

**COPY**

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA  
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NUMBER: 48-06-CF-15201-O

JOHN DOBBS,

DIVISION NUMBER: 16

Defendant.

Docketed By  
MORRISON  
FILED IN OFFICE  
CRIM. DIV - APPEAL  
2007 JUN - 1 PM 12:00  
L. D. A. GARDNER  
CLERK COUNTY COURT  
ORANGE CO., FL.

MOTIONS TO SUPPRESS

BEFORE

THE HONORABLE STAN STRICKLAND

Recorded by Digital Court Reporters  
In the Orange County Courthouse  
425 North Orange Avenue  
Courtroom 6-D  
Orlando, Florida 32801  
Commencing at 10:05 a.m.  
Thursday, February 15, 2007  
Transcribed by Diane S. Hebel

Page  
28  
Line 11  
R Vol. I 99

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On behalf of the Plaintiff.

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P R O C E E D I N G S

1  
2 THE COURT: Okay. Do you want Mr. Dobbs to come over and have a  
3 seat with you here?

4 MS. CHIEN: Yes, Your Honor.

5 THE COURT: All right. Let's do that.

6 Go ahead and call the case.

7 Are you ready, Ms. Laskoff? Everybody is here?

8 MS. LASKOFF: Yes, sir.

9 THE COURT: Okay.

10 THE CLERK: 2006-CF-15201, John Dobbs.

11 THE COURT: Okay. Let's -- does he -- I don't know if he wants to take  
12 notes.

13 Deputy -- Deputy, he may want to take notes or pass notes to his lawyer.  
14 Let's undo his hands there.

15 (Pause)

16 THE COURT DEPUTY: We need to get some leg irons for him. We don't  
17 have any.

18 THE COURT: Okay. I didn't realize that.

19 (Pause)

20 You can have a seat, Mr. Dobbs. We'll start discussing things, and then  
21 we'll -- we'll come back and take care of this.

22 THE DEFENDANT: Thank you.

23 THE COURT: Let me -- I think we're set for the Defense's Motion to  
24 Suppress. I think we had talked about it at pre-trial -- right, what we're going to  
25 do at pre-trial today?

1 MS. LASKOFF: Yes, Your Honor.

2 MS. CHIEN: Yes, sir.

3 THE COURT: Okay. And then Mr. Dobbs, I got your letter and I sent a  
4 copy to the lawyers so we can discuss that when we're done with the motion, and  
5 get everybody's input on that.

6 THE DEFENDANT: I understand.

7 THE COURT: But we'll -- we'll talk about that once we do the motion.

8 So let me let them come up so that we can allow Mr. -- I'm sorry, are his  
9 hands -- can he write?

10 MS. CHIEN: Yes.

11 MS. LASKOFF: Yes.

12 THE COURT: Okay. That's fine. We can go ahead and begin the motion.

13 It's the Motion to Suppress. I believe I've got the motion -- the previous  
14 Motion to Suppress Statements?

15 MS. CHIEN: Yes, Your Honor.

16 MS. LASKOFF: Okay. And, Your Honor, so we can move along, the State  
17 has conceded to the fact that my deputy did, in fact, not read the line that the  
18 Defense is indicating that you have a right to an attorney, and if you cannot afford  
19 one -- so we're conceding to that.

20 THE COURT: To the fact that that was not read?

21 MS. LASKOFF: Right. That he was not Mirandized properly.

22 THE COURT: Okay.

23 MS. LASKOFF: And it should be kept out for those reasons. However,  
24 we're not stipulating as the Defense has requested to -- aside from that, not being a  
25 voluntary statement.

1 THE COURT: Okay. So you're -- you kind of lost me. Back up again.  
2 Let me -- I -- I read the motion earlier this morning. And they're saying...

3 MS. LASKOFF: He was not Mirandized correctly.

4 THE COURT: Correct.

5 MS. LASKOFF: A line was left out. We're conceding to that -- his  
6 statement was taken in violation of Miranda.

7 THE COURT: Okay.

8 MS. LASKOFF: However, we are not stipulating that aside from that the  
9 statement was otherwise voluntary.

10 THE COURT: Okay. Okay. You're saying...

11 MS. LASKOFF: Does that make sense?

12 THE COURT: ...with or without Miranda, you're saying the statement was  
13 voluntary and...

14 MS. LASKOFF: Yes, sir, for purposes of impeachment.

15 THE COURT: ...without regard...

16 MS. LASKOFF: That's the issue.

17 THE COURT: What's your -- what's your intention regarding the  
18 statement then, not to admit it per se?

19 MS. LASKOFF: We weren't going to introduce it in our case in chief due  
20 to that fact.

21 THE COURT: Only to admit it for impeachment?

22 MS. LASKOFF: Yes, sir.

23 THE COURT: In the event...

24 MS. LASKOFF: In the event that it would be found necessary.

25 THE COURT: Okay. Okay. Ms. Chien?

1 MS. CHIEN: And our position is that based on the totality of the  
2 circumstances, because these statements were involuntarily made, those statements  
3 should not even be admissible for impeachment purposes.

4 The point of the hearing is to determine whether or not they were voluntary  
5 and then whether or not they should be completely suppressed.

6 THE COURT: Okay. Well, we can go forward with the hearing, but we do  
7 have a concession from the State regarding your legal point on Miranda. And so  
8 the only point of the hearing would be voluntariness of the statements.

9 MS. CHIEN: Yes.

10 THE COURT: Okay. And let's -- let's get Mr. Dobbs -- when we get  
11 settled, then we'll go.

12 (Pause)

13 Is he -- does Mr. Dobbs need a notepad or anything? Does he have  
14 something he can write on?

15 MS. CHIEN: He does.

16 THE COURT: He does. Okay.

17 All right. Let's go forward then.

18 Again, this is a Motion to Suppress Statements. The Motion to Suppress  
19 indicates that there was a Miranda violation and as such, I guess, the Defense's  
20 position is by law, the statement is inadmissible for any purpose, correct?

21 MS. CHIEN: Yes, Your Honor.

22 THE COURT: All right. That's fine.

23 MS. LASKOFF: I have -- on that issue alone, I have case law from the  
24 Supreme Court saying, so what, it's still admissible, so I don't know...

25 THE COURT: Well, I think -- I think they're still entitled to go forward on

1 the voluntariness of the statements.

2 MS. LASKOFF: Okay.

3 THE COURT: So I'll -- I'll let them do that.

4 MS. LASKOFF: Well, I understand that. But just because Miranda wasn't  
5 read, I don't want that alone to -- that's my understanding is what they're arguing.

6 MS. CHIEN: No. That's -- our argument is based on the totality of the  
7 circumstances that it was involuntary.

8 MS. LASKOFF: Okay.

9 MS. CHIEN: Not just...

10 THE COURT: All right. I -- I think I understand. And let's see what  
11 everybody has to say. I just don't know that we need -- we've got a concession  
12 regarding Miranda, so we don't need to spend any time on that. So, again,  
13 regarding voluntariness of the statement, let's go ahead then and -- any agreement  
14 or disagreement as to who has the burden?

15 MS. CHIEN: Judge, under my understanding is it's the State's burden to  
16 show by preponderance of the evidence that the statements were made voluntarily.

17 THE COURT: Ms. Laskoff?

18 MS. LASKOFF: I have no problem proceeding, Your Honor.

19 THE COURT: All right. Go ahead and call your first witness.

20 MS. LASKOFF: David Phelan. And I haven't discussed with Defense, we  
21 have a transcript of the interview, which I don't know if the Court already has. We  
22 have most of the video, except for, like, the last 15 minutes of it.

23 THE COURT: I have the transcript.

24 MS. LASKOFF: Okay. I didn't know if we're just going stipulate to -- I  
25 was going to play a portion of this, but I don't have the whole tape. It is technical



1 issues.

2 THE COURT: Okay. First witness.

3 \* \* \* \* \*

4 WHEREUPON:

5 DAVID A. PHELAN

6 having been called as a witness in this cause, was duly sworn, examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 BY MS. LASKOFF:

10 Q Sir, can you state your name for the record?

11 THE COURT: Hold on one second.

12 (Pause)

13 MS. CHIEN: I mean, just to go back. The transcripts are in, but the tape  
14 what we just said is that 15 minutes of it was missing -- the last 15 minutes?

15 MS. LASKOFF: The last 15 minutes of it. It was unable to record it.

16 MS. CHIEN: Okay. And we would...

17 MS. LASKOFF: We have the original with us if we can play it. But we  
18 can't move it into Evidence because we need to make a full copy of it.

