

No. 20 - _____

IN THE SUPREME COURT OF THE UNITED STATES

CLARENCE TAYLOR

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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CLARENCE TAYLOR

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Appendix A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 8 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 19-50046

Plaintiff-Appellee,

D.C. No.

2:13-cr-00822-ODW-21

v.

CLARENCE TAYLOR,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Submitted May 6, 2020**
Pasadena, California

Before: M. SMITH, OWENS, and BRESS, Circuit Judges.

Clarence Taylor appeals from the district court's judgment revoking his supervised release and sentencing him to a term of 24 months' imprisonment and 24 months' supervised release. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Taylor contends that the admission of hearsay evidence during his revocation hearing violated his due process right to confront adverse witnesses. We disagree.

“[A] releasee’s rights to confrontation at a revocation hearing” “do not rise to the level of similar rights at a criminal trial.” *United States v. Walker*, 117 F.3d at 417, 420 (9th Cir. 1997) (quotations omitted). However, “every releasee is guaranteed the right to confront and cross-examine adverse witnesses at a revocation hearing, unless the government shows good cause for not producing the witnesses.” *United States v. Comito*, 177 F.3d 1166, 1170 (9th Cir. 1999). “[I]n determining whether the admission of hearsay evidence violates the releasee’s rights to confrontation in a particular case, the court must weigh the releasee’s interest in his constitutionally guaranteed right to confrontation against the Government’s good cause for denying it.” *Id.* “The weight to be given the right of confrontation in a particular case depends on two primary factors: the importance of the hearsay evidence to the court’s ultimate finding and the nature of the facts to be proven by the hearsay evidence.” *Id.* at 1171. In evaluating the government’s good cause, we consider the “difficulty and expense of procuring witnesses” and the “traditional indicia of reliability” borne by the evidence. *United States v. Martin*, 984 F.2d 308, 312 (9th Cir. 1993).

We conclude Taylor’s interest in confrontation does not outweigh the

government's good cause for denying it. Considering the non-hearsay evidence presented at the revocation hearing—MJ's statements to the 911 operator identifying Taylor as the assailant and the officer's observations and photographs of her injuries—Taylor's interest in confronting MJ as a witness was not strong, and the non-hearsay evidence alone was sufficient to sustain the allegations against Taylor. *United States v. Hall*, 419 F.3d 980, 986–87 (9th Cir. 2005).

To the extent Taylor contends MJ's statements to 911 operators are hearsay, he waived that argument by failing to object to the admission of the recordings at the revocation hearing, and by challenging only MJ's mother's statements to 911 operators, not those from MJ herself, as inadmissible hearsay on appeal. In any event, the district court did not abuse its discretion by admitting those statements into evidence. They are properly characterized as excited utterances, and thus non-hearsay under Rule 803(2) of the Federal Rules of Evidence.

The government also demonstrated good cause for denying confrontation. The government made efforts to procure MJ's testimony by subpoenaing her. When it learned MJ may not comply with the subpoena, the government proffered testimony from Taylor's probation officer that MJ feared retaliation if she were to testify against Taylor. *Cf. Comito*, 177 F.3d at 1172 (finding no good cause where government did not subpoena the witness and offered no evidence of the witness's fear of the defendant). Taylor did not seek to

cross-examine the probation officer on those points, and other evidence corroborated MJ's fear, including the restraining order MJ sought against Taylor, and the district court's no-contact order between them. *See Hall*, 419 F.3d at 988 n.6 (recognizing the "difficulty of securing the testimony of domestic violence victims . . . against their batterers").

As to the reliability of MJ's statements to police officers, the hearsay evidence here bore indicia of reliability. *Martin*, 984 F.2d at 312. MJ's statements, as relayed by the officers, were corroborated by the 911 recordings, her injuries, and her consistent descriptions of Taylor. Taylor made no showing that MJ may have been lying or that her testimony may have differed from the account the officers gave. *See Comito*, 177 F.3d at 1168, 1171 (concluding witness statements were "the least reliable type of hearsay" where witness said she fabricated the allegations and "her reluctance to testify was due to fear of perjury charges"). Balancing Taylor's weaker interest in confrontation against the government's good cause for denying it, Taylor's due process rights were not violated.

