

1 (Jury present)

2 THE COURT: Thank you. Take your seats.
3 State, call your next witness.

4 MS. MITCHELL: State calls Officer Rusty
5 Smajstrla.

6 THE BAILIFF: Witness already sworn,
7 Judge.

8 THE COURT: All right. Come forward, sir.

9
10 RUSSELL SMAJSTRLA,
11 the witness, having first been duly sworn, testified as
12 follows:

13 THE COURT: Take the stand.

14 You may proceed when you're ready.

15 DIRECT EXAMINATION

16 BY MS. MITCHELL:

17 Q Would you please introduce yourself to us?

18 A I'm Officer Russell Smajstrla.

19 Q And where are you currently employed?

20 A Houston Police Department.

21 Q And how long have you been with the Houston Police
22 Department?

23 A About 20 years.

24 Q Where is your current assignment?

25 A I work in our family violence unit, the Southeast

1 part of town.

2 Q And how long have you been with that unit?

3 A Approximately eight years.

4 Q What are your duties and responsibilities with
5 that unit?

6 A I do follow-up investigations on domestic violence
7 cases.

8 Q And I'd like to turn your attention to December
9 14, 2012. Were you ever called out to a hospital that
10 day, Southeast Memorial?

11 A No.

12 Q Okay. How did you get this case?

13 A My sergeant told me that he had received a call
14 from patrol officers involved in the case and he wanted me
15 to do the follow-up work on the case.

16 Q Okay. And did you receive the case that day?

17 A Yes.

18 Q Okay. And what did you do once the case was
19 assigned to you?

20 A The patrol officers brought the defendant into my
21 office to speak with. That was the first step that I did.

22 Q Okay. And who was the defendant or the suspect at
23 that time?

24 A Adrian Simon.

25 Q Okay. And did you speak with Adrian Simon?

1 A Yes, I did.

2 Q And did you ever go out to the hospital and meet
3 with the complainant?

4 A Yes, I did. Not to the Southeast Memorial
5 Hospital.

6 Q I'm sorry, what hospital was that?

7 A I went to Hermann on Fannin when she was
8 transported there.

9 Q Okay. And were you able to speak with her?

10 A Yes, ma'am.

11 Q Now, did you speak with her before you spoke with
12 the defendant or after, if you remember?

13 A After.

14 Q And do you see Adrian Simon in the courtroom
15 today?

16 A Yes, I do.

17 Q Would you please identify him by an article of
18 clothing he's wearing?

19 A He's got a black shirt on, a long-sleeve shirt.

20 THE COURT: Witness identified the
21 defendant.

22 MS. MITCHELL: Thank you.

23 Q (BY MS. MITCHELL) So when you were assigned this
24 case did you find out what -- I guess where the incident
25 occurred?

1 A Yes, I did.

2 Q And what address was that?

3 A 10925 Beamer.

4 Q Okay. And is that in Harris County, Texas?

5 A Yes, ma'am.

6 Q When you met with the complainant at the hospital,
7 were you able to take photos of her?

8 A Yes, ma'am, I did.

9 Q And what kind of condition was she in whenever you
10 saw her?

11 A She was laid down flat on her back when I went in
12 the room. She appeared to be in significant pain. Had
13 lacerations or staples throughout her body. And she had
14 a -- she had bandage on her -- I believe it was her right
15 eye, across her right eye.

16 Q Okay. And was she able to -- was she coherent,
17 was she able to speak with you?

18 A Yes, she was.

19 MS. MITCHELL: Your Honor, may I approach
20 the witness?

21 THE COURT: You may.

22 Q (BY MS. MITCHELL) I am showing you what has been
23 premarked as State's Exhibits 1 through 20. If you will
24 take a look at those.

25 A Okay.

1 Q And to be fair, Exhibits 9 through 20, those
2 weren't taken at the hospital, right?

3 A No, those were taken in my office.

4 Q Okay. Do you remember how long after the
5 incident?

6 A I think it was five days, seven days.

7 Q Okay.

8 A It was within a week.

9 Q Okay.

10 A I think it was five.

11 Q But you recognize these photographs?

12 A Yes, ma'am.

13 Q And do they fairly and accurately depict the
14 complainant at that time?

15 A Yes, ma'am.

16 MS. MITCHELL: Your Honor, at this time
17 State offers State's Exhibits No. 1 through 20 after
18 tendering to opposing counsel.

19 A No objection. I have seen them before.

20 THE COURT: All right. They are admitted,
21 1 through 20.

22 MS. MITCHELL: May I publish to the jury?

23 THE COURT: You may.

24 Q (BY MS. MITCHELL) Officer, I'm showing you
25 State's Exhibit No. 1. What are we looking at?

1 A It's a picture of the complainant, Tiffany
2 Sanders, on the -- I took this picture on the date of the
3 incident, 12-14 of '12 while she was in the trauma room of
4 Memorial Hermann Hospital.

