

IN THE SUPREME COURT OF THE STATE OF NEVADA

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TOYER EDWARDS

S.C. CASE NO. 82639

Appellant,

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Elizabeth A. Brown
Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM JUDGMENT OF CONVICTION
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE CARLI KIERNY, PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME III  
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Appellant,

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Respondent.

OPENING BRIEF APPENDIX

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(FILED APRIL 14, 2021)

779-794

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(FILED MARCH 02, 2018)

701-702

CERTIFICATE OF SERVICE

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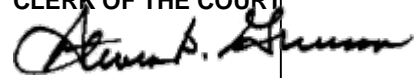
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff(s),

vs.

TOYER EDWARDS,

Defendant(s).

Case No. C-17-324805-1

Department XXI

BEFORE THE HONORABLE MARK B. BAILUS,
DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 28, 2018

**TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL – DAY 3 of 5**

APPEARANCES:

For the Plaintiff(s):

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MICHAEL DICKERSON, ESQ.

Deputy District Attorneys

For the Defendant(s):

ELAINE ODEH, ESQ.

SHANA S. BROUWERS, ESQ.

Deputy Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER

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1 **LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 28, 2018**

2 [Proceeding commenced at 1:22 p.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: Please be seated. This is continuation of the
6 State of Nevada versus Toyer Edwards trial, Case Number
7 C-17-324805. Let the record reflect the presence of counsel for the
8 State, counsel for the defendant, and the defendant is present.

9 My understanding, counsel, that we're at the point where
10 we're going to opening statements today and then take some
11 testimony; is that correct?

12 MS. DERJAVINA: That is correct, Your Honor.

13 MS. ODEH: Yes.

14 THE COURT: And it's my understanding that counsel
15 have reviewed the proposed exhibits; is that also correct?

16 MS. DERJAVINA: That is correct, Your Honor.

17 MS. ODEH: Yes.

18 THE COURT: And then as to the video cam, it's my
19 understanding that the parties are stipulated to its admission?

20 MS. DERJAVINA: That's correct, Your Honor.

21 MS. ODEH: Yes.

22 THE COURT: For all purposes, correct?

23 MS. ODEH: Correct.

24 MS. DERJAVINA: Yes.

25 MS. BROUWERS: Your Honor, the only thing that I just do

1 want to note for the record is that the body cam has been redacted,
2 and that's -- the State took out the part at the beginning where he's
3 driving. So it starts at roughly 7 minutes, correct?

4 MS. DERJAVINA: That's correct.

5 MS. BROUWERS: And they also redacted the portion of
6 the video where Mr. Edwards is giving him personally identifying
7 information, such as his social security number.

8 THE COURT: Right. That's my understanding, that it has
9 been redacted. Are we informing the jury it's been redacted?

10 MR. DICKERSON: Yeah, we'll touch it on direct with the
11 officer that there's a portion of personal identifying information
12 that's been redacted. And we'll offer an instruction that says
13 something to the effect --

14 THE COURT: Okay. But do we have to tell the jury about
15 just -- can we just say it's been -- what do you want to tell the jury?
16 It's been redacted?

17 MR. DICKERSON: Personal identifying information,
18 including social security number. I don't -- I mean, I don't care. We
19 could just offer the instruction.

20 THE COURT: What do -- what's your pleasure, Defense? I
21 know we've done that in the other cases where we've said it's been
22 redacted.

23 MS. ODEH: Either way. We'll redact it -- whether we say
24 it's redacted and what reason are not, as long as there's an
25 instructions, I think we're fine.

1 MR. DICKERSON: Yeah, our instruction will say a portion
2 of State's Exhibit such-and-such has been redacted due to it
3 containing irrelevant and/or inadmissible evidence. You are not to
4 infer anything from such redactions.

5 MS. ODEH: That's fine.

6 THE COURT: Okay. So if he asks the witness that -- has it
7 been redacted? And he says it's been redacted to no personal
8 identifiers, including -- you don't have an objection to that?

9 MS. BROUWERS: No, that's fine.

10 MS. ODEH: That's right. No objection.

11 THE COURT: Okay. Make sure it's limited to that,
12 counsel.

13 MR. DICKERSON: Oh, absolutely, Your Honor.

14 THE COURT: Does either party invoke the exclusionary
15 rule?

16 MS. ODEH: Yes.

17 MS. BROUWERS: Thank you, Your Honor.

18 MS. DERJAVINA: Yes, Your Honor.

19 THE COURT: Are there any potential witnesses in the
20 courtroom?

21 MR. DICKERSON: Yes. We have Officer Simms here.

22 THE COURT: Sir, are you a potential witness?

23 UNIDENTIFIED SPEAKER: Yes, sir.

24 THE COURT: We're going to have you wait outside.
25 Please don't discuss your testimony with anybody prior to testifying

1 today.

2 UNIDENTIFIED SPEAKER: Yes, sir.

3 THE COURT: Thank you.

4 Is there any housekeeping matters we need to go over?

5 MS. DERJAVINA: I don't believe so at this time, Your
6 Honor.

7 MS. ODEH: No.

8 THE COURT: All right. I'm going to bring the jury in.

9 MS. DERJAVINA: Thank you.

10 [Jury reconvened at 1:26 p.m.]

11 THE COURT: Let the record reflect the presence of
12 counsel for the State, counsel for the defendant, and the defendant.

13 And will the parties stipulate to the presence of the jury?

14 MS. DERJAVINA: Yes, Your Honor.

15 THE COURT: Defense?

16 MS. ODEH: Oh, yes, Your Honor. Sorry.

17 THE COURT: Thank you.

18 Ladies and gentlemen, this is the time set for opening
19 statements.

20 State, are you going to present an opening statement?

21 MS. DERJAVINA: Yes, Your Honor.

22 THE COURT: All right. Proceed.

23 MS. DERJAVINA: Thank you.

24 **OPENING STATEMENT FOR THE STATE**

25 MS. DERJAVINA: You can't fuck with me on your best

1 day and my worst day. I tore his out up too. They underestimate
2 me. I took the bitch ass down.

3 Those are the words you're going to hear come out, out of
4 the defendant's mouth as caught on an officer's body cam. As he's
5 talking about exactly what he did to the victims in this case.

6 Now, the victims in this case are Chase Lovato and
7 William Allison. And on June 18th of 2017, they were employed by
8 the Global Security Concept Company.

9 Now, Chase Lovato is a regular security officer. But
10 William Allison actually happens to be what they call a lieutenant.
11 That's kind of their version of a supervisor. So, basically, on top of
12 just being a regular security officer and doing those type of duties,
13 he actually was in charge of supervising the men on his shift,
14 making sure things are running smoothly.

15 Now, on June 18th, of 2017, around 6:00 in the morning,
16 they were doing their typical things. One of the things that they do
17 as part of their usual duties is patrol the area. And the area that
18 they're in charge of is the Hawaiian Marketplace, which is located at
19 Las Vegas Boulevard.

20 So that day they're doing their patrol, they're wearing
21 security uniforms. Lieutenant Allison is wearing black pants, a
22 white shirt, it says security on his chest, and it says security on the
23 back of his shirt in big letters.

24 Officer Lovato is wearing black pants and a bright green
25 typical security shirt that you see, that, again, says security.

1 Now, as they're doing their usual rounds, they notice the
2 defendant in an area. And you're going to learn how the area that
3 they patrol is private property. It's not a public right-of-way, it's not
4 a public street, it's a actual private property.

5 Now, Officer Lovato is the first one who notices the
6 defendant initially sleeping, or at least he believes he potentially
7 might be sleeping. He's on a chair, he's slouched down, he has
8 sunglasses, so he can't really tell. But he decides not to really
9 approach him, because he's not sure how long he's been there, he's
10 not sure if he's just there for a minute or two. So he goes along
11 and does his usual route.

12 Then eventually him and Lieutenant Allison both come
13 back to the area and realize that the defendant's still there and he's
14 actually sleeping. And that's not allowed.

15 So what they do is they approach him. They don't make
16 contact with him, they just try to wake him up, make commands, let
17 him know, sir, you can't be sleeping here. Officer Lovato actually
18 tries to whistle to see if he can get his attention, and initially doesn't
19 work. He doesn't really wake up.

20 So they get a little bit louder. And this area, as you're
21 going to see, is actually by the DJ Taco shop. So at some point the
22 defendant does wake up. And again, they tell him, sir, you can't
23 sleep here, it's private property.

24 And, initially, at first he tells them, go get security. And
25 they explain to him, well, sir, we are security. They have their

1 uniform on, it's pretty obvious that they're security. And again,
2 they tell him, Sir, you can't stay here, you have to leave the
3 property.

4 But the defendant doesn't want to leave. He doesn't
5 comply. He tells them, basically, to fuck off, that he's not doing
6 anything wrong. He's not going anywhere.

7 And again, same thing. They're, like, sir, no, you need to
8 leave, you can't be here. If you don't leave, we're going to trespass
9 you. And again, Defendant's not having it. He refuses to go and he
10 says things like, I'll fuck you if you don't leave me alone, I'll fuck
11 you up. And at some point he also says, I got mine with me.

12 And not only will you hear during the trial from both
13 Lieutenant Allison and Officer Lovato, you'll actually get to see
14 surveillance video from different angles at the Hawaiian Market.
15 And you're going to see that as the defendant's sitting, to his right
16 is going to be Officer Lovato; to his left is going to be Lieutenant
17 Allison.

18 Now, as this exchange is going to back and forth and he's
19 getting kind of aggressive and he's refusing to leave, Officer Lovato
20 sees the defendant's hand go into his right pocket. And what he
21 sees in that right pocket is a silver butt of a knife. And he gets
22 concerned. And you're going to hear from Officer Lovato and
23 you're going to see the surveillance video, at that point, he's going
24 to take his mace out and he's going to hold it out, because he's
25 concerned. You're also going to see that at that point, Lieutenant

1 Allison, he can see that the hand is in the pocket, but he can't see
2 that there is a knife. And they tell him, sir, you have to take your
3 hand out of your pocket. And they say that over and over again.
4 And he refuses.

5 You're also going to see there's a point where Officer
6 Lovato notices that, and he goes like this to Lieutenant Allison,
7 being like, hey, he's got a knife. Lieutenant Allison actually doesn't
8 hear that because, obviously, Officer Lovato is not trying to scream
9 it out loud. He's not trying to bring attention to it, but you're also
10 going to see and hear from him how he keeps kind of looking in
11 that area, and there's a point where the defendant now gets up.
12 And for a second Lieutenant Allison thinks, okay, maybe he's trying
13 to leave. But he is not. That lasts a second.

14 Because when the defendant gets up, you're going to hear
15 from them, but you're also going to see the surveillance video, he
16 takes an aggressive stand, one that's obvious. And, again, you'll
17 see that Officer Lovato is to his right, he keeps looking, seeing what
18 he's doing, because he now knows there's a knife. And you'll be
19 able to see that, it looks like he's holding something. And he's
20 concerned. But, again, he doesn't want to bring attention to it too
21 fast.

22 But there's a point where he's going to see the defendant
23 become really aggressive and go towards Lieutenant Allison. Kind
24 of moves, does an aggressive stance, and that's the point where
25 Officer Lovato realizes that something has to be done. He's

1 concerned. Now it's becoming dangerous. And he maces the
2 defendant. He actually, you'll see, tries it once and it doesn't work
3 properly, and he does it again. And when he does, he actually gets
4 the mace, as the defendant is wearing sunglasses, he gets it on the
5 sunglasses and he gets a little bit of it on Lieutenant Allison.

6 And at that point, you'll see that Lieutenant Allison kind of
7 takes a step back. Okay. He kind of takes a stance, and what
8 happens next is that you'll see the defendant take that knife, the
9 knife that Officer Lovato saw initially in the pocket. And he's going
10 to take it and he's going to hold it like this. And that is the point
11 where Lieutenant Allison now knows -- he's not sure that it's a knife
12 initially, because he does have some of that mace on him. But he
13 can see that it's a sharp object and it's a weapon.

14 And what he tries to do, because you're going to see and
15 they're going to tell you that there are people around. It actually
16 happens to be EDC weekend. So even though it's 6:00 in the
17 morning, there's still a good amount of people out walking about.
18 There's a bar that's open 24/7, there's a couple of patrons there and
19 people who are working.

20 So what he tries to do is actually go behind the defendant.
21 At that point, what he's thinking is he's got to detain the defendant.
22 One, he's been trespassed, two, now he's got a weapon. And as he
23 does that, he tries to grab a hold of him and you're going to see
24 this. And that's the defendant, stabbing him.

25 Now, at that point, Officer Lovato's kind of to the side, and

1 he realizes he's got to help. So he goes around and he tries to what
2 he's going to describe as a bear hug. Bear hug and try to gather
3 Defendant's hands. And he's not going to be able to do that, and
4 you're going to see and hear from him as this is what happens.
5 And he gets stabbed.

6 Now, Officer Lovato gets stabbed on the back of his right
7 thigh, and Lieutenant Allison actually gets stabbed once in his
8 shoulder and once on the bottom of his rib. And even though
9 they're both stabbed, they still kind of struggle with Defendant,
10 because they're trying to detain him, they're trying to get him into
11 custody, and they're trying to get the weapon out of his hand. And
12 at some point you're actually going to see it in the video, you can
13 see the knife just slide down the ground and just kind of stop in the
14 middle.

15 At that point, eventually, he's still resisting. They're able
16 to take him into custody, put him to handcuffs. Lieutenant Allison
17 escorts him to the security office. You'll see Officer Lovato kind of
18 gather the defendant's stuff. You'll actually get to see how,
19 because of the stab wound to his leg, he can't really put pressure
20 on his leg, and he's kind of limping as he's going.

21 Eventually, Lieutenant Allison is the one who calls 911.
22 Metro arrive. Both Officer Lovato and Lieutenant Allison are taken
23 to the hospital to be treated. Now, as I said, Lieutenant Allison's
24 stabbed twice, he has the wound in his shoulder, then he has the
25 wound to the bottom of kind of his rib.

1 Now, you're going to hear that the pain lasted a while.
2 The bleeding, actually, he was surprised that it lasted as long as it
3 did, because you're going to see pictures where in the hospital,
4 there is medical apparatus maybe is the best description for it, but a
5 thing that's kind of put on his wounds, like an adhesive, to kind of
6 close it up and to keep it closed. And he expected that that actually
7 would keep the bleeding at bay, but it doesn't. For the three days
8 that he's supposed to wear it before he takes it off, it keeps bleeding
9 through the gauze.

10 It does affect his ability -- regarding the shoulder, he has a
11 hard time, for about a month and a half, of actually raising it higher
12 than this. Anytime he goes like this, he starts to feel the pain. The
13 rib, same thing, that takes a while. Every time he does any kind of
14 motion where he's moving his torso, he can feel the pain. You also
15 see that he still has a scar from it on both.

16 Regard Officer Lovato, the back thigh, again, for some
17 time, you'll see it in the video and it's kind of the same thing, where
18 he has a hard time stretching out the leg. That lasts a little bit. And
19 he has a hard time putting weight on it. And he also has a scar of
20 where the stab wound happened.

21 Now, what you're also going to hear, but also not just
22 hear, but you're going to see is Officer Simms is the first
23 responding officer, and he has what's called a body camera on him.
24 And that's actually recording everything that's going on. So you're
25 going to see, as he comes, he goes to the security office where the

1 defendant is and, actually, where the victim is. Well, both victims.

2 And you'll see the defendant's demeanor, he's agitated,
3 he's angry, he's pissed off. And that's where you'll get to hear the
4 words coming out of the defendant's mouth where he's saying, I
5 fucked them up, they underestimated me.

6 And you'll see that there weren't things that were
7 questions asked of him. These were things that he was just saying
8 out loud to anybody who's willing to listen. And you'll get to watch
9 that. And you'll get to see, like I said, his very own words of how he
10 described what he did to the victims.

11 And, ladies and gentlemen, at the end of the trial, once
12 you hear all the testimony, you see all the evidence, we'll ask that
13 you find the defendant guilty of battery with a deadly weapon
14 resulting in substantial bodily harm for both of the victims in this
15 case. Thank you.

16 THE COURT: Defense, do you intend to make an opening
17 statement?

18 MS. BROUWERS: Yes, Your Honor.

19 THE COURT: Please proceed.

20 MS. BROUWERS: Thank you.

21 **OPENING STATEMENT FOR THE DEFENDANT**

22 MS. BROUWERS: Good afternoon everyone. Just to
23 refresh your recollections briefly, of course, my name is Shana
24 Brouwers, along with Elaine Odeh. We have the privilege of
25 representing Mr. Edwards in this very important case, I guess, for

1 the next few days.

2 A lot of what the State just told you is not necessarily
3 things we're contesting. There obviously was an altercation that
4 happened. What happened on the day in question is -- and you'll
5 see video of all of this -- at 6:40 in the morning, Mr. Edwards goes
6 and takes a seat in front of a taco shop at the Hawaiian Market.
7 There is a 24-hour bar at that location and there are patrons
8 wandering around. He takes a seat at the table in front of the taco
9 bar and has his sunglasses on, kind of leans back and takes a rest.

10 Barely 15 minutes later, about 6:55, Security Officers
11 Lovato and Allison approach Mr. Edwards. There's a few brief
12 moments where it -- where you'll see from the videos it appears
13 that they are trying to wake him. He's in a pretty deep sleep.

14 When he wakes up, he's a little disoriented, and he says,
15 Go get security. Not recognizing that they are security. So there is
16 a conversation and, frankly, Mr. Edwards doesn't want to leave. I
17 think we can, frankly, say that. But what does eventually happen is
18 he does say all right, stand up, as if he's going to go. And he says,
19 All right, fine, I'll leave.

20 He tries to take a few steps kind of out and -- out to go.
21 But instead, Officer Lovato maces him, shakes it -- doesn't get it
22 quite right and maces him again.