19 THE COURT: Right.

20 MS. CHIEN: Okay. Then that would -- I think we should play the entire  
21 tape instead of just the 15 minutes.

22 MS. LASKOFF: But I can't give it to the clerk because he needs to make  
23 a copy of it.

24 THE COURT: Right. That's fine. Play the entire tape, and you just...

25 MS. LASKOFF: Okay.

1 THE COURT: The clerk -- it's here today.

2 THE WITNESS: It's two hours.

3 THE COURT: Let me back up. Was it your intention to play the tape  
4 today?

5 MS. LASKOFF: Just a portion of it, because most of it is on the video.  
6 It's a two-hour tape.

7 THE COURT: Okay. For today's purposes, if there's something you  
8 want on the other part of the tape, we'll make them cue up the original.

9 MS. CHIEN: Right.

10 THE COURT: But I'm fine with accepting this for today's limited --  
11 but at trial, of course, it's different.

12 MS. CHIEN: Right.

13 THE COURT: And you are entitled -- you -- you don't have a copy of  
14 the complete tape?

15 MS. CHIEN: No. We don't...

16 MS. LASKOFF: I don't even -- yeah. We just got it this morning.

17 THE COURT: Okay. When -- when can you get a copy to...

18 THE WITNESS: I was trying to bust two out this morning, but the machine  
19 went afoul.

20 THE COURT: Okay. All right. Can you get it to them today, or is the  
21 machine -- is there another machine you can use?

22 THE WITNESS: Yeah, we've -- we've got another one.

23 THE COURT: All right. Let's -- let's get a copy to Defense today.

24 Go ahead.

25 MS. CHIEN: But here's my argument, which is that it is that it is the

1 standard -- as to voluntariness, it's based on the totality of the circumstances.

2 And that this is a two-hour tape, and he's handcuffed during the entire time. And  
3 he has, you know, wounds throughout the entire two hours. That's part of the  
4 totality of the circumstances that rendered his statements involuntary.

5 THE COURT: I understand. You can...

6 MS. CHIEN: Okay.

7 THE COURT: And you're not -- you can certainly argue that. And I'm  
8 saying for today's purpose, let Ms. Laskoff show whatever she has.

9 You're going to get a copy of this tape. And if you see something in the  
10 last -- you said 15 minutes are missing?

11 THE WITNESS: Approximately 15 minutes, yes.

12 THE COURT: Okay. You're -- you're certainly entitled to question him  
13 about that, whether anything else happened, and I agree with you. It's based on  
14 the totality of the circumstances. And if -- if once you viewed the entire tape and  
15 you see something else that bolsters your claim, you can bring it to the Court's  
16 attention.

17 MS. LASKOFF: And we can always make an additional copy and just  
18 move it into Evidence, provide it to the Court and Defense maybe this afternoon.

19 THE COURT: All right. Pending -- pending review by Defense Counsel.  
20 I'm fine doing it that way. I won't -- I won't take it -- okay.

21 MS. CHIEN: Okay.

22 THE COURT: All right. That's fine. Let's go ahead and get started then.

23 BY MS. LASKOFF:

24 Q Okay. Can you state your name for the record?

25 A Detective David A. Phelan.

1 Q And Detective Phelan, where is it that you work?

2 A Orange County Sheriff's Office.

3 Q How long have you worked at the Sheriff's Office?

4 A Since May of 1992.

5 Q And what have been your assignments at the Sheriff's Office?

6 A Regular road patrol, investigative -- undercover, worked criminal patrol,  
7 robbery and now homicide.

8 Q Okay. And you're a homicide detective?

9 A Yes, I am.

10 Q Now, did you have a circumstance to become involved in a case involving a  
11 defendant named John Dobbs?

12 A Yes, I did.

13 Q And can you explain to the Court how it is that you first had contact with  
14 this case?

15 A I was contacted at my home that a death investigation was being conducted  
16 on the South Orange Blossom Trail, and requested to respond to that location.

17 Q All right. Now, did you come into contact with the individual named John  
18 Dobbs?

19 A Yes, I did.

20 Q And at what point was that?

21 A After arriving on the scene it was explained to me that a possible suspect  
22 had been stopped. We had witnesses at the scene that could identify. I took one of those  
23 witnesses to the location where the stop was to attempt to make an identification.

24 Q Okay. Now, what time was it that the alleged incident occurred?

25 A The time that...

1 Q The stabbing occurred?

2 A I have to look back at my notes for the time.

3 Q That's okay if you go ahead and look at them, refresh your memory.

4 (Pause)

5 A It would have been approximately 0216 in the morning.

6 Q Okay. And at what point was contact made with the defendant after that;  
7 how much time passed, roughly?

8 A I got on the scene, it would have been an hour -- an hour, hour and half  
9 before I got there.

10 Q Okay. Now, did law enforcement aside from yourself make contact with  
11 the defendant before you?

12 A Yes.

13 Q Okay.

14 A He was stopped when I got there.

15 Q Now, was he stopped by Deputy Hutchins?

16 A That's correct.

17 Q Okay. How much after the incident did Deputy Hutchins make contact with  
18 the defendant?

19 A Let's see, I have to look back.

20 Q Roughly.

21 A Twenty to thirty minutes.

22 Q Okay.

23 A That's an approximate.

24 Q Okay. Now, you arrived on the scene, roughly, 3:15, something like that?

25 A That's correct.

1 Q Okay. Now, did you speak with John Dobbs at this point?

2 A When I got down to the location where the show-up was...

3 Q Okay.

4 A ...no, I did not speak with him.

5 Q Okay. Did you see John Dobbs at this point?

6 A Yes, I did.

7 Q And what did you observe of him at this point; what was he doing?

8 A He -- at the time I saw him, he was in the backseat of a patrol car. I  
9 instructed the deputy to take him out of the car so that he could be viewed by a witness.

10 Q What was his demeanor at this point?

11 A Mr. Dobbs?

12 Q Yes. Sorry.

13 A He was sitting in the car, and just waiting.

14 Q Okay. Was he -- what was his physical condition injury-wise, was he okay  
15 or was he not okay?

16 A He was able to move around. I saw nothing that stopped him from moving.  
17 He had blood on him, on his clothing. And I seen that he had also had a wrap, I think, on  
18 his -- on one of his arms from medical attention he had received.

19 THE COURT: I'm sorry, a what on one of his arms?

20 THE WITNESS: A bandage from medical attention he had received.

21 THE COURT: Okay. Thank you.

22 BY MS. LASKOFF:

23 Q Okay. Was he transported to the hospital for the injury under the bandage  
24 or anywhere else?

25 A No. I wasn't there when that happened. The FD had responded to that

1 location.

2 Q The fire department?

3 A Yes.

4 Q Is that what FD is?

5 A Yes.

6 Q Okay. And so that he remained on the scene at that point?

7 A Yes.

8 Q All right. And was he complaining of any pain?

9 A No. Not at that time, no.

10 Q Okay. And how long is it that you observed Mr. Dobbs there at the scene  
11 before he's transported to the Sheriff's Office?

12 A Again, I -- I did the show-up. I left them at the scene. I went back to the  
13 scene of -- where the crime occurred, so I don't know exact time that he was transported.  
14 It would be with the deputy that did that.

15 Q Okay. Well, let me ask you this. You interviewed Mr. Dobbs, correct?

16 A That's correct.

17 Q And what time was that that you interviewed him, roughly?

18 A Let's see.

19 (Pause)

20 At approximately 0630 is when we interviewed him at the operations...

21 Q Okay. Can you describe to the Court your -- operations at the Sheriff's  
22 Office, correct?

23 A That's correct.

24 Q And where in the Sheriff's Office was it that he was interviewed?

25 A We were in the criminal investigation division upstairs, interview room.

1 Q Can you describe the interview room to the Court?

2 A The interview room is a small room, approximately 8 x 8 -- 8 x 6, with a  
3 table, a couple of chairs, and that's it.

4 Q Okay. And prior to the interview did you do an assessment physically of  
5 Mr. Dobbs?

6 A I looked at him, but as far as he -- he made no complaints at that point of  
7 any injuries or anything.

8 Q Okay. And who else was present during the interview of Mr. Dobbs?

9 A Detective Sam Talton.

10 Q All right. Now, we have an audiotape of the majority of the interview;  
11 correct?

12 A A videotape, yes.

13 Q Yeah, that's fine. I'm sorry. If I could just get this marked as...

14 THE COURT: For Identification purposes?

15 MS. LASKOFF: Yes, sir.

16 BY MS. LASKOFF:

17 Q Prior to going onto the videotape, were there conversations that occurred  
18 between Mr. Dobbs and yourself or Deputy Talton?

