

1 deputy be excused, gentlemen?

2 MR. GILLIAM: Yes, Your Honor.

3 MR. SCOTT: Yes, Your Honor.

4 THE COURT: All right. You're free
5 to go. Thank you.

6 Call your next.

7 MR. GILLIAM: State calls Frank
8 Spicher.

9 THE COURT: All right.

10 THE BAILIFF: Spicher?

11 MR. GILLIAM: Yes.

12 THE BAILIFF: Your Honor, this
13 witness has not been sworn.

14 THE COURT: All right. Please
15 raise your right hand.

16 *(Witness sworn.)*

17 THE COURT: Have a seat, please.

18 MR. GILLIAM: May I proceed, Judge?

19 THE COURT: You may.

20 **FRANK SPICHER,**

21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MR. GILLIAM:**

24 Q. Will you please introduce yourself to
25 us?

1 A. My name is Frank Spicher.

2 Q. And how do you spell your name just for
3 the record?

4 A. S-P-I-C-H-E-R.

5 Q. How are you currently employed?

6 A. I currently work for the Harris County
7 Sheriff's Office as a detention officer in the 1200
8 Baker Street jail facility as a mental health unit
9 officer.

10 Q. How long have you worked as a detention
11 officer for Harris County?

12 A. About a year and a half, almost two
13 years now.

14 Q. And I'm going to take you back to
15 February 13th of 2014. What was your assignment at
16 that point in time?

17 A. I was working second floor, J pod.

18 Q. And did you have an incident with an
19 inmate named Weylin Allford?

20 A. Yes, sir.

21 Q. And do you see Mr. Allford in the
22 courtroom today?

23 A. Yes, sir.

24 Q. Are you able to identify him by where
25 he's sitting and an article of clothing?

1 A. He's wearing the brown striped shirt.

2 MR. GILLIAM: May the record
3 reflect the witness identified the defendant?

4 THE COURT: It will so reflect.

5 Q. (By Mr. Gilliam) How did you come into
6 contact with the defendant?

7 A. Basically I was doing my security
8 rounds. There must be rounds done inside that tank
9 every 25 minutes with the first round being
10 within -- in the first ten minutes. During my first
11 set of rounds for the day, as I was going by I
12 noticed that he had the window to look inside the
13 cell papered over and the pan hole in which the food
14 is given through was also covered.

15 On the side of the door, there's a small
16 gap that you can see inside, just a little sliver.
17 It's usually used for mail coming out or something
18 of that nature. I tried to tell him -- Inmate
19 Allford to take the paper down from his window so I
20 could just verify that he was okay and that he was
21 safe.

22 Q. And did the defendant comply with the
23 order for him to take down that newspaper?

24 A. I received no sort of audible or visual
25 confirmation that he was okay or anything at all.

1 Q. So after you didn't receive any
2 confirmation that he was okay, what did you do?

3 A. I went to the side of the window on the
4 side of the door and tried to speak to him or see
5 him through the door. I also continued to try to
6 speak to him; and after that point I told my
7 partner, who was running the doors in the pick-up in
8 the top where they basically run the doors to open
9 and close each door that's each in that pod, I asked
10 for him to open the door so that I could visually
11 verify that Mr. Allford was okay.

12 Q. Once the door was opened, what did --
13 did you see the defendant?

14 A. I saw him very quickly because he tried
15 to jump out the door; and at that point, I held the
16 door with my left hand and was trying to hold it as
17 he was trying to force his way out. I was trying to
18 tell him to go back into his cell as well as hold
19 the door, but by that point he managed to grab the
20 edge of the door and wedge his shoulder inside the
21 door frame and was pushing it open with his body
22 weight and his back against the door frame.

23 At the same time I was trying to push
24 him back in the cell and tell him to return to his
25 cell, which he refused to do.

1 Q. So was the defendant making contact with
2 you while you were trying to push him back in the
3 cell?

4 A. He was trying to push past me at the
5 same time as he was pushing the door open. As the
6 door was slowly coming open, I realized I was in a
7 much worse stance and that if he decided to assault
8 me or attack me for any reason, I was not in any
9 kind of good position to defend myself.