5 Q Okay. And is that the bandage on her eye that you
6 were speaking of earlier?

7 A Yes, ma'am.

8 Q And what is shown in State's Exhibit No. 2?

9 A It appears to be an arm with staples in it along
10 with her identification tag that she has on her arm that
11 the hospital provided.

12 Q And in State's Exhibit No. 3, what is shown here?

13 A It appears to be staples that the hospital placed
14 on the lacerations here, she received to her head and
15 face.

16 Q Okay. And I am going to just zoom in a little bit
17 on her head. What is that?

18 A It appears to be lacerations. Also I see a few
19 staples in her head.

20 Q And State's Exhibit No. 4, what is this?

21 A It appears to be the same photo, just a little
22 closer with the same, some staples and some lacerations to
23 her head and face.

24 Q And then State's Exhibit No. 5.

25 A Again, the same picture, just a closer-up of her

1 head where I believe the -- her hair was shaved to be able
2 to get to the lacerations to do the staples.

3 Q And State's Exhibit No. 6, what is this?

4 A Again, staples to her arm and hand.

5 Q And State's Exhibit No. 8, what is this?

6 A It's a picture of her face, just at a different
7 angle, showing the same staples.

8 Q Okay. And State's Exhibit No. 9.

9 A This was what we discussed, I think five days,
10 seven days later she came into our office to get some
11 information and I took some follow-up photos. Actually, I
12 believe the photos in this -- in these were taken by our
13 counsellor, one of our family violence counsellors, this
14 whole set.

15 Q And then, I'm zooming in on her face. What do we
16 see underneath her left eye? Does it appear to be a
17 laceration?

18 A That's what it appears.

19 Q Okay. And then State's Exhibit No. 10.

20 A Photos of the wounds on her face still have
21 staples in them. Some still have staples; some don't.

22 Q And State's No. 11.

23 A Another picture of the complainant's face with the
24 patch on the eye and the laceration under the left eye.

25 Q State's Exhibit No. 12, what is this?

1 A Lacerations with the stitches -- I can't tell if
2 the staples were still in there or not -- of the
3 complainant's hand.

4 Q Okay. State's Exhibit No. 13.

5 A Same hand, just at a different angle with the --
6 showing the lacerations to her hand.

7 Q State's Exhibit No. 14, what is this?

8 A Looks like closer-up picture of the staples to her
9 looks like the right forearm area.

10 Q And then State's Exhibit No. 15.

11 A She had -- bandage of her left hand. Couldn't
12 tell what was under it, but --

13 Q What are we looking at in State's Exhibit 16?

14 A This was a laceration to I believe her abdomen,
15 her stomach area, with a staple.

16 Q And then State's Exhibit No. 17, what are we
17 looking at?

18 A Some staples, some lacerations that had staples in
19 them under her armpit area.

20 Q And No. 18, shot just a little bit higher up on
21 her arm, what are we seeing?

22 A It's some lacerations that had staples in it. I
23 think her shoulder blade area.

24 Q And then State's Exhibit No. 19, what is this?

25 A I believe that's her abdomen area with some

1 staples.

2 Q Okay. And State's Exhibit No. 20. What are we
3 looking at?

4 A She had pulled down the bandage to her eye to show
5 the damage done to her right eye.

6 Q When you were in the hospital with her, were you
7 able to get pictures of her abdomen or back area?

8 A No, I couldn't.

9 Q Why not?

10 A Due to the extreme pain she was in, I didn't want
11 to move her. Or roll her over to get the pictures.

12 Q Okay. Now, in your training and experience, the
13 lacerations that were caused to Ms. Sanders, are those
14 consistent with being stabbed with a knife?

15 A Yes, ma'am.

16 Q Were they consistent with being struck by a knife?

17 A Yes, ma'am.

18 Q Could they be consistent with being I guess struck
19 or cutting with a knife?

20 A Yes, ma'am.

21 Q Okay.

22 MS. MITCHELL: Your Honor, at this time
23 State would offer State's Exhibit No. 40 which are the
24 medical records for the complainant. They have been on
25 file for more than 14 days prior to trial.

1 THE COURT: All right.

2 MR. POPE: No objections, Judge.

3 THE COURT: All right. They are admitted.
4 With the affidavit, correct?

5 MS. MITCHELL: Yes, sir.

6 THE COURT: All right. It's admitted.

7 MS. MITCHELL: Your Honor, I would just
8 ask to publish a couple of things in here.

9 THE COURT: You may.

10 Q (BY MS. MITCHELL) Okay. For the record I'm
11 showing the jury part of the medical records in State's
12 Exhibit No. 40. It is the body diagram which shows the
13 lacerations that the medical staff observed on
14 complainant's body. And then also showing another page
15 with the body diagram where it indicates that they've
16 counted around 29 lacerations on her body.

17 After you spoke with Mr. Simon about this
18 case, did you ever speak with anyone else?

19 A I talked to the complainant's mother and I also
20 talked to the -- Mr. Simon's mother and stepfather. I
21 believe it's his stepfather, Charles Ray.