19 A None.

20 Q Okay. Is the context of your conversation memorialized on that video,  
21 besides what we talked about?

22 A Entire -- entirely.

23 Q Okay. And during the interview, was the defendant ever complaining of  
24 pain?

25 A Never.



1 Q During the entire interview?

2 A During the entire interview. He only -- it's only mentioned of the wounds  
3 he had was to make sure we documented them for his defense.

4 Q Did you observe the wounds at one point?

5 A He had a -- like I said, he had a bandage over the wound that he was saying  
6 was a cut. And I did not see that one. The other bruises, I did see, yes.

7 Q Okay. Now, the bandages that you observed wrapped around his wounds,  
8 was blood coming out of his -- onto the bandages, fresh blood?

9 A I did not see any...

10 Q Through the bandages; did you observe that?

11 A No. No.

12 Q Okay. Now, during the course of your interview, was the defendant ever  
13 offered water or asked for water?

14 A I don't recall myself doing it exactly.

15 Q Okay. Do you have a copy of the interview transcript?

16 A Yes.

17 Q Okay. If you could just look at Page 22. Would that assist in refreshing  
18 your memory?

19 A Yes.

20 (Pause)

21 Yeah. At that point I did ask him did he want water. And he said, yeah, I  
22 would appreciate some.

23 Q Okay. And isn't it true he -- he also asked to use the restroom and at one  
24 point you-all permitted him to do so?

25 A Yes.

1 Q Okay. Now, he was cuffed during this interview, right?

2 A That is correct.

3 Q Okay. And why -- why was he cuffed during the interview?

4 A At that point he was in custody for a violent crime.

5 Q Okay. Is that standard procedure?

6 A Yes, it is.

7 Q Okay. Did he complain at any point during the interview of being  
8 handcuffed?

9 A No.

10 Q Okay. Approximately how long was it that the interview from start to stop  
11 lasted?

12 A Again, it was approximately two hours.

13 Q Okay.

14 A The interview portion wasn't no longer -- I would say was 30 to 40 minutes.  
15 But he sat in the room -- the tape is going to run while he's sitting in the room. The tape  
16 is going to run while the ladies come in and do -- take his swabs and to gather his  
17 clothing. So it just runs. But the actual interview only goes for probably, I would say, 30  
18 or 40 -- 30 minutes at the most.

19 Q Okay. Now, during the course of the interview does your tone, as well as  
20 Detective Talton's -- does your tone remain the same or do you change your tone when  
21 interviewing him?

22 A I would say reflection of -- inflection of our voices change at certain points  
23 during the interview. I would say, yeah.

24 Q Okay. Was there any point where you-all made any threats to Mr. Dobbs?

25 A No.

1 Q Did you see Detective Talton make any threats to Mr. Dobbs?

2 A Never.

3 Q Was there any point where aside from, you know, the handcuffs and the  
4 taking of samples that there was a physical hands-on touching of the defendant?

5 A No.

6 Q Did you make any promises to him that if he said these things that...

7 A No.

8 Q ...-- before the tape, maybe?

9 A No.

10 Q Okay. When you were speaking with him, was he appearing coherent?

11 A Yes.

12 Q And what was his -- I mean, was he articulate or was he slurring?

13 A He was very articulate.

14 Q Okay. Did you make a determination regarding his education level?

15 A I think we asked about it. I don't recall what his answer was. I know he  
16 said that he was running a business, that he had been through -- he had went through  
17 school, may have even dropped out in high school at the time. I don't recall the exact...

18 Q Okay. Did he seem to be of average intelligence?

19 A Yes, ma'am.

20 Q Okay. Did you make any determination whether he had any prior contacts  
21 with the law?

22 A We inquired. He said that he had been -- had a problem with the law back  
23 in Georgia.

24 MS. CHIEN: Objection. This is not in the -- I mean, this is not relevant  
25 as to whether or not he had ever been in any previous trouble.

1 THE COURT: Ms. Laskoff?

2 MS. LASKOFF: It goes to the voluntariness. Prior contacts with law  
3 enforcement go to, you know, the basic...

4 THE COURT: I suppose it's relevant to that extent.

5 MS. LASKOFF: Yes, sir.

6 THE COURT: Okay.

7 BY MS. LASKOFF:

8 A Okay. So, yes, he said he had prior -- and he made it -- made it very -- he  
9 impressed upon us that his father was an attorney.

10 Q Okay. Now, I'm showing you just for Identification purposes the tape  
11 that's missing the last 15 minutes of it.

12 A Okay.

13 Q Let me show you what is marked as Identification A. Is that true of what it  
14 is?

15 A Yes.

16 Q Okay. And does the portion of it as been caught on tape accurately reflect  
17 what happened and transpired?

18 A Yeah. I'm hoping I -- like I said, I recorded that this morning. I didn't get  
19 a chance to look back at it before I came.

20 Q Okay.

21 A But I was recording it off of the original tape that we have over there.

22 Q Okay. I'm also showing you what's marked for Identification purposes as

23 B. Do you recognize this?

24 A Yes, I do.

25 Q And what is that?

1 A This is a transcript from that tape.

2 Q Okay. Have you reviewed a transcript to make sure of its accuracy?

3 A I've looked over the transcript. To this day, I have not been able to go in  
4 and change some of the inaudibles in it, which I can't hear.

5 Q Other than inaudibles that are listed, the statements that are typed out, are  
6 they accurate?

7 A They're quite accurate -- yeah, they're accurate.

8 MS. LASKOFF: Okay. Your Honor, at this time, I was just going to play  
9 a portion of the tape just so Your Honor could observe the setting and whatnot.

10 I would also like to move into Evidence Exhibit B, the State's 1.

11 THE COURT: All right. Ms. Chien, any objection regarding the  
12 transcript?

13 MS. CHIEN: No objection to the transcript.

14 THE COURT: Okay. The transcript is admitted for the purposes of the  
15 hearing.

16 MS. LASKOFF: Okay.

17 THE COURT: And you can...

18 MS. LASKOFF: I'm just publishing this.

19 THE COURT: Yeah, that's fine. You can play whatever portion of the  
20 tape you want to, again with the understanding the entire tape will be given to  
21 the Defense later today.

22 MS. LASKOFF: Yes, sir.

23 THE COURT: And before the tape is admitted, Ms. Chien, you will have  
24 a chance to comment on it or object or whatever you want.

25 MS. CHIEN: All right.

1           WHEREUPON: The Court handled unrelated matters from 10:31 a.m. until  
2 10:33 a.m., after which the proceedings were as follows:

3           (Pause)

4           WHEREUPON: State's Exhibit was published, and the proceedings were  
5 as follows:

6           UNIDENTIFIED SPEAKER: Okay. I'm going to lay it out for you. Okay.  
7 Right now you've got -- several people say you got it -- you and your girlfriend at  
8 the -- the Doll House, with you being involved in a fight.

9           UNIDENTIFIED SPEAKER: Like he was saying it was a fight that took  
10 place in the parking lot.

11          UNIDENTIFIED SPEAKER: Um-hum.

12          UNIDENTIFIED SPEAKER: Okay. And we already know all of that.  
13 Okay. And we're just here -- we're giving you a shot of the story of what  
14 happened. That's the only thing we want, you know. There are a couple of guys  
15 we know who were stabbed. Okay. So we just want your side of the story of what  
16 happened. All right. There's always two sides to every story. You know what I  
17 mean. And we just want you to tell us what happened that night.

18          UNIDENTIFIED SPEAKER: Basically this is what happened. We had --  
19 looking at you, you've got blood all over you. We know you're involved in this.  
20 We don't know how it started. We've got the one side. We got their side of what  
21 happened. Okay.

22          UNIDENTIFIED SPEAKER: Did they have surveillance cameras for the  
23 parking lot?

24          UNIDENTIFIED SPEAKER: Yes, they do.

25          UNIDENTIFIED SPEAKER: Okay.

1 UNIDENTIFIED SPEAKER: But unfortunately for you the surveillance  
2 cameras only cover the front half of the parking lot. The area where you were, no.  
3 Okay. Can you tell me how it occurred. So we got their story, we got the people  
4 working there stories.

5 UNIDENTIFIED SPEAKER: What did the two working there say?

6 UNIDENTIFIED SPEAKER: Huh? (Indiscernible Words)

7 UNIDENTIFIED SPEAKER: (Indiscernible Words)

8 UNIDENTIFIED SPEAKER: Okay. Yeah. We'll get to that. Okay.  
9 Well, this -- you know, I'm just laying this out for you. We got those stories.  
10 We've got your girlfriend over here, we've done talked to her.

11 UNIDENTIFIED SPEAKER: (Indiscernible Words)

12 UNIDENTIFIED SPEAKER: Yes, you do. And we get everybody's side  
13 of what happened. I mean, this -- it's not that -- it's not that difficult (Indiscernible  
14 Words).

