

Lee Berry - May 18, 2011
Recross-Examination by Mr. Cantu

1 MR. CANTU: No.

2 THE COURT: All right. Let's bring in the
3 jury.

4 (Jury enters courtroom)

5 THE COURT: Please be seated.

6 Mr. Leslie, you may continue.

7 MR. LESLIE: State would call Officer
8 Saldana to the stand, Your Honor.

9 THE COURT: Come on up, sir. Officer
10 Saldana has already been sworn. You may proceed.

11 MR. LESLIE: Thank you, Your Honor.

12 **MOISES SALDANA, JR.,**

13 having been previously duly sworn, testified as follows:

14 **REDIRECT EXAMINATION**

15 BY MR. LESLIE:

16 Q. Officer Saldana, can you state your full name
17 for the record, please?

18 A. Moises Saldana, Jr.

19 Q. Can you spell that first name.

20 A. M-o-i-s-e-s.

21 Q. Where do you work, Officer Saldana?

22 A. Fondren.

23 Q. Is that with the Houston Police Department?

24 A. Yes, it is.

25 Q. How long have you been with the Houston Police

1 Department?

2 A. Three years.

3 Q. What did you do before that?

4 A. I was a manager at Fiesta.

5 Q. What are your duties with the Houston Police
6 Department?

7 A. Patrol mostly.

8 Q. And as a patrol officer, what does that entail?
9 What are your duties there?

10 A. Response, calls for service, assaults,
11 disturbances, discharge of firearms, disorderly
12 conducts, accidents.

13 Q. So, basically just anything anybody calls 911
14 for?

15 A. Correct.

16 Q. And as a patrol officer, are you in uniform?

17 A. Yes.

18 Q. Do you patrol by yourself or with a partner?

19 A. I usually have a partner.

20 Q. Okay. Are you in a marked vehicle or an
21 unmarked vehicle?

22 A. Marked, marked vehicle.

23 Q. Have you ever testified in court before?

24 A. No.

25 Q. Nervous?

1 A. A little bit.

2 Q. Okay. On March 16th of -- I'm sorry -- on
3 March 14th of 2011, were you on duty?

4 A. Yes.

5 Q. What hours were you working?

6 A. 8:00 p.m. to 6:00 a.m.

7 Q. And were you dispatched to an assault call on
8 that day?

9 A. Yes.

10 Q. Where were you dispatched to?

11 A. To Southwest Memorial Hermann.

12 Q. Is that in Harris County, Texas?

13 A. Yes, that is in Harris County.

14 Q. And what did you see when you arrived at the
15 scene?

16 A. I saw the complainant. She was in the security
17 office with security there.

18 Q. You say, "the complainant". Did you identify
19 her in any way?

20 A. Yes, I asked -- I went over there, and I saw
21 that she was crying and her hair was messed up. And she
22 told me that --

23 Q. Let me stop you just one second.

24 A. Okay.

25 Q. So, when you went into the office, you said

1 that she was crying?

2 A. Yes.

3 Q. And her hair was messed up?

4 A. Yes.

5 Q. Was there anything else that would indicate to
6 you she was upset?

7 A. She had visual injuries on her face.

8 Q. Okay. And at some point in time did you
9 identify her?

10 A. Yes.

11 Q. How did you identify her?

12 A. She showed me an I.D.

13 Q. Was it a Florida driver's license?

14 A. Yes.

15 Q. And what was the name on that license?

16 A. Complainant's name.

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

19 A. Yes, it would.

20 MR. LESLIE: Permission to approach, Your
21 Honor?

22 THE COURT: Yes, you may.

23 Q. (BY MR. LESLIE) Just go ahead and take a look
24 at that and refresh your memory.

25 A. Inekia Gentles.

1 Q. And what did Ms. Gentles tell you had happened?

2 A. She said that she had just been assaulted by
3 her boyfriend.

4 Q. By who?

5 A. Her boyfriend.

6 Q. Did she tell you his name?

7 A. Yes.

8 Q. What did she say his name was?

9 A. Wilson --

10 Q. Was it Wilson Tarley?

11 A. Yes, Wilson Tarley.

12 Q. And did she tell you why he had assaulted her?

13 A. Yes.

14 Q. What did she tell you had happened?

15 A. She said that she had received a call about a
16 week ago from the District Attorney's Office, you know,
17 because she had a pending case against him over -- an
18 assault that had occurred before that and --

