

1 **DAVID DAVIS,**

2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. BENNETT:

5 Q. If you would please introduce yourself to the
6 jurors by telling them your name and where you work?

7 A. My name is David Allen Davis, Jr. I'm a
8 sergeant with the Harris County Sheriff's Department.

9 Q. What are your responsibilities with the Harris
10 County Sheriff's Department?

11 A. I am currently assigned to the classification
12 section, takes care of all the inmates' records while
13 they're in jail.

14 Q. Are you the custodian of records both
15 classification and disciplinary for the Harris County
16 Jail?

17 A. That is correct.

18 Q. And does that include maintaining records of
19 any discipline actions that have been taken against an
20 inmate while they are housed in the jail?

21 A. That is also correct.

22 Q. Are those types of records kept within the
23 regular course of business of the Harris County
24 Sheriff's Department?

25 A. Yes, ma'am, they are.

1 Q. And are they made at or near the time those
2 disciplinary actions are taken?

3 A. That is also correct.

4 Q. And are they made by someone who has knowledge
5 of the proceedings and the actions and the reasons that
6 those actions are taken?

7 A. That is correct as well.

8 Q. Were you asked to research an inmate's record
9 by the name of Anthony Terrell Latson with a Spin No.
10 2246323?

11 A. Yes, ma'am.

12 Q. And did you do so?

13 A. Yes, ma'am.

14 Q. Could you please explain to the jury what a
15 spin number is?

16 A. Spin number is initiated when the inmate is
17 charged with an offense. The "S" stands for systems.
18 The "P" stands for person, and the "N" stands for
19 number. It's for each, every inmate that comes to jail.

20 Q. And do you know the period of time for which
21 you researched his records?

22 A. I researched the records about the middle of
23 May.

24 Q. Okay. And do you know, or do you have in front
25 of you how long he's currently been housed with the

1 sheriff's office?

2 A. He was booked into jail looks like August 22nd,
3 2011.

4 Q. And were you able to find any disciplinary
5 records for Anthony Terrell Latson since he was booked
6 in on August the 22nd of 2011?

7 A. Yes, ma'am.

8 MS. BENNETT: May I approach the witness,
9 Your Honor?

10 THE COURT: Yes.

11 Q. (BY MS. BENNETT) Sergeant Davis, I want to
12 show you a stack of records and ask you to take a moment
13 to look at those. And do those appear to be the records
14 for Anthony Terrell Latson that we have been speaking of
15 today?

16 A. That's correct. It has the same spin number.

17 Q. And I want to point you particularly to those
18 items marked with a blue tab, and each one is marked
19 with an exhibit number, and if you don't mind, I'll just
20 pass you one at a time and ask you to confirm that these
21 are a part of those records. Showing you State's
22 Exhibit No. 78, State's Exhibit No. 79, State's
23 Exhibit 80, State's Exhibit 81, State's Exhibit 82 and
24 State's Exhibit No. 83. If you would take a moment to
25 look at those?

1 Just generally what are those documents
2 that I've marked State's Exhibits No. 78 through 83?

3 A. There's two separate affidavits here. One is
4 the hearing affidavit where the inmates go to actual
5 hearing and disciplinary court. The other affidavit is
6 a plea bargain agreement.

7 Q. And do all of those documents in State's
8 Exhibit 78 through No. 83, do those all show the outcome
9 or the disposition of a disciplinary action that was
10 taken against Anthony Terrell Latson?

11 A. That is correct.

12 Q. And is his Spin No. 2246323 noted on all of
13 those records?

14 A. That is correct as well.

15 MS. BENNETT: Your Honor, at this time
16 State would tender to Defense counsel State's Exhibit 78
17 through 83 and ask that they be admitted into evidence.

18 (State's Exhibit Nos. 78 through 83
19 offered.)

20 MR. DUARTE: May I, Your Honor?

21 Your Honor, we would object to State's 78
22 through 83 under 404 (b) and 403 of the Texas Rules of
23 Evidence.

24 THE COURT: Approach the bench.

25 (Bench conference.)