Even if Taylor was denied his right of confrontation, he has failed to show prejudice. Taylor argues the admission of testimonial hearsay was not harmless because without it, there was no evidence that Taylor assaulted MJ. But as discussed above, the non-hearsay evidence was sufficient to sustain the allegation

of the assault violation.

AFFIRMED.

Appendix B

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE OTIS D. WRIGHT II, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,

Plaintiff,

vs. Case No. CR 13-822-ODW

CLARENCE TAYLOR,

Defendant.

_____/

REPORTER'S TRANSCRIPT OF
SUPERVISED RELEASE EVIDENTIARY HEARING
SENTENCING HEARING
MONDAY, FEBRUARY 4, 2019
1:30 P.M
LOS ANGELES, CALIFORNIA

TERRI A. HOURIGAN, CSR NO. 3838, CCRR
FEDERAL OFFICIAL COURT REPORTER
350 WEST FIRST STREET, ROOM 4311
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FOR THE DEFENDANT:

LAW OFFICES OF JAMES R. TEDFORD, II
BY: JAMES R. TEDFORD, II
Attorney at Law
301 East Colorado Boulevard, Suite 520
Pasadena, California 91101

ALSO PRESENT: Sandra Acevedo, Probation Officer

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1 **LOS ANGELES, CALIFORNIA; MONDAY, FEBRUARY 4, 2019**

2 **1:30 P.M.**

3 **--oOo--**

4
5 THE COURTROOM DEPUTY: Calling Item No. 3,
6 *CR 13-822, United States of America versus Clarence Taylor.*

7 Counsel, may I have your appearance please?

8 MR. MAUSNER: Good afternoon, Your Honor. Josh
9 Mausner with the United States, and with me, United States
10 probation counselor, Sandra Acevedo.

11 MR. TEDFORD: Good afternoon, Your Honor. James
12 Tedford appearing on behalf of Mr. Taylor. He is present and
13 out of custody, and will we remain at counsel table, Your
14 Honor?

15 THE COURT: Yes. Good afternoon, gentlemen.

16 MR. TEDFORD: Thank you very much.

17 THE COURT: All right. We are here for an
18 evidentiary hearing.

19 The U.S. will -- back then, it was U. S. Probation, had
20 filed a petition alleging two violations of terms and
21 conditions of the supervised release.

22 We had a preliminary revocation hearing at which time both
23 allegations were denied, which brings us to today's hearing to
24 determine whether or not the government can establish by a
25 preponderance of the evidence that these allegations are

1 well-founded.

2 All right. The ball is in the government's court.

3 MR. TEDFORD: If I may, Your Honor, before we begin,
4 upon further consideration and review of the evidence,
5 Mr. Taylor would admit Allegation No. 2.

6 THE COURT: Okay. That shortens things a little
7 bit.

8 MR. TEDFORD: Yes.

9 THE COURT: So we only have to proceed with respect
10 to the first allegation?

11 MR. MAUSNER: The government will be proceeding with
12 respect to Allegation 1.

13 THE COURT: Excellent. First witness.

14 MR. MAUSNER: The government calls Los Angeles
15 Police Officer Steven Earner.

16 THE COURT: Would you stick your head out there
17 please and get the officer?

18 THE COURTROOM DEPUTY: Raise your right hand.

19 (Oath was administered.)

20 THE WITNESS: I do.

21 THE COURTROOM DEPUTY: Please be seated.

22 THE WITNESS: Good afternoon, Your Honor.

23 THE COURTROOM DEPUTY: Please state your first and
24 last name and spell it for the record.

25 THE WITNESS: First name is Stephen, S-t-e-p-h-e-n.

1 Last name is Earner, E-a-r-n-e-r.

2 STEPHEN EARNER,

3 having been duly sworn,

4 testified as follows:

5 THE COURTROOM DEPUTY: Thank you.

6 MR. MAUSNER: May I proceed?

7 THE COURT: Yes, please.

8

9 DIRECT EXAMINATION

10 BY MR. MAUSNER:

11 Q Officer, where are you currently employed?

12 A I'm currently employed by the City of Los Angeles as a
13 peace officer.

14 Q How long have you been an officer with the Los Angeles
15 Police Department?

16 A Approximately three years.

17 Q Can you briefly describe the training and experience you
18 received in law enforcement investigations both prior to and in
19 the course of your employment with LAPD?

