

1 **A** Not like that. More lower than them, so to kind
2 of get a better view of where they are, as he kept looking
3 around at each one of the individuals.

4 **MS. VICKERS:** Okay. Thank you.

5 **THE COURT:** Any additional questions, State?

6 **MS. BARRA:** Very briefly.

7 **BY MS. BARRA:**

8 **Q** Sir, when they said they were yelling you need to
9 walk out with security, were they saying that in a mocking
10 type tone, like making fun of the guy, or was it like a
11 serious threat?

12 **A** More of making fun of him.

13 **MS. BARRA:** Okay. I have no further questions.

14 **THE COURT:** Any additional questions, Ms. Vickers?

15 **MS. VICKERS:** No, Your Honor.

16 **THE COURT:** Thank you. May this witness be
17 excused?

18 **MS. VICKERS:** Yes.

19 **THE COURT:** You are free to go, sir. Thank you.
20 State, call your next witness.

21 **MS. BARRA:** Thank you, Your Honor. The State
22 calls Phillip Westfall.

23 Thereupon,

24 **PHILLIP WESTFALL**

25 was called as a witness and, having first been duly sworn,

1 testified as follows:

2 **DIRECT EXAMINATION**

3 **BY MS. BARRA:**

4 **Q** Good morning, sir.

5 **A** Good morning.

6 **Q** Could you please state your name and spell your
7 last name for the court reporter.

8 **A** Phillip Westfall. W-E-S-T-F-A-L-L.

9 **Q** Sir, on October 25th, 2006, were you working at
10 Thee Dollhouse?

11 **A** Yes.

12 **Q** What was your role at Thee Dollhouse?

13 **A** Valet attendant.

14 **Q** And on that date in question, did something catch
15 your attention that was unusual that night?

16 **A** At the end of the night?

17 **Q** Yeah, at the end of the night.

18 **A** Yes.

19 **Q** Okay. Was it after closing time?

20 **A** Yes.

21 **Q** And what are your duties after closing time, what
22 do you do?

23 **A** I park most of the employees' vehicles, and at the
24 end of the night I pull them up towards the front so they
25 don't have far to walk and that was a cold night and on cold

1 nights, I warm them up.

2 Q And on that night, did you hear somebody
3 screaming?

4 A Yes.

5 Q And who did you hear screaming?

6 A A female.

7 Q Where were you when you heard the screams?

8 A The front of the parking lot.

9 Q Is the front of the parking lot, is that by the
10 door of the Cabaret? I mean, of Thee Dollhouse?

11 A I was in the closest spot to the door of Thee
12 Dollhouse.

13 Q If I showed you a picture of the parking lot and
14 area, do you think that would assist in explaining to the
15 jury where everything was?

16 A Yes.

17 Q Okay. Let me just take a second to set this up.
18 You --

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

21 THE COURT: You may.

22 BY MS. BARRA:

23 Q Sir, it is a laser pen, so you can just point it
24 to the screen in helping you describe what happens. For the
25 record, I am going to be showing you photos under State's

1 Exhibit Number 2 and specifically the one I am showing now
2 is C4. Okay. Sir, is that a parking lot of Thee Dollhouse?

3 A Yes, ma'am.

4 Q When you first heard a female screaming, what
5 direction was she screaming, like where was it coming from?

6 A This direction right here.

7 Q Was she by a car at the time?

8 A Yes.

9 Q And did it appear like it was her car, was she
10 over to it, about to get in?

11 A She was a passenger.

12 Q She was a passenger. Was she actually inside the
13 vehicle or was she outside the vehicle?

14 A She was standing outside the vehicle inside an
15 open door.

16 Q So the passenger door was open and she was
17 standing in there?

18 A Yes.

19 Q Do you recall what she was screaming, what she was
20 saying?

21 MS. CHEN: Objection, calls for hearsay.

22 THE COURT: Approach, please.

23 (Conference at the Bench held on the record.)

24 MS. BARRA: I am not using it for the truth of the
25 matter asserted. It is simply why it caught his

1 attention, particularly on that night and why it drew
2 his attention to her.

3 **THE COURT:** What do you expect the answer to be?

