

1 around that area that night and she saw the injuries
2 that Ms. McDaniel suffered from this incident.

3 At the end of this trial, I'm going to ask
4 you to hold him responsible for what he did to
5 Ms. McDaniel that night and find him guilty of
6 aggravated robbery.

7 THE COURT: Mr. Cornelius, do you wish to
8 make an opening statement at this time?

9 MR. CORNELIUS: We're going to reserve our
10 right, Judge.

11 THE COURT: All right. Ms. Bruchmiller,
12 call your first witness.

13 MS. BRUCHMILLER: State calls Officer
14 McClain.

15 THE BAILIFF: Your Honor, this witness has
16 been previously sworn.

17 THE COURT: All right. Ms. Bruchmiller.

18 MS. BRUCHMILLER: Thank you, Your Honor.

19 **CHARANDA MCCLAIN FERDINAND,**
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **BY MS. BRUCHMILLER:**

23 Q. Good morning.

24 A. Good morning.

25 Q. Would you please state your full name for the

1 record?

2 A. Charanda McClain Ferdinand.

3 Q. And we see you're here in police uniform. How
4 are you employed?

5 A. I'm employed with the Houston Police
6 Department.

7 Q. Are you a certified peace officer?

8 A. Yes, I am.

9 Q. And how long have you been with the Houston
10 Police Department?

11 A. It will be 10 years in about two weeks.

12 Q. Now, currently where are you assigned?

13 A. Northeast Division.

14 Q. And what area of Houston is the Northeast
15 Division?

16 A. It's the Fifth Ward area.

17 Q. Now, you said you've been with the police
18 department almost 10 years. Tell us a little bit about
19 where you've been assigned during that time.

20 A. I've been assigned to the 7-C-10's area, which
21 is around Clinton Drive, Liberty Road, Cavalcade,
22 Lockwood. I've been assigned over a little further
23 north, around Little York and 59 area, and as well as
24 out by the Intercontinental Airport area.

25 Q. Now, how did you become involved with the

1 police department?

2 A. I applied for a job and I successfully
3 completed the academy.

4 Q. The police academy?

5 A. Yes.

6 Q. And after you completed the police academy,
7 where did you begin with Houston?

8 A. I began out at the Westside Division.

9 Q. Now, normally when a police officer completes
10 the academy, do you do a training period?

11 A. Yes.

12 Q. How long is that training period?

13 A. Six months.

14 Q. Are you with another officer who is your mentor
15 at the time?

16 A. Yes.

17 Q. Did you complete your training period?

18 A. Yes.

19 Q. And then did you move on to becoming a full
20 police officer?

21 A. Yes.

22 Q. Are you certified through any governing office?
23 Are you certified through TCLEOSE?

24 A. I am.

25 Q. Okay. And could you explain to the jury what

1 TCLEOSE is?

2 A. TCLEOSE is a certification you have to have in
3 order to be a police officer.

4 Q. Now, during your 10 years after graduating from
5 the police academy, have you taken additional training
6 courses during your time as a police officer?

7 A. Yes.

8 Q. What kind of training programs or training
9 classes have you taken?

10 A. Every year it's required that you have to take
11 40 hours of training. And we normally do that during
12 our birth month.

13 Q. Have you kept up that requirement?

14 A. Yes.

15 Q. For every year that you've been a police
16 officer?

17 A. Yes.

18 Q. Now, what kind of subjects have you taken
19 additional training in during your time as an officer?

20 A. It varies. I've had a lot of different
21 trainings.

22 Q. Okay. Currently, you said you were assigned to
23 the Northeast Division. What shift do you work?

24 A. Nightshift.

25 Q. And could you tell the jury what hours the

1 nightshift is?

