

Trial on Merits
May 18, 2011

1 THE COURT: Why don't you go ahead and
2 call your witness on the matter of whether or not
3 Mr. Tarley -- did I call you Mr. Wilson through the
4 whole voir dire?

5 THE DEFENDANT: Yes, you did but that's
6 fine.

7 THE COURT: I'm sorry -- Mr. Tarley has
8 forfeited his right to object to the admission of those
9 statements being in violation of the confrontation
10 clause. Go ahead.

11 MR. LESLIE: State calls Officer Saldana.

12 THE COURT: All right. Raise your right
13 hand for me, sir.

14 *(Oath administered)*

15 THE COURT: And you may proceed whenever
16 you are ready.

17 MR. LESLIE: Thank you, Judge.

18 **MOISES SALDANA, JR.,**
19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 BY MR. LESLIE:

22 Q. Officer Saldana, are you a licensed police
23 officer with the Houston Police Department?

24 A. Yes.

25 Q. Were you on duty on March 14, 2011?

Moises Saldana, Jr. - May 18, 2011
Direct Examination by Mr. Leslie

1 A. Yes, I was.

2 Q. What shift were you working?

3 A. I worked the third shift, 8:00 p.m. to
4 6:00 a.m.

5 Q. Are you a regular patrol officer?

6 A. Yes, I am.

7 Q. And how did you become involved with the issue
8 here today?

9 A. The call was there on the board and I
10 volunteered for it.

11 Q. So, there was something on your dispatch board
12 or on your M.D.T.?

13 A. Correct.

14 Q. Which one was it? I'm sorry.

15 A. On the M.D.T.

16 Q. And what did the call say?

17 A. It said hospital, assault; something like a
18 hospital check. Hospital check, assault is what it was.

19 Q. Do you know what time that was?

20 A. At the time that it dropped, I do not recall
21 what time it dropped.

22 Q. Do you know what time it was when you got
23 there?

24 A. I believe it was somewhere around 10:00 p.m.

25 Q. Do you know about how long it took you to get

1 there?

2 A. No, I do not.

3 Q. Okay. Just as a rough estimate, could --

4 A. I would say maybe about eight minutes.

5 Q. Okay. So, did you respond with lights and
6 sirens; or did you just get there as fast as you could?

7 A. I got there as fast as I could.

8 Q. Okay. Did you see Ms. Inekia Gentles there
9 when you got to the hospital?

10 A. Yes, I did.

11 Q. And how did you know that it was Inekia
12 Gentles?

13 A. When I got there, I asked her if she called the
14 police and if that was her name. She said, Yes.

15 Q. Did you identify her by any kind of official
16 identification?

17 A. She had an I.D. on her.

18 Q. Okay. And what was her appearance like when
19 you showed up?

20 A. She looked frightened. She was crying, and her
21 hair was in disarray.

22 Q. Okay.

23 A. And --

24 Q. Okay. Go ahead.

25 A. And also crying.

1 Q. And so you saw -- did you see visible injuries
2 on her?

3 A. Yes, I did.

4 Q. What did you see on her?

5 A. I believe her left side of her face was swollen
6 and red as if she had just been punched in the face.

7 Q. Okay. And what did she say to you?

8 A. She told me that they were in the apartment and
9 that --

10 Q. Let me just -- when she said, "they," did she
11 say who was in the apartment?

12 A. Yes. She said that she was in the apartment
13 with the defendant, inside the apartment.

14 Q. Did she actually say his name?

15 A. Yes, she did.

16 Q. And she said his name was Wilson Tarley?

17 A. Correct.

18 Q. Did she say what her relationship with him was?

19 A. She said that he was her boyfriend.

20 Q. Was he there?

21 A. He was not there.

22 Q. Okay. What did she say he did?

23 A. She told me that -- she received a call maybe a
24 couple weeks ago and that the call went to his phone
25 because that's the only phone they had available. And

1 there was somebody from the District Attorney's Office
2 that wanted to speak to her and he heard about it and he
3 became angry. And he asked her, Are you going to
4 testify against me?