23 What is important is that Officer Lovato did these things
24 before Mr. Edwards ever attempted to use his knife. Officer Lovato
25 escalated a situation in contravention of his training as an officer.

1 You'll be hearing testimony from Officer Lovato where he's -- where
2 I anticipate he's going to be talking about what are the correct
3 procedures when you're trying to get someone to leave the
4 property? And the evidence you're going to hear is that the proper
5 procedures are always to deescalate a situation, to disengage, to
6 call Metro, to call actual law enforcement to handle a situation that
7 they potentially think could get out of hand.

8 But that's not what Officer Lovato's going to do. You're
9 going to see that, without making it -- without officer -- trying to
10 make an attempt to call without them saying, look, we're going to
11 back off and we're just going to get Metro to handle this the way
12 we're supposed to, instead, before, with -- when Mr. Edwards' hand
13 is still in his pocket, without him making any movements to bring
14 the weapon out, without him waving it around or brandishing it or
15 poking it towards anyone, without any of those things happened,
16 Officer Lovato escalates the situation by macing him.

17 You're going to see pictures of Mr. Edwards where it's
18 evident that he has been maced. The mace gets into his mucous
19 membranes, his eyes are reddened and watering, his nose is
20 running to the point where snot is literally dripping from his face.
21 And this is several minutes after these pictures, when these pictures
22 are taken and when the body cam that you're going to see, several
23 moments -- several minutes after the altercation. So he's
24 undergoing the effects of this mace long after he actually is maced,
25 without receiving treatment, by the way.

1 Paramedics arrive and they are diverted -- they initially try
2 to come to Mr. Edwards and say, Oh, okay, he clearly is in distress,
3 he needs help, he has injuries to the side of his face that are
4 bleeding, he has his nose running, his eyes are reddened. But
5 they're misdirect -- they're told to go in a different direction and go
6 deal with the security officers, who were at this point the priority,
7 despite the fact that Mr. Edwards was also in apparent and very
8 acute distress.

9 You'll see all of this on the body cam, you'll see all of this
10 on the videos. And what's really critical to remember or to look for
11 in this case, when you're hearing the presentation of evidence, is
12 what happened -- what caused all of this to happen? One of the
13 things that I'm going to ask you to pay attention to is the video. We
14 have the benefit of video in this case showing us multiple angles.
15 And you will see that Mr. Edwards doesn't not brandish his knife
16 until after he's been maced, disoriented by the mace, and tackled by
17 Officer Allison.

18 After that, he's in defense mode. He was simply a person
19 who was woken up out of a deep sleep, disoriented, attempted to
20 leave, wound up maced, and then wound up in custody.

21 And at the conclusion of the evidence in this case, we are
22 going to be asking you to find Mr. Edwards not guilty, because he
23 did not escalate the situation. Thank you.

24 THE COURT: State, call your first witness.

25 MS. DERJAVINA: The State calls William Allison.

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[Pause in proceedings.]

MS. DERJAVINA: That's -- no, no, no.

THE MARSHAL: Wrong person?

MS. DERJAVINA: Yeah. I apologize. No.

MR. DICKERSON: This is Officer Simms. We need
Allison.

[Pause in proceedings.]

MR. DICKERSON: Your Honor, I apologize. If we can have
a second, I think they're coming up the stairs.

[Pause in proceedings.]

WILLIAM ALLISON,

[having been called as a witness and first duly sworn, testified as
follows:]

THE COURT CLERK: Please be seated. Please state and
spell your name for the record.

THE WITNESS: My name is William Allison,
W-I-L-L-I-A-M, A-L-L-I-S-O-N.

MS. DERJAVINA: May I proceed?

THE COURT: Yes.

MS. DERJAVINA: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. DERJAVINA:

Q Hi, sir, how are you?

A I'm good, how you doing today?

Q Good, thank you.

1 Sir, how are you employed?

2 A I'm employed by Global Security Concepts.

3 Q And do you have a specific title in that company?

4 A Security officer supervisor.

5 Q Is there any other name that you go by?

6 A Shift lieutenant.

7 Q Okay. And how long have you worked at that capacity?

8 A Recently it's been about nine months as a supervisor on

9 the day shift.

10 Q Now, what are some of the responsibility of a supervisor?

11 Is that a little different than just a regular security officer?

12 A Really, the only difference is we handle, like, the security

13 site phone and the first calls to situations, if officers called to them.

14 That's really the only difference.

15 Q And do you, obviously, supervise some of the other

16 security officers that are on your shift?

17 A Yeah. You make sure that they get there on time and

18 everything.

19 Q Now, what are some of the duties and what's a usual day

20 like?

21 A Usual day is we start off, we do a full property inspection

22 for any vandalism, damages, open secured doors for the tenants

23 that we have on the property, and then just kind of scanning to find

24 any other infractions or issues.

25 Q Now, is there any kind of things that you use as part of

1 your job?

2 A We have a radio, handcuffs, and mace.

3 Q Now, regarding mace, do all officers have mace?

4 A They should if they are trained for it.

5 Q And is that provided by the company or is that something
6 that you guys have to buy on your own?

7 A We have to buy it on our own.

8 Q So it's part of your job and your duties, but it's just
9 something that you actually have to buy?

10 A Yeah, we just get the certification taken care of for us, but
11 that's it.

12 Q Now, as part of your duties as a security officer, what are
13 some of the things that you have to deal with on a regular basis?

14 A You know, we deal with a lot of homeless transients.
15 We're on the Strip and we're outside, so we get to deal with a lot of
16 the Strip just in general, transients, homeless, prostitution, drug
17 dealers.

18 Q Now, what happens if there's a situation where you see
19 somebody who's not supposed to be on the property; what's kind
20 of usual, the first thing that you try to do?

21 A I always approach and just try to have a conversation with
22 them, talk to them, let them know whatever it is that they're doing
23 wrong and explain to them why it's wrong.

24 Q And do you usually ask them to leave the property?

25 A If it's needed, yes.

1 Q And what happens if somebody's refusing to leave the
2 property when asked?

3 A We'll explain to them again in manners of just letting
4 them know it's nothing we're trying to be bad about, it's just what
5 the rules of the property are. If they continue to not apply -- or not
6 listen to us, it's depending on whether they're a threat or not a
7 threat, which dictates kind of the immediate change of calling Metro
8 or not.

9 Q What about trespassing; do you sometimes have to
10 trespass people from your property?

11 A Yes.

12 Q And what's the usual procedure when you trespass
13 somebody?

14 A We will read them, after we've explained what they're
15 doing wrong, ask them to leave multiples times. We will read them
16 the Nevada Rights Statute Trespass Code 200.207. After that, we
17 have most of their information, if we can, and let them know that
18 they are trespassing the property.

19 Q And you again tell them that they have to leave?

20 A Yes.

21 Q What happens if they're, again, refusing to leave, even
22 after you read them the trespass statute and they're becoming
23 aggressive?

24 A When they're becoming aggressive and we've already
25 trespassed them, if it's for our safety, we do detain them. If we can

1 just walk away from it, we'll just walk away.

2 Q But is there times sometimes where you feel that for
3 safety reasons, that it's best to detain them rather than just to walk
4 away?

5 MS. ODEH: Objection. Leading.

6 THE COURT: Which basis have --

7 MS. ODEH: Leading.

8 THE COURT: Counsel, don't lead. This is -- shucks.

9 Sustained.

10 MS. DERJAVINA: Okay. I'll rephrase it, Your Honor.

11 BY MS. DERJAVINA:

12 Q Is there sometimes situations where you decide that the
13 best course is to detain them?

14 A Yes.

15 Q Now, I want to bring your attention to June 18th of 2017;
16 were you working in your capacity as a lieutenant?

17 A Yes.

18 Q And were you working at the Hawaiian Marketplace?

19 A Yes.

20 Q And is that located at 3743 Las Vegas Boulevard?

21 A Yes.

22 Q And is that here in Clark County?

23 A Yes.

24 Q Now, is the Hawaiian Market a private property?

25 A Yes, it is.

1 Q And what's the difference, kind of, between private
2 property and a public right-of-way?

3 A Public, we have no say. We have no jurisdiction on those
4 boundaries. But the private property, we do have jurisdiction to
5 protect the property and the tenants on the property.

6 Q So your job is to, basically, protect that private property,
7 which is the Hawaiian marketplace and the businesses in that area?

8 A Yes.

9 Q Now, do you remember what shift you were working on
10 June 18th of 2017?

11 A It was the morning shift.

12 Q And what's the morning shift?

13 A We start at 0600 hours and then go till 1400,
14 so 6:00 p.m. -- or 6:00 a.m. to 2:00 p.m.

15 Q Now, was there something particular about June 18th of
16 that year?

17 A That was the weekend that the Electric Daisy Concert was
18 going on, the EDC weekend. So it was a busy weekend for us.

19 Q So during that weekend, is there usually more people in
20 that area?

21 A Yes, a lot of people, lot of issues end up happening
22 throughout that time.

23 Q Now, around 6:30, that -- would that be the beginning,
24 kind of, your shift?

25 A 6:00 a.m. is when we start. We get there a little bit earlier

1 so then we can go out.

2 Q Now, what were you doing around 6:30 that morning?

3 A Just normal patrol. We had woken up a couple of people,
4 but that was it. We were just patrolling the property, making sure
5 the private area was secure and no issues were going on.

6 Q And what were you wearing that day?

7 A The security supervisor shirt, which is a white cotton
8 short-sleeve shirt. I had a undershirt underneath it and a black BDU
9 pants and work shoes.

10 Q Is there any saying on that white t-shirt?

11 A It says Security on the back, on the front, and then on the
12 armbands.

13 Q So there's Security in several places on that shirt?

14 A [No audible response.]

15 THE COURT: Sir, you need to respond verbally to a
16 question.

17 THE WITNESS: Okay. I'm sorry.

18 THE COURT: So you just can't shake your head.

19 So what was your question, counsel?

20 BY MS. DERJAVINA:

21 Q So you had Security written in several spot on that shirt?

22 A Yes, I did.

23 Q And it's just important, as the judge said, to make sure
24 that we verbalize everything, because there's a wonderful lady
25 who's taking down everything that we say.

1 A Yes. I apologize for that.

2 Q Now, were you working with somebody that morning?

3 A Yes.

4 Q And --

5 A I have -- sorry.

6 Q Who was that?

7 A I have three officers on the shift. And the one that I was
8 closest to at that time was Officer Chase Lovato.

9 Q So were you patrolling that morning together at some
10 point?

11 A Yeah, that was his selected post for the day. So I was just
12 going through. Because that's one of our main posts.

13 Q Now, what do you mean by -- some of us might not know
14 what selected post means.

15 A So we have four posts on our property. And on our
16 schedule, certain officers are deployed to certain posts for that day.
17 On that day, Lovato just happened to be on Post 1.

18 Q So that's kind of the area that that officer is in charge of?

19 A Yes.

20 Q Now, at that time, as you and Officer Lovato are walking
21 around the property, do you come into contact with somebody you
22 see in this courtroom today?

23 A Yes.

24 Q Can you please point to that person and identify
25 something that person is wearing?

1 A The individual seen right diagonally across from me in the
2 light-colored button-up shirt.

3 MS. DERJAVINA: And, Your Honor, let the record reflect
4 the witness has identified the defendant.

5 THE COURT: The record will so reflect.

6 BY MS. DERJAVINA:

7 Q Now, where do you come into contact with the defendant?

8 A He was in front of a tenant space called DJ's Tacos.

9 Q And that's on the Hawaiian Market property?

10 A Yes.

11 Q And I'm going to show you what has been admitted as
12 State's Exhibit Number 4. Maybe I can zoom out a bit. There we
13 go.

14 THE COURT: Counsel, did you say submitted or
15 admitted?

16 MS. DERJAVINA: And, Your Honor, may we approach?

17 THE COURT: Yes.

18 [Bench conference transcribed as follows.]

19 MS. DERJAVINA: I think we made -- right before we got
20 the jury, that we stipulated to all the exhibits.

21 THE COURT: Okay. So --

22 MS. BROUWERS: [Indiscernible] all admitted.

23 MS. DERJAVINA: Yeah.

24 MS. BROUWERS: Yeah.

25 THE COURT: Okay. So I need to make a record of that,

1 quite frankly.

2 MS. DERJAVINA: Oh, I -- sorry. I thought we did right
3 before we started.

4 MS. BROUWERS: You know what, I think we did it as far
5 as the body cam, but we must have forgotten to do this --

6 MS. DERJAVINA: Oh, I apologize.

7 MS. BROUWERS: We can just do it at the break.

8 THE COURT: That's all right.

9 MS. DERJAVINA: Okay.

10 THE COURT: Just offer it and no objection. And then
11 when we go take our next break, we'll go over the --

12 MS. BROUWERS: We'll just do it outside.

13 MS. DERJAVINA: Okay.

14 THE COURT: We'll go over it. But --

15 MS. DERJAVINA: Then do you want me, just for now, just
16 to do them as proposed exhibits until we --

17 THE COURT: No, no.

18 MS. DERJAVINA: I think they're fine.

19 THE COURT: Just say I offer State's Exhibit 1, no
20 objection, admitted.

21 MS. BROUWERS: Okay.

22 MS. DERJAVINA: Okay.

23 MS. BROUWERS: Okay.

24 THE COURT: Okay.

25 MS. DERJAVINA: We apologize, Your Honor.

1 THE COURT: That's fine.

2 MS. BROUWERS: Thank you.

3 MR. DICKERSON: Thank you, Your Honor.

4 THE COURT: Thank you.

5 [End of bench conference.]

6 MS. DERJAVINA: And just for the record, State offers
7 State's Exhibit Number 4.

8 THE COURT: And it's my understanding that the Defense
9 has stipulated to that exhibit?

10 MS. ODEH: That's correct, Your Honor.

11 THE COURT: It'll be admitted.

12 MS. DERJAVINA: Thank you, Your Honor.

13 [State's Exhibit Number 4 admitted.]

14 BY MS. DERJAVINA:

15 Q Is this the area where you initially see the defendant?

16 A Yes.

17 Q And where is he in this area?

18 A He was sitting in --

19 Q And you actually -- and I don't mean to interrupt. That is a
20 touchscreen in front of you --

21 A Okay.

22 Q -- so you can actually circle whatever area that you're
23 talking about.

24 A He was sitting right in this area, the first set of tables and
25 chairs.

1 Q Can you just circle that area, so that way we can all see.

2 A Yeah. I was trying to, it's not working.

3 Q Okay. And we'll -- so you said and -- kind of in the first
4 chair is the --

5 A Yeah.

6 Q -- am I pointing the right --

7 A Yeah. That table that your pen is next to.

8 Q Okay.

9 MS. DERJAVINA: And just for the record, Your Honor, it's
10 the back table, there's two tables in the front, a third one in the
11 back, and it's the second chair from the right.

12 THE COURT: Is that correct, sir?

13 THE WITNESS: Yes.

14 THE COURT: Thank you.

15 BY MS. DERJAVINA:

16 Q Now, when you first see the defendant, what do you
17 observe about him?

18 A He has his shoes off, his belongings next to him,
19 sunglasses on, and his head in a slouch position, like he was
20 sleeping.

21 Q So you made an assumption based on kind of his body
22 posture?

23 A His body posture and the fact that he had taken off his
24 stuff.

25 Q So you believe him to be sleeping?

1 A Yes.

2 Q Okay. So based on that, do you approach him?

3 A Yes.

4 Q Okay. And what do you do when you approach him?

5 A We just try to get his attention. We saw that he was
6 asleep, made multiple attempts to try to wake him up.

7 Q And how do you do that?

8 A Sir, you know, little louder tone. I can't whistle that loud,
9 so the other officer whistled for me. If that still doesn't work, we'll
10 sometimes kind of stomp on the floor just to kind of try to get
11 something.

12 Q In this case, did anybody whistle at the defendant?

13 A Yes. Officer Lovato did.

14 Q And then you said verbal commands?

15 A Yeah, verbal commands, or just trying to get their
16 attention, you know, sir, excuse me, hey, you know, clapping, those
17 matters.

18 Q Is that what you did this time when you made contact with
19 the defendant?

20 A Yes.

21 Q So they're all verbal things that you said to him?

22 A Yes.

23 Q Did he initially respond?

24 A No.

25 Q Okay. So what did you do based on the fact that he

1 wasn't responding?

2 A You know, if people -- we -- aren't responding, we try to
3 just double-check to make sure that they're breathing and
4 everything's fine. Taking a closer look, we saw that that was the
5 case, so we just tried to just get him up. He was stirring, but just
6 not listening to us.

7 Q So did you continue to make verbal commands?

8 A Yeah.

9 Q And at some point does he wake up?

10 A Yes, he does.

11 Q Okay. And what does he do or say when he wakes up?

12 A Once he wakes up, we just let him know that, you know,
13 he can't sleep here, it's private property.

14 Q And what was his reaction to that?

15 A Immediately met with aggression and profanity, telling us
16 to fuck off, do our job.

17 Q So you mention he said, fuck off, do your job; what did
18 that tell you about him knowing who you were?

19 MS. ODEH: Objection. Speculation.

20 THE COURT: Objection sustained.

21 State the basis of your objection.

22 MS. ODEH: The question calls for speculation from the
23 witness.

24 THE COURT: Sustained.

25 BY MS. DERJAVINA:

1 Q So backing up a little bit, so he said, fuck off, go do your
2 job?

3 A Uh-huh.

4 Q So what did you do based on that?

5 A We let him know that we are doing our job and we are
6 security for the property.

7 Q So you informed him that you are the security for that
8 property?

9 A Yes.

10 Q And what did he -- what was his reaction to that?

11 A Similar to before, fuck off, profanity.

12 Q What did you tell him he has to do?

13 A We just informed him all he needed to do was just get his
14 belongings and just remove himself from the property. He could
15 not sleep there.

