

1 is being flown in tomorrow. So I have three witnesses
2 for tomorrow. So it could be a very quick day. If you
3 want to break for lunch after the CSU officer and then
4 we can have one after lunch.

5 THE COURT: Is this CSU?

6 MR. BURDETTE: No. He's going to be
7 10 minutes, and CSU will probably be 30 minutes.

8 THE COURT: All right.

9 MR. BURDETTE: It will be a quick day.

10 THE COURT: It's okay with me.

11 (Open court, defendant and jury present.)

12 MR. BURDETTE: May I proceed?

13 THE COURT: You may.

14 **OFFICER J.D. NEWBERRY,**

15 having been called as a witness and being first duly
16 sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. BURDETTE:**

19 Q. Good morning, Officer Newberry.

20 A. Good morning.

21 Q. How are you doing?

22 A. Good.

23 Q. Thank you for being here.

24 Do me a favor and introduce yourselves to
25 the members of the jury.

1 A. I'm Officer Newberry. I've worked for the
2 Houston Police Department for approximately
3 five-and-a-half years.

4 Q. Are you a certified peace officer in the state
5 of Texas?

6 A. Yes, sir.

7 Q. When did you graduate from the academy?

8 A. It was June of 2000 -- no. January of 2009.

9 Q. And since then, what have you been doing?

10 A. Running calls for service for the Houston
11 Police Department.

12 Q. So you're a patrol officer?

13 A. Yes.

14 Q. Same as Officer Garza?

15 A. Yes, sir.

16 Q. I see y'all are wearing different uniforms.
17 Can you tell us a little bit about that?

18 A. They're just -- they're transitioning to the
19 dark blue uniform. Some people don't have them all. I
20 just happen to have -- all my shirts are dark blue
21 rather than the light blue.

22 Q. He's got the old uniform, and you've got the
23 new one?

24 A. Yes.

25 Q. On April 1st, 2012, you were a patrol officer?

1 A. Yes.

2 Q. Were you dressed in full uniform as you are
3 today?

4 A. Yes.

5 Q. And was Officer Garza?

6 A. Yes.

7 Q. You had kind of a limited role in this case; is
8 that right?

9 A. Yes, I did.

10 Q. At some point, were you dispatched to the
11 8400-block of Broadway?

12 A. Yes, I was dispatched to 8400 Broadway.

13 Q. In regards to what?

14 A. It was a burglary that had just occurred, from
15 what I remember. And it had been upgraded to a sexual
16 assault in progress.

17 Q. So, you go there lights and sirens?

18 A. Yes.

19 Q. When you get there, what do you see?

20 A. When I arrived, it was -- Officer Garza was
21 talking to the complainant, and she was hysterical. He
22 was trying to get her information, get as much
23 information from her as he could.

24 Q. At some point, did you see a suspect that was
25 taken into custody?

1 A. Yes. It was after. I had left going to look
2 in the area for the suspect. And then Officer Garza got
3 on the radio saying he had a suspect in custody and had
4 had one tased.

5 Q. Okay. And I'll just ask, do you see the
6 suspect, the person Officer Garza detained, in the
7 courtroom today?

8 A. Yes.

9 Q. Could you point to him and identify him by an
10 article of clothing?

11 A. He's sitting over there in a blue shirt
12 (indicating).

13 MR. BURDETTE: Judge, may the record
14 reflect the witness has identified the defendant, Khalon
15 Jovon Westbrooks?

16 THE COURT: The record will so reflect.

17 Q. (By Mr. Burdette) So Officer Garza had detained
18 him or put handcuffs on him?

19 A. Yes.

20 Q. What were your responsibilities at that point?

21 A. I was going to secure him so Officer Garza
22 could go and gather more information. So I was going to
23 search him and make sure he didn't have any weapons or
24 contraband on him.

25 Q. Did you, in fact, search him?

1 A. I did.

2 Q. Did you recover items from him?

3 A. Yes.

4 Q. Do you remember what items you recovered on his
5 person?

6 A. Several butter knives, a steak knife, a ring,
7 his wallet, some money, a bottle of prescription pills.

8 Q. Any remote controls?

9 A. Yes, and I recovered two remote controls.

10 Q. All right.

11 MR. BURDETTE: Judge, may I approach the
12 witness?

13 THE COURT: You may.

14 Q. (By Mr. Burdette) Officer Newberry, I'm showing
15 you what's been marked as State's Exhibits 28, 29, 30,
16 and 31. You can open them up. Each box is labeled
17 28-A, 29-A, 30-A, 31-A, 32-A (indicating).