4 **MS. BARRA:** I don't know. I don't know if he --
5 what specifically he said.

6 **THE COURT:** If that is the only reason that you're
7 attempting to elicit it, I would think the raised
8 voices were sufficient without the actual words, so
9 sustain the objection.

10 (Whereupon, the following was in open court.)

11 **THE COURT:** Objection is sustained.

12 **BY MS. BARRA:**

13 **Q** Could you tell who she was screaming at or was it
14 just kind of a general scream?

15 **A** She was screaming at the one she was upset at.

16 **Q** Okay. Could you tell -- so, could you tell who
17 she was directing it towards?

18 **A** When I heard the screaming, I was -- there is a
19 line of parking spaces here. I was towards the front of the
20 building up here. She went -- as I heard her scream, I came
21 running back this way to this general area and she was
22 screaming in this direction.

23 **Q** And who was over in that direction?

24 **A** There were four gentlemen by their vehicle right
25 here.

1 Q Were they yelling things back?

2 A I never heard anybody scream but her.

3 Q And who was she with by that vehicle that she was
4 standing in the passenger door of?

5 A There was a black gentleman at the driver's side
6 of that vehicle.

7 Q And what did the black gentleman at the driver's
8 side of the vehicle do, if anything?

9 A Umm, when she was done screaming, there was one
10 gentleman walking in this direction. Their vehicle was
11 parked approximately right there. He came from the driver's
12 side.

13 Q Can you use this car as an example?

14 A He came from the driver's door around the back of
15 the car to meet the other gentlemen and punched him in the
16 head.

17 Q Who punched him in the head?

18 A The gentleman that was with the female punched the
19 gentleman who was walking in that direction in the head.

20 Q Did he say anything before he punched him in the
21 head?

22 A No.

23 Q Did they meet before this happened or was this a
24 direct walk up and bam?

25 A This gentleman walked over. He came from the

1 driver's side around the back of the vehicle and socked him.

2 Q Socked him?

3 A Punched him in the head.

4 Q Where were the other three individuals when this
5 happened?

6 A Around the silver vehicle, right here.

7 Q What happened after he got hit in the head, was he
8 able to fight the black gentleman?

9 A He half way spun around towards the ground, caught
10 himself with his hands.

11 Q At this time did you notice any blood on him?

12 A At that time, no.

13 Q After he spun around and caught himself, what was
14 the next thing that happened?

15 A The female screamed at him.

16 Q Screamed at the person who was on the ground?

17 A Who was hit. You got knocked out is what she
18 said.

19 MS. CHIEN: Objection, hearsay.

20 THE COURT: Overruled.

21 BY MS. BARRA:

22 Q Was she -- was she screaming this in a mocking
23 type of tone?

24 A She --

25 MS. CHIEN: Objection, speculation.

1 **THE COURT:** Overruled.

2 **THE WITNESS:** She screamed, you got knocked the
3 fuck out.

4 **BY MS. BARRA:**

5 **Q** And what was the black gentleman doing when this
6 happened?

7 **A** Just say the vehicle was here, he was basically
8 standing where he punched the other gentleman.

9 **Q** Now, did he -- did the black gentleman actually
10 have to walk towards the other gentleman? Was it something
11 that they met or did it appear that the, the Hispanic
12 gentleman, came over to him?

13 **A** The gentleman from this car traveled a farther
14 distance to come over to this vehicle.

15 **Q** Did the black gentleman have to travel any
16 distance or was it right at his car?

17 **A** I am going to use this black vehicle as an
18 example. Again, when he came from the driver's side, they
19 met about (indicating).

20 **Q** So approximately how far do you think the black
21 gentleman traveled to meet the guy?

22 **A** From the, this corner of the car, probably
23 10 feet.

24 **Q** Now, after the woman was screaming, you got
25 knocked out, what were the other three guys doing?

1 **A** A second gentlemen from this vehicle, traveled
2 over to the black gentleman.

3 **Q** And what did he do when he got there?

4 **A** He swung at the guy twice, missed both times and
5 the black guy hit him.

6 **Q** Now, when this guy is swinging at the black
7 gentleman, was the other person from that group, the one who
8 just got knocked to the floor, was he up and swinging at the
9 black gentleman too or was it one-on-one?