5 And she said, No. And at that point she
6 said that for some reason he just started to slap her on
7 the face.

8 Q. Let me clarify. Did he say, Are you going to
9 testify against me? And she said, No?

10 A. Correct.

11 Q. So, she said she was not going to testify
12 against him?

13 A. Correct.

14 Q. Or did she say she was going to testify against
15 him?

16 A. I believe she said that she was not going to.

17 Q. Would it help refresh your memory if you took a
18 look at your offense report?

19 A. Yes, absolutely.

20 That is correct, yes. My mistake.

21 Q. What did he ask her, and what did she tell him?

22 A. He asked her that if she was going to get on
23 the stand and say that he did not hit her.

24 Q. And what did she say?

25 A. She said, No.

Moises Saldana, Jr. - May 18, 2011
Direct Examination by *Mr. Leslie*

1 Q. And what was his response according to her?

2 A. He became angry and started to slap her in the
3 face.

4 Q. Did he do anything else according to her?

5 A. He then slammed her on the floor and continued
6 to slap her in the face. She said that he slapped her
7 so many times that she lost count. And that he then at
8 that time he put his foot on her chest and grabbed her
9 from the hair and started pulling her hair, and she then
10 flipped over. And when she flipped over, he grabbed his
11 belt. He took his belt and he started just hitting her
12 with his belt on her back. And he then tried to pick
13 her up, tried to talk to her, and she ran towards the
14 door. And that's when he ran after her and grabbed her
15 in a chokehold, brought her back inside. And she said
16 she somehow got away from him and ran, and she ran away.
17 She thought that he was going to kill her.

18 Q. And she told you that?

19 A. She told me this, correct.

20 Q. And did she say where that assault took place?

21 A. She said it happened inside the apartment.

22 Q. And did she say where that apartment was?

23 A. Yes, she did. She told me it was the address
24 that I put on the report.

25 Q. So 07511 Bissonnet Street?

Moises Saldana, Jr. - May 18, 2011
Direct Examination by *Mr. Leslie*

1 A. Yes.

2 Q. Do you know where that is in relation to the
3 hospital?

4 A. Yes. It's across the street.

5 Q. Okay. So, did she tell you -- had she gone
6 anywhere else before she went to the hospital?

7 A. She said she went straight to the hospital.

8 Q. Okay. So, did she give any indication about
9 how much earlier this assault had been?

10 A. She said it had just occurred.

11 Q. Okay. Did you make any effort to contact the
12 defendant, or did you see the defendant at all that day?

13 A. I made a telephone contact with him.

14 Q. And how did you get his number?

15 A. I went over to the apartment where the assault
16 occurred and his family members were there. And as his
17 family members were there, he called his family member.
18 And I told him if he could come and talk to me. And
19 that's when I spoke to him, and he said that he would
20 not come and talk to me about what happened.

21 Q. Okay. And just to go back, when she said --
22 when she was talking about her testifying, did she tell
23 you an incident number or any details about the case
24 that she was talking about?

25 A. She did not have the incident with her. I

1 looked it up on the -- on our OLO System.

2 Q. Did you find a pending case against the
3 defendant?

4 A. I did find a pending case against the
5 defendant.

6 Q. And in that case, was Ms. Gentles the
7 complaining witness?

8 A. Correct.

9 Q. And do you know what the offense report number
10 on that case was?

11 A. Yes, I put it in my report.

12 Q. Was it 020368511?

13 A. That's correct.

14 MR. LESLIE: Nothing further, Your Honor.

15 THE COURT: Mr. Cantu.

16 MR. CANTU: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. CANTU:

19 Q. Officer, you indicated that it took you about
20 eight minutes to get to the hospital from where you
21 live, right?

22 A. I'm sorry?

23 Q. Where you were, where you got the call?

24 A. Yes.

25 Q. You live very close to the hospital, then?

Moises Saldana, Jr. - May 18, 2011
Cross-Examination by Mr. Cantu

1 A. I was in 40's Beat. It was kind of busy, so I
2 was running calls everywhere.

3 Q. You were still on duty?

4 A. Yes, I was.

5 Q. So, you were nearby; and you got there in eight
6 minutes?

7 A. Yes, that is correct.

8 Q. Okay. You indicated that this incident had
9 just occurred. Tell me how many minutes that would be.

10 A. She said that it had just occurred maybe about
11 30 minutes ago, before I even got there.

12 Q. Okay. Thirty minutes prior to you arriving
13 there?

14 A. Correct.

15 Q. And you didn't go to the apartment, though, did
16 you?

17 A. No, not at first.

18 Q. You didn't go to the apartment on this
19 particular day that you are testifying about?

20 A. I did go.

21 Q. On the 14th?

22 A. I went the same day afterwards as a follow-up.

23 Q. You went on the 15th?

24 A. Whatever day the incident occurred.

25 Q. You are talking about the 14th, right? 13

Moises Saldana, Jr. - May 18, 2011
Cross-Examination by Mr. Cantu

1 through 14/11?