16 Q And did he do that, did he try to remove himself from the
17 property?

18 A No.

19 Q What did he do?

20 A He continued to just get aggressive, use profanity, use
21 racial terms towards me, calling me honky, cracker bitch, white boy,
22 all those sorts of things.

23 Q So those terms were specifically addressed towards you?

24 A Yes.

25 Q Now, at this point, is the defendant still sitting?

1 A Yes.

2 Q And what do you do based off of that?

3 A Again, just kind of repetitive motions, just telling him he
4 has to leave, informing him if he does not leave, we will trespass
5 him from the property.

6 Q And did he comply? Did he choose to leave?

7 A No, he did not.

8 Q Did you make a decision based on that?

9 A Yes.

10 Q And what was that?

11 A I started to read him the trespass code.

12 Q And what happened as you were reading it to him?

13 A As I start to read it to him, he, for maybe a brief moment,
14 starts to comply and says he will leave. And then from there, it
15 changed completely.

16 Q And what do you mean it changed? What happened?

17 A He went back to his aggressive state and then stuck his
18 hand inside his pocket.

19 Q Where in his pocket?

20 A He stuck his right hand inside his right pocket by his thigh.

21 Q Did that cause you concern?

22 A Yes. I didn't -- I wasn't too aware of it at first though.

23 Q But did you give him commands regarding the fact that
24 his hand was in his pocket?

25 MS. ODEH: Objection. Leading.

1 THE COURT: She's allowed to lead on foundational
2 questions.

3 Is this a foundational question or a substantive question,
4 counsel?

5 MS. DERJAVINA: Your Honor, I'm -- the State's position is
6 that I'm not leading, it was an open question whether he gave him
7 commands or not. I'm not suggesting an answer.

8 THE COURT: Okay.

9 MS. ODEH: May we approach?

10 THE COURT: Yes, you can.

11 MS. ODEH: Thank you.

12 [Bench conference transcribed as follows.]

13 MS. ODEH: I don't remember the exact wording of the
14 question, but it was, did you give him the commands. And then
15 the -- she stated what the command was.

16 THE COURT: All right. Okay. You can ask him, did you
17 give him a command?

18 MS. DERJAVINA: Okay. That's fine, Your Honor.

19 THE COURT: And then you can say -- if he says yes, what
20 was that command? And let him say what the command was.

21 MS. DERJAVINA: That's fine.

22 THE COURT: Okay.

23 MS. ODEH: Thank you.

24 MS. DERJAVINA: Thank you.

25 [End of bench conference.]

1 BY MS. DERJAVINA:

2 Q So you mentioned the fact that there was a point the
3 defendant put his hands in his pocket; did you give him any
4 commands?

5 A I will still the same, that he just needed to leave the
6 commands or leave the property. And then once I was aware his
7 hand was in his pocket, I told him to remove his hand from his
8 pocket.

9 Q Did he remove his hand?

10 A No, he did not.

11 Q How many times did you tell him to remove his hand?

12 A Several times, each time trying to make it more of a stern
13 tone so he would know.

14 Q And did at any point he even try to remove his hand?

15 A No.

16 Q Did the defendant make any comments that caused you
17 some concerns?

18 A Yes.

19 Q What were those comments?

20 A He said along the lines, I've got mines, don't worry.

21 Q Now, was there a point the defendant does get up?

22 A Yes.

23 Q And what happens when he gets up?

24 A He gets up in an aggressive manner and immediately has
25 that hand still in the pocket, and his body position was towards me.

1 Q Do you continue giving him commands?

2 A Yes, I continue to tell him the same thing, take his hand
3 out of his pocket and leave.

4 Q Does he listen?

5 A No, he does not.

6 Q When he gets up, does he try to put his shoes on?

7 A No, he does not.

8 Q Does he try to take any of his items and start collecting
9 them?

10 A No, he does not.

11 Q What does he do?

12 A A moment after he gets up, he makes the aggressive
13 motion, and next thing I know, I get stabbed.

14 Q Is there something else that catches your attention before
15 you get stabbed?

16 A Once he swings the blade, I see just the -- a little bit of
17 something sharp in his hand as I try to get away.

18 Q So I want to back up a little bit, because you kind of
19 jumped and said when you see his blade. Was there something
20 that first catches your attention, that physically happens to you?

21 A I get maced.

22 Q And do you know by who?

23 A By the other security officer.

24 Q Was that Officer Lovato?

25 A Yes.

1 Q So what happens as you get maced?

2 A I back up and then he's immediately towards me with a
3 sharp object extended out.

4 Q And what happens once you see that object?

5 A I try to get behind him and I get a stab below my left rib.

6 Q Now, at that point, when you see the sharp object in his
7 hand, what is your intent when you go to the defendant?

8 A I was going to detain him, to get behind him.

9 Q And you said you felt it where?

10 A I felt it on my left side below my ribcage.

11 MS. DERJAVINA: Just for the record, Your Honor, the
12 defendant pointed kind of right below his ribcage on his left side.

13 THE COURT: Record will so reflect.

14 MS. DERJAVINA: The witness. Thank you.

15 I apologize, the witness.

16 BY MS. DERJAVINA:

17 Q So once you feel that, what happens?

18 A I immediately create distance to get away from him to not
19 suffer anymore injuries.

20 Q And as you do that, what happens?

21 A I notice Chase Lovato has him and had just been stabbed
22 himself somewhere below the waist, in his leg region. I wasn't sure
23 where.

24 Q Now, as all of this is going on, are there other people in
25 the nearby vicinity?

1 A Yes, within a couple feet of us.

2 Q And does that cause you any concern?

3 A Yes.

4 Q And why?

5 A Like I stated before, it was a busy weekend. Electric Daisy
6 concert is typically an event where people are highly intoxicated,
7 they are on different narcotics. They were at a bar called Evening
8 Call, which is a 24-hour bar that was, to my sight, three individuals,
9 two males and a female. And then we had one of the bartenders
10 working.

11 Q So you said you noticed that Officer Lovato got stabbed;
12 what did you do once you noticed that?

13 A I raced back in, because after he got the first stab wound
14 in -- somewhere below his body, I didn't know where at the time, I
15 saw the defendant -- or the attacker starting to make motions with
16 the knife towards Lovato's face. And I rushed in to get control of
17 the weapon to prevent any injuries for Lovato.

18 Q Now, were you making any commands at that time to the
19 defendant?

20 A Yes. We were telling him to drop the knife, put it down,
21 stop resisting.

22 Q And did he stop?

23 A No, he did not.

24 Q So what did you do based on that?

25 A I suffered one more stab wound during the struggle, and I

1 managed to get the knife out of his hand and threw it as far away as
2 I could.

3 Q Did something happen to the mace?

4 A The mace was dropped near the area that we put him
5 down and started to try and detain him. And while I was trying to
6 get his arm in cuffs, he had that broken can of mace pointed in my
7 face. Luckily, it was broken, and I was able to get it away.

8 Q Now, once you were able to secure the defendant, what
9 did you do?

10 A We got him up, we brought him into a area away from
11 any of the civilians, and I immediately called Metro for assistance.

12 Q And what did you do once you called Metro?

13 A I informed them of my injuries, the situation, and they
14 transferred me to American Medical Response, medical attention.

15 Q Now, the State is offering as State's Proposed Exhibit 31.

16 THE COURT: Counsel approach for a minute.

17 [Bench conference transcribed as follows.]

18 THE COURT: Why don't you offer all the exhibits,
19 State's 1 -- and we'll just stipulate to them, and that way we don't
20 have to go one by one.

21 MS. DERJAVINA: Okay.

22 MS. BROUWERS: Okay. Good idea.

23 MS. DERJAVINA: So do you want me to just do -- I don't
24 know that --

25 THE COURT: Okay. So do you have, like, all of them up

1 there with you?

2 [End of bench conference.]

3 MS. DERJAVINA: And, Your Honor, at this time the State
4 would offer State's Proposed Exhibit 1 through 31.

5 MS. ODEH: No objection.

6 THE COURT: And it's my understanding these exhibits
7 are stipulated do; is that correct?

8 MS. BROUWERS: That's correct.

9 THE COURT: All right. State's Exhibits 1 through 31 will
10 be admitted.

11 [State's Exhibit Numbers 1 through 3, and 5 through 31 admitted.]

12 MS. DERJAVINA: Thank you, Your Honor.

13 BY MS. DERJAVINA:

14 Q Sir, I'm going to show you State's Exhibit 31; do you
15 recognize this?

16 A Slightly, yes.

17 Q And how do you recognize it?

18 A This was the weapon that he had.

19 Q By he, who are you referring to?

20 A Edward.

21 Q Now, you mentioned you called 911 and Metro, and
22 where did you head after that?

23 A We brought him up to the security office from there.

24 Q So by him, are you referring to the defendant?

25 A Yes. Edward, sorry.

1 Q Now, were you also in the security office at the same time
2 as the defendant?

3 A Yes.

4 Q Okay. Did the defendant make any statements while both
5 of you were in the security office?

6 A Yes.

7 Q What were those statements?

8 A Boasting about what he had done to us, stating that if my
9 partner wasn't there, he would have taken my life, he would have
10 killed me.

11 Q Now, at some point were you transported to the hospital?

12 A Yes, I was.

13 Q And showing you State's Exhibit 6; do you recognize this?

14 A Yeah, I remember it.

15 Q How do you recognize it?

16 A That was myself in the hospital bed after.

17 Q This was after you were stabbed?

18 A Yes.

19 Q Now, did you get medical attention for the two stab
20 wounds?

21 A Yes, I did.

22 Q Showing you State's Exhibit Number 7; can you describe
23 what we're looking at in State's Exhibit Number 7?

24 A The cut was a good size on my shoulder, so the circular
25 part is an adhesive, like, band-aid that the doctors put on, so then

1 my skin would close up and heal up.

2 Q I'm going to show you State's Exhibit Number 10; is this
3 what you're talking about, the adhesive?

4 A Yeah.

5 Q And what did you say the purpose of that was?

6 A That was to, basically, bond my skin back together.

7 Q Now, how long did you need to have that?

8 A The doctor suggested keeping that bond on for two to
9 three days.

10 Q And then what did you have to do after that?

11 A After that was clean it, bandage it, gauze it up, and keep
12 the area clean.

13 Q Now, when you went home, was the wound still bleeding?

14 A Yes, it was.

15 Q And how long did the bleeding last?

16 A The bleeding was consistent for the first month at the
17 least, after I took off -- after the band-aids were taken off by my
18 fiancée, after the allowed time from the doctor, they both bled
19 pretty bad. Each night going to bed, I would wake up with the
20 gauze pads with blood. After I removed the adhesive bandages, the
21 one on my shoulder continued to bleed for multiple weeks.

22 Q Did you feel any pain in the shoulder wound?

23 A Yes, it limited my mobility.

24 Q And what do you mean by that?

25 A Lifting it up, front, any pressure on it was very

1 uncomfortable.

2 Q Just for the record, you just did motion with your arm
3 kind of picking up shoulder length?

4 A Yeah, lifting my arm to the front, to the side, and then, like
5 I said, any pressure on that area.

6 Q So any time you did those, pick up your arm to the right,
7 to the side, you would feel pain?

8 A Yes, I'd feel an -- discomfort. Uh-huh.

9 Q Okay. And how long did that last?

10 A The one on my shoulder lasted for about a month and a
11 half.

12 Q Now, I want to show you State's Exhibit Number 8; what
13 are we looking at here?

14 A In the back, near the hospital bed where you see the
15 darker color, that is similar bandage over the more of the deeper
16 stab that I took the first -- the first stab that I took.

17 Q So that's the stab wound -- the second stab wound you
18 received?

19 A No, this was the first stab wound I received. But, yes, the
20 second overall.

21 Q Showing you State's Exhibit Number 9; is that the same
22 type of adhesive on that wound?

23 A Yes.

24 Q Okay. Now, regarding that wound to your left rib, did you
25 feel any pain?

1 A Yes.

2 Q And what kind of pain?

3 A Any rotational movements of my trunk caused me a lot of
4 discomfort. Bending, anything like that, was very discomfort. I
5 think, again, same thing, any pressure to the area was painful.

6 Q So anytime you kind of moved to the left, right, or did
7 anything moving your torso?

8 A Yes.

9 Q And how long did that last?

10 A Almost three months.

11 Q Now, do you have any scars on those two wounds?

12 A Yes, I do.

13 Q And showing you State's Exhibit Number 19, and I'm
14 going to zoom in, because it's a little bit hard to see because of the
15 coloring. Can you tell us what we're looking at here in this exhibit?

16 A Yes. We can see a little bit more of a pinker color. That is
17 the scar from the knife entry. You can see it's a little blade wound.

18 Q And who took these photos?

19 A My fiancée.

20 Q Okay. And when were these photos taken?

21 A Last night.

22 Q And showing you State's Exhibit 18; that just a closer
23 photo of the same thing --

24 A Yes.

25 Q -- we looked in the other exhibit?

1 A Yes.

2 Q Showing you State's Exhibit Number 17, I'll zoom that out
3 a little bit. What are we looking at here?

4 A The darker red is the scab from -- or the scar from the
5 impact from my left rib. You can't really see it in the picture, but
6 the skin has a lump over it, so it's not a flat surface. Where that
7 scar is, I have, you know, a little bit of a skin protruding out.

8 Q And who took this photograph?

9 A The same person, my fiancée.

10 Q And when was that taken?

11 A Same time last night.

12 Q Now, I wanted to show you a couple of exhibits. Showing
13 you State's Exhibit Number 16. Can you explain to us what we're
14 looking at right now?

15 A That is the back of my security uniform. It's the second
16 layer clothing that I have on. And you can see in the bottom
17 left-hand, that is the wound and the blood from the wound. And
18 then on my right --

19 Q Is --

20 A Yes.

21 Q Just the -- is this what you're talking about, where my
22 pen's pointing?

23 A Yes. And then if you go up to my right shoulder, across
24 from the security logo, you'll see another bit of red, and that is the
25 blood from the area when I was stabbed in the shoulder.

1 Q So the two areas that have blood on them are the two
2 areas where you got stabbed?

3 A Yes.

4 Q And showing you State's Exhibit 13; what are we looking
5 there?

6 A That is my shirt.

7 Q And that was the shirt you were wearing that night?

8 A Yes. That day.

9 Q Were you wearing any other layers?

10 A Yes. Below it I just had just an undershirt, like, a little
11 compression shirt, just because it's summer, we're -- we have to
12 wear a undershirt with the white clothes.

13 Q I'm showing you State's Exhibit 15; do you recognize that
14 shirt?

15 A Yes, I do.

16 Q Is that the shirt that you were wearing?

17 A Yes.

18 Q And can we see anything in this shirt?

19 A Yes, you can see where it's slit from where I was attached.

20 Q So you can see where the -- two slits from the two stab
21 wounds you received?

22 A Yes.

23 MS. DERJAVINA: And, Your Honor, I have a video that I
24 want to show the witness. May I proceed from State's table?

25 THE COURT: That'll be fine.

1 MS. DERJAVINA: Thank you.

2 And, for the record, I am putting in State's Exhibit
3 Number 3.

4 BY MS. DERJAVINA:

5 Q So, sir, I want to go over a couple of videos with you.

6 Now, sir, looking at this video, can we tell the time that
7 this video was taken?

8 A Yes.

9 Q Okay. And where is the time?

10 A The time is located in the top left-hand corner.

11 Q So what is the time of this video?

12 A 0639 hours in the morning.

13 Q And what is the date?

14 A 6/18/2017.

15 Q So this video reflects that this was taken on
16 June 18th, 2017, at approximately 6:39?

17 A That is correct.

18 Q Do you recognize the area that's shown in this video?

19 A Yes.

20 Q And what area are we looking at?

21 A That is the Hawaiian Marketplace front area, where we
22 have our food court. The railing around is the bar I spoke of,
23 Evening Call.

24 Q Can we see any other businesses in the video?

25 A DJ's Taco, next to it is Chicken Now, behind that is Little

1 Italy. And in front of that is a clothes spot.

2 Q I'm going to play it a little bit.

3 [Video played.]

4 Q Do you see anybody you recognize in this video?

5 A Yes.

6 Q Who do you recognize?

7 A Edward, the individual, basketball pants, t-shirt, backpack,
8 and a bag in his hand.

9 Q And where is he in the video?

10 A He's standing close to the rail by the bar and heading in
11 the direction of DJ's.

12 Q And you said Edward, you're referring to the defendant?

13 A Yes.

14 [Video played.]

15 Q Okay. And what can you observe the defendant doing
16 right now?

17 A He's just walking. You know, looking around.

18 Q Is he talking towards the area where you eventually make
19 contact with him?

20 A Yes, he is.

21 [Video played.]

22 Q I want to show you a second video.

23 [Video played.]

24 Q And just for the record, what's the date and time of this
25 video?

1 A This is June 18, 2017, at 6:50 in the morning.

2 Q And, again, do you recognize the area?

3 A Yes.

4 Q Are we looking at the same area that we were looking in
5 the other video?

6 A Yes, we are.

7 Q Okay.

8 [Video played.]

9 Q And can you let us know once you recognize anybody else
10 in that video?

11 A Myself and the security officer, Chase Lovato.

12 Q And where are you two?

13 A We're walking in front of the kiosks, making sure that they
14 are all secure.

15 Q So what are you doing at this time?

16 A We're just doing a patrol. We had already had a couple of
17 sleepers that we had woken up. Again, it was a very busy weekend.
18 At this time we're walking, we're drinking coffee, and just patrolling
19 the area.

20 Q And this is the patrol that you initially talked about that
21 you were doing earlier that morning?

22 A Yes.

23 [Video played.]

24 Q Now, can you tell us the date and time of this video?

25 A June 18th at 6:56 in the morning.

1 Q Do you recognize anyone in this video?

2 A Yes.

3 Q And who do you recognize?

4 A Myself, Chase Lovato, and Edward, the defendant.

5 Q Now, can you kind of explain to us what area is this video
6 taken from?

7 A We have the security cameras that are located on a pole
8 next to these kiosks. One of the poles has the connection to our
9 canopy, and then there's a camera on that pole.