10 **A** It was one-on-one. The other guy was still in
11 this area getting his wits together.

12 **Q** So he seemed dazed?

13 **A** Yes.

14 **Q** Okay. Now, when the second gentleman comes over,
15 and you stated that the black gentleman hit him as well,
16 correct?

17 **A** Yes.

18 **Q** At that point could you see any blood?

19 **A** At that point I did not notice any.

20 **Q** And what were the other, the remaining two guys
21 doing at this point?

22 **A** They were --

23 **Q** And when I say the two guys, I mean the ones by
24 that car?

25 **A** After this second gentleman got hit, a third one

1 from the silver vehicle was walking over and the female in
2 this vehicle who was still by the passenger door area
3 attacked him.

4 Q What do you mean by attacked him?

5 A Kind of jumped on his back and was slapping,
6 swinging.

7 Q At the time she did this, was he hitting anyone or
8 trying to hit anyone?

9 A He was just on his way over.

10 Q And you said that he was walking over there. Was
11 he in a hurry to get there? Did it appear like he wanted to
12 get into the fight or was he just casually walking?

13 A I don't exactly recall.

14 Q Okay. So when she jumped on that gentleman's
15 back, what happened next?

16 A I was in fear for her, so I instantly went up to
17 break that altercation up.

18 Q Were you able to break that up?

19 A Yes.

20 Q And how did you break that up?

21 A I had a small canister of mace. I informed both
22 of them that I had mace, I would spray them. I was
23 screaming as loud as I could, an affirmative voice and
24 telling them to get back, break it up now, get back to their
25 vehicles or I will mace you and you will be blinded.

1 Q And did they comply with that?

2 A Yes.

3 Q At any point did you see the guy strike the woman?

4 A No.

5 Q So, when they broke up, where did the woman go and
6 where did the guy go?

7 A She went back towards the vehicle and (pause) I
8 believe remained in that area but he did not comply with me
9 and go back to his vehicle.

10 Q So he stayed where the fighting was?

11 A In the general area, yes.

12 Q At what point did you or anybody there start
13 realizing that there was blood?

14 A Umm, there was a lot of stuff going on and I was
15 in the middle of everything and defending myself as well as
16 trying to break up the fight. At one point the fourth
17 gentleman in the fight had the black guy by the shirt and
18 was punching him. That was the final thing that I broke up,
19 and somewhere right in there I looked around and saw blood
20 streaming from one guy's face onto his shirt, about chest
21 high, and running down. I saw blood on the other guy's
22 chest and not on his face and just kind of in a thought, I
23 am like to myself, I thought that's a lot of blood for --

24 **MS. CHIEN:** Objection, speculation.

25 **THE COURT:** Overruled.

1 **THE WITNESS:** I thought it is a lot of blood for
2 this -- there weren't many punches thrown -- this much
3 of a fight.

4 **BY MS. BARRA:**

5 **Q** Now you were talking about gentlemen and
6 gentleman. All the gentlemen that you saw with blood on
7 them, were they in the group of four?

8 **A** Yes.

9 **Q** Did the black gentleman appear to have a lot of
10 blood on him?

11 **A** No, ma'am. The only injuries I saw him sustain
12 were the fourth guy that he had him by the back of the shirt
13 and was punching him in the side of the head, but I did not
14 see any blood result from that.

15 **Q** And you stated that you were able to break it up
16 at that point, correct?

17 **A** Yes.

18 **Q** So, when you told them to break it up, did the
19 fourth guy release the black gentleman?

20 **A** Yes, he did. I entered his face, once again,
21 presented the mace to his face and told him to break it up
22 and go to his vehicle.

23 **Q** Okay. So now that the fight is broken up, what
24 happened, where did everybody go?

25 **A** I was in this general area and I am going to use

1 this car as an example again, the passenger door was open.
2 I was about here. Everybody was spread out. The black
3 gentleman was by the back of the car. There was another guy
4 over here and a gentleman walking in this direction from the
5 back of the car. The next thing that happens is when he got
6 here, I turned and looked and he stopped, his right leg
7 wobbled and he fell backwards just like a tree and, with no
8 trying to catch his self or anything.