2 A. 11:00 to 7:00.

3 Q. 11:00 p.m. to 7:00 a.m.?

4 A. Yes.

5 Q. Do you work alone or with a partner?

6 A. I'm alone.

7 Q. Now, were you working back on June 26th, 2012?

8 A. Yes.

9 Q. And were you still working the nightshift at
10 that point?

11 A. Yes.

12 Q. Were you dispatched to a specific location --

13 A. Yes.

14 Q. -- when you first got on your shift?

15 A. Yes.

16 Q. What time were you dispatched?

17 A. Approximately 11:15, 11:20.

18 Q. And that was June 26th, 2012; is that correct?

19 A. Yes.

20 Q. Where were you dispatched to?

21 A. To a retirement home on Lyons.

22 Q. Is that L-y-o-n-s?

23 A. Yes.

24 Q. Okay. Do you recall the name of the retirement
25 community?

1 A. No, I don't recall.

2 Q. What was your understanding as to why you were
3 responding to that location?

4 A. I was dispatched to a theft or either a
5 disturbance.

6 Q. Okay. The location where you responded to, was
7 that located in Harris County, Texas?

8 A. Yes.

9 Q. And when you arrived, who did you come in
10 contact with?

11 A. My complainant.

12 Q. And what is your complainant's name?

13 A. I'm sorry. I forgot her name.

14 Q. That's okay. Are you a little nervous
15 testifying here today?

16 A. I am.

17 Q. Did you bring your police report with you?

18 A. Yes, I did.

19 Q. Would it help your memory if you refresh your
20 recollection by looking at your police report?

21 A. Yes.

22 MS. BRUCHMILLER: Your Honor, may the
23 witness review her police report in order to continue
24 with testimony?

25 Q. (By Ms. Bruchmiller) You can go ahead.

1 A. (Witness complies).

2 The name is Catherine McDaniel.

3 Q. Where did you meet with Ms. McDaniel?

4 A. In her apartment.

5 Q. Do you remember where her apartment was located
6 within the retirement center?

7 Let me ask you this way. Was it located on
8 the first floor or another floor?

9 A. Another floor.

10 Q. And are there elevators that you can use for
11 that building?

12 A. Yes.

13 Q. When you met with Ms. McDaniel, was she alone
14 or were there other individuals with her?

15 A. Other people were with her.

16 Q. Do you know who those other people were, what
17 their names are?

18 A. The paramedics were there and one other person
19 that she calls her helper.

20 Q. Now, when you say the paramedics were there,
21 what were they doing? What did you see when you walked
22 in the door?

23 A. They were talking to Ms. McDaniel.

24 Q. Were they providing her any kind of medical
25 treatment?

1 A. They had already looked at her.

2 Q. By the time you had arrived?

3 A. Yes.

4 Q. You said there was a helper with her. Was this
5 a male or female?

6 A. A male.

7 Q. And do you know his name?

8 A. No.

9 Q. Is it -- do you know whether or not this
10 individual, the helper, had witnessed anything?

11 A. No.

12 Q. You don't know or --

13 A. He had not witnessed anything.

14 Q. Could you describe to me the way Ms. McDaniel's
15 apartment looked?

16 A. Ms. McDaniel had a one-bedroom, very small
17 apartment.

18 Q. Did she have any animals there?

19 A. Yes, she has cats that she called her babies.

20 Q. One or more than one?

21 A. No. More than one.

22 Q. Several?

23 A. Several. Like four.

24 Q. Now, did you sit down and speak to Ms. McDaniel
25 about what happened?

1 A. Yes, I did.

2 Q. And did she show you any injuries on her body?

3 A. Yes.

4 Q. What injuries did you observe on Ms. McDaniel?

5 A. She had a very large knot on her hip. And the
6 knot was so large it looked like her hip may have been
7 out of place or either broken.

8 Q. Now, to you, in your observation of that, did
9 it look like a new injury or something that she had for
10 awhile?

11 A. No. It looked new. It was fresh and it had
12 scratches on it.

13 Q. How can you tell if an injury is fresh?

14 A. It was bleeding and it was open. It hadn't had
15 any healing to it, like scabs or anything on it.

16 Q. Do you know of any other injury to Ms. McDaniel
17 at that point?

18 A. No.

19 Q. What was her demeanor like while you talked
20 with her about what had occurred?

21 A. She was upset about what had occurred and --
22 she was just very upset.

23 Q. When you say she was very upset, how was she
24 acting?

25 A. I guess as a normal person that's upset would.

1 Q. Was she crying?

2 A. No, she wasn't -- she wasn't crying, but she
3 was very upset. She kept saying her blood pressure was
4 up.

5 Q. You said that EMS was talking with her. Did
6 they end up transporting her anywhere?

7 A. No.

8 Q. Do you know if Ms. McDaniel went to the
9 hospital at all that evening?

10 A. No.

11 Q. Did you advise her she should?

12 A. Yes. She stated that she would go, but she
13 wanted to calm herself down before she went.

14 Q. Did you get a date of birth for Ms. McDaniel?

15 A. Yes.

16 Q. And how old was Ms. McDaniel on this night?

17 A. She's 73 now.

18 Q. She's 73 now or was she 73 on that night?

19 A. I'm going to just check back to her birth date
20 to see exactly what -- yeah. She was 73, according to
21 her birthday.