10 [Video played.]

11 Q And then can you describe, just for the record, where you
12 are in the video?

13 A We are in front of --

14 Q And I'll play it again.

15 A We're in front of DJ's and across from the Evening Call
16 bar.

17 [Video played.]

18 Q And that'll be the top left of the video?

19 A Yes.

20 Q Okay. Now, can you tell us the time and date of this
21 video?

22 A Approximately 6:55, and the date is June 18th, 2017.

23 Q Now, can you describe to us where the angle of this video
24 takes place from?

25 A From -- it's located on, like, the top part of the DJ's

1 building.

2 Q Would that be the DJ's Taco shop?

3 A Yes.

4 Q Do you recognize anyone in this video?

5 A Yes. Same individuals, myself, Chase Lovato, and the
6 defendant.

7 Q Okay. Can you describe where you and Officer Lovato
8 are?

9 A We are in the -- near the right-hand corner in the top. I'm
10 in white, Chase is in yellow and navy blue.

11 Q And you said you also see the defendant; where's the
12 defendant?

13 A Defendant's sitting in the bottom right-hand corner, his
14 legs spread out, his shoes off, leaning back.

15 Q And can you describe to us what's happening in this video
16 right now?

17 A We're walking over just to try to wake him up and just tell
18 him that he can't sleep here.

19 Q Is this the initial contact that you make with the
20 defendant?

21 A Yes. This is initial contact we make.

22 [Video played.]

23 Q So I'm going to stop it for a second. Can you let us know
24 what was just going on in the video?

25 A We were just trying to wake him up at this point.

1 Nothing's really going on.

2 Q So is this the point where you were giving the verbal
3 commands?

4 A Yes. This is where we started our verbal commands.

5 Q And is the defendant responding to those?

6 A No.

7 [Video played.]

8 Q And can you tell us the date and time of this video?

9 A June 18, 2017, at 6:56 in the morning.

10 Q And who are we looking at in this video?

11 A Myself, Chase Lovato, and the defendant.

12 Q And where are you and the defendant?

13 A I'm in the same location, in front of the DJ's Taco Bar.

14 Q And what's happening right now?

15 A He's still not really listening to us. We're just trying to get
16 him to wake up, stir, something.

17 Q Has he awoken up at that point yet?

18 A No. He had, you know, made a little bit of movement, but
19 there had been no verbal, anything from him yet.

20 [Video played.]

21 Q Can you tell us the date and time of this video?

22 A June 18th, 2017, at 6:56 in the morning.

23 Q Are we still looking at you and the defendant?

24 A Yes.

25 Q And what's happening now?

1 A Now he's woke up and he's angry. He's telling us to fuck
2 off and go do our jobs.

3 Q And what do you do?

4 A We inform him we are doing our job. You're sleeping on
5 private property and all you have to do is take your belongings and
6 go.

7 Q So at this point, is the defendant listening to your
8 commands?

9 A No, he is not.

10 [Video played.]

11 Q Now, what are you doing at this point?

12 A We're still just talking to him. He's still being aggressive,
13 cussing at us. And, again, we're just explaining to him, we're doing
14 our job, you cannot sleep here, this is private property.

15 Q Do you have anything in your hand in this video? Can you
16 see?

17 A I haven't -- I believe I have my notebook in my hand.

18 Q And what is that?

19 A It's a little 50-page Top Flite notebook that I carry around
20 to write down information.

21 Q Were you planning on writing anything down at that
22 point?

23 A I was getting a bar. I have the trespass code on it, on my
24 front page, so I was getting it ready just in case. If he didn't want to
25 comply, I was going to read him his rights.

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[Video played.]

Q And what are we looking at right now? And just for the record, it's at 6:57:12.

A Same situation. He's getting very aggressive with us, you know, telling us go fuck off, go fuck yourself, white honky bitch, just things of those matter.

Q Now, what are you holding in your hand right now?

A The same thing, my notebook.

Q Okay. And what are you doing right now?

A I'm just talking to him. I believe maybe in the next couple of seconds, I start reading the trespass.

Q So do you usually read that -- read the trespass statute from something in front of you?

A Yes. I have it on my notebook.

[Video played.]

Q And what is the defendant's reaction as you're reading him the trespass?

A He gets very aggressive as I'm reading. Then from there, puts his hand inside of his pocket, his right hand inside of his right pocket.

Q So at this point, at 6:57:28, his hand is in his right pocket?

A Yes.

Q And you can see that?

A Yes.

[Video played.]

1 Q So this point, what were you doing?

2 A We're just telling him that he needs to leave. You know,
3 that was it. I've been aware that now he has his hand in his pocket.
4 I'm telling him, Just take your hand out of your pocket, get your
5 stuff and leave.

6 Q And you -- was he complying with any of your
7 commands?

8 A No, he was not.

9 [Video played.]

10 Q Now, we just saw, at 6:57:45, you were doing some
11 gestures with your hands. What was going on at that point?

12 A I'm pointing down at his belongings, telling him, Get your
13 belongings. And I'm pointing down at the Las Vegas Boulevard,
14 towards the public area and telling him to leave.

15 Q And is he leaving?

16 A No, he is not.

17 Q Does he make any attempts to try to leave?

18 A No, he doesn't.

19 [Video played.]

20 Q Now, at 6:57:54, what are we looking at?

21 A I'm backing up, because I had mace in my face.

22 [Video played.]

23 Q Now, at 6:57:57, what are we looking at exactly; what just
24 happened?

25 A As I create distance, you see in the video, he immediately

1 turns towards me. He has his hand out of his pocket with the
2 weapon in his hand. As he turned towards me, I knew what was
3 going to happen. It was inevitable that he was going to attack me,
4 so I was trying to get behind him.

5 Q So what we're looking at right now, is that the point
6 where you say you try to get behind the defendant?

7 A Yes.

8 Q And what happens as you try to do that?

9 A His right arm comes around and stabs me on my left side.

10 [Video played.]

11 Q And is that what we just saw?

12 A Yes.

13 Q Okay. And is that a -- you can see part of it, but part of it
14 was kind of off the camera?

15 A Uh-huh.

16 Q Was that a yes?

17 A Slightly.

18 [Video played.]

19 Q And what are we looking at right now?

20 A Now, I created space after I felt the knife go into me.
21 Chase Lovato grabbed him and was immediately stabbed. At that
22 point, I rush back in, because I hear Chase scream, and we try to get
23 control of the weapon.

24 Q Just for the record, that's 06:58:00.

25 [Video played.]

1 Q And can you describe to us, as this is going, what's going
2 on?

3 A We're trying to just detain him. He's resisting. He still has
4 the knife in his hand. He's flailing it in the direction of Officer
5 Lovato's face, and mine as well.

6 Q Now, can you tell us, and you might have missed it -- all
7 right -- now, it's 06:58:12; what we just saw? Can you see
8 something on the screen?

9 A Yes, I can.

10 Q What can you see?

11 A The knife.

12 Q And what happens with -- to the knife during your
13 struggle with trying to detain him?

14 A After the struggle, I manage to get the knife out of his
15 hand and I throw it as far away from us as I can.

16 [Video played.]

17 Q Now, for a second you could kind of see something pop
18 up from the middle of the screen. What's going on that we can't
19 see right now?

20 A Right now is we have him on the floor. He's resisting. He
21 won't give us one of his arms. We find out that he had the mace
22 that Chase Lovato dropped in that hand, and he was trying to spray
23 it in my face. But luckily, it was broken.

24 [Video played.]

25 Q Now, can we see anybody else in this video?

1 A Yes, just bystanders.

2 Q And where are they standing?

3 A They're on the opposite side of the bar, behind the rail.

4 Q And what bar is that?

5 A Evening Call, at the time.

6 [Video played.]

7 Q And just for the record, as the time is going,
8 it's 6:58:30-31, for a couple of seconds there in that video, you
9 couldn't see anything, because were you guys off the screen?

10 A Yeah. We were just closer to the DJ's area.

11 [Video played.]

12 Q And just for the record, what's the date and time of this
13 video?

14 A It's June 18, 2017.

15 Q And what's the time?

16 A 6:59.

17 Q And 11?

18 A Yes.

19 Q Again, can you see you and Officer Lovato right now?

20 A I see Officer Lovato now.

21 Q And what's happening?

22 A He's going to grab the -- oh, we have him detained and we
23 are -- Officer Lovato is going to get the knife.

24 Q And what are you doing at this point?

25 A I'm taking him into just the common area to get him away

1 from all these people.

2 Q And what is Officer Lovato doing?

3 A Gathering the belongings and calling for backup.

4 [Video played.]

5 Q Is that what he's doing on radio right now?

6 A Yes.

7 [Video played.]

8 Q And can you notice anything about Officer Lovato right
9 now?

10 A Yeah. When he was closer to the camera I could see a red
11 spot -- a red spotted area on his hamstring and he's limping.

12 MS. DERJAVINA: I apologize. It's going to take a little
13 second for it to pop up.

14 [Pause in proceedings.]

15 MS. DERJAVINA: This is what happens when you try to
16 use fancy systems on a older computer.

17 [Pause in proceedings.]

18 BY MS. DERJAVINA:

19 Q Now, do you recognize this video or the area that's shown
20 in this video?

21 A The area, yes.

22 Q And what area is that?

23 A It's in between the Evening Call, DJ's, and Chicken Now,
24 where the incident took place.

25 Q Can you tell where this video is being take from

1 approximately?

2 A Yeah. It's part of the Evening Call bar's security system
3 and it is located in the back side of the bar.

4 Q And what's the -- can you tell the date and the time of this
5 video?

6 A Yeah, on the bottom.

7 Q And what is that?

8 A June 18th, 2017, at 6:55:34.

9 Q I'm going to --

10 [Video played.]

11 Q Looking at this video, does it appear to be kind of the
12 same video as we just saw, but from a different angle?

13 A Yes.

14 Q Can you see yourself and Officer Lovato?

15 A Yes, I can.

16 Q Just for the record, where are you?

17 A In front of the DJ's Taco bar, across from the Evening Call
18 bar.

19 Q And who's in front of you?

20 A The defendant.

21 Q And I'm going to zoom in.

22 [Video played.]

23 Q And, now, if you look kind of at the time, does it appear
24 that things are moving a little bit fast?

25 A Yes.

1 Q So are we looking, basically, at the same video from a
2 different angle, where you're making commands to the defendant?

3 A Yes.

4 [Video played.]

5 Q And now, can we see, in this video, where the defendant's
6 hands are?

7 A You can see one of them.

8 Q And what did we just see happen?

9 A You saw me get stabbed.

10 Q I'm sorry, can you repeat that?

11 A You saw the defendant stab me.

12 [Video played.]

13 Q And what are we looking at right now?

14 A The struggle of us trying to get the knife out of his hands.

15 Q And didn't we just see you being able to get the knife out
16 of his hand?

17 A Yes.

18 [Video played.]

19 Q And what are you doing at this moment?

20 A This is where we're trying to get the arm and get the mace
21 out of his hand.

22 Q And just for the record, again, it appears that everything
23 that's happening in the video is going a little bit faster than real
24 time.

25 A Yes.

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[Video played.]

Q Now are we just looking at you taking the defendant back to where you said you took him?

A Yes, correct.

Q Now, sir, did you have any weapons on you that day?

A No, I did not.

Q Did you have any knives?

A No, I did not.

Q Guns?

A No, I did not.

Q What are the only things that you had on you?

A I had handcuffs and mace.

Q Did you ever threaten the defendant?

A I did not, no.

Q Did you ever put your hands on the defendant before he took the knife out?

A No, I did not.

MS. DERJAVINA: Your Honor, at this time the State would pass the witness.

THE COURT: At this time, ladies and gentlemen, we're going to take an afternoon break. It'll be approximately 15 minutes.

During this -- I'm sorry, we'll take approximately a 15-minutes recess. During this recess, you are admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial, or read, watch, or listen to any

1 report of or commentary on the trial or any person connected with
2 this trial by any medium of information, including, without
3 limitation, newspapers, television, radio, or Internet, or form or
4 express any opinion on any subject connected with the trial until
5 the case is finally submitted to you.

6 We'll be in recess.

7 [Court recessed at 2:47 p.m., until 3:03 p.m.]

8 [Outside the presence of the jury.]

9 THE COURT: Let the record reflect the presence of
10 counsel for State, counsel for the Defense, and the defendant.

11 And, counsel, apparently the jury's having a hard time
12 hearing. So I need to speak up and the witness needs to speak up.

13 MS. DERJAVINA: Okay.

14 MR. DICKERSON: Okay.

15 THE COURT: All right. Thank you.

16 Can I bring the jury in?

17 MS. DERJAVINA: Yes, Your Honor.

18 MS. BROUWERS: Yes.

19 THE COURT: All right. Thank you.

20 THE MARSHAL: Do you want the witness in first?

21 THE COURT: That's fine, bring him in.

22 [Jury reconvened at 3:04 p.m.]

23 THE COURT: Let the record reflect the presence of
24 counsel for the State, counsel for the Defense, and the defendant.

25 Will the parties stipulate to the presence of the jury?

1 MS. DERJAVINA: Yes, Your Honor.

2 MS. ODEH: Yes, Your Honor.

3 THE COURT: So you can be seated. Also, I would remind
4 you that you are still under oath.

5 THE WITNESS: Yes, sir.

6 THE COURT: Thank you.

7 Defense, any questions of this witness?

8 MS. ODEH: Yes. Yes, thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 BY MS. ODEH:

11 Q So, Mr. Allison, first, I want to ask you about your injury.
12 So we saw a picture of that little sticker thing that went on your
13 injuries, right?

14 A Yes.

15 Q And there was one on each?

16 A Yes.

17 Q And the doctor told you to keep that on for two or three
18 days?

19 A Yes.

20 Q Did you take it off at any time between those two and
21 three days?

22 A No.

23 Q And you said your bleeding continued for a month on
24 your shoulder?

25 A Yeah.

1 Q Did you go back to the doctor?
2 A No, I did not.
3 Q Did you continue to work?
4 A I had about maybe a week off, and then yes, I went back to
5 work.
6 Q On that week off, were you bedrest?
7 A Yes.
8 Q You didn't get out of bed?
9 A No. I didn't leave my apartment, no.
10 Q And then after that week, you went back to work, correct?
11 A Yeah.
12 Q Same job, security?
13 A Yes, but a different location.
14 Q Still with Global Security, though?
15 A Yes.
16 Q Okay. Now, I want to ask you about June 18th. Before
17 you came up on Mr. Edwards, you hadn't received any complaints
18 about him, right?
19 A I had already seen him on the property just kind of
20 lounging around. So I figured I'd give him some time to maybe get
21 up and go or see if he was going to just fall asleep.
22 Q You had no information, though, that he'd been bothering
23 anyone?
24 A No.
25 Q When you first came up to him, he was sitting in a chair,

1 right?

2 A Yes.

3 Q At the table?

4 A Yes.

5 Q Sleeping?

6 A Yes.

7 Q His shoes were off?

8 A Yes.

9 Q And he's wearing sunglasses, right?

10 A Yes.

11 Q So it took you a while to wake him up; is that correct?

12 A Yes.

13 Q He was sound asleep when you first got there?

14 A Yeah.

15 Q In order to wake him up, you had to raise your voice; is
16 that correct?

17 A Yeah, whistle, raise the tone a little bit.

18 Q And at some point he wakes up and looks at you and
19 Mr. Lovato, correct?

20 A Yes.

21 Q And one or both of you ask him to leave?

22 A Just we informed him, like I stated already, we informed
23 him he cannot sleep on private property, he needs to get up.

24 Q And he didn't leave immediately?

25 A No, he did not.

1 Q And then you told him you were going trespass him?
2 A Once he started to become hostile, yes.
3 Q And Mr. Edwards told you, Go ahead, trespass me?
4 A Amongst other things, yes.
5 Q He told you, Call Metro?
6 A At one point I believe he did.
7 Q You didn't do that, right?
8 A No.
9 Q You just kept telling him to leave?
10 A At that point, when he told me to call Metro, he had
11 already had his hand in his pocket. If I had turned my back, I felt he
12 would have attacked me.
13 Q Didn't you testify that you didn't know what he had in his
14 pocket?
15 A He had something in his hand. I could tell he had a
16 weapon of some sort. Why does that matter?
17 Q So he stands up, right?
18 A Yes.
19 Q And your understanding was he was going to put his
20 shoes on and leave?
21 A No, he was not.
22 Q That was not your understanding?
23 A No, that was not my understanding at all. I never said
24 that.
25 MS. ODEH: If I could have just a moment.

1 Q Did you give a verbal statement to anyone right after the
2 incident?

3 A Yes.

4 Q And was that an Officer Laster, L-A-S-T-E-R?

5 A Yes, I believe so.

6 Q And isn't it correct that you told Officer Laster that
7 Mr. Edwards, quoting:

8 "He starts to kind of cooperate and puts his shoes on, and
9 gets up to put his shoes on."

10 Did you make that statement?

11 A If I did, this would be before I saw camera footage. This
12 was hours after me being attacked. So if I did, if you look at my
13 statement, I stated wrong things, because I didn't see footage of it.

14 Q So you didn't know what happened until after you saw the
15 video footage?

16 A Yes. I thought it went one way, but it was not. So once I
17 saw video footage, it was a little bit different than what I had
18 thought happened.

19 Q So this -- and the statement you gave was right after the
20 incident, correct?

21 A Yes.

22 THE COURT: Counsel, the statement's on the monitor.

23 MS. DERJAVINA: Oh, I'm so sorry. So -- thank you.

24 BY MS. ODEH:

25 Q And you also testified at a preliminary hearing in this

1 case; is that correct?