9 Q Did you go to him?

10 A I -- yes, I ran to him, put my hand on his head to
11 feel his head. As I looked at him, his eyes rolled back
12 into his head and went left. There wasn't any blood on his
13 face. I looked at his chest and he had two stab wounds in
14 his chest.

15 Q Now, which one -- the person that you were holding
16 his head, do you recall what time he entered the fight in?

17 A I believe he was the first one over.

18 Q Now, when you are holding the back of his head,
19 was everybody, all parties involved in the fight still on
20 the scene at that time?

21 A Yes.

22 Q Did anybody leave the scene?

23 A Yes.

24 Q Who left the scene?

25 A The black gentleman and the female in the car that

1 was over there.

2 Q Was it made known that the police had been called?

3 A Yes.

4 Q And how was it made known, did somebody yell that?

5 A By the very end of the fight, I believe that
6 people had come out the back door and I told them that the
7 police were on their way. I was saying anything I could to
8 stop them, everything.

9 Q Did you try to stop the black gentleman from
10 leaving the scene?

11 A Well, I was holding the gentleman's head and
12 realized that he had been stabbed. I said out loud, there
13 was a party of people out there. I said out loud, this guy,
14 I said that mother fucker stabbed this guy, stop him.

15 Q Do you know where he was, for example, was he in
16 the car when you were saying this or was he still on the way
17 to the car when you said this?

18 A Everybody was still outside of the vehicles.

19 Q So the black gentleman was still outside the
20 vehicle when you said this?

21 A Yes.

22 Q And did he stop?

23 A No. He ran to the -- jumped in the car, shut the
24 door. As I said, he was stabbed. One of the gentleman from
25 this vehicle came over to him. I ran from this spot to the

1 back, to the driver's door. I was going to mace him so he
2 couldn't drive out of the parking lot.

3 Q So you ran to the driver's door of the black
4 gentleman's car?

5 A Yes.

6 Q And what happened when you got there?

7 A The window was up.

8 Q Was the car still parked when you got there or was
9 it starting to travel out?

10 A It was started and I -- as soon as I realized the
11 window was up, I went to the back of the car. I carry a pen
12 here like this, and I carry valet tickets in my back pocket.
13 And I grabbed one of them to write the tag number down.
14 There was no tag on the vehicle. So I looked to get the
15 make and model, and it was an Acura TL and instantly grabbed
16 my cell phone and dialed 911.

17 Q Okay. Sir, I'm showing you what has been marked
18 Composite B, I am sorry, State's Exhibit 3, and I am showing
19 you B3. Is that the vehicle that you saw that night?

20 A Yes, ma'am.

21 Q And when were you trying to take the tag down, in
22 this spot right here, is that a temporary tag?

23 A No, ma'am, I don't believe. I don't believe so.

24 Q But you couldn't see that?

25 A It's not a Florida temporary tag.

1 **Q** Okay. Now, after you had tried to stop the
2 vehicle you got the make and model of the vehicle. Did you
3 do anything else or did you see somebody else get involved?

4 **A** At the time I was holding the gentleman's head,
5 the valet attendant from across the street had heard me
6 screaming and drove his truck over there to -- he told me
7 that he thought I was in trouble, so he drove his truck over
8 to help me.

9 **Q** Now, he was across the street?

10 **A** Yes, at the Cabaret.

11 **Q** Did he come over to where you were, and did you
12 have a conversation with him?

13 **A** No, he was in his vehicle and when I screamed,
14 stop that guy, he just stabbed this man, he -- and when the
15 vehicle pulled off --

16 **Q** Do you want to see that photo again?

17 **A** I was here. My employee pulled up to about here
18 and came to a screeching stop. When I said go get him,
19 this, this vehicle pulled, there is a little island right
20 there. It is just about two or three feet wide. The
21 vehicle pulled around that and tried to exit out of the
22 southeast entrance to the parking lot.

23 **Q** So the black male was trying to exit that way?

24 **A** Yes. My employee went this way and went down and
25 tagged the rear end of the car to, I believe try and spin

1 him out. He tried to stop him. He hit that vehicle with
2 his vehicle.