15 UNIDENTIFIED SPEAKER: It's not difficult at all. I want to tell you  
16 what happened.

17 UNIDENTIFIED SPEAKER: Okay. First, before we -- before I let you do  
18 that, I have to read your rights. Okay. Because this is a crime, and you do have  
19 rights. Okay.

20 UNIDENTIFIED SPEAKER: Okay.

21 UNIDENTIFIED SPEAKER: I have to read that to you. Our whole  
22 intentions are to get your side so we have both sides. Don't just arrest -- I don't  
23 want to arrest a person just to be arresting you, because somebody said it. I -- I  
24 look at both sides.

25 UNIDENTIFIED SPEAKER: (Indiscernible Words)

1 UNIDENTIFIED SPEAKER: Okay. You have the right -- you have the  
2 right to remain silent. Do you understand that.

3 UNIDENTIFIED SPEAKER: Yes.

4 UNIDENTIFIED SPEAKER: Any statement can be used against you in  
5 court. Do you understand that.

6 UNIDENTIFIED SPEAKER: Yes.

7 UNIDENTIFIED SPEAKER: You have the right to talk to a lawyer before  
8 and during questioning. Do you understand that.

9 UNIDENTIFIED SPEAKER: Yes.

10 UNIDENTIFIED SPEAKER: Okay. As I was saying my whole intention  
11 is to get your -- I want to get your girlfriend's side, I want to get your side. I got  
12 their side of what happened. I don't know what caused it. They -- they were  
13 pretty vague when I started it.

14 UNIDENTIFIED SPEAKER: Of course.

15 UNIDENTIFIED SPEAKER: Okay. So what we're here is to get the  
16 whole story.

17 UNIDENTIFIED SPEAKER: Um-hum.

18 UNIDENTIFIED SPEAKER: Okay. And with that in mind, do you want  
19 to tell us what happened?

20 UNIDENTIFIED SPEAKER: This is both inside the club...

21 UNIDENTIFIED SPEAKER: Okay. You-all were inside -- you were all  
22 inside the club?

23 UNIDENTIFIED SPEAKER: Me and one of the guys. I don't know their  
24 names.

25 UNIDENTIFIED SPEAKER: Can you describe him?



1 UNIDENTIFIED SPEAKER: (Indiscernible Words)

2 UNIDENTIFIED SPEAKER: What about his hair, did he have long hair,  
3 short hair?

4 UNIDENTIFIED SPEAKER: It was braided.

5 UNIDENTIFIED SPEAKER: Braids. Like braids to the sides  
6 (Indiscernible Words).

7 UNIDENTIFIED SPEAKER: (Indiscernible Words). It was like real brief.  
8 I met him going out the door.

9 UNIDENTIFIED SPEAKER: Okay.

10 UNIDENTIFIED SPEAKER: That's when you leave?

11 UNIDENTIFIED SPEAKER: (Indiscernible Words)

12 UNIDENTIFIED SPEAKER: And it's right before you exit the  
13 (Indiscernible Words).

14 UNIDENTIFIED SPEAKER: Um-hum.

15 UNIDENTIFIED SPEAKER: And what -- what transpired then?

16 UNIDENTIFIED SPEAKER: Nothing. Just...

17 WHEREUPON: The videotape was stopped, and the proceedings were as  
18 follows:

19 BY MS. LASKOFF:

20 Q Now, Detective, did anything in regard to the defendant's demeanor change  
21 throughout the interview, or did he remain the same?

22 A He remained the same throughout the interview. He volunteered a lot of  
23 information. We didn't have to ask him, as you observed there. He -- he asked questions  
24 a lot during the entire interview. I mean, he basically led the interview a lot of ways.

25 Q Okay. Now, it won't be reflected in the transcript, but was there any point

1 where he is physically in pain?

2 A No.

3 Q Is he crying or acting as if he's hurting?

4 A No.

5 Q Did you or Detective Talton, during the interview before the tape or during  
6 what's captured on the video, utilize any sort of -- aside from talking about what evidence  
7 there was, use any kind of coercive tactics to try to get him to talk to you?

8 A We had no contact with him other than the contact where I showed the  
9 show-up that night. I had no personal contact with him then.

10 MS. LASKOFF: Okay. Your Honor, if I could just have a moment?

11 THE COURT: You may.

12 (Pause)

13 MS. LASKOFF: Your Honor, I have nothing further at this time.

14 THE COURT: Thank you.

15 Ms. Chien?

16 \* \* \* \* \*

17 CROSS EXAMINATION

18 BY MS. CHIEN:

19 Q Detective, just to be clear, you did not inform Mr. Dobbs of his right to an  
20 attorney, that if he could not afford one, one would be appointed to him free of charge; is  
21 that correct?

22 A No. I did not read that statement to him.

23 Q Okay. And also, what time did you -- what time were you called to the  
24 scene, approximately?

25 A Approximately -- I got there around 3:00. It took me approximately an hour

1 to get there.

2 Q Okay. And do you know approximately what time the alleged fight  
3 occurred?

4 A Yes. It was...

5 Q Would it be around 1:45?

6 A 2:16.

7 Q 2:16?

8 A 2:16.

9 Q Okay.

10 A That's what time the Sheriff's Office got the call.

11 Q All right. And -- and to your knowledge Mr. Dobbs had been detained by  
12 detective -- I mean, by other police officers; is that correct?

13 A When I arrived on the scene, I was informed that he had been detained.

14 Q Okay. And when you also arrived on scene, did you also happen to see fire  
15 rescue?

16 A They were -- they were gone. I think they were gone when I arrived.

17 Q They were gone. Okay.

18 And you had mentioned earlier that you saw a wrap on Mr. Dobbs' arms?

19 A Yes, I did.

20 Q Did you also happen to see any bruises on him?

21 A Yes, I did.

22 Q Okay. And they were -- a lot of the bruises was in his facial area; is that  
23 correct?

24 A Yes. I recall it was in his face.

25 Q Okay. And it looked like he had been beaten up pretty bad?

1 A Yes. I told him he had been in a good fight, it looked like.

2 Q I'm sorry, what?

3 A I remember telling him at some point, looks like you been in a good fight.

4 Q Okay. There were areas on his face that had already pulled -- there was  
5 already blood on his face; is that correct?

6 A He had dry blood on his face.

7 Q Okay. And did it -- did his eyes seem like one of his eyes didn't look like it  
8 shut properly, it looked...

9 A No. I didn't see nothing of that nature.

10 Q Okay. Now, did you also, at any point in time, see a big cut on his arm?

11 A I did not, no. He made mention of it. I did not see it, because I wasn't in  
12 the room when they photographed him.

13 Q And when did he make mention of that?

14 A When he asked me to make sure -- I told him that one of the doctors wanted  
15 to make photographs of him. He said, make sure you take pictures of my injuries so that I  
16 can show that I was cut too.

17 Q Okay. And during the time that -- was it towards the end of the interview  
18 that Mr. Dobbs -- that pictures were taken of Mr. Dobbs?

19 A That is correct. The interview was over. He was just sitting there waiting  
20 until the forensic people could come up and do the pictures and swabs on him.

21 Q Okay. And you walked out during -- when they were taking pictures?

22 A I walked out long before that. Like I said, he sat there a while and waited  
23 on them to come.

24 Q Okay.

25 A He's just sitting in the interview room a great portion of this tape.

1 Q And those 15 minutes that are missing from that tape do not reflect when  
2 the police officers were taking pictures of him; is that correct?

3 A I think it's right in the middle of it.

4 Q Okay.

5 A Yeah.

6 Q So what is actually missing in the last 15 minutes?

7 A I -- I really couldn't tell you. It's basically he -- they took pictures. He just  
8 sat there again until we were able to transport him over to the jail.

9 Q Okay. Now, you have a copy -- do you have a copy of the transcript -- of  
10 Mr. Dobbs' transcript?

11 A Yes, I do.

12 Q Okay. On Page 48, he did tell you -- he did make a mention, I need stitches,  
13 don't I. I mean, it's Line 15. I told me I don't need stitches. I need stitches, don't I. Try  
14 to throw me around. You know he was doing worse -- the police. Line 15? Were you  
15 present for that when he said that he needed stitches?

16 A I don't think I was present for that. They've got my name up here. I -- I  
17 know I didn't say I ran out of boxers or something.

18 Q You did what?

19 A I know I didn't say that statement where they have my name. I don't even  
20 recall -- I don't recall being in the room when they were doing that.