2 A Yes, I did.

3 Q And that was on July 5th, 2017; is that correct?

4 A Yeah, I believe so.

5 Q And at that time, do you recall making the statement:

6 He got up, not aggressive in his demeanor, and started to
7 say he was going to leave.

8 MS. DERJAVINA: And, Your Honor, if I could just have,
9 for reference, what page he's --

10 MS. ODEH: I apologize. Page 6.

11 MS. DERJAVINA: Thank you.

12 BY MS. ODEH:

13 Q Do you recall making that statement at the preliminary
14 hearing?

15 A I don't recall making it, but I must have. But, again, I
16 hadn't seen camera footage of that situation to that date still.

17 Q When you testified at that hearing, it was in a courtroom
18 like this one, right?

19 A Yes.

20 Q You were under oath?

21 A Yes, to my --

22 Q And there was a court reporter?

23 A Yes.

24 Q And you swore to tell the truth?

25 A From my knowledge of what the truth was. Again, I had

1 not seen camera footage of the situation. Maybe once before. I
2 saw it more yesterday and that was really it.

3 Q So you're telling us you didn't know what happened until
4 you saw the video?

5 A I knew what I thought happened, and one of the things I
6 mistaked was that he put on his shoes. Because in the video, he
7 clearly does not put on his shoes. Once he stands up, it's a matter
8 of seconds before he stabs me.

9 Q Okay. So -- and when this happened, you were working
10 for Global Security, right?

11 A Yes.

12 Q When did you start working for Global Security?

13 A September 12th, 2016.

14 Q So you'd been there about eight months?

15 A Yeah, around eight months.

16 Q You're not a police officer, right?

17 A No, I'm not.

18 Q But they call you a lieutenant?

19 A That's what, yeah, they call me.

20 Q Does that mean you're like a supervisor?

21 A Basically.

22 Q Did you -- at Global Security, did you receive any training?

23 A Just for handcuffing and mace. Just to carry it and if I
24 need to deploy mace.

25 Q Did they have a general training about how to do the job?

1 A No.

2 Q So they just give you your shirt, and you go out and
3 you're the guard?

4 A Pretty much. There's -- the first day they have you watch
5 a sexual harassment video, and you do a drug test. And then you
6 kind of start.

7 Q Do you train other people as a lieutenant?

8 A No, it's not my job. It's more on the director or the
9 assistant director.

10 Q So how would you learn what you're supposed to do
11 when you come upon any incident happening?

12 A We kind of -- we had -- the first time when I started, we
13 had a director that was mostly on shifts. As that kind of changed,
14 he wasn't there as often. But situations like that were mainly left up
15 to the director or assistant director.

16 Q So we're clear, when you're out there, you just make it up
17 as you go along?

18 A I make it up, but we have certain rules that the property
19 wants of loitering, if damages happen.

20 Q How do you know what those rules are?

21 A Loitering, if somebody's sleeping on the property, they're
22 not allowed to do that. And just basic things like that.

23 Q Is there a manual that tells you what's what?

24 A Yeah, there's a manual.

25 MS. ODEH: Judge, may I approach the witness?

1 THE COURT: You may.

2 BY MS. ODEH:

3 Q I wanted to show you what's been marked as Defendant's
4 Exhibit G for identification. Do you recognize that?

5 MS. DERJAVINA: Just for the record, I believe it's
6 proposed exhibit.

7 MS. ODEH: Oh, proposed. I apologize.

8 BY MS. ODEH:

9 Q Proposed Exhibit G. Is this the manual?

10 A Not to my recollection. I didn't get anything that
11 resembles that.

12 Q You've never seen this document?

13 A Not that -- no.

14 Q None of it? Is there any document that you reference
15 when you're doing your job on procedures and protocols?

16 A Not really. We do incident reports on situations and then
17 we have, like, a monthly manual we have to go over and just kind of
18 read through stuff. But it kind of falls in the forms of active
19 shooters, slip-and-falls, procedures like that.

20 Q Is there anything called a deescalation policy?

21 A There was one.

22 Q Is it -- what do you mean there was one?

23 A I was given one after the situation. I don't remember
24 going over one before the situation though.

25 Q Okay. And the deescalation policy, does that have steps

1 that you're supposed to take?

2 A I wouldn't know. Again, when I saw it, it was a meeting
3 that I had to go to after -- two days after being stabbed.

4 MS. DERJAVINA: And -- objection, Your Honor.

5 Relevance. I believe this was given after the incident.

6 THE COURT: Okay. I'm going to overrule the objection.

7 BY MS. ODEH:

8 Q So there is a deescalation policy, but you don't know what
9 it is?

10 A We had to do it afterwards. It was basic of, you know, if a
11 situation arises, try to deescalate it to the best of our knowledge, to
12 the best of the ability. If a situation does increase and it's available
13 to you, just deescalate and call Metro.

14 Q Step one of that policy is to call Metro, right?

15 A I would have to see it, but I know it's somewhere in there.

16 Q At any point -- strike that.

17 This situation with Mr. Edwards escalated, right?

18 A Yes.

19 Q Did you call Metro?

20 A I did not have the time to, no.

21 Q Does any part of the deescalation policy tell you to
22 withdraw if there's going to be a conflict?

23 THE COURT: Counsel, his testimony was the deescalation
24 policy was after this incident.

25 MS. ODEH: I'll withdraw that question.

1 BY MS. ODEH:

2 Q Let's look at the video. We're going to look at some of the
3 same video. This is State's Exhibit Number 3.

4 [Video played.]

5 Q Okay. And this is Mr. Edwards walking in, right?

6 A Yes.

7 Q Now, you had testified that there were -- that EDC was
8 going on, right?

9 A Yes.

10 Q And there were lots of people around?

11 A Throughout the weekend, yes.

12 Q How about now in this video? We don't see lots of people
13 around, right?

14 A No, but you see them come around later. I never said lots.
15 I gave a number of people.

16 Q So he's just walking over to the table, puts his stuff down,
17 sits down, right?

18 A And goes to sleep, yeah.

19 [Video played.]

20 Q Now, in this video, he's taking off his shoes, right?

21 A Yes.

22 Q Still just sitting there?

23 A Uh-huh.

24 Q Again, only one other person around?

25 MS. DERJAVINA: And, Your Honor, if we can just have a

1 record of the date and the time of the video, so that way we have a
2 good record regarding what we're looking at.

3 BY MS. ODEH:

4 Q What's the date and the time on this video?

5 A It's June 18th, 2017, at 6:42.

6 Q And only one other person there?

7 A Yes. But if you can see the area that's empty, there's a
8 closed-off area, so there wouldn't be people in that camera shot to
9 begin with. That's where the workers go.

10 Q Okay.

11 [Video played.]

12 Q And what's the date and time in this video?

13 A 06:42, June 18th, 2017.

14 Q Let's try that one again.

15 [Video played.]

16 Q The time here? The date and time?

17 A June 18, 2017, 6:43.

18 Q And there Mr. Edwards has got his shoes off and he's
19 going to sleep, right?

20 A Pretty much. Yes.

21 Q And it's 6:43?

22 A Yes.

23 [Video played.]

24 Q And what date and time is this video?

25 A June 18th, 2017, 6:55:57.

1 Q And in the top of the video there, while it's paused, we see
2 you and Mr. Lovato entering the screen, right?

3 A Correct.

4 Q Now we're 12 minutes after he went to sleep, right?

5 A I believe so.

6 Q Now there's nobody in the area, correct?

7 A No, there's still people at the bar. You just can't see them
8 on the camera.

9 Q Do we see any people in this view?

10 A Not in this view, no.

11 [Video played.]

12 Q And the two of you are drinking coffee?

13 A Yes.

14 MS. ODEH: I wonder if we can play this in the State's
15 computer, because for some reason it's glitching on ours.

16 MS. DERJAVINA: And that's fine.

17 [Pause in proceedings.]

18 THE COURT: Counsel approach for a minute, please.

19 [Bench conference transcribed as follows.]

20 THE COURT: I'm not sure what the issue is with the video.
21 Why are we having difficult? Is this -- this is just off -- we didn't use
22 the court's video system or?

23 MS. BROUWERS: I think -- no, no, I think my laptop is not
24 as up to date as theirs. And so for some reason, when they -- we're
25 using the same disc. So the State --

1 THE COURT: Okay.

2 MS. BROUWERS: -- [indiscernible] than we do. The State
3 has nicer laptop.

4 MS. DERJAVINA: Yes.

5 THE COURT: It's okay. Only because --

6 MR. DICKERSON: We have to share among all of us.

7 THE COURT: Okay. On the other issue I have, I -- you had
8 asked me questions about the deescalation policy and he said it
9 was instituted after this incident. Do you have a witness that's
10 going to testify they had a deescalation -- I mean, I'll let you get into
11 the deescalation policy --

12 MS. ODEH: No, we did, but --

13 THE COURT: -- if you can establish -- I don't have to call
14 this witness back, is all. So if you advise me that you have a
15 witness that's going to testify that they have a deescalation policy
16 prior to this witness, I will let you get into it. But his testimony at
17 this point is they did not have it till after. So that's why --

18 MS. DERJAVINA: And, Your Honor, I just wanted to
19 clarify --

20 THE COURT: Because she had made an objection
21 regarding that.

22 MS. ODEH: Uh-huh.

23 THE COURT: And I let you finish out your line of
24 questioning. And that's why I overruled the objection, because
25 you've already --

1 MS. ODEH: Okay.

2 THE COURT: I mean, but if you have a good faith belief
3 that they have a deescalation policy beforehand or have a witness
4 that's going to testify to that, I will let you get into the policy that
5 was in effect before the incident.

6 MS. ODEH: And, Your Honor, I apologize. I just want to
7 make the record clear regarding his testimony. What he testified to
8 is he wasn't given deescalation policy until after this incident.

9 THE COURT: So --

10 MS. ODEH: So -- and I believe his testimony was whether
11 they did or not, he doesn't know. He was talking about his own.

12 THE COURT: Okay. Well, I would let you clarify then, if
13 there was a deescalation policy in effect, he wasn't aware of it until
14 after the incident. I will let you -- because I'm not sure that's where
15 the testimony stands at this point.

16 MS. ODEH: All right. I'm not sure if I want to ask him,
17 but --

18 THE COURT: Well, that's your call.

19 MS. ODEH: Yeah.

20 THE COURT: I mean, the only issue, they had an objection
21 that was instituted afterwards. And I let you finish up that question.
22 But again, if you feel that you can make a good-faith showing that
23 there is a deescalation policy beforehand and he did know of it, I
24 would let you clarify to work on that issue.

25 MS. ODEH: Okay.

1 MS. BROUWERS: Okay. Thank you.

2 THE COURT: Thank you.

3 [End of bench conference.]

4 [Video played.]

5 BY MS. ODEH:

6 Q What's the date and time on this video clip?

7 A June 18th, 2017, at 6:56:21.

8 Q I'm going to go back and start it from the beginning again.

9 Mr. Lovato has put down his coffee, correct?

10 A Yes.

11 Q At this point?

12 A Yes.

13 Q And Mr. Edwards is still laying back like he's sleeping,
14 right?

15 A Yes.

16 Q What's the date and time on this video?

17 A June 18th, 2017, at 6:56:48.

18 [Video played.]

19 Q Now he's awake, right?

20 A Yes.

21 Q Talking back to you?

22 A Yes.

23 Q You put your coffee down, right?

24 A Yes.

25 Q Mr. Lovato's taking out his handcuffs right now, correct?

1 A I guess so.

2 [Video played.]

3 Q He just took out his mace, right?

4 A I believe so.

5 Q He's jingling those handcuffs around, isn't he?

6 A Yeah, I guess so.

7 Q Had Mr. Edwards done anything at this point besides sit in
8 the chair and sleep?

9 A He's harassed and threatened us.

10 Q He's still sitting down, right?

11 A Yeah.

12 Q How tall are you?

13 A About 6-1.

14 Q How much did you weigh at the time of this incident?

15 A About 230.

16 Q 230?

17 A Yeah.

18 Q How old are you?

19 A 23 now. I was 22 when this happened.

20 [Video played.]

21 Q You're stepping closer to him, right?

22 A Yes.

23 Q You're moving your head around quite a bit, aren't you?

24 A Yeah. I'm telling him that he needs to leave.

25 Q And as he gets up, he's stepping away, isn't he?

1 A Yes.

2 Q To the side?

3 A Yes. But he's lining me up with the hand that --

4 Q Could you just answer the question: He's stepping away,
5 right?

6 A Yes.

7 Q And you're moving towards him, right?

8 A No.

9 [Video played.]

10 Q You're telling me you're not moving towards him right
11 now?

12 A No, there's more space between us now, I've moved to
13 the side, away from whatever was in his hand.

14 Q His hand's in his pocket, isn't it?

15 A Does that matter? I'm moving away from the hand that's
16 in his pocket to move --

17 Q His hand's in his pocket, though, right?

18 A Yeah. I'm moving away from that hand.

19 Q You don't know at this point --

20 A I know there's a weapon.

21 Q -- what, if anything, is in his pocket, correct?

22 A I know something's in there.

23 Q You don't know what it is?

24 A No, I don't know what it is, but I know there's something
25 in there. He's already threatened me with it.

1 Q He didn't show you a weapon, right?

2 A Not right away, no.

3 [Video played.]

4 Q You're moving closer to him, are you not?

5 A Yes.

6 Q Now you're pointing your finger.

7 A Yes. I'm telling him to leave.

8 Q It's escalating here, right?

9 A Yes.

10 Q And here's Mr. Lovato trying to spray the mace in his
11 eyes, correct?

12 A Yes.

13 Q You're still yelling at him and pointing at him, right?

14 A Yes, my attention is on him and whatever's in that hand.

15 Q And then he sprays the mace on him. Mr. Edwards bends
16 down, correct?

17 A Uh-huh.

18 Q You don't bend down, do you?

19 A No, I back up.

20 [Video played.]

21 Q So as he's bending down, he goes to get up, and you
22 tackled him, correct?

23 A No, I did not. As he bends down, he looks up and
24 immediately turns in my direction with a weapon in his hand.

25 [Video played.]

1 Q All right. After this finishes, we'll look at it from another
2 angle.

3 Let me just ask you this: While this whole incident's
4 happening, there's no people around, right? In the immediate area?

5 A No, look. Look in the top right-hand corner underneath
6 the time. There's people starting to come around now.

7 Q And these people come with their phones to take video,
8 right?

9 A Yeah, I believe so.

10 Q They were never in danger here of being harmed at this
11 point, right?

12 A Not just yet, no.

13 [Video played.]

14 Q Okay. This is the same video -- does this look like the
15 same video we watched when you were on direct examination?

16 A Yes.

17 Q It's closer up, though, right?

18 A Yes.

19 [Video played.]

20 Q And here we see the two of you coming up to him, right?

21 A Yep.

22 Q Lovato puts his coffee down?

23 A Uh-huh. Yes.

24 Q Mr. Edwards is telling you go secure something?

25 A Yeah.

1 Q Right?

2 A Fuck off, go do your job.

3 Q Now you put your coffee down.

4 A Yes.

5 Q And here we see the handcuffs come out, then the mace

6 come out, right?

7 A I believe so. I'm not Chase Lovato, so I don't know.

8 [Video played.]

9 Q He gets up and takes a step back, correct, right there?

10 A To the side, yeah.

11 Q You're moving closer to him, right?

12 A No. Now I am, at first, like I stated before, I'm moving to

13 the side. In the video you see there's more space created when I

14 move to the side.

15 Q And now you're moving closer to him.

16 A Now I am, yes.

17 Q And pointing your hand.

18 A Yes.

19 Q He's got his hands down, right?

20 A Yeah.

21 Q And here comes the mace. Is it mace or pepper spray?

22 A Depends on what you buy, but I believe they're the same

23 thing. Mace [indiscernible].

24 [Video played.]

25 Q And what we see now is you have your hands around

1 him, right?

2 A Yep.

3 Q This isn't a situation where he was slashing the knife
4 around and you had to take him down, right?

5 A He had the knife up and was wielding it.

6 MS. DERJAVINA: Objection, Your Honor. Argumentative.
7 And I think it misstates what the video shows.

8 THE COURT: Overruled.

9 BY MS. ODEH:

10 Q It appears you're touching each other at the same time,
11 from the video, doesn't it?

12 A Possibly.

13 Q And there -- the knife just got knocked out of his hand,
14 right? And it's on the ground?

15 A Yes. That pops out.

16 Q All right. Now, I want you to watch what you do next.

17 [Video played.]

18 Q You just punched him in the face, didn't you?

19 A No, I did not. I thought the knife was still in his hand. I
20 did not touch him in the face. He head was by Officer Lovato's face.
21 I thought the knife was still in his hand and I was trying to smack
22 the back of his hand so the knife would go.

23 Q I'm going to ask you to watch that one more time.

24 [Video played.]

25 Q After the knife goes flying, do you not punch him in the

1 face?

2 A No.

3 MS. ODEH: If I could have just a moment, Your Honor.

4 Q After this incident, did you stop working at the Hawaiian
5 Marketplace?

6 A Yes.

7 Q And then after this incident, you had to go to a meeting,
8 right?

9 A Yeah.

10 Q Where you learned about the deescalation policy?

11 A Yes.

12 MS. ODEH: No other questions. Thank you.

13 THE COURT: State, any redirect?

14 MS. DERJAVINA: Just briefly, Your Honor.

15 **REDIRECT EXAMINATION**

16 BY MS. DERJAVINA:

17 Q And just going back to State's Exhibit Number 3, I want to
18 specifically go to -- let it load. I want to -- I'm going to stop it at a
19 point, it's going to be 2 minutes and 9 seconds, I believe.

20 So Defense counsel asked you questions regarding right
21 here. She stopped it at 2:09, said both of your hands are around
22 each other, yours and the defendant. Do you remember that line of
23 questioning?