10 Q. What happened or what did you do to
11 better defend -- be able to defend yourself?

12 A. I allowed the door to come all the way
13 open and stood up and took a defensive posture. As
14 the door was sliding open, my feet and my stance was
15 spreading out horizontally which meant if he came
16 out towards me I would have fallen backwards.

17 Q. After you take that defensive posture,
18 what does the defendant do?

19 A. He was slightly surprised that I let go
20 of the door. I assumed he was going to be because
21 it took him a second. He put his hands up in a
22 boxer's position, about chest height with fists
23 closed.

24 Q. And then did the defendant try to strike
25 you or what did the defendant do?

1 A. He put his fists up and said he was
2 coming out of that door.

3 Q. Okay. And did he try to come out of the
4 door?

5 A. At that point he had put his fists up;
6 and once he put his fists up, I immediately took a
7 defensive action.

8 Q. And what did you do?

9 A. I went to kick him, tried to kick him in
10 the leg, and I actually stepped into the kick. He
11 had papers and liquids strewn along the bottom of
12 the door as well. From when I had stepped into the
13 kicking, I slipped and started to fall back.

14 Q. Did you actually fall back and injure
15 yourself?

16 A. As I was falling back, I was falling
17 back with enough time to realize that I was actually
18 either going to fall back and potentially hit my
19 head on the concrete behind me or turn and catch
20 myself. As I turned and caught myself with my
21 hands, I felt Mr. Allford come up behind, put his
22 hand on me trying to push me on the ground while
23 striking me on the right side of my head.

24 Q. And where -- can you show where you say
25 he struck you on the right side of your head?

1 A. For the most part, it was along the ear
2 and basically from about the temple down to about
3 the jaw (indicating).

4 Q. And did you suffer any -- or did you
5 feel pain when he was striking you on your head?

6 A. Yes.

7 Q. And how was -- or was the defendant
8 actually detained and able to be brought under
9 control?

10 A. As he was striking me, I still was able
11 to push myself off the ground and turn and push him
12 away from me. As I stood up to re-engage him as he
13 was attacking me, that's the point when other
14 officers arrived, took him to the ground and were
15 able to restrain him.

16 Q. And what role -- or what did you do
17 after the defendant was restrained?

18 A. They took him down to the clinic and I
19 basically explained to my sergeant what had occurred
20 at that time and we were getting ready to start
21 doing the paperwork and going through the process of
22 everything that happens after an incident like this.

23 Q. And did this incident happen in Harris
24 County, Texas?

25 A. Yes, sir.

1 MR. GILLIAM: Pass the witness,
2 Your Honor.

3 THE COURT: Defense?

4 MR. SCOTT: Yes, Your Honor, thank
5 you.

6 CROSS-EXAMINATION

7 BY MR. SCOTT:

8 Q. Is that Frank Spicher?

9 A. Yes, sir.

10 Q. S-P-I-C-H-E-R, correct?

11 A. Yes, sir.

12 Q. All right, sir. And you say that this
13 incident occurred on February the 13th of '14,
14 right?

15 A. To the best of my recollection, yes.

16 Q. Okay. And your duties at that
17 particular time were what?

18 A. Basically I'm in charge of the care and
19 control of inmates within that pod.

20 Q. We've heard the term rover. Were you a
21 rover also?

22 A. I've been a rover on multiple other
23 occasions, but at that particular time on that day I
24 was assigned to that pod.

25 Q. Okay. The pod is the control area?

1 A. The pod itself is the place where the
2 inmates are housed. A rover's responsibilities are
3 more for the entire floor. But that day I was
4 assigned just to that pod, which meant that anything
5 that went on in that pod, any, like, feeding,
6 medication, anybody who might have to go to an
7 attorney visit, anything of that nature, it would
8 have been my responsibility to get that inmate ready
9 for transport or have him taken down while relief
10 arrived to take over my position in the pod.

11 Q. And you had a partner that day; is that
12 correct?

13 A. Yes, sir, Mr. Alanis.

14 Q. And what time did you go to work that
15 day?

16 A. I arrived for shift around 13:45 or 1:45
17 and I would have received my assignment and then I
18 would go to the pod, receive any sort of tasks from
19 the prior shift and then within the first ten
20 minutes we would go in and do our first set of
21 security rounds.