21 Q Okay. So you don't recall Mr. Dobbs mentioning that he needed stitches?

22 A No, I don't.

23 Q Okay. He did tell you earlier that he needed stitches; is that correct?

24 A I don't recall that.

25 Q You don't recall that. Are you aware that he had nine stitches afterwards?

1 A No, I don't.

2 Q And -- but during the entire interview -- he went directly from the scene of  
3 the accident to the police station; is that correct?

4 A What accident?

5 Q Well, not the accident but the alleged incident that took place at the Doll  
6 House?

7 A He -- from his arrest location where his vehicle was stopped, he was  
8 transported to the Orange County Sheriff's Officer Criminal Investigation Building, yes.

9 Q Okay. So that is correct?

10 A Yeah.

11 Q That he went directly from the scene to the police station?

12 A Yes.

13 Q And he was not given an opportunity to -- to your knowledge were his  
14 stitches ever stitched up prior to being interviewed?

15 A He was -- FD responded to the scene. He was checked by FD and told that  
16 he -- that -- he was told basically that -- they wrapped it, and that's how he was treated.

17 Q Okay.

18 A We don't make medical decisions.

19 Q Right. But to your knowledge were stitches ever given to him?

20 A Again, FD -- FD makes that decision and they wrapped it and said he was  
21 good enough to go, so we took him to the Sheriff's Office.

22 Q Okay. So he basically sat there with a cut on his arm in the interview room?

23 A Yes, he did.

24 Q Okay. And this is after he told you in the interview that he had -- that he  
25 had been banged up like a rag dog; is that correct?

1 A He said they threw him around pretty good.

2 Q Okay. That he...

3 A I think I acknowledge and told him I think it looked like he had been in a  
4 good fight.

5 Q Okay. And it looked like he had a lot of injuries to his head; is that correct?

6 A No. He had -- he had bruises on his face like he had been in a fight.

7 I've been in a few.

8 MS. CHIEN: May I approach?

9 THE COURT: Sure.

10 BY MS. CHIEN:

11 Q Detective Phelan, I'm showing you what has been pre-marked as Defense --  
12 as Defense...

13 MS. LASKOFF: And for purposes of this hearing, I don't care if we  
14 move these in during my part of the case.

15 MS. CHIEN: Okay.

16 BY MS. CHIEN:

17 Q ...what has been pre-marked as Defense Exhibit A, is that -- can you take a  
18 look at all of the pictures and see if that's an accurate reflection of how Mr. Dobbs looked  
19 on the night when you interviewed him?

20 (Pause)

21 A Yes, it is.

22 Q And, Detective, these pictures do show that he has significant cuts on his --  
23 he had cuts on his head; is that correct?

24 A It shows bruising to his head, yes.

25 Q Bruises and cuts. Is that blood there?

- 1 A Dried blood.
- 2 Q Okay.
- 3 A He had blood...
- 4 Q And there's also a picture of his arm with the bandage that was taken off,  
5 and it shows the cut on his arm; is that correct?
- 6 A Yes. I saw one as I went through them.
- 7 Q And you also saw numerous cuts on his hands; is that correct?
- 8 A That is correct.
- 9 Q And you also saw injuries to his knees?
- 10 A Scrapes on his knees, as if he had been in a fight.
- 11 Q And just so I'm clear, did -- I guess to whoever took the picture, they  
12 marked how big that cut was; is that correct?
- 13 A That's correct.
- 14 Q And it looked at least six inches?
- 15 A No, ma'am.
- 16 Q This says three inches and then...
- 17 A Three centimeters.
- 18 Q That would be three centimeters?
- 19 A (No Verbal Response)
- 20 Q Okay. And there's another cut on his side...
- 21 A Um-hum.
- 22 Q ...which is pretty big; is that correct?
- 23 A The cut on his side is actually a laceration cut.
- 24 Q Right.
- 25 A And I think it's about two inches. The cut -- what you're referring to a cut



1 here is actually a scratch.

2 Q Okay. But this laceration is a big cut; isn't it?

3 A It's a laceration, it looks like from a knife.

4 MS. CHIEN: And Defense is moving into Evidence what has been  
5 previously marked as Defense Exhibit A.

6 THE COURT: All right. And, again, no objection, Ms. Laskoff?

7 MS. LASKOFF: No, sir.

8 THE COURT: They're admitted.

9 BY MS. CHIEN:

10 Q Okay. On that tape you saw Mr. Dobbs. He was leaning on the wall in the  
11 beginning; is that correct?

12 A Almost throughout the whole time. He -- he would lean back. He would sit  
13 up, he would lean back.

14 Q Okay. And during the entire time he was handcuffed?

15 A That's correct.

16 Q Okay. And you also didn't tell Mr. Dobbs that the victim had died until the  
17 middle or towards the end of the interview; is that correct?

18 A At some point during the interview I told him.

19 Q Was that towards the middle and towards the end?

20 A Probably the end.

21 Q Towards the end?

22 A It probably would have been the end.

23 Q Okay.

24 A I don't recall exactly when that -- it more than likely would have been the  
25 end.

1 Q And what time did your interview end with him?

2 A Again, I don't think I have that time, because the best time would be to go  
3 back and look at it from the start time to the end time. I think it's about 30, 40 minutes.  
4 And, again, like I said, that tape -- he's just sitting in the room the majority of that time.  
5 I'll look to make sure.

6 Q Okay. But do you know what time your interview -- like at what time it  
7 ended? I don't need to know the length of the time, but at what point in time did you  
8 walk out of the interview room?

9 A I did -- I don't have that down, no.

10 Q You didn't what?

11 A I didn't write that down or nothing. Not that I recall.

12 MS. CHIEN: Okay.

13 May I have a moment?

14 THE COURT: Yes.

15 (Pause)

16 BY MS. CHIEN:

17 Q I just have a few additional questions. Detective, Mr. Dobbs was not free to  
18 leave, was that -- is that correct?

19 A That's correct.

20 Q And he was not free to leave at any point in time?

21 A No, he was not.

22 Q And the interview room, could he have got -- could he have left that room?

23 A No.

24 Q And what time did the interview start?

25 THE COURT: He previously said 6:30.

1 THE WITNESS: I think so.

2 BY MS. CHIEN:

3 A 0634.

4 Q Okay. And you said the interview lasted for approximately 30 to 40  
5 minutes?

6 A I would say the interview portion of it was approximately 30 to 40 minutes.

7 Q Okay. And then do you know what point in time was he finally transported  
8 to the Orange County Jail to receive treatment?

9 A Again, the tape was two hours, and I think he was leaving as the tape ended.

10 Q Okay. So presumably he left around -- around -- he got to the Orange  
11 County Jail around 8:30?

12 A I -- I can check on that. I'm not sure exactly what time he got there -- over  
13 there.

14 Q Okay. Now, was he provided with sleep before the interview?

15 A No. Not that I'm aware of. He was laying back mostly.

16 Q Okay. And so that means that he had been up all night from the time that he  
17 was detained all the way until when he left the Orange County Sheriff's Office?

18 A That would be my guess.

19 Q Okay. And in that interview room, are there video cameras that are obvious  
20 to the -- to the person sitting in there?

21 A No.

22 Q And did you tell him that his entire conversation was getting recorded?

23 A No, I did not.

24 MS. CHIEN: I have no other questions.

25 THE COURT: Redirect?

\* \* \* \* \*

## REDIRECT EXAMINATION

BY MS. LASKOFF:

Q Can you explain to the Court what the Sheriff's Office procedure is with an individual -- a defendant with a fire department having to respond, what -- what happens?

A Anyone complaining of injuries, we observe any injuries on any suspect, we are -- we call -- we're bound to call the fire department. The fire department will respond. They will check the individual out. If he needs to be -- if they say he needs to go to the hospital, that's where he goes.

Q Will they -- will they take him whether it's this defendant or another defendant -- do they take them directly sometimes from the scene to the hospital, or do they always first go to the Sheriff's Office and then go to the hospital?

A He would have went -- if they said he needed medical attention, he would have went directly from the scene to the hospital, and we would have went to the hospital to interview him.

Q Okay. Now, on the scene where the stabbing took place...

A Okay.

Q ...how many victims were there that were stabbed aside -- the individual that died?

A There were two other stab victims that had been transported to the hospital, and another individual that was involved in the fight.

Q Okay. Now, did you observe the scene?

A Yes, I did.

Q Was there blood on the scene, too?

A Yes. There was blood on the ground, blood on the victim's vehicle.