24 A Yes.

25 Q Can you tell us exactly what's going on right now?

1 A In the video, I was trying to get behind him just to take
2 him down, because he was maced. So at that point, he had to be.
3 And then --

4 Q Can you -- and I don't mean to interrupt you.

5 A No.

6 Q Can we see in the video where the defendant's right hand
7 with the knife is?

8 A Yeah.

9 Q Where is it?

10 A You see it positioned back, and then you see it make a big
11 motion.

12 Q Towards what?

13 A You see the hand in a back position on his right side, near
14 his right leg. And then makes a big motion towards me.

15 Q Towards you?

16 A Yes.

17 Q Now, do you have any weapons on you at this point?

18 A No, I do not.

19 Q Do you have anything in your hands?

20 A No, I do not.

21 Q Now, Defense counsel asked you about after this incident,
22 whether you no longer worked at the Hawaii Marketplace, and you
23 said you didn't?

24 A No, I did not.

25 Q So you eventually went back to it?

1 A Yes, I did.

2 Q How long did it take you to go back?

3 A I would say about a month, little over a month, maybe.

4 Q So a little over a month, you were back to the same

5 location, working the same job?

6 A Yes.

7 Q Being a lieutenant?

8 A Yes.

9 Q Now, I want to talk to you about when you first make

10 contact with the defendant, you believe he's sleeping?

11 A Yes.

12 Q Are you allowed to sleep on private property?

13 A No, you're not.

14 Q What was your intent when you first tried to make initial

15 contact with him?

16 A I just wanted him to wake up and leave, even give him a

17 couple of minutes to get his stuff together and just go.

18 Q Was those -- were those the commands you were giving

19 him?

20 A Yes.

21 Q At any point was he listening to you?

22 A No.

23 Q At one point did your intentions change a little bit?

24 A Yes.

25 Q Okay. And what was the change?

1 A The change was just to get him trespassed from the
2 property, and again, just to have him leave.

3 Q And is it important for you to trespass somebody who's
4 becoming aggressive?

5 A Yes.

6 Q And why is that?

7 A Because then once they trespass on our private property,
8 we do have the rights to immediately detain them again if they do
9 come back onto the private property for whatever reasons.

10 Q Do you keep record of those people who have been
11 trespassed?

12 A Yes, we do.

13 Q Does that also give other security officers an idea to know
14 that a person who's been trespassed is potentially aggressive?

15 A Yes.

16 Q And did you ever put your hands on the defendant before
17 you saw the knife?

18 A No, I did not.

19 MS. DERJAVINA: Court's indulgence.

20 The State has no further questions.

21 THE COURT: Defense, any recross?

22 MS. ODEH: Yes, just briefly.

23 [Pause in proceedings.]

24 MS. ODEH: I'm sorry. Court's indulgence, please.

25 ///

1 **RECROSS-EXAMINATION**

2 BY MS. ODEH:

3 Q Again, I want to direct your attention to the preliminary
4 hearing in this case, which was on July 5th, 2017; you recall
5 testifying at that hearing?

6 A Yes.

7 Q And you were asked this question -- and you were under
8 oath, right, at that time?

9 A Yes.

10 Q And you were asked this question and gave this answer:
11 You didn't know there was a weapon until you got
12 stabbed, correct?

13 Answer: Correct.

14 You said that at the hearing, right?

15 A Lovato informed me that there was a weapon.

16 Q Did you -- you said that at the hearing, right?

17 A I believe so.

18 MS. ODEH: Nothing further.

19 MS. DERJAVINA: And, Your Honor, I would ask Defense
20 counsel to finish stating the rest of the answer, because I believe it's
21 taken out of context.

22 THE COURT: Counsel approach.

23 [Bench conference transcribed as follows.]

24 THE COURT: Did he just say correct or --

25 MS. ODEH: He's already testified to the second part of it.

1 THE COURT RECORDER: Judge, just make sure he's
2 talking in his microphone.
3 THE COURT: All right. I'm not going to require her to do
4 that.
5 MS. DERJAVINA: That's fine.
6 THE COURT: If you -- I'll let you rehabilitate his answer, if
7 you want.
8 MS. DERJAVINA: Okay. So I can --
9 THE COURT: If you want.
10 MS. DERJAVINA: Okay.
11 THE COURT: And then I'm going to allow her to --
12 MS. DERJAVINA: That's fine.
13 THE COURT: -- sur-whatever it would be, sur-sur -- so if
14 you want to leave the answer it is, I'll let you leave the answer as it
15 is. But I'm going to let them rehabilitate the answer.
16 MS. ODEH: Okay.
17 THE COURT: Okay?
18 MS. ODEH: Yeah.
19 THE COURT: All right. Take that back.
20 MS. ODEH: Thank you.
21 MS. DERJAVINA: Thank you, Your Honor.
22 [End of bench conference.]
23 MS. ODEH: Nothing further.
24 THE COURT: State?
25 MS. DERJAVINA: Just the brief.

1 **FURTHER REDIRECT EXAMINATION**

2 BY MS. DERJAVINA:

3 Q Sir, Defense counsel just asked you about your previous
4 testimony, where you were asked -- you didn't know there was a
5 weapon until you got stabbed, correct?

6 A Yes.

7 Q And you answered, Correct?

8 A Yes.

9 Q But you continued, saying:

10 I know there was something when he put his hand in his
11 pocket. And I said I -- and said I have mine, referring to I have
12 mine with me.

13 That was the full extent of your answer?

14 A Yes.

15 MS. DERJAVINA: Nothing further, Your Honor.

16 THE COURT: Defense?

17 MS. ODEH: Nothing further.

18 THE COURT: Can this -- I know, I am going to -- is there
19 any -- Mr. Stevenson, any questions from the jury?

20 THE MARSHAL: Yeah, I've got one. Maybe two.

21 THE COURT: Counsel approach.

22 MS. DERJAVINA: Yes, Your Honor.

23 [Bench conference transcribed as follows.]

24 THE COURT: All right. So the first one is how long in
25 hospital. I don't have a problem with that one. It's the -- any of the

1 parties?

2 MS. BROUWERS: No, that's fine.

3 MS. ODEH: That's fine.

4 THE COURT: So I'll ask that one.

5 Obviously, after I ask these questions, you can ask
6 follow-up questions based on the jury's questions.

7 MS. BROUWERS: Uh-huh.

8 THE COURT: Okay. Okay. The first part of the question
9 seems to be -- it says, Return to work at a different location, is the
10 company policy for your request? Let's see -- do you have a
11 problem with that? Any objection?

12 MS. BROUWERS: I think it's okay with me.

13 MR. DICKERSON: No, I --

14 MS. BROUWERS: I don't know if he's going to have the
15 [indiscernible].

16 MR. DICKERSON: No, they actually --

17 THE COURT: So the parties have no objection for this
18 question?

19 MS. DERJAVINA: Yeah.

20 MS. BROUWERS: Correct.

21 THE COURT: There is a little notation at the bottom, but
22 that is not a question. It just says --

23 MR. DICKERSON: Yeah, I don't think that --

24 THE COURT: -- loitering versus trespassing.

25 MS. DERJAVINA: Yeah. We just don't read it -- that out

1 loud.

2 THE COURT: I'm not going to ask that, because it's not in
3 the form of a question. Okay.

4 I'm not quite sure what the one word is. Maybe counsel
5 can --

6 MS. BROUWERS: [Indiscernible] length of knife.

7 THE COURT: So what is the word?

8 MS. DERJAVINA: Yeah. [Indiscernible.]

9 THE COURT: Say again?

10 MS. DERJAVINA: Can I see it for a second?

11 THE COURT: Sure.

12 MS. DERJAVINA: Sorry. Wielding a knife, length of
13 blade. Yeah.

14 MR. DICKERSON: I think --

15 MS. DERJAVINA: Yeah.

16 THE COURT: What is it?

17 MS. BROUWERS: Well, it's not really --

18 MS. DERJAVINA: Was this a folding knife? Length of
19 blade? We just -- we -- it's kind of confusing [indiscernible].

20 THE COURT: Okay. So I'll ask them --

21 MS. BROUWERS: Probably not appropriate for this
22 witness.

23 THE COURT: Was this a folding knife? And then the
24 second part, What's the length of the blade?

25 We have a -- the knife and --

1 MR. DICKERSON: Yeah.

2 THE COURT: -- and a picture of knife in evidence. But
3 again, unless --

4 MS. DERJAVINA: And we'll -- we actually -- the actual
5 knife that's being --

6 THE COURT: So I'm going to ask this: Was this a folding
7 knife? What was the length of the blade, if you -- is that acceptable
8 to the parties?

9 MS. BROUWERS: My concern is he is not going to be
10 [indiscernible].

11 THE COURT: Okay.

12 MS. BROUWERS: [Indiscernible.]

13 THE COURT: Let him -- I'm going to let him -- he observed
14 the knife. So we had -- the knife is in evidence, I mean, a picture of
15 the knife is in evidence?

16 MS. DERJAVINA: And the actual knife.

17 THE COURT: Huh?

18 MS. ODEH: And the knife itself.

19 MS. BROUWERS: [Indiscernible.] That's based on
20 hearsay --

21 THE COURT: Okay.

22 MS. BROUWERS: -- like 1-inch blade, then that's based on
23 hearsay.

24 THE COURT: Okay. What if I ask do you know the length
25 of the blade?

1 MS. DERJAVINA: My only concern is that it --
2 MR. DICKERSON: I think that we just object to the entire
3 thing. It should be -- we shouldn't be rephrasing the question.
4 MS. DERJAVINA: Yeah, that's my concern.
5 THE COURT: So the parties object to this question?
6 MS. DERJAVINA: Yeah.
7 MS. BROUWERS: Yeah.
8 MS. DERJAVINA: I think it's confusing.
9 THE COURT: So I'm not going to give this question?
10 MS. ODEH: Right.
11 MS. DERJAVINA: Yes.
12 THE COURT: Because of the parties' objection. Both
13 parties are objecting.
14 MS. DERJAVINA: Yes. Yes, Your Honor.
15 THE COURT: Okay. I won't give this one. Okay.
16 The next one is how long or how many times did you
17 something exchange your request to leave the property. I'm not
18 sure what this word is right here.
19 MS. DERJAVINA: Okay. Get -- may we see it? I think
20 exchange -- I think exchange or request to leave the property. I
21 think it's exchange. Right?
22 MS. BROUWERS: Is that verbally? Or is it just scratched
23 out, like, whoops, I didn't mean to write that?
24 MS. DERJAVINA: I think it's scratched out.
25 MS. BROUWERS: Okay.

1 MS. DERJAVINA: Yeah. I think -- to me, it reads how long
2 or how many times did you exchange your request to leave the
3 property. How long or how many times did you exchange your
4 request to leave the property. I think it's exchange.

5 THE COURT: [Indiscernible.]

6 MR. DICKERSON: I don't believe that's a word before
7 exchange. I think they just --

8 MS. DERJAVINA: Yeah, the scratched it out.

9 THE COURT: Oh, I see what you're saying.

10 MS. DERJAVINA: Yeah.

11 THE COURT: So the question is: How long or how many
12 times did you exchange your request to leave the property?

13 MR. DICKERSON: Okay.

14 MS. DERJAVINA: No objection.

15 THE COURT: State -- Defense?

16 MS. ODEH: [Indiscernible.]

17 THE COURT: Oh, you want me to break it into two
18 question? How long -- how long --

19 MS. ODEH: I think the question how many times is
20 probably appointment. How long is [indiscernible], watch the
21 video.

22 MS. DERJAVINA: That's --

23 MR. DICKERSON: I think we're fine what it is.

24 MS. DERJAVINA: Yeah.

25 THE COURT: All right. I'm just going to ask him is a -- if

1 he can understand it --

2 MS. ODEH: Okay.

3 THE COURT: - and you'll, you know, obviously, have the
4 opportunity to ask follow-up questions. And then the last one is:
5 Did Global Security have deescalation policy before the incident?
6 And a witness wasn't aware of it or a policy established after the
7 incident?

8 MS. BROUWERS: That's fine with us.

9 THE COURT: Yeah, I'll give that one.

10 MS. BROUWERS: That's fine.

11 THE COURT: So both the parties agree I can give that
12 one?

13 MS. BROUWERS: That's fine.

14 MS. DERJAVINA: If we can just make these a part of the
15 record?

16 THE COURT: Huh?

17 MS. DERJAVINA: If we can just make these part of the
18 record.

19 THE COURT: They'll be -- yes. So Mr. Castle, can you
20 come here for something?

21 On the jury questions, the ones I give will be a court's
22 exhibit, correct?

23 THE COURT CLERK: [Indiscernible.]

24 THE COURT: And then the one I don't give will also be a
25 court exhibit, though, show not given.

1 THE COURT CLERK: Yes.
2 THE COURT: Okay.
3 MS. DERJAVINA: That's fine. Yes.
4 THE COURT: Thank you.
5 MS. DERJAVINA: Thank you.
6 MS. BROUWERS: Okay. Thank you.
7 [End of bench conference.]
8 THE COURT: Sir, how long were you in the hospital?
9 THE WITNESS: A day.
10 THE COURT: When you returned to work at a different
11 location, was it the company policy or your request?
12 THE WITNESS: It was company policy.
13 THE COURT: How long or how many times did you
14 exchange or request to leave the property?
15 THE WITNESS: Multiple times. Several, more.
16 THE COURT: Did Global Security have a deescalation
17 policy before the incident and you weren't aware of it? Or was a
18 policy established after the incident?
19 THE WITNESS: I'm not sure I can give you the exact
20 answer. But from my knowledge, I wasn't -- it wasn't gone over
21 with me.
22 THE COURT: Okay. State, any questions?
23 MS. DERJAVINA: Court's indulgence.
24 Just briefly, Your Honor.

25 ///

1 **ADDITIONAL REDIRECT EXAMINATION**

2 BY MS. DERJAVINA:

3 Q Sir, you didn't mention that you were out of work for a
4 week?

5 A Yes.

6 Q Was that due to the injuries --

7 MS. ODEH: Objection. This is beyond the scope of these
8 questions.

9 MS. DERJAVINA: May we approach, Your Honor?

10 THE COURT: Yes.

11 [Bench conference transcribed as follows.]

12 THE COURT: Okay. His answer was -- the question was:
13 How long were you in the hospital? He said one day.

14 MR. DICKERSON: And then were you out of work, was
15 that policy or was that your choice?

16 MS. BROUWERS: No, the question was when you went
17 back to work, you went to a different location; was that a policy or
18 was that your choice?

19 MR. DICKERSON: So it's all within the scope.

20 MS. DERJAVINA: [Indiscernible] because of how long he
21 stayed at the hospital. That also suggests --

22 THE COURT: Okay. You asked how long he stayed --
23 you -- actually went over this in your direct.

24 Mr. Castle, bring the questions back.

25 MS. ODEH: No, I just -- I saw the questions about the

1 hospital. But State's position --

2 MS. DERJAVINA: I asked him about [indiscernible] how
3 long he's been in the hospital.

4 THE COURT: Okay. So the questions, basically, were how
5 long were you in the hospital?

6 MS. DERJAVINA: Uh-huh.

7 THE COURT: I -- grammatically, I made it grammatically
8 proper. And then when you returned to work at a different location,
9 was it the company policy or your request? And that was about the
10 extent of how long he was out. Those were the only two questions.
11 So, you know, you can ask him about his hospital visit and things of
12 that nature. But why do you want to get into how long he was out
13 of work?

14 MS. DERJAVINA: I was just finishing the statement
15 [indiscernible].

16 THE COURT: Huh?

17 MS. DERJAVINA: State's position is that as to the extent
18 of his injuries, how long he stayed -- how long he was in the
19 hospital. But the State's asking the extent of his injuries. That's
20 what my position it.

21 THE COURT: Okay. I'll give you a little bit of leeway. But
22 you've already went over this in your direct. These are just --

23 MS. BROUWERS: Correct. And, Your Honor, I think the --
24 I mean, the way examinations work is you have to narrow, narrow,
25 narrow, narrow. And now we're opening doors back up about --

1 MS. DERJAVINA: State's position we're not opening the
2 door, the jury opened the door by asking the extent of his injuries,
3 how long he spent in the hospital.

4 THE COURT: No, no.

5 So they didn't ask the extent of his injuries, they asked
6 how long did you stay in the hospital.

7 THE COURT: They asked how long were you in the
8 hospital. So I will give you some leeway as far as how long he was
9 in the hospital, when he was released, and the injuries that were
10 treated [indiscernible] what he was -- why he was in the hospital.

11 MR. DICKERSON: They also asked about him returning to
12 work. And so I think --

13 THE COURT: No, they didn't ask about him returning to
14 work.

15 MR. DICKERSON: At a different location. I think it all
16 comes into play, Your Honor.

17 THE COURT: They asked him --

18 MR. DICKERSON: I mean, alternatively, I guess we could
19 recall him on direct.

20 THE COURT: Well, here's what they asked. They were
21 basically asking him, When you returned at work at a different
22 location, was it the company policy or your request? It wasn't --
23 had nothing to do with his injuries. They were asking him why he
24 didn't go back to the same location. Did he request to be in a
25 different location. And you can ask follow-up questions regarding

1 that. But I think -- and you can ask questions regarding his -- why
2 he was in the hospital, why he was there for a day, what treatment
3 he received, things of that nature.

4 But I think once he was released from the hospital, if you
5 can also get into why he didn't go back to that location. If it had
6 something to do with the fact that he was out for a prolonged
7 period of time, if you can tie it into that, because you're right, that
8 was the second question. But I'm not going to let you go back
9 into --

10 MS. DERJAVINA: Okay.

11 THE COURT: -- his injuries at home and, you know, that
12 he bled from --

13 MR. DICKERSON: When he returned to work, those --

14 THE COURT: -- the -- you know, if the reason that he was
15 at a different location is because he was out for a month or
16 something like that, you know, you could probably get into that as a
17 follow-up question. But we're not going to go back into the injuries
18 and that he bled for however period of time --

19 MR. DICKERSON: Yeah.

20 THE COURT: -- because [indiscernible] home.

21 MS. BROUWERS: I just want to make sure I'm clear and
22 understanding. So they're not going to be permitted to ask more
23 questions about what treatment did you receive while you were
24 there? Because the question the jury asked was how long?