2 A. No. It would be the 14th, I guess.

3 Q. You didn't go on that day. You went the
4 following day; is that a correct statement?

5 A. I believe I went the same day, later on in the
6 night.

7 Q. Okay. You have -- your report indicates such?

8 A. Yes. It's in here on my actions.

9 Q. Yes, sir. Those are your field reports?

10 A. Where it says, Officer's actions, I went back
11 over there to see if I could speak with the defendant.

12 Q. On what day?

13 A. On that same night.

14 Q. On the same night?

15 A. Correct.

16 Q. And it was some time after 10:00 p.m.?

17 A. I believe so. I could tell you the correct
18 times because I wrote them down in this report. One
19 second.

20 Q. Okay.

21 A. Okay. Yes, it was about 9:00 p.m., actually,
22 when I got there on that same night.

23 Q. But you testified earlier -- I wrote down that
24 you got at the hospital at 10:00 p.m.?

25 A. That is correct. I made a mistake. Now that I

1 have the report in front of me --

2 Q. Yes, sir.

3 A. -- I can see what times I put on there.

4 Q. So you got to the hospital on this call before
5 9:00 p.m.?

6 A. I got to the hospital at -- I arrived there at
7 9:18 p.m.

8 Q. And then you went to the apartments at 9:00?

9 A. No, I didn't go at that time. I went later on
10 in the night. I went later on but in the same day --

11 Q. Yes, sir.

12 A. -- at night, later on.

13 Q. Do you know the time?

14 A. I did not write the time down.

15 Q. You recall that from your memory?

16 A. Well, I spoke to the complainant for a while at
17 the hospital, and then I -- she needed a courtesy ride.
18 I gave her a ride, and then I called another officer out
19 there. So, I would probably -- I don't know. I would
20 probably give it maybe 10:00, 10:30.

21 Q. You gave her a courtesy ride where? Across the
22 street?

23 A. No. To a hotel. She was scared.

24 Q. What was the name of the hotel?

25 A. America's Inn.

1 Q. Nearby?

2 A. I'm sorry?

3 Q. Nearby?

4 A. Yes. Yes.

5 Q. You first said that you spoke to her and then
6 she told you that she had been asked whether she was
7 going to testify?

8 A. Right.

9 Q. And she said she would not. And then he
10 proceeded to strike her, as you testified. That's your
11 first testimony, right?

12 A. Okay.

13 Q. But you've since changed it to say -- now, how
14 did you phrase that sentence?

15 A. In my report -- the reason I got confused is
16 because I put two negatives together.

17 Q. I'm sorry?

18 A. In -- in my sentences, I put here that -- the
19 way that I said it in my report is exactly the same way
20 that she told me. She stated that -- he asked her if
21 she was going to get on the stand to tell the State that
22 he did not hit her. And Ms. Gentles stated that she has
23 an open case against him for assault.

24 Ms. Gentles stated that she said, No; and
25 that's when the assault occurred. So, I got a little

1 confused at that time.

2 Q. You stated it the way it would be said
3 normally, right?

4 A. Correct. That's how she said it to me.

5 Q. And you are saying she didn't say it that way.
6 She said it in that kind of an awkward sentence?

7 A. Right.

8 Q. Did you have her injuries looked at by a
9 doctor?

10 A. She refused.

11 Q. Did she refuse to assist you in your
12 investigation at that moment?

13 A. No, she did not.

14 Q. Did she allow you to take photos of her?

15 A. She did.

16 Q. And you have those photos?

17 A. They are in the digital data base system.

18 Q. You don't have those photos?

19 A. Not with me, no.

20 Q. You can provide those photos within minutes?

21 A. I don't know how to access that system.

22 Q. Yes, sir.

23 A. But I could call people and find out how to do
24 it.

25 Q. Those photos would have -- if she had any

1 injuries, those photos would indicate injuries, would
2 they not?

3 A. Correct.

4 MR. LESLIE: Judge, just for the record, I
5 just sent our intern down to try and get a copy of those
6 photos from the felony file.