19 Q. Did she tell you what date that assault was?

20 A. She did not tell me what exact date it was.

21 Q. Okay. And what happened as a result of that
22 phone call?

23 A. He became angry with her.

24 Q. Did she tell you what the phone call was -- I'm
25 sorry. Did she tell you what the phone call was about?

1 A. Yes.

2 Q. And she said it was about a prior assault; is
3 that right?

4 A. Correct. Correct.

5 Q. And did she say why he became angry about that?

6 A. Yes. When they called her, it was to ask if
7 she was going to go to court and testify.

8 Q. Okay. And that made him angry?

9 A. That made him angry.

10 Q. Did she tell you what she had said to him about
11 testifying?

12 A. Yes.

13 Q. What did she say that she was going to testify?

14 A. Well, he asked her --

15 Q. Let me stop you.

16 THE COURT: Just listen to the question
17 that's being asked.

18 Q. (BY MR. LESLIE) Don't tell me what he said.
19 Just tell me what she said.

20 A. Okay. She answered, No.

21 Q. No, that she was not going to testify? Or did
22 she indicate that she was going to testify in court?

23 A. Yes.

24 Q. And she said that made him angry?

25 A. Yes.

1 Q. And how did he respond after he got angry?

2 A. He slapped her in the face.

3 Q. Did he do anything else?

4 A. He then dropped her to the floor, slapped her a
5 few more times on the face, and he then put his foot on
6 her chest and grabbed her from the hair and started
7 pulling on her hair.

8 Q. Was she able to get away -- did she indicate
9 that she was able to get away from that?

10 A. Yes. But before that, she was flipped over and
11 he continued to assault her with his belt on her back.

12 Q. Okay. Did she tell you where this took place?

13 A. Inside the apartment.

14 Q. Did she tell you where that apartment was?

15 A. Yes.

16 Q. Where was it in relation to where you were?

17 A. It was across the street.

18 Q. So, you were at the hospital at this time; is
19 that right?

20 A. I was already there, yes.

21 MR. LESLIE: Permission to approach, Your
22 Honor?

23 THE COURT: You may.

24 Q. (BY MR. LESLIE) I'm showing you what's been
25 marked for identification purposes as State's Exhibit 1.

1 Can you tell us what that is?

2 A. That there is the security room.

3 Q. Is it a photograph of an individual?

4 A. Yes.

5 Q. Is this a fair and accurate depiction of the
6 individual as you saw her that evening?

7 A. Yes.

8 Q. Okay.

9 MR. LESLIE: At this time, Your Honor, the
10 State would move to admit State's Exhibit 1.

11 MR. CANTU: No objections, Your Honor.

12 THE COURT: State's Exhibit 1 is admitted.

13 MR. LESLIE: And could we have the deputy
14 publish it to the jury?

15 THE COURT: Yes.

16 Q. (BY MR. LESLIE) So, can you tell us: Who is
17 the individual in State's Exhibit 1?

18 A. That is Inekia Gentles.

19 Q. Did she tell you that he did anything else
20 before she was able to escape from that apartment?

21 A. Yes.

22 Q. What else did she tell you?

23 A. As she was trying to leave the apartment, he
24 got behind her and got her into a -- like a chokehold
25 and dragged her back inside the apartment. And then she

1 said that she was able to get away from him and run.

2 Q. Did she tell you how that made her feel?

3 A. She said that she was scared, that she thought
4 he was going to kill her.

5 MR. LESLIE: No further questions, Your
6 Honor.

7 THE COURT: Mr. Cantu.

8 MR. CANTU: Yes, Your Honor. Thank you.

9 **RECROSS-EXAMINATION**

10 BY MR. CANTU:

11 Q. Now, is this the first time that you had spoken
12 to this lady?

13 A. Yes.

14 Q. And you had no problem communicating with her,
15 locating her?

16 A. No.

17 Q. You had a telephone number that had been given
18 to you?

19 A. No.

20 Q. You had a telephone number that you acquired
21 from someone?

22 A. No.

23 Q. Did you call her on the telephone?

24 A. No.

25 Q. Did you go to her place of residence?

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1 A. Yes.

2 Q. And where was this?

3 A. 7511 Beechnut, Apartment 108.

4 Q. And did you find her there?

5 A. No.

6 Q. And how did you make an independent decision
7 that this was her apartment?

8 A. She told me that she lived there.

9 Q. After you met her?

10 A. After I met her.

11 Q. After. Okay. But at that moment, when you are
12 at the apartment, you don't know this, do you?

13 A. This was after I had spoke to her that I went
14 to the apartment.

15 Q. Okay. You go to the apartment after you speak
16 to her?

17 A. Yes.

18 Q. Where do you meet her?

19 A. At the security office at Southwest Memorial
20 Hermann.

21 Q. Okay. Did she indicate to you a desire to go
22 home?

23 A. She did, but she was scared.

24 Q. She did indicate a desire to go home? Is that
25 what you said?

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1 A. Yes.