1 THE COURT: Is it just --

2 MS. BENNETT: It's just judgments.

3 THE COURT: All right. Your objection is
4 overruled. I find that the probative value outweighs
5 any prejudicial effect.

6 (End of bench conference.)

7 THE COURT: State's Exhibits No. 78 through
8 83 are admitted.

9 (State's Exhibit Nos. 78 through 83
10 admitted.)

11 MS. BENNETT: May I publish them as needed,
12 Your Honor?

13 THE COURT: Yes.

14 Q. (BY MS. BENNETT) Sergeant Davis, I'd like to
15 go through these with you and talk with you briefly
16 about what the charges are and how the documents are
17 read. Starting with State's Exhibit No. 78, could you
18 tell the ladies and gentlemen of the jury what they're
19 looking at here?

20 A. That is a disciplinary hearing form.

21 Q. And what was the offense for which a
22 disciplinary hearing was necessary?

23 A. The offense charged with unauthorized contact
24 with the public.

25 Q. And I see there that that's considered a major

1 incident?

2 A. That is correct.

3 Q. What is unauthorized contact with the public?

4 A. Well, the only -- in general, the only
5 authorized contact is if the inmate has a visit; and
6 it's his family, his attorney, his chaplain.

7 Q. Okay. And so was he sanctioned for the
8 violation of unauthorized contact with the public?

9 A. Yes, he was.

10 Q. And what was the sanction?

11 A. 30 days disciplinary separation loss of all
12 privileges.

13 Q. What does that mean?

14 A. That means he was placed in an administrative
15 separation cell for a disciplinary setting for a
16 duration of time of 30 days.

17 Q. Showing you here in the top corner, what's the
18 date that that was done?

19 A. The date of the hearing was November 10th,
20 2011.

21 Q. Now showing you State's Exhibit 79, is that the
22 same type of document as State's Exhibit 78?

23 A. This is a plea bargain waiver.

24 Q. And what was it that he pled to?

25 A. He pled to refusing to obey an order.

1 Q. And that is a minor offense?

2 A. That is correct.

3 Q. What does it mean to refuse to obey an order?

4 A. A lawful order given by a deputy or staff
5 member to do, say, pick up trash, and he refused to pick
6 up trash.

7 Q. Why is that a concern when you're maintaining
8 order in the jail?

9 A. Any rules violations is -- shows disharmony
10 amongst the inmates and leads to further problems with
11 running the institution.

12 Q. And what was the sanction he received under
13 this agreement?

14 A. He received seven days loss of privilege, which
15 is visitation and commissary privileges.

16 Q. And the date of that offense?

17 A. The date of the offense was October 29, 2011.

18 Q. Now showing you State's Exhibit 80, is this a
19 report for a hearing?

20 A. That is correct.

21 Q. And what was the violation for which the
22 hearing was held?

23 A. Possession manufacture of a weapon.

24 Q. Major offense?

25 A. Major offense.

1 Q. Why is this a concern at the jail?

2 A. Weapons can cause bodily harm to other inmates,
3 to the staff, or to the inmates themselves.

4 Q. What was the sanction he received on this
5 offense?

6 A. 15 days loss of visitation, commissary
7 privileges.

8 Q. And the date of the hearing?

9 A. Date of the hearing was November 3rd, 2011.

10 Q. Showing you now State's Exhibit No. 81, another
11 hearing report; is that correct?

12 A. That is correct.

13 Q. And the date?

14 A. November 3rd, 2011.

15 Q. Is it common for disciplinary hearings to take
16 place for various violations at one time?

17 A. That is correct.

18 Q. And what was the offense that was discussed at
19 this hearing?

20 A. This offense was threatening staff.

21 Q. And what does it mean when it says "threatening
22 staff"?

23 A. The inmate makes a threat either physically or
24 verbally toward any staff member.

25 Q. And that's a major offense?

1 A. That is correct.

2 Q. Why is this a concern at the jail?

3 A. Again, we have rules and regulations that we
4 have to enforce, the staff's safety as well as the other
5 inmates' safety is the utmost concern.