22 Q. When was her birthday?

23 A. In April.

24 Q. April what?

25 A. 20th.

1 Q. Of what year?

2 A. '39.

3 Q. Now, you said she was upset and stated her
4 blood pressure was high. Did you notice anything else
5 about her?

6 A. No.

7 Q. Did she appear that she had been drinking?

8 A. No, not at all.

9 Q. After you obtained the statement regarding what
10 had happened to Ms. McDaniel, were you able to determine
11 who had injured her?

12 A. Yes.

13 Q. How did you do that?

14 A. Ms. McDaniel knew of her attacker. However,
15 she did not know his name. She knew -- she knows his
16 mother.

17 Q. And what is his mother's name?

18 A. Kim Able.

19 Q. Was she able to tell you where Kim Able
20 resided, where she stayed?

21 A. Yes.

22 Q. Where did Kim Able stay?

23 A. Apartment 408.

24 Q. Is that in that same retirement center as
25 Ms. McDaniel?

1 A. Yes.

2 Q. Did she say whether she knew her attacker by
3 his face?

4 A. Yes.

5 Q. And did she say whether she had had
6 conversations with him before?

7 A. Yes.

8 Q. Were you able to obtain a description of this
9 individual from Ms. McDaniel?

10 A. Yes.

11 Q. What was that description?

12 A. She stated he was between 5-8 and 6 feet tall,
13 approximately 170 to 190 pounds, bald head at that time,
14 dark-complected, dark brown skin, and he was wearing a
15 white shirt with some dark-colored pants.

16 Q. Now, was he bald or was he shaven short?

17 A. At that time she said he was bald.

18 Q. Were you able to get a name of this individual?

19 A. Yes.

20 Q. And how were you able to do that?

21 A. By -- from his mother.

22 Q. Did you speak with Kim Able that evening?

23 A. Yes, I did.

24 Q. Now, before we leave Ms. McDaniel's apartment,
25 did you get any other information from her or anyone in

1 her apartment?

2 A. From her helper. The helper knew her attacker
3 by name.

4 Q. What name was that?

5 A. Tyrone Brown.

6 Q. When you left Ms. McDaniel's apartment, where
7 did you go to?

8 A. To Ms. Able's, his mother's apartment.

9 Q. Did you speak with her that night?

10 A. Yes.

11 Q. And was she cooperative with you?

12 A. Yes.

13 Q. Did you speak to her about the event that you
14 were investigating?

15 A. Yes.

16 Q. And were you able to get some information
17 regarding a full name and date of birth from her?

18 A. Yes.

19 Q. And what was the full name you were able to
20 obtain?

21 A. Tyrone Brown. Tyrone Lee Brown.

22 Q. Did it appear that she understood who you were
23 quizzing her about when you went to speak with her?

24 A. I'm sorry?

25 Q. Did she appear to understand who you -- what

1 individual you were asking about when you went to speak
2 with her?

3 A. Yes.

4 Q. There wasn't a confusion regarding more than
5 one son or anything like that?

6 A. No.

7 Q. Were you able to get a location of where
8 Mr. Brown lived?

9 A. She said he was homeless.

10 MR. CORNELIUS: Objection to that hearsay,
11 Your Honor.

12 THE COURT: Sustained.

13 The jury will disregard the last statement
14 by the witness.

15 Q. (By Ms. Bruchmiller) After you spoke to --
16 well, first of all, was there anyone else in Ms. Kim
17 Able's home that you spoke to?

18 A. No.

19 Q. Did you do any additional investigation at the
20 scene that night?

21 A. No.

22 Q. Was there anything that you could fingerprint?

23 A. No.

24 Q. Was there anything you could swab for DNA?

25 A. No.

1 Q. Do you know what items had been reported that
2 were taken from Ms. McDaniel?

3 A. Yes.

4 Q. Was anything taken of value that could have
5 been pawned? Let me ask you --

6 A. No.

7 Q. No jewelry?

8 A. No.

9 MS. BRUCHMILLER: Your Honor, may I
10 approach the witness?

11 THE COURT: Yes.

12 Q. (By Ms. Bruchmiller) I'm handing you what has
13 been marked State's Exhibit 1. Are you familiar with
14 this (indicating)?