22 Q Okay. And where did you meet with the defendant's
23 parents or mother and stepfather?

24 A At 1092 -- the address at 10925 Beamer Road.

25 Q Okay.

1 A And I forget which apartment number.

2 Q And were you able to walk through the apartment to
3 search for any evidence?

4 A Yes.

5 Q And did you recover anything?

6 A No, ma'am.

7 Q And in your training and experience, can a knife
8 be used as a deadly weapon?

9 A Yes, ma'am.

10 Q Did you do anything else as far as follow-up with
11 the case?

12 A I went to the Memorial -- Southeast Memorial where
13 she was originally transported to try to view and receive
14 a copy of the emergency room entrance area. I did view
15 it. They would not release me a copy. Said they weren't
16 authorized. I went back I believe three times to try to
17 receive this surveillance video, and each time I got the
18 same answer that they weren't allowed to, due to I think
19 the HIPAA laws, afford me this without correct
20 authorization from their higher-ups, I guess, and so --

21 Q Okay. And did you do anything else with the case?

22 A I -- after I talked to his parents, I drove to
23 another apartment location in Sabo Village, to look
24 through that complex and see if there was any sign of
25 evidence. I didn't find any, any video cameras or

1 anything, I didn't find any.

2 Q Okay. Why did you go to that apartment complex?

3 A Because after talking to the defendant he told me
4 that something transpired at that location.

5 Q Okay.

6 MS. MITCHELL: Pass the witness, Your
7 Honor.

8 THE COURT: Cross?

9 MR. POPE: Thank you, Judge.

10

11 CROSS EXAMINATION

12 BY MR. POPE:

13 Q Good afternoon, Officer.

14 A How are you doing?

15 Q Good morning. Still morning.

16 Now, do you remember about how long you talked
17 to Mr. Simon that day?

18 A I think it was close to an hour.

19 Q Did you record that statement?

20 A Yes, I did.

21 Q Was it a video recording or audio recording?

22 A Both.

23 Q You said that you went to the defendant's parents'
24 apartment. Mr. and Mrs. Simon's apartment?

25 A I think one of them was Ms. Simon and one was

1 Charles Ray. It's a different name.

2 Q Stepfather?

3 A I think so.

4 Q About how long were you there at that apartment?

5 A I would say close to 30 minutes, 30 to 45 minutes
6 speaking with them.

7 Q And what evidence were you looking for?

8 A I was looking for some bloody clothes that he said
9 he had taken off inside the residence.

10 Q And when you viewed the surveillance video, you
11 saw him on the surveillance video?

12 A Correct.

13 Q And he had gone in -- to your knowledge, he went
14 in with Ms. -- with Tiffany, right, Ms. Sanders?

15 A Yes, it appeared that way.

16 Q Okay. And so you weren't able to find anything at
17 all at the apartment?

18 A I just walked through the apartment with the
19 mother looking for it. I didn't go searching through all
20 the -- through everything. But no, I didn't find
21 anything.

22 Q Okay. Now, you said that they wouldn't allow you
23 to get a copy of the surveillance video. What do you
24 normally do when you're getting resistance from somebody
25 that you need a video from? How would you go about

1 getting a copy if you really wanted to get one?

2 A Probably through a subpoena.

3 Q But you didn't do a subpoena in this case?

4 A No, sir.

5 Q Was there any particular reason you didn't?

6 A No, sir.

7 MR. POPE: Nothing further, Judge.

8 THE COURT: All right. Anything else,
9 ma'am?

10 MS. MITCHELL: No, Your Honor.

11 THE COURT: All right, sir. Thank you.
12 You may step down.

13 MS. MITCHELL: Actually, can we have him
14 on call for rebuttal?

15 THE COURT: Yes, you may be necessary for
16 rebuttal. Thank you, sir.

17 Okay, the State have another witness to call?

18 MS. MITCHELL: I do not at this time.

19 THE COURT: Because we moved pretty
20 quickly.

21 MS. MITCHELL: We did move pretty quickly.
22 I don't.

23 THE COURT: You don't have one now? Then
24 let's do this. Let's go ahead and take an early lunch
25 break. All right? And then when you come back then we'll

1 pick up. We moved through about an hour quicker than --
2 or half an hour quicker than we thought. But not bad.
3 Better quicker than slower.

4 Remind you one more time, do not discuss the
5 case.

6 (Court in recess)

7

8 (Jury present)

9 THE COURT: All right. Thank you. You
10 may take your seats.

11 State call your next witness.

12 MS. MITCHELL: State calls Brenda Salinas.
13 Just for the record, it's Belinda.

14 THE BAILIFF: Witness needs to be sworn
15 in, Judge.

16 THE COURT: All right. Come right over
17 here. Raise your right hand for me.

18

19 BELINDA SALINAS,
20 the witness, having first been duly sworn, testified as
21 follows:

22 THE COURT: Okay, you may proceed.

23 DIRECT EXAMINATION

24 BY MS. MITCHELL:

25 Q Would you please introduce yourself to us?