18 A. All right.

19 Q. Just tell me if that's an item that you
20 recognize.

21 A. Yes. This was a steak knife that I pulled out
22 of his pocket that night.

23 Q. And was it eventually tagged into the property
24 room by a Crime Scene Unit officer?

25 A. Yes.

1 Q. And is a label developed indicating that this
2 was the item that was tagged for this case and who
3 tagged it?

4 A. Yes.

5 Q. Okay. Do you see that label here on the
6 outside?

7 A. Officer Andrew Taravella.

8 Q. Taravella?

9 A. Taravella. I'm sorry.

10 Q. And just to make it simpler, outside the jury's
11 presence earlier today, you had the opportunity to look
12 at each one of these items, right --

13 A. Yes, I did.

14 Q. -- to authenticate them?

15 Okay. We'll look at State's Exhibit 29,
16 and tell me if you recognize it (indicating).

17 A. Yes. This was another knife that was pulled
18 out of his pocket when I searched him.

19 Q. Let's look at State's Exhibit 30 (indicating).

20 A. Again, another one.

21 Q. All right. Another what?

22 A. Knife.

23 Q. We have to be clear for the record.

24 A. Yes.

25 Q. Look at State's Exhibit 31 (indicating).

1 (Fire drill.)

2 (Brief recess.)

3 THE BAILIFF: All rise for the jury.

4 (Open court, defendant and jury present.)

5 THE COURT: Thank you. Please be seated.

6 You may proceed.

7 MR. BURDETTE: Thank you, Judge.

8 May I re-approach the witness?

9 THE COURT: You may.

10 Q. (By Mr. Burdette) Okay. Officer Newberry, when
11 we left off, I believe we were talking about State's
12 Exhibit 30 or 31. So let's start over with State's
13 Exhibit 30. Take a look at it and tell me if you
14 recognize it (indicating).

15 A. Yes. It was a knife pulled out of the
16 suspect's pocket when I searched him.

17 Q. Take a look at State's Exhibit 31 contained in
18 31-A (indicating).

19 A. This is the same. It's another knife pulled
20 out of his pocket when I searched him.

21 Q. Okay. And State's Exhibit 32 contained in 32-A
22 (indicating)?

23 A. Another butter knife.

24 Q. Okay. And how do you recognize it? Where was
25 it found?

1 A. In his front pocket.

2 Q. Now, how did all of these knives get to court
3 today?

4 A. I took them out of his pocket and they were
5 given to Officer Martinez on the scene when I handed
6 custody of the suspect over to Officer Martinez.

7 Q. Okay. But who brought them to court today, the
8 Crime Scene Unit officer?

9 A. Yes.

10 Q. All right. You did not bring them to --

11 A. No, I did not.

12 Q. Did you have the opportunity to inspect them
13 prior to coming into court?

14 A. Yes.

15 Q. Are they all in the same or substantially same
16 condition today as they were when you recovered them on
17 the defendant's person?

18 A. Yes.

19 MR. BURDETTE: Judge, at this time, State
20 offers into evidence State's Exhibits 28, 29, 30, 31,
21 and 32, along with the boxes they're contained in, which
22 would be 28-A, 29-A, 30-A, 31-A, and 32-A. I'll tender
23 to opposing counsel for inspection.

24 **(State's Exhibit Nos. 28, 28-A, 29, 29-A,**
25 **30, 30-A, 31, 31-A, 32, and 32-A Offered)**

1 MR. RUSHING: No objections, Judge.

2 THE COURT: State's Exhibit 28 through 32
3 are admitted.

4 (State's Exhibit Nos. 28, 28-A, 29, 29-A,
5 30, 30-A, 31, 31-A, 32, and 32-A Admitted)

6 MR. BURDETTE: May I publish these, Your
7 Honor?

8 THE COURT: You may.

9 Q. (By Mr. Burdette) We'll start with State's
10 Exhibit 28, Officer Newberry. What kind of knife do we
11 have here (indicating)?