2 Q. Where was home? Where did you learn home was?

3 A. Florida.

4 Q. Did you then ask her questions such as, Where
5 can we contact you in Florida?

6 A. No.

7 Q. Did you ask her how the State of Texas or
8 H.P.D. could mail her announcements of this case?

9 A. No.

10 MR. LESLIE: Your Honor, I'm going to
11 object to the relevance to this line of questioning,
12 Your Honor.

13 THE COURT: Overruled.

14 Q. (BY MR. CANTU) So, you left her then, and you
15 never saw her again?

16 A. I have not seen her, correct.

17 Q. You said you went to the apartment, didn't you?

18 A. Yes.

19 Q. Now, what month was this? I forgot. Please
20 tell me again.

21 A. I'm sorry?

22 Q. The month.

23 A. Month?

24 Q. Yes, sir.

25 A. March.

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1 Q. March. Okay. And did you get to go inside the
2 apartment?

3 A. Yes.

4 Q. You were let in by --

5 A. Cousin.

6 Q. A cousin. Did you notice any windows broken or
7 anything of that sort in disarray?

8 A. No. Clothes.

9 Q. Clothes?

10 A. On the floor.

11 Q. In the living area or in the bedroom area?

12 A. In the living area.

13 Q. Men's clothing?

14 A. I believe mixed.

15 Q. You picked them up?

16 A. No.

17 Q. Okay. Did anyone confirm to you that they
18 were -- the clothing was mixed, meaning male and female?
19 Is that what you are saying?

20 A. Correct.

21 Q. Did anyone confirm to you that -- your opinion
22 that the clothes were mixed?

23 A. No one confirmed it, no.

24 Q. Did Ms. Gentles tell you that she was going
25 back to that apartment?

1 A. She didn't tell me that.

2 Q. Did you believe she was going back to that
3 apartment in your conversations?

4 A. I can't say yes or no. I don't know to be
5 honest with you.

6 Q. But you believed that she was still living
7 there, right?

8 A. Correct.

9 Q. And this is, as you testified, this is living
10 with a person who had inflicted pain on her, right?

11 A. Right.

12 Q. But she continued living there?

13 A. Yes.

14 Q. But she was -- at some point she was going back
15 home to Florida?

16 A. Yes.

17 Q. When she's telling you this, is she telling you
18 that she's fearful, knowing that she still lives in the
19 apartment, that she is fearful of the man that lives in
20 the apartment?

21 A. Yes.

22 Q. She is?

23 A. Yes.

24 Q. Did you ask her why she continues living in the
25 apartment?

1 A. I don't recall asking her that.

2 Q. Okay. Nevertheless, it's your belief that she
3 did live there?

4 A. Yes.

5 Q. Since that date, has she called you to let you
6 know where she is?

7 A. No.

8 Q. And you haven't tried or attempted to contact
9 her?

10 A. No, I haven't.

11 Q. And when you spoke with her, did you ever call
12 her on a telephone? Did you ever have a number for her?

13 A. No.

14 Q. So, you never witnessed Mr. Tarley ever
15 inflicting any harm on this woman?

16 A. No, I did not see that.

17 Q. What you have is what this woman -- and you
18 don't know her mental health or whatever?

19 MR. LESLIE: I'm going to object to that,
20 Your Honor.

21 THE COURT: What's the question?

22 Q. (BY MR. CANTU) You don't know her mental
23 health, I'm assuming?

24 A. No, I don't. I don't know.

25 Q. Okay. You accepted her word that she had been

1 injured by him?

2 A. Correct.

3 Q. Okay.

4 MR. CANTU: I will pass the witness, Your
5 Honor.

6 THE COURT: Mr. Leslie.

7 MR. LESLIE: Just a few more questions,
8 Your Honor.

9 **FURTHER REDIRECT EXAMINATION**

10 BY MR. LESLIE:

11 Q. When was the last time that you saw
12 Ms. Gentles?

13 A. That same night that I spoke to her.

14 Q. Where was the last place you saw her?

15 A. At the America's Inn.

16 Q. How did she get to the America's Inn?

17 A. I gave her a courtesy ride.

18 Q. So that was after you had interviewed her at
19 the hospital?

20 A. Correct.

21 Q. Now, she said she told you that she had an open
22 assault case involving the defendant; is that right?

23 A. That is correct.

24 Q. Did you verify that in your system at all?

25 A. Yes.

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1 Q. Did you find out that she did have an open
2 assault case --

3 A. Yes.

4 Q. -- or the defendant did have an open assault
5 case in which she was the victim?

6 A. I did, yes.

7 Q. Do you know what the offense report number on
8 that case was?

9 A. I put it in my report.

10 Q. Would it help to refresh your memory?

11 A. Yes. Yes, that's it.

12 Q. Was it 020368511?

13 A. Yes.

14 MR. LESLIE: No further questions, Your
15 Honor.

16 THE COURT: Mr. Cantu.

17 MR. CANTU: Thank you, Your Honor. Let me
18 see. I had one question.

19 I will pass the witness, subject to
20 recall, Your Honor.

21 THE COURT: Okay.

22 MR. CANTU: Thank you.

23 THE COURT: Can y'all approach the Bench,
24 please? You can step down, officer.

25 THE WITNESS: Okay. Thank you.