15 A. Yes.

16 Q. And does it fairly and accurately depict that
17 area where this aggravated robbery occurred?

18 A. Yes.

19 Q. I'm handing you some photographs, State's
20 Exhibits 2, 3, 4, 5, 6, and 7. Will you glance through
21 those and let me know if you are familiar and recognize
22 everything that is in those photographs (indicating)?

23 A. Yes.

24 Q. Okay. And is that -- do they fairly and
25 accurately depict how that area looked that night?

1 A. Yes.

2 MS. BRUCHMILLER: Your Honor, at this time,
3 I offer State's Exhibits 1 through 7 and tender to
4 opposing counsel for any objection.

5 **(State's Exhibit No. 1 through 7 Offered)**

6 MR. CORNELIUS: No objection, Judge.

7 THE COURT: State's 1 through 7 are
8 admitted.

9 **(State's Exhibit No. 1 through 7 Admitted)**

10 MS. BRUCHMILLER: And, Your Honor, may I
11 publish?

12 THE COURT: Yes.

13 Q. (By Ms. Bruchmiller) Now, Officer, I'm showing
14 you State's Exhibit 1. As we see, this is a map of
15 Houston. Can you point to where this location is
16 located on the map?

17 A. Here (indicating).

18 Q. Can you kind of circle it with your finger and
19 it will make an indication on the screen?

20 A. (Witness complies).

21 Q. It's not doing it?

22 A. (Moves head side to side).

23 Q. If I point to this area where you can kind of
24 see greater Fifth Ward --

25 A. Right.

1 Q. -- is that the general location (indicating)?

2 A. Yes, it is.

3 Q. Okay. Kind of to the right of 59?

4 A. Yes.

5 Q. All right. Is that in the northeast area of
6 Houston?

7 A. Yes, it is.

8 Q. Now, in State's Exhibit 2, what is this a
9 photograph of?

10 A. That's the retirement living home.

11 Q. Is this where Ms. McDaniel lived?

12 A. Yes.

13 Q. Is this the entrance to the building
14 (indicating)?

15 A. Yes, it is.

16 Q. Now, in State's Exhibit 3, is this the same
17 entrance, just a little off to the left?

18 A. Yes, it is.

19 Q. Is this the sign we see for the area --

20 A. Yes.

21 Q. -- on the left-hand side of the photograph?

22 A. Uh-huh.

23 Q. State's Exhibit 4, is this that same
24 building --

25 A. Yes.

1 Q. -- on the left-hand side?

2 A. Yes.

3 Q. With the bus stop in front of it?

4 A. Yes.

5 Q. Okay. This is an overhead light we see here?

6 A. Yes.

7 Q. Kind of in the center to the right. If I can
8 zoom in a little.

9 A. Yes.

10 Q. State's Exhibit 5, a photograph of the same
11 building?

12 A. Yes.

13 Q. Different angle?

14 A. Yes.

15 Q. Now, that looks like a long building.

16 A. Yes.

17 Q. Is that correct?

18 A. Yes, it is.

19 Q. Okay. Is that all one building?

20 A. Yes, it is.

21 Q. Does it take up that entire block?

22 A. The entire block.

23 Q. Now, in State's Exhibit 6, where in
24 relationship to the building would we be standing to be
25 looking at this photograph head-on?