12 A. A steak knife, black steak knife. Black
13 handle, stainless steel blade.

14 Q. Through your training and experience, do you
15 know a knife to be a deadly weapon?

16 A. Yes.

17 Q. Is it capable of causing serious bodily injury?

18 A. Yes.

19 Q. Is it designed in a manner that could cause
20 serious bodily injury or death?

21 A. Yes, it could.

22 Q. So State's Exhibit 28, you would consider a
23 deadly weapon?

24 A. Yes.

25 Q. We'll move to State's Exhibit 29. What type of

1 knife do we see here (indicating)?

2 A. It's a butter -- butter knife.

3 Q. Okay. What type of blade do we see there?

4 A. It's a serrated blade.

5 Q. And this is different than State's Exhibit 28,
6 correct?

7 A. Yes.

8 Q. But it's still a knife; is that right?

9 A. It is still a knife.

10 Q. Based on your training and experience, is
11 State's Exhibit 29 a deadly weapon?

12 A. Yes.

13 Q. Is it capable of causing serious bodily injury
14 or death --

15 A. Yes.

16 Q. -- based on how it's designed and its manner of
17 use?

18 A. Yes.

19 Q. State's Exhibit 30, what do we see here
20 (indicating)?

21 A. It looks like another steak knife.

22 Q. I'll zoom in. What type of blade?

23 A. A serrated blade.

24 Q. Is it pointed at the tip?

25 A. It is pointed.

1 Q. And this is a knife?

2 A. Yes.

3 Q. Is it also capable of causing serious bodily
4 injury or death?

5 A. Yes.

6 Q. Would you consider State's Exhibit 30 a deadly
7 weapon?

8 A. I would, yes.

9 Q. And we'll do 31 and 32 together. What do we
10 see here (indicating)?

11 A. Two butter knives.

12 Q. I'll zoom in on that blade. What type of blade
13 do we see there?

14 A. Serrated blades.

15 Q. These are both knives?

16 A. Yes, ma'am.

17 Q. Based on your training and experience, are
18 these both deadly weapons?

19 A. Yes.

20 Q. They're capable of causing serious bodily
21 injury or death?

22 A. Yes.

23 Q. These do not have as pointed of a tip --

24 A. No.

25 Q. -- is that right?

1 A. No.

2 Q. Okay. But they're still capable of causing
3 serious bodily injury or death?

4 A. Yes.

5 Q. Where did you recover each of these items?

6 A. In the defendant's pocket.

7 Q. Did you recover additional evidence in his
8 pocket?

9 A. Yes, I did.

10 Q. Did you recover a pill bottle?

11 A. Yes.

12 MR. BURDETTE: May I approach the witness?

13 THE COURT: You may.

14 Q. (By Mr. Burdette) I'm showing you what's been
15 marked as State's Exhibit 33. Can you take a look at it
16 (indicating)?

17 A. That's the bottle of pills that I found on the
18 suspect.

19 Q. Okay. Is it in the same or substantially the
20 same condition today as it was when you found it?

21 A. Yes.

22 MR. BURDETTE: Judge, at this time, State
23 offers into evidence State's Exhibit 33. I'll tender to
24 opposing counsel for inspection.

25 **(State's Exhibit No. 33 Offered)**

1 MR. RUSHING: No objections.

2 THE COURT: State's Exhibit 33 is admitted.

3 **(State's Exhibit No. 33 Admitted)**

4 MR. BURDETTE: May I publish?

5 THE COURT: You may.

6 Q. (By Mr. Burdette) Now, just like the other
7 exhibits, Officer Newberry, was this turned over to the
8 Crime Scene Unit?

9 A. Yes, it was.

10 Q. And he's the one that brought it to court
11 today?

12 A. Yes.

13 Q. Have you had the opportunity to inspect it
14 outside the jury's presence earlier today?

15 A. Yes.

16 Q. Whose name do we see on this pill bottle?

17 A. It's going to be -- the last name is Crawford,
18 and the first name is Carla.

19 Q. Okay. Not the defendant's name?

20 A. No.

21 Q. And then a date of February of 2010?

22 A. Yes.

23 Q. Based on the fact that it's in a prescription
24 bottle, is this a prescription medication?

25 A. Yes.

1 Q. The name here, Carla Crawford, that was not the
2 name of either one of the complainants, correct?

3 A. No.

4 Q. So, you don't know where these came from?

5 A. I didn't know where -- no, I don't know where
6 they came from.

7 Q. I mean, to ask a fair question, where he got
8 them from?

9 A. No, I don't.

10 Q. Okay. But they were recovered in his pocket?

11 A. Yes.

12 Q. With the knives?

13 A. Yes.

14 Q. You said you also found cash?

15 A. Yes.

16 Q. Where was the cash?

17 A. In his front right pocket -- or it was a
18 small -- like, in his jeans, like an upper -- I don't
19 know if it's on the right side, but it's like a small
20 pocket for smaller items. Change, I guess.