6 Q. What was the sanction for threatening of staff?

7 A. 30 days loss of visitation, commissary
8 privileges.

9 Q. I think visitation is clear, but when you say
10 "commissary privileges," what do you mean?

11 A. The inmate's ability to go to the store. The
12 inmates have, it's kind of like a Wal-Mart, they can buy
13 Cokes, cookies, pastries, potato chips, shoes, hygiene
14 materials, whatever they would like.

15 Q. So, he lost those privileges for 30 days?

16 A. That is correct.

17 Q. Now, showing you State's Exhibit No. 82,
18 another hearing report; is that correct?

19 A. That is correct.

20 Q. And the offense for which there was a hearing
21 held?

22 A. Conduct which disrupts.

23 Q. What does that mean?

24 A. The inmates do something that's -- disrupts the
25 orderly running of the institution.

1 Q. Is that a concern at the jail?

2 A. Yes, it is.

3 Q. Minor offense?

4 A. Minor offense.

5 Q. What was the sanction for that offense?

6 A. 15 days loss of visitation, commissary
7 privileges.

8 Q. And the date?

9 A. October 18th, 2011.

10 Q. Now, I'm showing you State's Exhibit 83. Is
11 this also a hearing report?

12 A. That is correct.

13 Q. Now, I noticed the date of this hearing was
14 December 30th, 2008; is that correct?

15 A. That is correct.

16 Q. Do y'all maintain records for every trip
17 somebody has had to the county jail?

18 A. Yes, we do.

19 Q. So might this have been something that he did
20 when he was booked in on a previous offense?

21 A. That is correct.

22 Q. And explain what the offense here is, where it
23 says "State"?

24 A. In the inmate handbook we've discussed minor
25 infractions. We discuss major infractions. This

1 happens to be the highest charge that we can charge
2 inside the jail institution. This is an administrative
3 charge but is referred to prosecution under the State as
4 a free world charge.

5 Q. And I notice referring back to the dates at the
6 top that the date of the report there is December the
7 12th of 2008; is that correct?

8 A. That is correct.

9 Q. Now, in the records that you researched and
10 brought to court with you today, does it reflect what
11 offense was submitted to the State for prosecution?

12 A. I couldn't tell with what I have as far as my
13 record.

14 Q. I'm going to show you what's been admitted as
15 State's Exhibit No. 27. Are you familiar with these
16 documents, Sergeant Davis?

17 A. Yeah, it looks like a State charge of assault.

18 Q. And would you agree with me that the date of
19 offense on that State charge of assault was December the
20 12th of 2008?

21 A. I can't see the one corner; that's correct.

22 Q. Now, if I'd ask you to take a look again at the
23 records that you brought to me today, would it state in
24 the records upon whom the State offense was committed?

25 A. The offense was committed on a Juan Carnales.

1 Q. And turning to the fourth page of State's
2 Exhibit 27, Sergeant Davis, I know I'm catching you a
3 little off guard here, but do you recognize what this
4 document is?

5 A. It is a picture of an injury.

6 Q. I'm sorry. I'm looking at the document up
7 here. There's one there right to your left. Does that
8 appear to be an information from county court?

9 A. That would be correct.

10 Q. For an assault on a Juan Carnales?

11 A. That is correct.

12 Q. Now, you stated that this type of case would be
13 submitted to court for prosecution, referring back to
14 State's Exhibit 83, the Hearing and Determination
15 Report, is there also any type of sanction within the
16 jail for committing that kind of offense?

17 A. They can receive a major penalty, which is 30
18 days disciplinary separation as well as loss of all
19 privileges.