25 THE COURT: Well, I think as a follow-up as why he was in

1 for a day, counsel. I think that is an appropriate follow-up, is why
2 was he there for a day?

3 MS. BROUWERS: Okay.

4 THE COURT: I do think that's appropriate, to ask why he
5 was in -- why were you in the hospital for a day? He -- they can
6 follow up with that, as you can. And then I think they can establish
7 why he was at a different -- why he went to a different location.

8 MR. DICKERSON: And we can request -- we can ask when
9 he returned to work.

10 THE COURT: You can ask when he returned to work.

11 MR. DICKERSON: That's fine. Thank you, Your Honor.

12 MS. BROUWERS: Thank you.

13 MS. DERJAVINA: Court's indulgence.

14 [End of bench conference.]

15 BY MS. DERJAVINA:

16 Q Just one question. When did you return to work after the
17 incident?

18 A Just in general? Or back to Hawaiian Marketplace?

19 Q Just in general.

20 A I believe it was the following Sunday. I just did a very,
21 very minimal job. They put me at a model home site and I just
22 monitored it.

23 Q You said --

24 A That was the following week.

25 Q So a week later?

1 A Yes.

2 Q All right. Thank you.

3 MS. DERJAVINA: Nothing further.

4 THE COURT: Defense, any supplemental questions?

5 MS. ODEH: Yes, thank you.

6 **ADDITIONAL RECROSS-EXAMINATION**

7 BY MS. ODEH:

8 Q You said you were in the hospital for a day, right?

9 A Yes.

10 Q A day is 24 hours; how many hours were you in the
11 hospital?

12 A I arrived probably some time around 7:00, and then I left I
13 think sometime around maybe noon.

14 Q So you were treated in the emergency room and released,
15 correct?

16 A I was treated, the tests were done, and I was released after
17 they bandaged up my wounds.

18 MS. ODEH: No other questions.

19 THE COURT: Can this witness be excused?

20 MS. DERJAVINA: Yes, Your Honor.

21 MS. ODEH: Yes.

22 THE COURT: Sir --

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: -- you can be excused.

25 THE WITNESS: Thank you very much.

1 THE COURT: State, do you have additional witnesses?

2 MS. DERJAVINA: Yes, Your Honor.

3 State calls Chase Lovato.

4 **CHASE LOVATO,**

5 [having been called as a witness and first duly sworn, testified as
6 follows:]

7 THE COURT CLERK: Please be seated. Would you please
8 state and spell your name for the record.

9 THE WITNESS: Chase Lovato, C-H-A-S-E, L-O-V-A-T-O.

10 MS. DERJAVINA: May I proceed, Your Honor?

11 THE COURT: You may.

12 MS. DERJAVINA: Thank you.

13 **DIRECT EXAMINATION**

14 BY MS. DERJAVINA:

15 Q Hi, sir, how are you?

16 A [No audible response.]

17 Q Sir, how are you employed? How are you employed?

18 A I'm currently employed with Caesar Entertainment.

19 Q And in what capacity?

20 A I'm having a hard time hearing you.

21 Q I apologize. Can you hear me better now?

22 A Yes.

23 Q In what capacity?

24 A Security officer.

25 Q I want to bring your attention to June 18th of 2017; were

1 you working a different job at that time?

2 A Yes.

3 Q What were you working?

4 A Global Security Concepts.

5 Q And what was your job there?

6 A Security officer.

7 Q And on June 18th, 2017, approximately how long did you
8 work?

9 A Going on 11 months.

10 Q Now, do you remember what shift you were working that
11 day?

12 A I double shift. I had just got done with my graveyard shift,
13 and I was starting the morning shift.

14 Q So you were starting a second shift?

15 A Yes.

16 Q Around 6:30 in the morning, what were you doing?

17 A Starting -- ending my patrols.

18 Q And what do you mean by patrols? What does that
19 mean?

20 A Roughly every 30 minutes to an hour, we'd patrol the
21 property.

22 Q Now, what were you wearing that day?

23 A A neon highlighter-green security shirt.

24 Q Did he have any writing on it?

25 A Yes.

1 Q What was the writing?

2 A Security.

3 Q Did you have any times that you use within your capacity
4 as a security officer on you?

5 A Yes.

6 Q And what were those?

7 A Flashlights, pair of handcuffs.

8 Q Anything else?

9 A And personal stuff --

10 Q No, things that --

11 A -- or just for the position?

12 Q Things that we use within your position as a security
13 officer?

14 A Just the badge, handcuffs, flashlight.

15 Q As you were doing your patrols, did you come into
16 contact with anyone you see in the courtroom today?

17 A Yes.

18 Q Can you please point to that person and identify
19 something that person is wearing?

20 A White.

21 Q White what?

22 A White shirt.

23 MS. DERJAVINA: Your Honor, let the record reflect the
24 witness has identified the defendant.

25 THE COURT: The record will so reflect.

1 BY MS. DERJAVINA:

2 Q And how did you first see the defendant?

3 A At around 6:00, 6:15, near the beginning of my shift, in a
4 chair sitting down.

5 Q And where was he sitting down?

6 A In front of DJ's Tacos.

7 Q Now, just to kind of back up, but was the area that you
8 were patrolling called the Hawaii Marketplace?

9 A Yes.

10 Q And is the DJ Taco shop in that location?

11 A Yes.

12 Q What happened when you first saw the defendant?

13 A I noted the time he was sitting down and continued my
14 patrols.

15 Q Did you make contact with him initially?

16 A No.

17 Q And why did you not?

18 A To give leeway, just in case he moved or left on his own. I
19 didn't want to just bug people sitting down.

20 Q Did you know when he sat down at that point?

21 A I noticed him at around, like I said, 6:00, 6:15. But I did not
22 see him initially sit down.

23 Q So you don't know how long he was there?

24 A No.

25 Q So you didn't want to bother him because you didn't

1 know how long he was there?

2 THE COURT: Sir --

3 THE WITNESS: Yes.

4 THE COURT: -- thank you. You have to answer verbally,
5 because we have a court recorder.

6 THE WITNESS: Yes.

7 THE COURT: Thank you.

8 MS. DERJAVINA: Thank you, Your Honor. I apologize.

9 BY MS. DERJAVINA:

10 Q Now, so you said you continued with your patrol?

11 A Yes.

12 Q Was there a later time where you saw the defendant
13 again?

14 A Yes.

15 Q And where did you see him?

16 A In the same position.

17 Q Was anybody else with you?

18 A At that time, that was when I was with my supervisor.

19 Q And who was your supervisor at that time?

20 A William Allison.

21 Q So what happened when you saw him the second time?

22 A We made contact.

23 Q And what do you mean made contact?

24 A We went over to advise him about sleeping on property.

25 Q Was he allowed to sleep on property?

1 A No.

2 Q So what happens when you first make contact with him;
3 what do you do?

4 A I whistle at him to get him from a distance, because I did
5 not want to yell early in the morning.

6 Q Did you make any verbal commands?

7 A Not at first. When we finally got up to him, I did go, Good
8 morning, sir.

9 Q And what was the purpose of that?

10 A To get his attention.

11 Q Were you able to initially get his attention?

12 A No.

13 Q So what did you base on -- what did you do based on
14 that?

15 A Tried again.

16 Q Were you able to make -- get his attention at that point?

17 A Yes.

18 Q And what happened when you got his attention?

19 A He looks at us and he says, Leave me alone, go get
20 security.

21 Q And what was your response to when he says, Go get
22 security?

23 A Tell him, We are security, sir. You cannot be sleeping on
24 private property.

25 Q So you inform him that you actually are the security for

1 the property?

2 A Yes.

3 Q And then you stated you told him, You can't be on the
4 property?

5 A Not sleeping on property.

6 Q Did you ask him to leave?

7 A Before I was able to ask him to leave, he rebuttals with,
8 Leave me alone, go get security and go secure something else.
9 And that is when we inform him, It is time to leave the property, sir.

10 Q So does he listen to you and try to leave the property?

11 A No.

12 Q What does he do?

13 A I cannot recall the precise words. However, the gist was,
14 leave me alone, I'm not leaving.

15 Q And what do you tell him based on him telling you he's
16 not leaving?

17 A We are going to trespass you from the property.

18 Q And what happens when you tell him you're going to
19 trespass him?

20 A Progressively, his tone is getting louder and now he is
21 telling us leave him the fuck alone. At this point, my supervisor
22 tells him, We're going to trespass you until you leave property.
23 And he goes, You ain't going to do shit. Says, I'm going to fuck you
24 up, white-ass honky.

25 Q Okay. So you say he said, I'm going to fuck you up,

1 white-ass honky?

2 A Yes.

3 Q Who was he directing that to?

4 A He's directing that to my supervisor.

5 Q So what do you do based on that?

6 A I let them speak, because at this point I noticed his hand
7 go in his pocket and reach for what looked like the butt of a blade.

8 Q So I want to go to that. So you say there's a point where
9 you notice his hand go into his pocket; what pocket was it?

10 A His right-hand pocket.

11 Q And where were you standing in comparison -- first of all,
12 I apologize. I'll back up.

13 Was he sitting? Was he standing --

14 A He's still sitting at this point.

15 Q And where were you in relations to where he was sitting?

16 A I was standing to his right-hand side.

17 Q So you're on the side of the pocket where he put his
18 hand?

19 A Yes.

20 Q Okay. And you said you can see something in that
21 pocket?

22 A Yes.

23 Q And what was it?

24 A The silver sheen of the butt of a blade.

25 Q Does that catch your attention?

1 A Yes.

2 Q Okay. Based on that, do you or Lieutenant Allison give
3 any command to Defendant?

4 A Yes. I tell him to keep -- to remove his hand out of his
5 pocket.

6 Q Does he do that?

7 A No.

8 Q Do you ask that once of him?

9 A Multiple times.

10 Q Does he ever?

11 A No.

12 Q So as you're asking him to take his hand out of his pocket,
13 and he's refusing, what do you do?

14 A I inform my supervisor that he has a knife in his pocket.

15 Q Do you yell that out loud?

16 A No.

17 Q How do you say it?

18 A I whisper it to him.

19 Q Why do you whisper it?

20 A Because there was people around and I did not want to -- I
21 didn't want to cause alarm.

22 Q Did you want the defendant to know that you've noticed
23 that he has a knife?

24 MS. ODEH: Objection. Leading.

25 THE COURT: Overruled. He can answer. It's a

1 foundational question.

2 THE WITNESS: What was that? Can you repeat?

3 BY MS. DERJAVINA:

4 Q Now I forgot the question that I asked you.

5 Did you want the defendant to know that you were aware
6 that he had a knife?

7 A Yes.

8 Q Okay.

9 A Because at that point I did tell him, Sir, you must remove
10 your hands out of your pocket, or you'll be maced.

11 Q So you informed him that if he doesn't remove his hand
12 out of his pocket --

13 A Yes.

14 Q And I'm just going to stop you for a second. I don't mean
15 to interrupt you, it's just very important that you and I don't
16 interrupt each other, because she's writing down everything that
17 we say. And, unfortunately, she can't write two things at once.

18 So there's a point where you actually inform the
19 defendant that if he doesn't take his hand out of his pocket, you're
20 going to mace him?

21 A Yes.

22 Q Does he take out his hand?

23 A No.

24 Q Okay. What does he continue to do?

25 A Get verbally violent with my supervisor as he's being

1 trespassed from property.

2 Q What do you mean verbally violent?

3 A As my supervisor is trespassing him from property, he
4 informs him that -- one thing I do remember is, I'm going to stitch
5 you up. Then the rest of it, in gist, is, I'm just going to kill you guys.

6 Q So what you're saying is you don't remember the exact
7 words, except the one thing that you do remember is him saying,
8 I'll stitch you up?

9 A Yes.

10 Q And what does that mean to you?

11 A That he was --

12 MS. ODEH: Objection.

13 THE COURT: I'll let him answer. Overruled.

14 BY MS. DERJAVINA:

15 Q What did that mean to you when he said that?

16 A That he was going to cut him deep enough where he was
17 going to need stitches.

18 Q Have you heard that saying before?

19 A Yes.

20 Q But the rest you don't remember, you just remember kind
21 of the meaning that you got from what he was saying?

22 A The gist of what was going on was threats against our
23 lives, and racial slurs.

24 Q What do you mean racial -- first of all, who was saying the
25 racial slurs?

1 A Do I point?

2 Q You can point or say?

3 A [Witness points.]

4 MS. DERJAVINA: And just for the record, he's pointing to
5 the defendant.

6 THE COURT: The record will so reflect.

7 BY MS. DERJAVINA:

8 Q Okay. So the defendant's saying racial slurs; what is he
9 saying?

10 A As I said before, he called him a white-ass honky. I
11 remember him calling us pigs. And so on and so forth. I -- the gist
12 is still there.

13 Q Now, is there a point where the defendant gets up?

14 A Yes.

15 Q And what happens as he gets up?

16 A We informed him that, because he has refused to leave
17 property after being trespassed not to, we were going to enact a
18 citizen's arrest. And he gets up.

19 Q Okay. So you inform him that he's being trespassed.
20 Even after that, he's still refusing to leaving. Then you're going to
21 do a citizen's arrest?

22 A Yes.

23 Q Now, when he gets up, what is his demeanor like?

24 A Fidgety, I would say, but quick. At one point, he arches
25 his shoulders up and leans with his left foot forward, like as if he's

1 going to attack my supervisor.

2 Q So is he being compliant when he gets up?

3 A No.

4 Q Is he trying to put his shoes on?

5 A No.

6 Q Is he trying to gather his stuff?

7 A No.

8 Q So he's not trying to leave?

9 A No.

10 Q And as he gets up and he's acting in that manner, what
11 happens?

12 A I keep informing him, you are -- if you do not remove your
13 hands from your pocket, you'll be maced. And that's when I tried to
14 mace him once, I realize I am not holding the mace gun properly. I
15 readjusted my hand and he still has not noticed, and I mace him.

16 Q Now, as you're making commands about removing his
17 hands out of his pockets, that he needs to leave, are you keeping an
18 eye on the right hand in the right pocket?

19 A The whole time.

20 Q And what made you mace the defendant at the moment
21 that you did?

22 A I was almost certain that there was no way to deescalate
23 the situation anymore. It was only going to involve into violence.

24 Q Was there something about his demeanor that made you
25 think that at that point?

1 A Yes. He was in a stance to fight.

2 Q So it was his body, the way that his body --

3 A Yes.

4 Q -- the way he was standing?

5 A Yes.

6 Q So you said you maced him and what happens?

7 A I mace him. My supervisor gets some splashback. And

8 he goes in to detain him.

9 Q What do you mean splashback?

10 A Because he was wearing sunglasses, I tried to get

11 underneath the sunglasses, but some of it still hit the sunglasses

12 and hit my supervisor in the face.

13 Q So, ultimately, Lieutenant Allison gets some of the mace

14 on his?

15 A Yes.

16 Q And -- so once he does that, you say that he then tries to

17 detain him?

18 A Yes.

19 Q Exactly what happens? What do you see?

20 A He goes in and grabs him from around the waist. And

21 that's when I notice two swinging motions on him. And that's

22 when I knew he got stabbed twice.

23 Q What do you mean by swinging motions? Can you show

24 us?

25 A He pulled his hand out of his pocket from behind his back,

1 went in like this --

2 Q I'm going to stop you for a second.

3 MS. DERJAVINA: So just for the record, what the witness
4 did is did a motion, as you -- like he was removing something from
5 his right pocket, put his hand over his head, and did a swinging
6 motion over his head.

7 THE COURT: Record will so reflect.

8 MS. DERJAVINA: Okay.

9 BY MS. DERJAVINA:

10 Q So how many times did he do that?

11 A Twice.

12 Q So based on that, what was your belief that -- what
13 happened to Lieutenant Allison?

14 A He was stabbed.

15 Q So what did you do, based on that?

16 A That I had to try and neutralize him before he could kill
17 Allison.

18 Q So what did you do in order to try to neutralize him?

19 A I move to his blind side and I pick him up from the back of
20 his left arm and his chest.

21 Q And why do you do that? Why do you go behind him?

22 A I was trying to get a hold of his right arm, but I missed.

23 Q So you weren't able to get a hold of his right arm?

24 A No.

25 Q What happened at that point?

1 A He stabbed me.

2 Q Where?

3 A In the back of my right thigh.

4 Q So you can actually feel the stab?

5 A It felt like a punch.

6 Q So you initially didn't realize it was a stab, you just felt

7 something in the back of your right thigh?

8 A I had too much adrenaline pumping through me.

9 Q So what happens once you feel that -- something hit the

10 back of your right thigh, what do you do?

11 A I keep telling him to stop resisting.

12 Q Does he stop resisting?

13 A Eventually.

14 Q What happens to the knife?

15 A We're able to get the knife loose from his grasp and it lies

16 in, like, in a forward direction.

17 Q What about your mace, what happens?

18 A We land on it and it breaks.

19 Q Now, I want to show you State's Exhibit 20.

20 MS. DERJAVINA: Is there any way to turn the ELMO on,

21 please.

22 I think it's showing that, it's just not showing the big one.

23 Like I said, technology, always something.

24 We just need a second for him to figure that out.

25 [Pause in proceedings.]