3 Q Okay. And did that -- and he was still in the
4 parking lot when this occurred, right?

5 A Yes.

6 Q How fast were the vehicles traveling?

7 A He was traveling at a speed to escape, and he was
8 traveling at a speed to try and stop him, keep up and stop
9 him.

10 Q Did that stop him?

11 A No, ma'am.

12 Q What happened -- where did the black gentleman's
13 vehicle go?

14 MS. CHIEN: Objection is speculation.

15 THE COURT: Overruled, if he knows.

16 THE WITNESS: You asked where did the black
17 gentleman's vehicle go?

18 Q Yeah, that you saw.

19 A There are three entrances to the front of Thee
20 Dollhouse, a south, middle and north. He went out the south
21 entrance and made a right going south on OBT.

22 Q And did your friend across the way follow him?

23 A Yes, ma'am.

24 Q What happened next, did the police arrive?

25 A Yes, about three or four people were on the phone

1 with 911 along with myself.

2 Q Do you know how long it took the police to arrive
3 at Thee Dollhouse?

4 A Before I got off the phone with 911.

5 Q They had pulled in?

6 A Yes.

7 Q Was that the last time you saw the gray vehicle
8 was when it turned right and went away, or did you see it
9 again at any point?

10 A That was the last time I saw it.

11 MS. BARRA: Thank you. I have nothing further at
12 this time.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MS. CHIEN:

16 Q Morning, Mr. Westfall. I just want to be clear,
17 can you tell the jury where you were at when you -- right
18 before the fight broke out?

19 A Once again, there are two aisles of parking spaces
20 right here. The corner of the building is somewhere right
21 over here. There are six parking spaces along the edge of
22 the -- along the edge of the building, the south side of the
23 building. There's five spaces and a handicap spot there. I
24 was in the -- if you went handicap, 9, 8, 7, 6, 5, I was in
25 5.

1 **Q** Okay. So, when you heard the yelling, the way
2 that you saw the cars positioned was the four gentlemen,
3 their car was that Chrysler to the right?

4 **A** This vehicle.

5 **Q** And the car that Mr. Dobbs was in was about
6 40 feet away, is that correct?

7 **A** I'd say there's two spaces between these vehicles.
8 It would be -- it would be one, two, three, four, five or
9 six spaces away, and one row back.

10 **Q** So, the distance between the four gentlemen and
11 Mr. Dobbs was approximately, would you say, 40 feet?

12 **A** Five parking spaces.

13 **Q** Okay.

14 **A** To the width of them, I am not exactly positive.

15 **Q** Okay.

16 **A** Five --

17 **Q** Now, at some point it would be fair to say that
18 you never saw Mr. Dobbs move his car, is that correct?

19 **A** No, no, ma'am, not until the end.

20 **Q** So what I said was an accurate statement?

21 **A** I never saw him move his vehicle.

22 **Q** Right. And the fight broke out by the rear of
23 Mr. Dobbs' car, is that correct?

24 **A** The parking spot to the right of his vehicle.

25 **Q** And you saw the Hispanic male walk thirty feet

1 towards Mr. Dobbs, is that correct?

2 A Yes, ma'am.

3 Q And Mr. Dobbs only walked about maybe 10 feet?

4 A Yes, ma'am.

5 Q And at some point during the fight, your back was
6 to the fight, is that correct?

7 A Several, probably, because I was in the middle and
8 the fight was -- there was people all around me.

9 Q Okay. So you weren't paying attention to
10 everything, I mean, sometimes your back was to the fight?

11 A Yes.

12 Q Okay. And at some point you also saw a Hispanic
13 male holding down Mr. Dobbs, is that correct?

14 A I saw him holding him by the back of his shirt.

15 Q Okay. And this gentlemen was punching Mr. Dobbs
16 in the head?

17 A In the side of the head.

18 Q Let's talk about the beginning of the fight. The
19 first guy that walked over to Mr. Dobbs, after that punch,
20 you saw no blood on the first guy, is that correct?

21 A I did not notice, no, ma'am.

22 Q Okay. And then the second guy who also, umm,
23 fought Mr. Dobbs, you also did not see any blood on him as
24 well, is that correct?