20 A I was trained on how to testify in court, how to properly
21 conduct stops, investigate crimes, and book evidence.

22 Q And have you received specific training on how to
23 interview both suspects as well as victims of crimes?

24 A Yes.

25 Q And were you called to the scene of a purported battery on

1 June 18th, 2018?

2 A Yes.

3 Q And how did you receive word of having to report to that
4 location?

5 A I received a radio call.

6 Q What did that radio call tell you?

7 A It says --

8 MR. TEDFORD: Objection. Hearsay.

9 THE COURT: Overruled.

10 MR. MAUSNER: You may answer.

11 THE WITNESS: We received a radio call of a battery
12 suspect that just left -- of a male that assaulted a female on
13 131 Wilmington.

14 The call described a male, black, 31 years of age, named
15 Clarence Ray Taylor.

16 He had a tattoo with a W on his neck, a tattoo of the word
17 "daress" on his forearm. He was heavy set, 5'11" wearing a
18 gray hoodie and black pants in a blue sea green vehicle.

19 BY MR. MAUSNER:

20 Q Were you given a license plate for that blue sea green
21 vehicle as well?

22 A Yes.

23 Q Just to confirm, the tattoo on that forearm, was it
24 d-a-r-e-s-s?

25 A Yes, that's correct.

1 Q What did you do after receiving that call on June 17th,
2 2018?

3 A We proceeded to the location initially, the PR, the person
4 reporting, was unable to locate.

5 Q Okay. Were you eventually able to locate the PR or the
6 victim of the assault?

7 A Yes.

8 Q Where was the victim located when you first approached her
9 and spoke with her?

10 A Centinela Hospital.

11 Q And was she inside the hospital?

12 A No, she was not.

13 Q Can you describe where she was and how she appeared to you
14 when you first saw her outside of Centinela Hospital?

15 A When we arrived at the hospital, we observed the PR
16 sitting on the cement traffic ball basically kind of holding
17 herself up.

18 We approached her. She was crying. She appeared fearful
19 and she was nervous.

20 Q Okay. Did she tell you what had happened earlier that
21 day?

22 A She did.

23 Q What did she tell you happened earlier that day at 103rd
24 and Beach?

25 MR. TEDFORD: Objection. Hearsay.

1 THE COURT: Overruled.

2 THE WITNESS: She described that she was arriving at
3 a friend's house.

4 She exited her vehicle and began to walk towards her
5 friend's house when Mr. Taylor approached her, and he began a
6 verbal argument with her about why she was not talking to him.

7 At that time, the argument continued at which time
8 Mr. Taylor, with a closed fist, struck her two times in the
9 face area.

10 She began to defend herself, at which time Mr. Taylor
11 grabbed her by the braids, her hair, drug her to his vehicle,
12 entered the driver's side while still holding onto her hair,
13 and put the vehicle in drive and began to drive.

14 BY MR. MAUSNER:

15 Q And upon hearing the accounting by the victim of what had
16 happened, did she relate to you any injuries she currently had
17 sustained?

18 A She did.

19 Q What did she tell you?

20 A She said she had pain to her left knee as well as she
21 showed me a visible injury to the right side of the top of her
22 head where a braid of her hair was missing.

23 Q Was the victim then able -- just for clarity sake -- was
24 the victim an individual with the initials, MJ?

25 A Yes.

1 Q And was she able to identify the defendant matching the
2 description that you received on the radio call?

3 A Yes.

4 Q Did she describe the victim by name as Clarence Ray
5 Taylor?

6 A Yes.

7 Q And was she able to pull up --

8 THE COURT: Did she describe the suspect by name?

9 MR. MAUSNER: I'm sorry, did I say "victim"?

10 BY MR. MAUSNER:

11 Q I apologize. Did MJ, the victim, describe the suspect by
12 name?

13 A Yes. That's correct.

14 Q Was she also able to pull up a photograph of the suspect?

15 A Yes, she was.

16 Q Okay. Can you describe how she was able to do that?

17 A She pulled up the photo on her cell phone device, I
18 believe, it was on Facebook that she had on her phone.

19 Q And what did you do next after receiving the suspect's
20 name and photograph off of Facebook?

21 A I proceeded to our police vehicle and utilizing my
22 department resources VR computer in our car, searched the
23 information and was able to pull a previous photo matching the
24 name and date of birth and age of Mr. Taylor.