22 Q. And you've got a time here. I just --
23 it says 14:05?

24 A. Yes, that's --

25 Q. Which would be 2:05, correct?

1 A. Yes, sir.

2 Q. And that would have been when you
3 started your first --

4 A. Set of rounds.

5 Q. -- check, correct?

6 A. Yes, within the first ten minutes of the
7 shift.

8 Q. And you say already at that time the
9 inmate's house, which was 2J2B, had his cell window
10 already closed over and a pan hole closed over with
11 newspaper; is that accurate?

12 A. Yes, sir.

13 Q. Do you have a record of when the fellow
14 before you would have checked? You had to do it
15 within the first ten minutes of walking into that
16 pod.

17 A. Uh-huh.

18 Q. When would have been the last time the
19 guy before that would have been obligated to have
20 gone by and see that there was newspaper on the
21 window and newspaper on the pan hole or not?

22 A. While I can't specifically speak for
23 that shift, I can say that typically last round is
24 done around 13:50, 13:55, somewhere around
25 thereabouts, which would leave a gap of about ten to

1 20 minutes in between his final round and my first
2 round.

3 Q. So this condition, then, you found the
4 2J2B cell in would have occurred, if your statement
5 is accurate, of Mr. Allford doing all that covering
6 and everything else within ten to 20 minutes,
7 correct?

8 A. Yes, sir.

9 Q. Was there any concern on your part as to
10 the condition of the inmate when you went up to that
11 door?

12 A. Yes, sir. That's why I went to the door
13 in the first place to make the visual inspection
14 upon him to make sure that he was okay.

15 Q. He had had a history, had he not, up
16 until that point of not being okay?

17 A. Not that I'm aware. There had been
18 times when he had been combative or aggressive or
19 difficult when it came to being removed from the
20 cell for any reason, via, to go to court or anything
21 of that nature. However, in my dealings with him
22 before that point and prior to that point, we had
23 never had any issues and there had been other times
24 where he had allowed me to handcuff him where others
25 had not been. He would be combative with others.

1 Q. So when there's a description of his
2 psychological issues previously, you were not aware
3 of those, right?

4 A. The only issue that I could state is,
5 you know, he might have been a little paranoid at
6 times, in which case in a jail setting many people
7 are paranoid.

8 Q. Nothing out of the ordinary that
9 would --

10 A. Nothing that would really be more than I
11 would expect of anybody in that position.

12 Q. So if it's enumerated in the offense
13 report, that would be just common language that
14 everybody -- all the inmates were paranoid, all the
15 inmates had psychological issues and all the inmates
16 act the same, right?

17 A. No, sir, I would not say that all are
18 the same and all are in that case.

19 Q. Okay.

20 A. However, I would say that some exhibit
21 more conditions of it than others. However,
22 we've -- you know, as you -- I'm sure you know,
23 there are some inmates who have gone much further
24 with how they reacted to the stresses of being in a
25 jail whereas others don't.

1 Q. And at least Mr. Allford had gotten on
2 far enough to have psychological issues, though,
3 correct?

4 A. Yes, sir.

5 Q. All right. You've described on direct
6 examination by the prosecutor that you kind of got
7 into a pushing and a shoving about the door -- the
8 doors slide back, do they not? They don't open out.
9 They slide on a rail, correct?

10 A. Yes, sir, that particular door and that
11 particular location slides from the -- right is
12 where the main door room is, slides to the left.

13 Q. But it is on a rail and it slides?

14 A. Or from my perspective it would slide to
15 the left.

16 Q. Yes, sir. And it slides right down the
17 wall, does it not? It's not on hinges, correct?

18 A. Correct.

19 Q. All right. So Allford is inside his
20 house or his cell. You open the door partly and
21 he's -- he either starts pushing by you, or is that
22 when he gets into the fighting stance?

23 A. Basically immediately upon opening the
24 door, he reached out and grabbed the edge of the
25 door and then wedged his shoulder in the door frame

1 so that he's got his shoulder against the door and
2 he has full leverage of his back against the door
3 frame and wall, whereas, I'm holding here with my
4 body weight, my left hand and trying to push him
5 back in, telling him not to come out of the cell.