21 Q. And you found a wallet as well?

22 A. Yes.

23 Q. Was the cash in the wallet?

24 A. No.

25 Q. You did not search the wallet?

1 A. No, I didn't.

2 Q. Did you also find some remote controls?

3 A. Yes, I did.

4 Q. And were those turned over to the Crime Scene
5 Unit as well?

6 A. They were.

7 Q. Other than searching the defendant, recovering
8 these items, did you have anything else to do with this
9 investigation?

10 A. No, I didn't.

11 MR. BURDETTE: I'll pass the witness.

12 THE COURT: Mr. Rushing?

13 MR. RUSHING: Thank you, Judge.

14 May I approach the projector and republish
15 the bottle?

16 THE COURT: You may.

17 **CROSS-EXAMINATION**

18 **BY MR. RUSHING:**

19 Q. Officer, what does that say that these are?

20 A. Vitamin tablet.

21 Q. Is a vitamin tablet something that -- how long
22 have you been an officer for?

23 A. A little over five-and-a-half years.

24 Q. And have you had a lot of experience with
25 people on different substances?

1 A. Yes, I have.

2 Q. And do some of these substances cause people to
3 have episodes where they are not in their right mind and
4 possibly lose control of themselves?

5 A. Yes.

6 Q. Is a vitamin something that would do that,
7 typically?

8 A. No.

9 Q. Where was Mr. Westbrooks when you searched him?

10 A. He was on the ground.

11 Q. Where was Officer Garza when you searched
12 Mr. Westbrooks?

13 A. He was probably talking to the complainant.

14 Q. Where were they?

15 A. They were probably back in their apartment.

16 MR. RUSHING: Judge, I'll pass the witness.

17 MR. BURDETTE: No further questions for
18 this witness.

19 THE COURT: May this witness be excused?

20 MR. BURDETTE: No objection.

21 MR. RUSHING: No objections.

22 THE COURT: Thank you, sir. You may step
23 down. You're excused.

24 Call your next witness.

25 MR. BURDETTE: I do need to recall Officer

1 Garza.

2 THE COURT: Okay.

3 MR. BURDETTE: May I proceed?

4 THE COURT: You may.

5 OFFICER CARLOS GARZA,

6 having been called as a witness and being first duly

7 sworn, testified as follows:

8 REDIRECT EXAMINATION

9 BY MR. BURDETTE:

10 Q. My apologies, Officer Garza. I forgot to ask
11 you one question. Do you see the suspect that you
12 detained and was positively identified by Ms. Hernandez
13 in the courtroom today?

14 A. Yes, I do.

15 Q. Could you point to him and identify him by an
16 article of clothing?

17 A. Blue shirt (indicating).

18 MR. BURDETTE: Judge, may the record
19 reflect the officer has identified the defendant, Khalon
20 Jovon Westbrooks?

21 THE COURT: The record will so reflect.

22 MR. BURDETTE: No further questions.

23 THE COURT: Mr. Rushing?

24 MR. RUSHING: Very brief, Judge.

25 RECROSS-EXAMINATION

1 **BY MR. RUSHING:**

2 Q. Officer, do you recall a few minutes ago that
3 you testified that you were present when Officer
4 Newberry searched Mr. Westbrook?

5 A. Yes.

6 MR. RUSHING: No further questions, Judge.

7 MR. BURDETTE: No questions.

8 THE COURT: Thank you. You may step down.
9 Call your next witness.

10 MR. BURDETTE: State calls Officer Andrew
11 Taravella.

12 THE BAILIFF: Judge, this witness was sworn
13 in earlier.

14 THE COURT: Thank you.
15 You may proceed.

16 MR. BURDETTE: Thank you, Judge.

17 **OFFICER ANDREW TARAVELLA,**
18 having been called as a witness and being first duly
19 sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. BURDETTE:**

22 Q. Good afternoon, Officer Taravella.

23 A. Good afternoon.

24 Q. How are you?

25 A. Well. Thank you.