25 Q Were you able to discern any other information regarding

1 Mr. Taylor following that search you ran?

2 A Yes. I discovered he was on probation.

3 Q And were you able to get an address for Mr. Taylor based
4 on that search?

5 A Yes.

6 Q What address was that?

7 A It was 10829 Gorman Avenue.

8 MR. MAUSNER: May I have a moment, Your Honor?

9 THE COURT: Uh-huh.

10 MR. MAUSNER: No further questions, Your Honor.

11 THE COURT: Cross?

12

13 CROSS-EXAMINATION

14 BY MR. TEDFORD:

15 Q Officer Earner, where was the location of this alleged
16 incident?

17 A 103rd and Beach.

18 Q Where is that in proximity to Centinela Hospital?

19 A Centinela Hospital -- are you asking me about distance?

20 Q Distance.

21 A Probably -- approximately ten miles.

22 Q Okay. And there is at least two other hospitals closer to
23 the location of the incident, correct?

24 A That's correct.

25 Q Okay. And you indicated on direct that you had gone to

1 the location but you couldn't find the victim; is that right?

2 A That is correct.

3 Q How did you find her?

4 A She contacted our communications division after we had
5 already arrived at the area stated in the call, and said she
6 had drove herself to Centinela Hospital.

7 Q But she wasn't the one that made the phone call, correct?
8 She didn't make the call -- the 911 call did not come from her,
9 did it?

10 A I can't recall.

11 MR. MAUSNER: Objection. Lacks foundation. He
12 wouldn't have reason to know who made the call.

13 THE COURT: I don't think he would have known, would
14 he?

15 MR. TEDFORD: In your vehicle you have an MDT,
16 right?

17 THE COURT: I mean, the call doesn't come into him,
18 right?

19 MR. TEDFORD: No. It comes from dispatch.

20 THE COURT: So he wouldn't really know, would he?

21 BY MR. TEDFORD:

22 Q Officer, does dispatch send you notifications in your car?

23 A Yes, they do.

24 Q Does dispatch talk to you over the radio?

25 A Yes.

1 Q Okay. And so, during the course of your investigation,
2 did dispatch tell you that a 911 call was made?

3 A Yes.

4 Q Okay. And in your MDT logs, it says very clearly that
5 that came in from someone other than the victim, correct?

6 A I can't recall the name on the log.

7 Q Okay. Very well.

8 And then you indicated that you located her sitting on a
9 parking bollard; is that right?

10 A Yes.

11 Q And she was not inside being treated by any physicians,
12 correct?

13 A Correct.

14 Q And when you talked to the victim, you indicated that she
15 was crying and upset, correct?

16 A Yes.

17 Q And you indicated that the first thing she told you was
18 she had been hit in the face with two -- two times with closed
19 fists, right?

20 A That's correct.

21 Q By this man, 5'11", 260 pounds, right?

22 A That's what she described.

23 Q Uh-huh. And you took zero pictures of her face, didn't
24 you?

25 A At that time, no.

1 Q And you took -- there was no injury other than the braid,
2 you talked about that, but you didn't describe anything about
3 where she had been punched, did you?

4 MR. MAUSNER: Misstates the testimony.

5 BY MR. TEDFORD:

6 Q Tell me, what did you tell us on direct about injuries to
7 her face that were sustained after being punched by this man?

8 A I stated that she said she was punched in the face
9 approximately two times with a closed fist.

10 Q Right. But you didn't observe any swelling to her cheek
11 or her jaw or her nose, correct?

12 A That's correct.

13 Q You didn't observe any blood around her lips or her nose,
14 correct?

15 A Correct.

16 Q She didn't have an ice pack that she was holding anywhere
17 on her face, correct?

18 A Correct.

19 Q What she did show you is that her weave had been pulled
20 off her head, correct?

21 A That's correct.

22 Q What she did show you and tell you was that she had some
23 sort of a bruise on her knee, correct?

24 A Complained of pain to her knee, yes.

25 Q Okay. And you later learned that she never even went into

1 Centinela, right?

2 A That's correct.

3 Q She left because she decided it was going to take too long
4 to seek medical treatment, right?

5 A That's as far as I know.

6 Q Okay.

7 MR. TEDFORD: Nothing further.

8 THE COURT: I have a question: How did she know it
9 was going to take a long time to be treated if she didn't go
10 into the hospital?