25 A In the beginning, no.

1 **Q** And the female that was also there, you also saw
2 somebody run up and kick the female in the back, is that
3 correct?

4 **A** I never saw her get hit. I saw her attack the guy
5 and instantly went to break that up.

6 **Q** Well, you gave a statement to the police that
7 night; is that correct?

8 **A** Yes.

9 **Q** Okay. Do you recall telling the police officer
10 that somebody ran up and kicked the female in the back, she
11 got up and then the gentleman from the car eye witnessed
12 him, but do you recall telling the police officers that
13 somebody ran up and kicked the female in the back?

14 **A** No, ma'am.

15 **Q** When you saw Mr. Dobbs leaving, was it Mr. Holiday
16 that followed him?

17 **A** Yes, ma'am.

18 **Q** And he was in a truck?

19 **A** Yes, ma'am.

20 **Q** And would you say that they were both going pretty
21 fast?

22 **A** Yes, ma'am.

23 **Q** And you saw Mr. Holiday hit Mr. Dobbs' car, is
24 that correct?

25 **A** Yes, ma'am.

1 **MS. CHIEN:** May I have a moment Your Honor?

2 **THE COURT:** You may.

3 **BY MS. CHIEN:**

4 **Q** Mr. Westfall, would it refresh your recollection
5 if I were to show you a transcript of the police officers
6 that night?

7 **MS. BARRA:** Objection, Your Honor. May we
8 approach?

9 **THE COURT:** You may.

10 (Conference at the Bench held on the record.)

11 **MS. BARRA:** He hasn't indicated that he doesn't
12 have a fresh recollection of what occurred that day.
13 The defense attorney just stated would it refresh your
14 recollection, but there has been nothing on the record
15 that indicates his recollection isn't refreshed.

16 **THE COURT:** All right. I am going to overrule the
17 objection.

18 (Whereupon, the following was in open court.)

19 **THE COURT:** Objection is overruled.

20 **BY MS. CHIEN:**

21 **Q** So, Mr. Westfall, would it help you to refresh
22 your recollection if I were to show you the transcript that
23 you gave to the police officers on the night of the
24 incident?

25 **A** It is possible.

1 Q Okay.

2 MS. CHIEN: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 BY MS. CHIEN:

6 Q Can you please read this silent to yourself and
7 let me know when you are done reading.

8 A All right. It did say that.

9 Q Can I take that back now? Are you done?

10 A Yes.

11 Q Mr. Westfall, has your recollection been
12 refreshed?

13 A Yes.

14 Q Okay. And isn't it true that you gave a statement
15 to the police that at some point somebody ran up and kicked
16 the female in the back?

17 A I did say that.

18 Q Okay. And isn't it also true that all of a sudden
19 four guys were fighting the couple?

20 A That's a general statement.

21 Q Okay. But isn't it true that at some point that
22 four guys were fighting the couple?

23 A (pause).

24 Q Would it refresh your recollection if I were to
25 show you that transcript again?

1 **Q** And in regards to the women, is it your testimony
2 that she attacked him; is that right?

3 **A** The third gentlemen walking over?

4 **Q** The third gentlemen.

5 **A** Yes.

6 **Q** And prior to her attacking him, had he done
7 anything to her, hit her, struck her, kicked her, anything?

8 **A** He was walking from the vehicle towards, just like
9 the first two. He was walking toward their vehicle.

10 **Q** Okay.

11 **MS. BARRA:** Thank you. I have nothing further.

12 **THE COURT:** Any recross?

13 **MS. CHIEN:** No, Your Honor.

14 **THE COURT:** May this witness be excused?

15 **MS. BARRA:** Yes, Your Honor.

16 **THE COURT:** You are free to go, sir. Thank you.
17 Counsel, could you approach for a moment?

18 (Conference at the Bench held on the record.)

19 **MS. VICKERS:** I told him to stay on standby.

20 **MS. LASKOFF:** Because I told him he could leave.

21 **THE COURT:** How long is your next witness,
22 probably not five minutes?

23 **MS. LASKOFF:** No. And he's actually, he had a
24 diabetic issue, so he's not here.

25 **THE COURT:** So we do need to break for lunch.