1 MS. LASKOFF: Okay. I have nothing further, Your Honor.

2 THE COURT: Anything else, Ms. Chien?

3 MS. CHIEN: No, Your Honor.

4 THE COURT: All right. Thank you, sir.

5 Any other witnesses for the State?

6 MS. LASKOFF: No, sir.

7 THE COURT: Defense, any witnesses for you?

8 MS. CHIEN: Defense calls John Dobbs.

9 THE COURT: Okay. Come on up.

10 \* \* \* \* \*

11 WHEREUPON:

12 JOHN DOBBS

13 having been called as a witness in this cause, was duly sworn, examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MS. CHIEN:

17 Q Mr. Dobbs, is your -- is your father a lawyer?

18 A Yes.

19 Q Okay. And did you live with him when you were growing up?

20 A Not since I was four years old.

21 Q Okay. Now, after that, did you stay in touch with your dad?

22 A Maybe ten years. Maybe.

23 Q Okay. And for the last ten years have you been in contact with your dad?

24 A Not until recent months.

25 Q Would that be not since this incident happened?

1 A Actually, I spoke to him the day that it happened, to get him to speak to my  
2 kids for the first time.

3 Q Okay. But prior to this, you haven't really talked to your dad for ten years;  
4 is that correct?

5 A Basically.

6 Q Okay. Now, is he -- do you know what type of law he practices?

7 A No.

8 Q Okay. Has he ever talked to you about -- prior to this incident, did you guys  
9 talk about his cases or anything like that?

10 A Never.

11 Q Okay. And your -- you, yourself, are you a lawyer?

12 A No.

13 Q Have you ever been to law school?

14 A No.

15 Q Have you ever -- are you a paralegal?

16 A No.

17 Q Have you ever taken classes for paralegal training?

18 A No.

19 Q Okay. Now, let's talk about your injuries only. When you were -- what  
20 time -- when you were arrested, did you have any injuries on you that you sustained?

21 A Yeah. I had more than I knew about.

22 Q Sorry?

23 A I had more than I knew about.

24 Q And what were those injuries that you know about?

25 A I had cuts on both sides of my chin. I had a cut over my eye. I had lumps

1 all over my head. And -- and I had a cut right here on my left arm, and I had another one  
2 -- I was reaching out -- and another -- and I have one on my knee. I had cuts on my  
3 knuckles, and I have broken teeth. I couldn't open my jaw too much.

4 Q Okay. And did you tell the police officers that you were in pain?

5 A I told them, you know, I was still dazed from the fight and I really  
6 couldn't...

7 MS. CHIEN: Okay. Your Honor, at this time the Defense invokes the  
8 Rule of witness sequestration.

9 THE COURT: Okay. The -- anybody else the State expects to testify?

10 MS. LASKOFF: No, sir.

11 THE COURT: All right. If they're not going to testify, they can remain  
12 in.

13 MS. CHIEN: Okay.

14 THE COURT: Is there anybody in here that's not going to testify?

15 (Pause)

16 MS. CHIEN: Well, if we happen to recall the detective or she happens  
17 -- or the State recalls the detective, we would ask that the Rule be invoked.

18 THE COURT: All right. That's fine. The -- I guess it's just the  
19 detective. So he can wait outside.

20 And apparently the State is not going to recall you. But if the Defense  
21 does, the Rule has been invoked.

22 THE WITNESS: Am I free to go or do they...

23 THE COURT: I think you probably need to stay here a few minutes.  
24 Okay.

25 All right. Thank you.

1 All right. Please continue.

2 BY MS. CHIEN:

3 Q Okay. Mr. Dobbs, did you -- what -- who -- do you remember which  
4 detective you told about your injuries?

5 A I believe I told him and I believe that I -- I probably even told the other guy,  
6 too.

7 Q Okay. Now, did you get immediate medical attention?

8 A No. Well, what I did, I was -- I told them that I was passing out, and I laid  
9 on the trunk of my car. And I caught my wind. Because I -- I've passed out before when  
10 I was a kid, so I know how -- you know, when I'm getting ready to pass out to prepare  
11 myself so I don't fall and hit my head. So when I got my wind, I tried to stand up again,  
12 and then I was getting ready to pass out again, so I laid on the ground. And the fire  
13 department guy, he -- he looked at my arm. And I told him I need stitches, don't I. And  
14 he said, no. You know, and then -- then, you know, he kind of, like, threw me over, and it  
15 felt like he was going to break my arm. And I said, don't do that. And he said, I thought  
16 you was going to pass -- I thought you was knocked out, you know, or whatever. And I  
17 said -- I said I was going to. I just need to catch my breath. And he -- he just walked over  
18 me and left.

19 Q Okay.

20 A After -- he put a bandage on me, though.

21 Q Okay. And was there -- was there blood coming out?

22 A It was blood, yes.

23 Q Okay. Now, did you ever get stitches?

24 A I got stitches when I came to jail.

25 Q Okay. And how many stitches did you get?



1 A Nine stitches.

2 Q And so this was...

3 A The doctor told me that it looked like I was attacked by dogs.

4 Q Okay. Now, you only -- would it -- is it true -- so you were sitting in the  
5 interview room with the detectives with an open wound; is that right?

6 A Yes.

7 Q And it wasn't until the entire...

8 MS. LASKOFF: Objection; leading.

9 THE COURT: Sustained.

10 BY MS. CHIEN:

11 Q At what point in time did you -- how long from the time that you sustained  
12 your wound did you finally get stitches?

13 A Maybe eight hours.

14 Q Eight hours. During those eight hours, did that also include an interview  
15 with the police officers?

16 A Yes.

17 MS. CHIEN: May I have a moment?

18 THE COURT: Yes.

19 (Pause)

20 BY MS. CHIEN:

21 Q Mr. Dobbs, during the interview did you know that you were being  
22 videotaped?

23 A No.

24 Q Did you know that everything that you said was getting recorded?

25 A No.

1 Q Did you feel that you were free to leave that room?

2 A No.

3 Q And were you handcuffed during the interview?

4 A Yes.

5 MS. CHIEN: All right. I have no other questions.

6 THE COURT: Thank you.

7 Cross?

8 \* \* \* \* \*

9 CROSS EXAMINATION

10 BY MS. LASKOFF:

11 Q Mr. Dobbs, it's true then that the fire department did physically assess your  
12 injuries, correct?

13 A Briefly.

14 Q Excuse me?

15 A Briefly.

16 Q Briefly. But they did, right?

17 A Only the one on my arm.

18 Q Okay. And they gave you bandages, correct?

19 A They bandaged it.

20 Q Okay. Now, during the time of your interview with the detectives, they  
21 never threatened you, did they?

22 A No, not at all.

23 Q And they were actually decent guys considering the situation; is that not  
24 true?

25 A I wouldn't say that. I thought that...

1 MS. CHIEN: Objection, it's not relevant.

2 THE COURT: Well, if you clarify the question, decent guys.

3 MS. LASKOFF: Yes, sir.

4 THE COURT: Rephrase.

5 BY MS. LASKOFF:

6 Q They were pleasant enough to you; is that not true?

7 A I believe that they had understood the situation to be self defense.

8 Q Okay. And you, in fact, during your conversation with them told them this  
9 was self defense, did you not?

10 A I said it numerous times from the moment I encountered the first police  
11 officer.

12 Q Okay. And you also, is it not true, told them that you wanted to make sure  
13 that all your injuries were photographed so that in the future they could see them; is that  
14 not true?

15 A I did say that towards the end, because I felt like they -- I started to notice  
16 that they were looking like I was -- I was a bad guy, so that's when I said it, like, you  
17 know, I want everything to be -- because they didn't seem interested in my injuries.

18 Q Okay. Now, it's also true that nowhere during the interview did you ever  
19 say, hey, I need to go to the doctor or I need medical treatment; isn't that true?

20 A I told them that I was dizzy and that I was -- I could not really even  
21 remember things. And I see everything...

22 Q I'm talking specifically about the bruises and cuts you've been talking  
23 about. You never said, hey, I need to go to the doctor.

24 A I said I needed stitches.

25 Q Wasn't that a question you were asking the female that was taking the

1 pictures?

2 A I also asked the -- told the officer.

3 Q At what point?

4 A Probably towards...

5 Q Like when you were -- during the interview or before the interview?

6 A Yeah. Well, during the interview. When I was talking to them, I told them

7 -- you know, I told them that I was complaining about the fact that I needed stitches.

8 Q Um-hum.

9 A And I also told them what I told you just now about the fire department guy.

10 Q Okay. Now, I heard Defense Counsel ask you about whether you had legal  
11 training. Have you had any medical training?

12 A No.

13 Q No. Okay. You don't have, like, a medical assistant training or anything  
14 like that degree?

15 A No. No.

16 Q Okay. How old are you, sir?

17 A Thirty-two.

18 Q You're 32. And how much schooling, in fact, do you have? How much  
19 have you completed, high school, college?

20 A I've -- you know, I've got my GED -- I've got my GED.

21 Q Okay. And you -- do you consider yourself a businessman when this  
22 happened, trying to get your business going as a rapper; is that not true?