6 Q. And then, though, I think you told us
7 that he was surprised or at least you indicated that
8 you thought he might have been because you had the
9 door -- let the door go, I assume, and the door slid
10 all the way open, correct?

11 A. Yes, because I was starting -- my
12 footing was beginning to slide further and further
13 apart, at which point if he had pushed me or struck
14 me in the face with one of the hands that was
15 holding onto the door, I would have fell over
16 backwards.

17 Q. And I think that's when you told us that
18 when you did that, he got in the posture -- I think
19 you said fighting stance, a boxing stance basically,
20 correct?

21 A. Yes, that's how it appeared.

22 Q. All right. And I didn't remember you
23 telling the prosecutor that but you said that you
24 stepped forward into a kick and you actually kicked
25 him in the groin, did you not?

1 A. That was not the intended target;
2 however, yes, that is what happened.

3 Q. Well, you didn't mention it; but you
4 actually did that. You kicked him right in the
5 groin, right, whether it was intentional or not,
6 correct?

7 A. Correct. In the heat of the moment,
8 yes.

9 Q. Okay. That's fine. But you tried to do
10 it to stun him, did you not?

11 A. Correct.

12 Q. So while it was an accident that you
13 kicked him in the groin, you did it to stun him, but
14 you really didn't intend to kick him in the groin.
15 You intended to kick him somewhere else. Is that
16 what you're telling us?

17 A. Yes, sir.

18 Q. Okay. And then after this altercation,
19 were you responsible for taking Allford to the
20 clinic or did some other officers have to take him
21 to the clinic after he had been handcuffed?

22 A. No, sir, other officers took him to the
23 clinic. That's policy.

24 Q. All right. Before he went down there,
25 did you see the, oh, about an inch-and-a-half cut in

1 the middle of his forehead? Did you notice that
2 before he went down to the clinic?

3 A. No, sir.

4 Q. Do you have pictures of either the wound
5 that Mr. Allford received or your injuries?

6 A. I personally do not possess any photos
7 of that. However, I'm sure they can be pulled up in
8 records if need be.

9 MR. SCOTT: Pass the witness, Your
10 Honor.

11 THE COURT: State?

12 MR. GILLIAM: Nothing further, Your
13 Honor.

14 THE COURT: All right. May this
15 detention officer be excused, gentlemen?

16 MR. SCOTT: Yes, Your Honor.

17 MR. GILLIAM: Yes, Your Honor.

18 THE COURT: All right. You're free
19 to go. Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Anybody on the jury
22 need a break? No?

23 All right. Call your next.

24 THE BAILIFF: We've got one back
25 there.

1 THE COURT: Oh, okay. We do.
2 We'll take a short bathroom break.

3 THE BAILIFF: All rise for the
4 jury.

5 *(Jury retired.)*

6 *(Short recess.)*

7 THE BAILIFF: All rise for the
8 jury.

9 *(Jury seated.)*

10 THE COURT: All right. Y'all may
11 be seated.

12 State, call your next.

13 MR. GILLIAM: State calls Edwin
14 Chapa.

15 THE COURT: All right.

16 THE BAILIFF: Your Honor, this
17 witness has not been sworn.

18 THE COURT: All right, sir. Please
19 raise your right hand.

20 *(Witness sworn.)*

21 THE COURT: Have a seat, please.

22 You may proceed.

23 **EDWIN CHAPA,**

24 having been first duly sworn, testified as follows:

25

DIRECT EXAMINATION

BY MR. GILLIAM:

Q. Mr. Chapa, will you please introduce yourself to us?

A. Edwin Chapa. I work at the 1200 Baker Street jail.

Q. And do you mind spelling your full name just for the purposes of the record?

A. Edwin, E-D-W-I-N. Chapa, C-H-A-P-A.

Q. And you say that you work over at the jail; is that correct?

A. That's correct.

Q. And what do you do over there?

A. I'm a detention officer.

Q. How long have you been a detention officer at the jail?

A. Just a little over six years.

Q. And what are your assignments as a detention officer at the jail?

A. Custody, care and control of inmates.

Q. Now, I'm going to take you back to February 18th of 2014. Did you have an incident with an inmate named Weylin Allford?

A. I did.

Q. Do you see Mr. Allford in the courtroom