1 A. I'm sorry? Repeat that.

2 Q. Well, we see the building. Is this the same
3 building on our right?

4 A. Yes.

5 Q. Okay. The one we just saw in State's Exhibit
6 5; is that correct?

7 A. Yes.

8 Q. Okay. And we see a bus stop here?

9 A. Yes.

10 Q. Is that a bus stop?

11 A. Yes.

12 Q. And then across the street behind these trees,
13 is that another bus stop?

14 A. Yes, it is.

15 Q. State's Exhibit 7. What are we looking at
16 here?

17 A. The bus stop.

18 Q. The bus stop outside of Ms. McDaniel's
19 apartments?

20 A. Yes.

21 Q. Now, after you spoke with Ms. McDaniel and with
22 Ms. Able, did you speak to any other witnesses?

23 A. No.

24 Q. And why not?

25 A. There was no other witnesses around.

1 Q. Did you do any additional steps in your
2 investigation regarding this event?

3 A. No.

4 Q. Did you complete a police report?

5 A. Yes, I did.

6 Q. Now, once you complete your police report, what
7 happens to the case?

8 A. It's sent to an investigator.

9 Q. What division is the investigator with that
10 would handle a case such as this?

11 A. Robbery.

12 MS. BRUCHMILLER: Pass the witness.

13 THE COURT: Mr. Cornelius.

14 **CROSS-EXAMINATION**

15 **BY MR. CORNELIUS:**

16 Q. Officer McClain, my name is Skip Cornelius.
17 We've never met or discussed this case before, right?

18 A. Yes.

19 Q. And you don't know my client?

20 A. No.

21 Q. In reading your report, I noticed that you
22 described the injury to the hip and some scratches --

23 A. Yes.

24 Q. -- in the hip area?

25 A. Yes.

1 Q. No other injuries?

2 A. None that I was aware of.

3 Q. And, specifically, no injuries to the face?

4 A. None that I was aware of.

5 Q. So, I take that to mean you didn't see any
6 injuries to the face and you weren't directed to any
7 injuries to the face?

8 A. Correct.

9 Q. And, of course, the name that you got came from
10 the helper whose name we don't have --

11 A. Correct.

12 Q. -- and the helper who gave you the name
13 actually didn't see anything?

14 A. No.

15 Q. So, the lady who was the alleged victim in the
16 case did not give you the name of who it was that she
17 thought assaulted her?

18 A. No.

19 Q. But someone who didn't see it had gave you the
20 name?

21 A. Yes.

22 Q. And then based on that name, you went to his --
23 to talk to his mother, right?

24 A. Well, she stated that she knew his mother.

25 This helper that comes in to help her, I guess, he comes

1 in to clean her house and help her around the house.

2 Q. Okay. Well, hold on. Let me just -- I'm sorry
3 to interrupt you, but that's all not what I'm asking.

4 Based on the information you got from them,
5 you went and talked to another lady who turns out to be
6 this man's mother, right?

7 A. Yes.

8 Q. And the mother knew his name?

9 A. Yes.

10 Q. But the mom didn't see anything that happened,
11 correct?

12 A. Correct.

13 Q. The description that the lady gave you, the
14 lady that was allegedly assaulted, was, again, 5-8 to 6
15 feet, 170 to 190 pounds, correct?

16 A. Yes.

17 Q. And the man who she said assaulted her was
18 bald?

19 A. Yes.

20 Q. Had a dark brown complexion?

21 A. Yes.

22 Q. And the reason that you would put that down is
23 because you didn't have anybody in custody and it's
24 important to have as accurate a description of who the
25 alleged suspect is as possible, correct?

1 A. Correct.

2 Q. Did you record in here the number of the unit
3 that the paramedics came in?

4 A. No.

5 Q. So, that was it, then; that's basically all you
6 did?

7 A. That was it.

8 MR. CORNELIUS: Pass the witness.

9 THE COURT: Ms. Bruchmiller.

10 MS. BRUCHMILLER: Briefly, Your Honor.

11 THE COURT: Okay.

12 **REDIRECT EXAMINATION**

13 **BY MS. BRUCHMILLER:**

14 Q. Officer McClain, can you describe
15 Ms. McDaniel's skin tone for us?

16 A. Ms. McDaniel is a medium-brown skin tone.

17 Q. Now, when you spoke to her about when -- when
18 you spoke to her about who had done this to her, did she
19 appear to be confident about the person she was
20 describing to you?

21 A. She was --

22 MR. CORNELIUS: Objection. Calls for an
23 opinion.

24 THE COURT: Sustained.

25 Q. (By Ms. Bruchmiller) Was she hesitant to tell

1 you who had done this?

2 A. No.

3 Q. Did she appear confident -- I'm sorry. Did she
4 appear certain?

5 A. She was very certain.

6 MS. BRUCHMILLER: Pass the witness.

7 MR. CORNELIUS: Nothing further, Judge.

8 THE COURT: You may step down, ma'am.

9 Call your next witness.

10 MS. BRUCHMILLER: State calls Sergeant
11 Triplett.

12 THE BAILIFF: Your Honor, this witness has
13 been previously sworn.

14 THE COURT: All right. Ms. Bruchmiller.

15 **TROY TRIPLETT,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MS. BRUCHMILLER:**

19 Q. Good morning, Sergeant Triplett.

20 A. Good morning, ma'am.

21 Q. Would you please state your full name for the
22 jury?

23 A. Troy Triplett.

24 Q. We see you're in full police uniform today.

25 A. Yes, ma'am.