23 A Yes. I have a CD that I wanted to promote.

24 Q Okay. And you're in the process of doing that; is that not true?

25 A I'm in the process.

1 Q You were in the process of doing that?

2 A The reason why I spoke to the guys that I -- I, you know, pursued the  
3 conversation with...

4 MS. CHIEN: Objection to State's question. It's not relevant.

5 THE COURT: Overruled. I think she's -- she's going to the fact that  
6 he's a man of some intellect and a businessman.

7 Do -- do you recall the question, Mr. Dobbs? Do you want it repeated?

8 THE DEFENDANT: You can repeat it.

9 THE COURT: Go ahead.

10 BY MS. LASKOFF:

11 Q You were in the process of trying to get your CD off the ground and  
12 promoted, right?

13 A I was planning to give them some copies of my music.

14 Q Okay. Now, you were at the Doll House, the parking lot where the stabbing  
15 happened. What time did you and Deanna arrive there?

16 MS. CHIEN: Objection. This is not relevant as to voluntariness of his  
17 statement.

18 THE COURT: Overruled. You can answer.

19 BY MS. LASKOFF:

20 A I arrived there about 1:30.

21 Q Okay. And had you and Deanna intended to stay there until closing,  
22 correct?

23 A Actually, I didn't know that -- I didn't know that they closed at 2 o'clock  
24 until I asked -- she asked somebody.

25 Q Okay. So until basically everybody closed.

1 A They said they closed at 2 o'clock.

2 Q Okay.

3 A And I was going to...

4 Q Okay. And so you -- it was a late night, obviously. And you never asked to  
5 go somewhere that you could get some sleep before you were talked to by the cops, did  
6 you?

7 A I was...

8 Q Did you say, hey, I got to get some sleep before I can talk to you?

9 A I think basically I was laying on the ground when I first started talking to --  
10 I was -- told them I was passing out. I told them, you know, I was about to pass out.

11 Q Okay.

12 A When I first started talking to the police.

13 Q Okay. On the scene or the Sheriff's Office; which place?

14 A The scene. At -- where they arrested me, when they first pulled me out of  
15 the car.

16 Q Out of your car?

17 A (No Verbal Response)

18 Q Okay.

19 A I mean, when I first walked out the car.

20 Q All right. And when you were actually being interviewed down at the  
21 Sheriff's Office, you never passed out during the process, did you?

22 A I was in -- I was in a really weak condition, but I didn't pass out. I was just  
23 trying to stay, you know. I was -- I was still in the position where I was trying to stay  
24 focus.

25 Q Okay. And you weren't moaning or complaining loudly that you were

1 hurting, were you?

2 A I was hurting, but I don't really complain too much about it.

3 Q Now, they -- when you asked for some water, they offered you water, right?

4 A Yes.

5 Q And they let you get some water, correct?

6 A Yes.

7 Q You asked to use the restroom. They let you use the restroom; is that not  
8 true?

9 A Yes.

10 Q Okay. You've been arrested previously, correct?

11 MS. CHIEN: Objection; this is not relevant.

12 THE COURT: Overruled.

13 You can answer.

14 BY MS. LASKOFF:

15 A Yes.

16 Q Okay. How many times have you been arrested?

17 A Arrested -- how many times have I been arrested? I'm not sure.

18 MS. CHIEN: Objection. This is not even -- this is outside the scope of  
19 the Motion for...

20 THE COURT: Well, the -- the -- I'm going to -- again, at trial, I might  
21 rule otherwise, of course.

22 MS. LASKOFF: Right.

23 THE COURT: But for the purposes of this hearing, we're talking about  
24 his presence during his emotional and physical -- excuse me - mental presence  
25 during the questioning. So I'll allow him to answer this for a limited purpose.

1 I guess the question was how many times arrested?

2 MS. LASKOFF: Yes, sir.

3 THE COURT: Okay.

4 BY MS. LASKOFF:

5 Q How many times have you been arrested in your life?

6 A In my life, maybe about nine.

7 Q Okay. And you've talked to police officers before; isn't that true?

8 MS. CHIEN: Objection. Judge, I'm just going to ask for standing  
9 objection to this entire line of questioning.

10 THE COURT: Overruled.

11 You can answer.

12 Okay. You can -- forgive me. You have a standing objection to the line  
13 of questioning.

14 MS. CHIEN: Okay.

15 THE COURT: That's understood, but the objection is overruled.

16 Go ahead.

17 MS. CHIEN: Okay.

18 MS. LASKOFF: Okay. I don't remember where I was.

19 THE COURT: I think you said -- you asked him how many times -- I think  
20 he said nine times. And then you followed up with -- so you have talked to police  
21 officers before. I think he said yes.

22 BY MS. LASKOFF:

23 Q Right. You've -- you've been in a conversation after an arrest with police  
24 officers previously to this charge, correct?

25 A Previously to this charge I've spoken to police officers, yes.



1 Q Now, you said you got nine stitches?

2 A Yes.

3 Q Were they all in your arm?

4 A Yes.

5 Q Were they different locations?

6 A They were all right here.

7 Q On that same cut on your left arm?

8 A Yes. Yes.

9 MS. LASKOFF: Okay. I have nothing further, Your Honor.

10 THE COURT: Any redirect; follow up?

11 MS. CHIEN: Nothing further, Your Honor.

12 THE COURT: Okay. Thank you, Mr. Dobbs. You can have a seat back  
13 by your lawyer.

14 Any other witnesses?

15 MS. CHIEN: No, Your Honor.

16 THE COURT: Let's -- let's Mr. Dobbs have a seat, then.

17 (Pause)

18 Okay. Argument?

19 State, I guess you have the burden, so go ahead.

20 \* \* \* \* \*

21 ARGUMENT

22 MS. LASKOFF: Your Honor, it's the State's position that although

23 Miranda was not read to the defendant in its completeness, the defendant's

24 statement was otherwise voluntary.

25 He did, in fact, have a cut on his arm. But his -- as is reflected on the tape

1 as well as a transcript, his mental state was not to such a point that he was not  
2 coherent. He's quite clearly coherent. He's intelligent enough to indicate to law  
3 enforcement, hey, you got to take pictures of my injury, this was all self defense.  
4 He's articulate. It's 6:00 a.m. -- 6:30 when they're doing the interview. He's  
5 apparently in a situation of a late night anyway. They're going to the Doll House  
6 at what, 1:30, 1:00 in the morning, I think he said, until closing. So that's not  
7 anything rendering involuntary saying he's been up for days and days without any  
8 sleep.

9 During the interview and during Mr. Dobbs' cross, it's quite clear he was  
10 never threatened. He was never coerced. There were no unreasonable police  
11 tactics utilized to get him to talk, as Detective Phelan indicated. The defendant  
12 was actually quite right in just saying what he had to say.

13 The defendant is an educated -- to the point where he has a GED. He's not  
14 such of a mental impairment or education that it would render his statement  
15 involuntary.

16 It's -- it's quite clear that fire rescue responded. They're the trained  
17 medical -- medical personnel. They didn't render his injuries to such a severe  
18 point that, hey, he had to go to the hospital. There's nothing evident during the  
19 interview on observations. The defendant's own statements indicating, hey,  
20 you've got to get me to the hospital, I'm in excruciating pain, to render what he  
21 had to say. In fact, not voluntary, because he was under such a state of pain.

22 It's simply -- there's just not enough to make this statement involuntary.

23 The trustworthiness clearly satisfies the legal standards in regards to his  
24 physical demeanor, his mental demeanor, his articulateness, the police conduct  
25 surrounding it. And Mr. Dobbs also indicated he's been arrested nine times. It's

1 not like he's a ten-year-old boy or a young individual, and this is his first contact  
2 with law enforcement. He's not naive. He's not mentally challenged. There's  
3 absolutely nothing whatsoever to reflect that this is not voluntary.

4 And I don't have the case law with me, however, I can indicate to the Court  
5 that an individual can be in a hospital bed with a gunshot wound and being treated  
6 by all sorts of medication, and their statements still be rendered voluntary. So  
7 we're clearly not even close to rising to defendant's behavior or statement being  
8 not voluntary. He knew what he was saying. His brain was lucid.

9 I would also point out that in Carlisi v. State, though a defendant's  
10 statement is taken in violation, so long as the Court, in fact, finds it voluntary, the  
11 State may utilize it for impeachment purposes. This is 831 So.2d, 813. And I'm  
12 assuming the Court is well aware of this, but I was just going to provide the Court  
13 with a copy of the case.

