. Mr. Burdette.

1 MR. BURDETTE: Yes, Judge, some redirect.

2 **REDIRECT EXAMINATION**

3 Q. Sergeant Chappell, you just indicated that
4 Jasmine Stelly gave a recorded statement; is that
5 correct?

6 A. Yes.

7 Q. Were you there when she was originally taken
8 into custody there outside of Apartment 311?

9 A. Yes.

10 Q. How did she appear at that moment when y'all
11 arrived and started taking people into custody?

12 A. She was very emotional, upset, crying.

13 Q. Did she seem scared?

14 A. Very.

15 Q. At the time you came in contact with her, was
16 she cooperative with y'all?

17 A. Yes.

18 Q. Did she indicate that she wanted to cooperate
19 and tell you what had happened?

20 A. Yes.

21 Q. When did she make that indication to you or to
22 Officer Carr when she was arrested?

23 A. Within a couple minutes.

24 Q. Is that right away?

25 A. Yes.

1 Q. Before anyone else?

2 A. That, I don't know.

3 Q. From what you observed, did you see anyone
4 else?

5 A. It would have to be before anybody else. Now
6 that I am playing it back, I remember Carr talking to
7 her and I saw that. And then I went to talk to Briscoe.

8 Q. To Norris?

9 A. Yes.

10 Q. And, so, Officer Carr would be the one to talk
11 to who may have more knowledge about his interaction
12 with Jasmine?

13 A. Correct.

14 Q. He was the one dealing with her?

15 A. Yes.

16 Q. And you were the one dealing with Norris?

17 A. Correct.

18 MR. BURDETTE: I have no further
19 questions.

20 THE COURT: Anything further.

21 MR. MARTIN: Yes.

22 **RECROSS-EXAMINATION**

23 **BY MR. MARTIN:**

24 Q. Were aggravated charges filed against Jasmine
25 arising out of this incident?

1 A. Yes.

2 MR. MARTIN: Nothing else. Thank you.

3 MR. BURDETTE: Nothing further.

4 THE COURT: Sergeant, thank you.

5 Is he excused.

6 MR. BURDETTE: Yes, Judge, at this time.

7 MR. MARTIN: Yes, Your Honor.

8 MR. BURDETTE: Maybe subject to recall,
9 but he can leave.

10 THE COURT: Okay. Call your next
11 witness.

12 MR. BURDETTE: State calls Jasmine
13 Stelly.

14 THE COURT: Can I see you all up here for
15 just a second?

16 This doesn't have to be on the record.

17 *(Discussion off the record.)*

18 *(Witness sworn.)*

19 THE COURT: Mr. Burdette.

20 MR. BURDETTE: Thank you, Judge.

21 **JASMINE STELLY,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MR. BURDETTE:**

25 Q. Good morning, Jasmine.