7 THE COURT: Okay.

8 Q. (BY MR. CANTU) You indicated in your affidavit
9 that she attempted to call 911?

10 A. Yes, she did.

11 Q. Did you get a copy of that 911 call?

12 A. No, I did not.

13 Q. She attempted to call 911 here in Houston,
14 right, H.P.D.?

15 A. That is correct.

16 Q. Is that what you understood?

17 A. Yes, that is what I understood.

18 Q. Could you get the Court -- could you get a copy
19 of that 911 call that she says she made -- that you are
20 saying that she says she made?

21 A. I'm sure there might be a way of doing so. I
22 can look into it to see, make phone calls and see who
23 I've got to talk to about getting it. I've personally
24 never done it myself. So --

25 Q. Okay. But you would tell the jury that she

1 made a 911 call, wouldn't you?

2 A. Correct.

3 Q. You would want them to believe you?

4 A. Right.

5 Q. Right? Okay. So, would you get that 911 tape
6 for this courtroom?

7 MR. LESLIE: Judge, I'm going to object to
8 him asking questions outside this officer's knowledge.

9 THE COURT: Well, let's just stick to the
10 reason we're having this hearing. The other questions
11 you can ask in front of the jury, unless it goes to this
12 issue of forfeiture.

13 MR. CANTU: Yes, Judge, I believe it does.
14 And I apologize. I'm just learning of this now, but I
15 just want to make sure where they are. And I don't know
16 how we are going to rule, but I want to know that he can
17 get those at a later time, if he did -- and he says he
18 did -- make the photos themselves.

19 THE COURT: And the D.A. said that they
20 are attempting to locate this right now in another file.

21 MR. CANTU: I'm sorry. The 911 call is
22 what I meant to say, not the photos.

23 THE COURT: Okay.

24 MR. CANTU: The 911 call.

25 THE COURT: Well, there are ways to get a

1 911 call. Whether this officer is the one to do that
2 is, you know -- that is something we can discuss later.

3 Q. (BY MR. CANTU) She refused medical treatment at
4 the hospital. Did she -- and she asked you to take her
5 to a hotel?

6 A. Correct.

7 Q. Did you check her in at the hotel? In other
8 words, did you go in there and pay her --

9 A. No, I didn't. Of course not.

10 Q. I don't know.

11 A. No, I did not.

12 Q. Was this already -- had this already been done?
13 Did she have a room?

14 A. When I dropped her off, she went into the
15 office, the front office; and she was talking to them
16 for a while. And I told her to come back out, tell me
17 what room she would be staying at in case I needed to
18 get an investigator out there to talk to her later.

19 Q. Yes, sir.

20 A. So, she came back out. So, no, it wasn't --
21 she didn't have a room there already. When I got there,
22 she went to the office and got one.

23 Q. Okay. She told you what room she was going to
24 be in?

25 A. Yes.

1 Q. And she's been available to you there since
2 that night?

3 A. No.

4 Q. Because she moved to another room?

5 A. This was back in March. So, I believe the
6 other officer is the one who took the report and did the
7 follow-ups on that.

8 Q. There's been another officer that's done
9 follow-ups?

10 A. Correct.

11 Q. So, you haven't dealt with her since that day?

12 A. Correct.

13 Q. Is that a fair question?

14 A. Right.

15 Q. Okay. Now, you went to the apartment across
16 the street from the hospital?

17 A. Yes.

18 Q. And you met with Mr. Tarley and, you said,
19 family members or friends?

20 A. I believe it was a cousin and a brother that
21 was there.

22 Q. Did you establish who lived there?

23 A. His cousin said that they lived there, and she
24 told me -- the complainant told me that they lived there
25 together.

1 Q. Did you establish -- did you ask for, say, a
2 contract or something that would show you without them
3 telling you that they lived there?

4 A. No, I did not ask for a contract.

5 MR. LESLIE: Judge, I don't really see the
6 relevance of this line of questioning to what we are
7 trying to establish here in this hearing.

8 THE COURT: All right.

9 Q. (BY MR. CANTU) Did the young lady show you a
10 contract indicating that she lived at that apartment?

11 A. No, she did not show me a contract.

12 Q. All right. When you spoke with her, did she
13 tell you -- I know you've testified that she told you
14 that it was a boyfriend of hers. That's the
15 relationship she --

16 A. Correct.

17 Q. Did she tell you how long this relationship had
18 gone on?

19 A. I don't recall that information.

20 Q. Okay. When you spoke to the families at the
21 apartment, did they tell you that she was a girlfriend
22 of Mr. Tarley?