20 Q. And was that done to Mr. Latson in this case?

21 A. That is correct, 30 days loss of privileges and
22 commissary and visitations.

23 Q. Thank you, Sergeant Davis.

24 MS. BENNETT: State will pass the witness.

25 THE COURT: All right, Mr. Duarte.

1 MR. DUARTE: Yes, ma'am, thank you.

2 **CROSS-EXAMINATION**

3 BY MR. DUARTE:

4 Q. Sergeant Davis, you testified to one, two,
5 three, four, five, six, I guess, disciplinary incidents
6 that Mr. Latson has had while in Harris County Jail; is
7 that correct?

8 A. That's what she brought forth, yes.

9 Q. Yes, sir. And of those I didn't quite
10 understand the first one unauthorized contact with the
11 public. Was that listed as a major or minor?

12 A. That was a major infraction.

13 Q. A major infraction. You didn't really specify
14 what would be unauthorized contact other than not having
15 contact with me or with you-all or family member during
16 the visit. Could it be also someone that's out on the
17 work detail and happens to wave to someone in the
18 street, would that be an unauthorized contact?

19 A. It could be.

20 Q. So, it could be also that someone, that inmates
21 are crossing each other inside the jail and they wave at
22 another inmate?

23 A. If I remember correctly, that was with the
24 public.

25 Q. So, it was the public. So, it could be

1 something as we said that maybe they're out in the work
2 detail and they're crossing the street and they wave to
3 say hi to a girl or boy on the street?

4 A. If that was the case.

5 Q. It's just an example?

6 A. Yes.

7 Q. Now, then the refusing to obey the order, that
8 was a minor, correct?

9 A. That's correct.

10 Q. So, one minor. The possession or manufacture
11 of a weapon, you classify that as major, correct?

12 A. That's correct.

13 Q. And as far as a weapon, that could be -- a pen
14 could be classified as a weapon?

15 A. In the manner of its use.

16 Q. In jail if the inmate has a pen, they could get
17 sanctioned or disciplined for having a pen if they're
18 not authorized to have a pen because it could be
19 classified as a weapon?

20 A. No, it would have to be in the manner of its
21 use.

22 Q. A toothbrush, if it's sharpened, it could be
23 used as a weapon?

24 A. That's considered a shank.

25 Q. So, there are different things that are -- some

1 that are as simple as a pen and something else that can
2 be sharpened to use as a weapon, correct?

3 A. That's correct.

4 Q. Threatening the staff major, that's pretty
5 evident. That's a threat made to male or female worker,
6 deputy, jailer or whatever?

7 A. Nurse, what have you.

8 Q. Yes, sir. And that's considered major?

9 A. That's correct.

10 Q. Conduct which is disruptive minor, again, that
11 could be not following orders?

12 A. A little more than that.

13 Q. Not following orders, not walking the line the
14 way you're supposed to be walking the line, not changing
15 out your mattresses when you're ordered to change out
16 your mattress?

17 A. That would be correct.

18 Q. Now, this last one Ms. Bennett talked about was
19 classified as a State and you said that's the highest
20 level of, I guess, discipline action that the jail takes
21 upon an inmate, correct?

22 A. That's the highest charge.

23 Q. Yes, sir, the highest charge?

24 A. Correct.

25 Q. And Ms. Bennett had, in fact, showed you here a

1 complaint and a judgment for an assault that was
2 perpetrated on, I guess, another inmate; is that
3 correct?

4 A. That is correct.

5 Q. A Juan Carnales, correct?

6 A. Correct.

7 Q. And that judgment that Ms. Bennett showed you
8 that was actually for a misdemeanor offense; is that
9 correct?

10 A. That would be correct.

11 Q. Which is, again, in Texas we have felony
12 offenses, as this one, and misdemeanors that are
13 punishable under State law from one day in jail up to a
14 year in the county jail?

15 A. That's correct.

16 MR. DUARTE: I pass the witness.

17 THE COURT: All right, is there anything
18 further?

19 MS. BENNETT: No, Your Honor.

20 THE COURT: All right. Thank you,
21 Sergeant. You may step down. May this witness be
22 excused?

23 MS. BENNETT: Yes, ma'am.

24 MR. DUARTE: Yes, ma'am.

25 THE COURT: You're also excused.