1 MS. DERJAVINA: Okay. Perfect. Thank you.

2 BY MS. DERJAVINA:

3 Q All right. So showing you State's Exhibit 20. Do you
4 recognize that?

5 A Yes.

6 Q Okay. How do you recognize that?

7 A That was my personal mace.

8 Q Okay. Was that the mace that you had that day?

9 A Yes.

10 Q So one of the other items that you had on you was a
11 mace?

12 A It was my personal mace.

13 Q Now, as part of your job as a security officer for Global
14 Security Concept, are you supposed to carry mace?

15 A Yes.

16 Q Does the company provide it for you or do you purchase
17 it?

18 A You must buy it on your own.

19 Q So you said it's your personal one, because you bought it?

20 A Yes. And because before you are allowed to carry it on
21 you, you are supposed to go through training.

22 Q Okay. Showing you State's Exhibit 31; do you recognize
23 this?

24 A Yes.

25 Q Okay. How do you recognize this?

1 A That is the knife that was used in the attack.

2 Q Now, actually, going back to the knife that's being used in

3 the attack, at some point, you're able to -- I'll rephrase it.

4 Are you able to get the knife away from the defendant?

5 A Yes.

6 Q Okay. What happened to that knife?

7 A I retrieve it.

8 Q And what do you do with it?

9 A I bring it up to our security office for evidence.

10 Q So you're the one who actually picked it up from that

11 location and brought it to the security?

12 A Yes.

13 Q Okay. Showing you State's Exhibit 30. Let me zoom out

14 just a little bit. Do you recognize this?

15 A Yes.

16 Q Okay. How do you recognize that?

17 A That is a knife.

18 Q And what knife is that?

19 A That -- the same knife that was used in the attack.

20 Q The same knife that we saw in State's Exhibit 31?

21 A Yes.

22 MS. DERJAVINA: Your Honor, may I approach the

23 witness?

24 THE COURT: You may.

25 BY MS. DERJAVINA:

1 Q And I'm showing you what has been marked as State's
2 Exhibit 1.

3 MS. DERJAVINA: Your Honor, is it okay if I grab one of
4 the gloves?

5 THE COURT: That's fine.

6 BY MS. DERJAVINA:

7 Q Do you recognize this?

8 A Yes.

9 Q How do you recognize that?

10 A That is the knife that was used in the attack.

11 Q Okay. So this is the knife that you picked up and then
12 brought to the security?

13 A Yes.

14 MS. DERJAVINA: And just for the record, Your Honor, the
15 knife appears to have come loose from the secured location, so I'm
16 just going to put it back. Defense counsel wants me to approach?

17 MS. ODEH: I just -- I'll just take a look. Oh, it came out of
18 the thing?

19 MS. DERJAVINA: Yeah.

20 MS. ODEH: Okay. That's fine.

21 BY MS. DERJAVINA:

22 Q So if you look at this knife, and I'm going to be showing it
23 to the jury as I'm talking about it, what's the color of the butt of the
24 knife?

25 A Silver.

1 Q Is that what you saw when you saw the defendant's hand
2 inside his right pocket?

3 A Yes.

4 Q Now, at some point, did Metro arrive on the scene?

5 A Yes.

6 Q Okay. Does -- do EMTs arrive on the scene?

7 A Yes.

8 Q And are you rendered medical help?

9 A Yes.

10 Q And then are you ultimately taken to the hospital?

11 A Yes.

12 Q Showing you State's Exhibit 24; do you recognize this?

13 A That's me.

14 Q And where are you?

15 A I am at UMCT intensive care unit.

16 Q So this is the intensive care unit you knew you were after
17 you got stabbed?

18 A Yes.

19 Q I'm showing you State's Exhibit 21; what are we looking at
20 here?

21 A The back of my right leg.

22 Q Okay. And is there something on the back of your right
23 leg?

24 A Yes, that is where I got stabbed.

25 Q And can we actually see the blood coming out of the

1 wound?

2 A Yes.

3 Q Showing you State's Exhibit 23. I'm going to zoom in.
4 Okay. Is this another picture of the wound, but this time you're in
5 the hospital?

6 A Yes.

7 Q Showing you State's Exhibit 22; what are we looking at
8 here?

9 A The stab wound.

10 Q Showing you State's Exhibit 26. I'll zoom out. Do you
11 recognize this?

12 A Yes.

13 Q How do you recognize this?

14 A Those are my work pants.

15 Q Were those the pants that you were wearing that night?

16 A Yes.

17 Q And showing you State's Exhibit 27; is that a closer
18 picture?

19 A Yes.

20 Q Can what can we see in State's Exhibit 27?

21 A You can see the blood from the stab wound on the pants.

22 Q I'm showing you State's Exhibit 25; what are we looking at
23 here?

24 A That is the underwear I was wearing.

25 Q So is --

1 A And that is the blood that was from my stab wound on the
2 bottom of it.

3 Q So you can see where the blood is, is where you got
4 stabbed?

5 A Yes.

6 Q Now, when you got -- after you got stabbed and you
7 sustained an injury, did you feel pain?

8 A Yes.

9 Q And what kind of pain; can you describe it?

10 A At first it was just hard to stretch the leg. It felt
11 uncomfortable. Felt like a really nasty bruise.

12 Q Could you put a lot of weight on that leg?

13 A No.

14 Q And how long did that last?

15 A About a month.

16 Q Did you also have a scar after that?

17 A Yes.

18 Q Showing you State's Exhibit 28. I'm going to zoom in, just
19 because, unfortunately, the coloring of the ELMO is kind of similar
20 to the photograph. So maybe that was a little too much. Okay.

21 Do you recognize this photo?

22 A Yes.

23 Q Okay. And what is this?

24 A That is the scar that was stayed or has left behind from
25 the stab wound.

1 Q And what -- who took this photograph?

2 A I did.

3 Q And when did you take that?

4 A Two days ago.

5 Q So very recently?

6 A Yes.

7 Q Now, I'd like to video a couple of videos with you. So just
8 for the record, I'm going to be showing you videos from State's
9 Exhibit Number 3.

10 [Pause in proceedings.]

11 MS. DERJAVINA: Sorry, it just takes a little second to load
12 it up.

13 [Video played.]

14 MS. DERJAVINA: Okay. For the record, we're looking at
15 video labeled June 18th, 2017, 6:56:47.

16 BY MS. DERJAVINA:

17 Q Do you see yourself and Lieutenant Allison?

18 A Yes, I do.

19 Q And do you see the defendant in the video?

20 A Yes.

21 Q I'm going to play it for a couple of seconds.

22 [Video played.]

23 Q So what's going on at this point?

24 A We are informing him that he needs to leave property.

25 Q And is he talking back to you?

1 A Yes.

2 Q And is he saying he's going to?

3 A No.

4 [Video played.]

5 Q Now, I want to stop here for a second. We can see
6 Lieutenant Allison taking something out of his pocket in this video;
7 did you see that or do you need me to play it again?

8 A Can you replay it, please.

9 Q Unfortunately, we have to replay from the beginning. So
10 let me exit and play it one more time. And if you just pay attention
11 to --

12 A Yes.

13 Q -- Lieutenant Allison.

14 [Video played.]

15 Q Can you see?

16 A [No audible response.]

17 Q Is that a yes? You're nodding.

18 A Yes. Yes. Yes.

19 Q Okay. Do you remember when he -- what he took out?

20 A That should be his notepad.

21 Q Now, do you see yourself at this point in the video, which
22 is 6:57:02, you actually start taking your handcuffs --

23 A Yes.

24 Q -- handcuffs out.

25 A Yes.

1 Q Is there a reason you did that at this point?

2 A Yes. I believed we were going to have to enact a citizen's
3 arrest.

4 Q And why did you believe that?

5 A William Allison was reading him the trespass warning,
6 and with the nature of him refusing to leave, I was almost
7 guarantee that he was still going to refuse to leave.

8 Q So this point, Lieutenant Allison is reading him the
9 trespass because he has refused to leave, and --

10 A Yes.

11 Q -- you're saying, based on his demeanor, you believe that
12 you might have to do a citizen's arrest.

13 A Yes.

14 Q And what was his demeanor at this point?

15 A Very verbally hostile, with his hand in his pocket.

16 [Video played.]

17 Q Okay. And I want you to pay attention to yourself in the --
18 and I stopped at 6:57:04. Right now, where is, in this video at this
19 point, where's the defendant's hands? While -- I apologize, I'll be
20 more specific.

21 Where is his right hand?

22 A In his right-hand pocket.

23 Q And is it -- can you see the knife at this point?

24 A Yes.

25 Q And I want you just to pay close attention to the video.

1 What do you do at that point?

2 A Pull out pepper spray.

3 Q And why do you do that?

4 A Because he put his hand in his pocket and grabbed the
5 knife.

6 Q So you take out the mace when you see the knife?

7 A Yes.

8 [Video played.]

9 Q I'm going to stop it for a second. So there was some
10 exchange going back and forth in the video; what is being said at
11 this point?

12 A I am informing him to remove his hands out of his pocket
13 or he'll be maced.

14 Q And it -- does he remove his hand out of his pocket?

15 A No.

16 Q Does he listen to any of your commands at this point?

17 A No.

18 [Video played.]

19 Q What is -- again, we can see some exchange going back
20 and forth between you, Defendant, and Lieutenant Allison; what is
21 the defendant's demeanor at this point?

22 A Aggressive.

23 Q So he's still aggressive?

24 A Yes. Like when he jolted up, like, as if he was ready to
25 attack.

1 Q Are you still giving him commands?

2 A Yes.

3 [Video played.]

4 Q And has he listened to any of those commands?

5 A No.

6 Q Okay. I want to stop it here for a second. If you look at
7 the video, which is 6:67:28, you kind of do a motion in the video
8 with your hand towards Lieutenant Allison, kind of, stopping him
9 for a second; why do you do that?

10 A To inform him that he has a knife.

11 Q So do you do that to get his attention?

12 A Yes, and to make sure he proceeds with extreme caution.

13 [Video played.]

14 Q And can you this video that the defendant is speaking to
15 you?

16 A He's only speaking to William Allison at this time.

17 [Video played.]

18 Q Now -- and this is at 6:57:43. If you look at the video, you
19 kind of do a -- your head looks down a little bit towards the
20 defendant; where are you looking?

21 A In his pocket to make sure he does not try and pull his
22 knife out quickly.

23 Q So are you concerned about that knife at this point?

24 A I have not looked anywhere else besides making sure his
25 right hand doesn't leave the pocket with the knife.

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[Video played.]

Q So now at this point, it looks like you are about to mace the defendant. Why do you do that at this point?

A Because he is threatening to kill William Allison.

Q What is he saying?

A I cannot recall the exact words, but at this point, he said, I'm going to stitch you up.

Q So I'm going to stitch you up, but there were other things that you don't remember the exact words, but you understood what the meaning of those were?

A Yes, he would say multiple things, like, I'm going to kill you all.

MS. DERJAVINA: Court's indulgence.

[Video played.]

Q So now at this point, we can see you using your mace in the video?

A Yes.

Q Now, you mentioned something about training regarding using the mace. Is there a training that you're supposed to go through?

A Yes.

Q And who sets that training up?

A GSC headquarters.

Q And what is GSC?

A Global Security Concepts headquarters.

1 Q So your company's headquarters is supposed to be the
2 one who sets it up?

3 A Yes.

4 Q Did you go through that training at that point?

5 A No. I was neglected training.

6 Q So nobody ever made that appointment for you to go?

7 A No.

8 Q But were you told by -- were you told whether you should
9 carry the mace or not?

10 MS. ODEH: Your Honor, I'm going to object to this. It's
11 calling for hearsay.

12 THE COURT: Are you offering it for the truth of the matter
13 asserted or the effect upon the listener as to what he did as a result
14 of hearing the statement?

15 MS. DERJAVINA: It's for the effect on the listener to
16 explain why he did what he did.

17 THE COURT: Okay. I'll allow it for that purpose.

18 MS. ODEH: Thank you, Your Honor.

19 BY MS. DERJAVINA:

20 Q Do you need me to repeat the question?

21 A No.

22 Q Okay.

23 A Yes, I was told to keep stuff on me, keep mace on me.

24 Q So you kept it on you?

25 A Yes.

1 Q And did you have any other kind of weapons on you?

2 A No.

3 Q Did you have a knife?

4 A No.

5 Q Gun?

6 A No.

7 Q So the only thing that you had was the mace?

8 A I had my personal mace on me and that was it.

9 Q So now I'm going to continue playing the video.

10 [Video played.]

11 Q Now, what are looking -- what's happening right now?

12 Which is 6:57:56.

13 A William is trying to detain him.

14 Q And what is the defendant doing?

15 A Getting ready to stab him.

16 Q Now, you mentioned seeing, like, a swinging motion; is
17 that what we're about to see?

18 A Yes.

19 [Video played.]

20 Q And is that what we just saw?

21 A Yes.

22 Q Now, what are you doing at this point?

23 A I'm grabbing from underneath his left arm and his chest.

24 Q And you're doing that in order to facilitate what?

25 A I am trying to get his -- I was trying to get his right arm in

1 the air so he could not hurt anyone else.

2 Q So as you're trying to detain him, are you and/or
3 Lieutenant Allison giving him any kind of commands?

4 A I'm referring him to stop resisting.

5 Q And is he willing to comply?

6 A Not at the moment.

7 Q Did you say that once?

8 A I say it multiple times.

9 Q And he never complies at this point, as we're watching?

10 A No.

11 [Video played.]

12 Q Now, we see something in the video, which is 6:58:11,
13 kind of go across the floor; what are we looking at?

14 A That is the knife.

15 Q So this point the knife is no longer in the defendant's
16 hands?

17 A We were able to properly disarm the knife from him.

18 Q And that's actually the knife right there in the middle of
19 the screen on the ground?

20 A Yes. It is that knife right there.

21 Q Now, at this point, we can't really see what's going on,
22 but -- because you're off too far away from the camera, but what's
23 going on?

24 A We are placing him in handcuffs.

25 Q Now, we might have missed it on the video, but at some

1 point, how do you get injured?

2 A When I pick him up in the air, he stabs me in the back of
3 my right leg.

4 Q Let me see if -- I won't be --

5 [Pause in proceedings.]

6 [Video played.]

7 Q And again, we're showing a video, 6:59:13. You can't see
8 anything, just see yourself right now; what are you doing?

9 A I am limping.

10 Q Okay. Is there anything else you just did?

11 A I am picking up the knife.

12 Q And at this point, is the defendant detained?

13 A Yes.

14 Q Now, you had a -- you and Lieutenant Allison had a
15 struggle with the defendant while you're trying to detain him; do
16 you know how he got injured?

17 A I do not recall that.

18 [Video played.]

19 Q And what are you doing at this point?

20 A I am picking up his belongings and bringing it to the
21 office.

22 Q Did you bring them to the office with -- the same time that
23 you brought the knife?

24 A Yes. And at that point, I am on the radio calling for
25 back-up and to roll AMR for three people.

1 Q Okay.

2 [Video played.]

3 Q And we -- I won't play the rest of the video, because we've
4 seen it.

5 MS. DERJAVINA: And, Court's indulgence.

6 THE WITNESS: May I request some water, please?

7 MS. DERJAVINA: Yes. I believe -- is there water --

8 MS. BROUWERS: I know ours is full.

9 MS. DERJAVINA: At this time the State has no further
10 questions. We'll pass the witness.

11 THE COURT: Defense, any cross-examination?

12 MS. BROUWERS: Your Honor, if we could approach?

13 THE COURT: Yes.

14 MS. BROUWERS: Thank you.

15 [Bench conference transcribed as follows.]

16 MS. BROUWERS: Your Honor, it's 4:45, and I know we
17 break at 5:00. I absolutely do have cross-examination, but it would
18 be my request, just for continuity's sake, that I be permitted to do
19 all my cross-examination at once. So rather than keep the jury
20 beyond 5:00 --

21 THE COURT: Is there cross-examination go beyond the 15
22 minutes?

23 MS. BROUWERS: Oh, absolutely, sir.

24 THE COURT: Okay. And I assume you're going to have
25 redirect.

1 MS. DERJAVINA: Oh, yeah, we will.

2 MS. BROUWERS: And I anticipate jury questions, as well.

3 THE COURT: Okay. I have no problem breaking at this
4 time.

5 MS. BROUWERS: Okay. I just didn't want to break it up. I
6 appreciate that. Thank you for everyone's indulgence.

7 THE COURT: All right. Thank you.

8 MS. DERJAVINA: I didn't know it was 4:45 already.

9 [End of bench conference.]

10 THE COURT: Ladies and gentlemen, we're going to --
11 ladies and gentlemen, we are going to take our evening recess.
12 During the recess you are admonished not to talk or converse
13 among yourselves or with anyone else on any subject connected
14 with this trial, or read, watch, or listen to any report of or
15 commentary on the trial or any person connected with this trial by
16 any medium of information, including, without limitation,
17 newspapers, television, radio, or Internet, or form or express any
18 opinion on any subject connected with the trial until the case is
19 finally submitted to you.

20 We will be in recess until tomorrow at 1:00. Please return
21 to this courtroom.

22 [Jury recessed at 4:43 p.m.]

23 THE COURT: We'll be in recess.

24 MS. DERJAVINA: Your Honor, I apologize. I just have one
25 little -- do we have the full day on Friday? If we go into Friday,

1 which --

2 THE COURT: I don't know what my calendar -- I will know
3 better by tomorrow.

4 MS. DERJAVINA: Okay. I just -- I have a personal
5 appointment on Friday. So if we do start early, I would just ask if
6 we can start at, like, 9:15, 9:30.

7 MS. BROUWERS: That's fine with me. The Defense
8 counsel are not morning people.

9 THE COURT: The what?

10 MS. BROUWERS: We're not morning people.

11 THE COURT: Oh. If we started, it would be late morning.

12 MS. DERJAVINA: Okay.

13 THE COURT: Around 10:00.

14 MS. BROUWERS: Okay.

15 MS. DERJAVINA: That's perfect. Thank you.

16 MS. BROUWERS: Thank you.

17 THE COURT: Thank you.

18 [Court recessed at 4:45 p.m.]

19 ///

20
21
22 ATTEST: I do hereby certify that I have truly and correctly
23 transcribed the audio/video proceedings in the above-entitled case
24 to the best of my ability.

25 
Shawna Ortega, CET *562