23 A. Yes.

24 Q. Who did you speak with?

25 A. His cousin. I can't recall his name. I didn't

1 get his name.

2 Q. But it was inside the apartment?

3 A. It was inside the apartment.

4 Q. Okay. But you didn't find out the length of
5 the relationship?

6 A. No.

7 Q. You didn't find out whether they were married,
8 anything of that sort?

9 A. Well, I asked her; and she told me that they
10 were boyfriend and girlfriend. That's as far as I know
11 what the relationship is.

12 Q. Okay.

13 MR. CANTU: Nothing further, Your Honor.

14 THE COURT: Do you have any questions?

15 MR. LESLIE: No, Your Honor.

16 **CROSS-EXAMINATION**

17 BY THE COURT:

18 Q. What was the name that she gave you at the
19 hospital for the person who had assaulted her on that
20 date in March?

21 A. She gave me the suspect's name, ma'am, Your
22 Honor, Wilson, Wilson Tarley.

23 Q. Did she give you any other identifiers on him?

24 A. She gave me his description, said he was about
25 5' 8", 155 pounds, dark complected.

Moises Saldana, Jr. - May 18, 2011
Cross-Examination by *the Court*

1 Q. How about a date of birth?

2 A. I don't recall if she gave me the date of birth
3 or not to be honest with you.

4 Q. Did she provide an address where he lived?

5 A. Yes, she did.

6 Q. What was that address?

7 A. The address was -- I believe I put 7511 -- 7511
8 Beechnut, Apartment 108.

9 THE COURT: All right. Do y'all have any
10 more questions of this witness?

11 MR. CANTU: Yes, Your Honor. One
12 question, Your Honor.

13 THE COURT: All right. Go ahead.

14 **RECROSS-EXAMINATION**

15 BY MR. CANTU:

16 Q. You were there on the 14th of March. That's
17 clear. And when you were discussing with her, you were
18 discussing about a date in the past that they had an
19 argument with -- about rather. Did she tell you when
20 that was?

21 A. Is that in here? Yes. It was about the call
22 that she received, that same call about if she was going
23 to testify, that somebody named Christina from the State
24 Attorney's Office had called. And she said that she had
25 felt like ever since that day, that she felt like she

1 was being restrained in the apartment.

2 Q. Restrained?

3 A. Restrained, like that she couldn't leave
4 anywhere. She was scared to leave.

5 Q. Did she say someone had told her that or she
6 just felt that?

7 A. She felt that.

8 Q. Okay. But the dates you weren't certain of,
9 right? You didn't have that date?

10 A. No.

11 Q. Okay. I will pass the witness, Your Honor.
12 Thank you.

13 MR. CANTU: Mr. Leslie.

14 MR. LESLIE: Just real briefly.

15 **REDIRECT EXAMINATION**

16 BY MR. LESLIE:

17 Q. You did call Wilson on the phone that night,
18 right?

19 A. I spoke to him on the phone.

20 Q. Where did you get the phone number for the
21 person that you called?

22 A. From his cousin.

23 Q. When they gave you that phone number, did he
24 say, This is the phone number for our cousin, Wilson
25 Tarley?

1 A. Yes.

2 Q. When you called that number, what did the
3 person who answered the phone say?

4 A. He said that, I can't come talk to you because
5 I'm having car problems.

6 Q. Did they identify themselves in any way?

7 A. He said -- yes, because I asked him: Is this
8 Defendant Wilson? And he said, Yes.

9 Q. So, you asked: Is this Wilson Tarley? And he
10 said, Yes?

11 A. Right. Yes.

12 Q. Okay.

13 MR. LESLIE: Nothing further, Your Honor.

14 THE COURT: Okay. Any more witnesses on
15 this matter?

16 MR. LESLIE: Yes, Your Honor. One more.
17 We would call Officer Jorsch.

18 THE COURT: Officer what?

19 MR. LESLIE: Jorsch, J-o-r-s-c-h.

20 THE COURT: All right. Please proceed.

21 **JONATHAN T. JORSCH,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MR. LESLIE:

25 Q. Officer Jorsch, where do you work?