14 And it's the State's position, we've met our burden. The statement is  
15 voluntary. If he, in fact, takes the stand in the situation, it's the State's position we  
16 should be permitted to use it for impeachment purposes, because he -- he did make  
17 a voluntary statement.

18 THE COURT: Ms. Chien?

19 \* \* \* \* \*

20 ARGUMENT

21 MS. CHIEN: Under Willacy v. State, which is a 1994 case, 640 So.2d,  
22 1079. It does cite to different cases. And it does say that before the defendant's  
23 statement can be used for impeachment purposes, the State must by preponderance  
24 of the evidence should the State respond to the cite, Willacy v. State.

25 And voluntary -- voluntariness is determined by examining the totality of

1 the circumstances surrounding the statement and including whether or not the  
2 defendant was read his rights. In this case the State has already conceded that the  
3 defendant was not read his complete full rights, not to mention that Detective  
4 Phelan testified to the fact that he did not inform Mr. Dobbs that he had had a right  
5 to free counsel if he could not afford it.

6 And when we take a look at the totality of the circumstances, we also see --  
7 I mean the length of the entire time of Mr. Dobbs detention was approximately six  
8 hours. The detective said that Orange County Sheriff's Office got a call around  
9 2:16 a.m., that he started the interview around 6:30. He most likely left around  
10 two hours later, and that would take it to about six hours before Mr. Dobbs finally  
11 got nine stitches on his arm.

12 He was sitting in the interview room with a laceration to his arm. And the  
13 detectives either did not address it or did not want to. And the photographs of  
14 Mr. Dobbs that were taken at the time clearly show that his facial area, as well as  
15 his head had been bruised, and there was blood there. It shows pictures of his -- all  
16 of his injuries including the cuts, as well as his laceration to his arm.

17 Mr. Dobbs also testified that although fire rescue did talk to him, they also  
18 -- they pretty much ignored what he said and then walked over to him. They let  
19 him walk away, which with the -- from a wound that needed -- required nine  
20 stitches.

21 And when we talk about the totality of the circumstances, we also need to  
22 address what it looked like in that interview room. Mr. Dobbs was not free to  
23 leave. He was handcuffed the entire time. And he testified that he was in pain.  
24 And even in looking at him, the detective said it looked like he had been in a good  
25 fight.

1           And we believe that based on the totality -- totality of the circumstances, the  
2 State has not met its burden, and that these statements should not even be  
3 admissible to impeach him, if that -- if that were to ever arise.

4           THE COURT: Thank you. I won't rule now. First of all, any other cases  
5 that you want to give to me, give to me by the end of business day. Also, you're  
6 going to get the copy of the entire tape over to...

7           MS. LASKOFF: I'm going to go talk to the detective as soon as we're  
8 finished, and we can probably do it in our office as well as...

9           THE COURT: Okay. Any problem getting it to her today?

10          MS. LASKOFF: Not that I'm foreseeing.

11          THE COURT: All right. Let me know if there is. I would like it to get to  
12 her today and let her review the tape.

13           If you have anything that you want to add, any objection that you want to  
14 make, let's get it done by -- hopefully by tomorrow. Because that gives us to the  
15 next -- once I -- once I have any and all cases and other input that you want to give  
16 me, I'll rule on this, and I'll do it as soon as I have everything in, which gets me to  
17 the pre-trial. We're also here for -- we're counting on this going the first day of  
18 the trial period. And we've talked about February 26<sup>th</sup>, right?

19          MS. CHIEN: That was what -- my understanding is the Court had another  
20 murder trial.

21          THE COURT: I have -- well, we have two judges available, me and  
22 probably Judge Munyon. So -- yeah. But anyway, this -- this case is, in my mind,  
23 first up and ready to hear it.

24          MS. CHIEN: Okay.

25          THE COURT: So the 26<sup>th</sup>. And then that gets -- no disagreement?

1 MS. LASKOFF: (No Verbal Response)

2 MS. CHIEN: (No Verbal Response)

3 THE COURT: Everybody understands both sides will be ready?

4 MS. LASKOFF: As ready as we can be.

5 THE COURT: All right. And then that -- yeah -- no. It's -- it's going  
6 quickly.

7 MS. LASKOFF: Yeah.

8 THE COURT: But that's fine.

9 And then finally I have a letter from -- from Mr. Dobbs indicating that --  
10 several things. But I gave -- I believe you both have a copy. And he indicated that  
11 he wanted a bench trial, which, of course, is rare. And I don't know -- Counsel, I  
12 assume you've had a chance to talk to him at least somewhat about this. And I just  
13 wanted to get both sides input on this.

14 First of all, Ms. Chien?

15 MS. CHIEN: Yes. I have spoken to Mr. Dobbs, and he does want a bench  
16 trial. It is my understanding because we do -- this would be kind of prepared like a  
17 pre-trial motion, and his request for a bench trial. So I did speak with the State  
18 about it. And it was to my understanding that the State is requesting a trial by jury.

19 THE COURT: State?

20 MS. LASKOFF: That's true. We will not agree to a non-jury trial.

21 THE COURT: Yeah. Let me just -- first of all, Mr. Dobbs, your letter is  
22 articulate, well-written. I understand what it is you want. Everybody has a right to  
23 a trial by a jury. That is a constitutional right. You don't have a constitutional  
24 right to a trial without a jury. That is a discretionary thing, and all parties have to  
25 agree, and the State hasn't. So the jury trial sort of trumps everything else. I can't

1 agree to do a bench trial in your case absent -- or without agreement by everybody.

2 You know, your letter is respectful, articulate. I understand that's what you  
3 want. I've got to tell you I've -- you know, your lawyers are kind of doing what  
4 you want -- you want them to do here, which, you know, is part of their job. I just  
5 don't know -- you're -- to be honest, you're the first person in your position I've  
6 ever had request that, because most folks feel like they've got a better shot with a  
7 jury.

8 And so I can't grant your request. I appreciate the letter and the thought  
9 that went into it. You're a bright guy. So I just wanted to address that on the  
10 record.

11 For the record, Mr. Dobbs has made a request for a bench trial. Counsel has  
12 filed an ore tenus motion. And she just got the letter, I think, maybe yesterday, if  
13 then. So I cannot grant that request. In fact, I'm denying it. But you've -- you've  
14 made the request. You've made a record of it. And depending on where this case  
15 winds up, that will be an issue for a higher court to grab ahold of, I guess.

16 So we're set for the 26<sup>th</sup>. Either -- I don't know exactly what's going to  
17 happen. Either I will do this or Judge Munyon will. There are two murder cases  
18 set for then.

19 Let me just ask you this, based on what I've seen, I think this can be done in  
20 three days; what are your thoughts?

21 MS. LASKOFF: I agree.

22 THE COURT: Ms. Chien?

23 MS. CHIEN: Yes.

24 THE COURT: Do you think -- is that reasonable?

25 MS. CHIEN: That's reasonable.

1 THE COURT: Okay. Obviously I'm not going to hold anybody to that.  
2 And I'm sure Judge Munyon feels the same way. Nobody is going to time  
3 anybody, and you'll have as much time as you need.

4 So we're set for the 26<sup>th</sup>. I'll rule on this motion as soon as get -- you know,  
5 if there's a problem getting the tape to Ms. Chien today, let me know.

6 MS. LASKOFF: I will.

7 THE COURT: Ms. Chien, any commentary that you have or objections or  
8 anything additional you want to tell the Court, I would like to get it by noon  
9 tomorrow. If -- if you can't let me know by noon tomorrow. I'm still reviewing it.  
10 I want to do something else. All right?

11 MS. CHIEN: Okay.

12 THE COURT: Okay. Anybody else have anything?

13 MS. CHIEN: Judge, can I approach with the case law that I cited?

14 THE COURT: Absolutely.

15 (Pause)

16 Okay. State gave me Carlisi, and Defense is giving me Willacy.

17 And any other cases you want to get to me, get to me by the end of business  
18 today.

19 Thank you.

20 WHEREUPON: These proceedings were concluded at 11:27 a.m.

21 \* \* \* \* \*



CERTIFICATE


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STATE OF FLORIDA:

COUNTY OF ORANGE:

I, DIANE S. HEBEL, being a Digital Court Reporter as authorized by Rule 2.070(c), Florida Rules of Court and Administrative Order of the Ninth Judicial Circuit numbered 07-98-43, certify that the foregoing transcription is true and correct.

Dated this 1<sup>st</sup> day of June, 2007, in the City of Orlando, County of Orange, State of Florida.

  
DIANE S. HEBEL  
Digital Court Reporter