11 THE WITNESS: I would assume she entered, Your
12 Honor.

13 THE COURT: I don't want you to assume anything,
14 just okay. Fine.

15 Any redirect?

16 MR. MAUSNER: Briefly, Your Honor.

17

18 REDIRECT EXAMINATION

19 BY MR. MAUSNER:

20 Q When you arrived and she was standing -- the victim was
21 standing outside of the hospital, do you know one way or
22 another whether she previously went into the hospital to try to
23 seek medical attention?

24 A I can't recall, but she was sitting where the traffic
25 balls were, it was just down the stairs of the front entrance.

1 But I can't recall if she went into the hospital and said
2 she saw a doctor or not.

3 Q Okay. And with regard to the injuries, did she complain
4 to you of injury to her leg and not being able to stand or put
5 any weight on her leg?

6 A That's correct.

7 Q Did she appear to be leaning on the traffic bollard not
8 able to put weight on her leg?

9 A Yes.

10 MR. MAUSNER: No further questions, Your Honor.

11 MR. TEDFORD: No thank you, Your Honor.

12 THE COURT: Do you have any independent recollection
13 of anything involving this incident other than what is
14 contained in the report that you wrote?

15 THE WITNESS: Nothing more, Your Honor.

16 THE COURT: Okay. You may step down. Thank you.

17 MR. MAUSNER: The government calls Detective Sonny
18 Patsenhann.

19 THE COURTROOM DEPUTY: Raise your right hand.

20 (Oath was administered.)

21 THE WITNESS: Yes, ma'am.

22 THE COURTROOM DEPUTY: Please be seated. Please
23 state your first and last name, and spell it and speak slowly
24 for the record, please?

25 THE WITNESS: Sonny Patsenhann. S-o-n-n-y,

1 P-a-t-s-e-n-h-a-n-n.

2 SONNY PATSENHANN,
3 having been duly sworn,
4 testified as follows:

5 THE COURTROOM DEPUTY: Thank you.

6

7 DIRECT EXAMINATION

8 BY MR. MAUSNER:

9 Q Detective Patsenhann, where are you currently employed?

10 A City of Los Angeles.

11 Q And how long have you been employed by the City of Los
12 Angeles?

13 A 22 years.

14 Q What is your current occupation and title?

15 A Currently, I'm a detective supervisor.

16 Q What type of training and experience have you received as
17 detective supervisor or any prior assignments you have had with
18 LAPD?

19 A Of the 22 years, I have been -- 12 years, I have been a
20 detective, I have investigated gang crimes, crimes against
21 persons, domestic violence, disputes that leads to aggressive
22 violence.

23 Q Okay. And were you assigned the case of a battery that
24 occurred on July 14th of -- excuse me, July 17th, 2018?

25 A June 17th.

1 Q June 17th, 2018?

2 A Yes, sir.

3 Q How were you first advised and assigned that matter?

4 A I reviewed a crime report the night before.

5 Q Okay. And after reviewing the crime report, what did you
6 do next in your investigation?

7 A I contacted the victim to see if she was willing to come
8 meet me so I can re-interview her again.

9 Q Did the crime report that you reviewed, was that a report
10 that was authored by LAPD Officer Stephen Earner?

11 A Yes, sir.

12 Q And did that detail an assault with a deadly weapon by an
13 individual by Clarence Ray Taylor?

14 A Yes, sir.

15 Q And was the victim an individual with the initials, MJ?

16 A Yes, sir.

17 Q Okay. And you stated that your next step was to contact
18 that victim, MJ.

19 Have you spoken with MJ in the course of this
20 investigation?

21 A I have.

22 Q And what did MJ tell you what happened on June 17th, 2018?

23 A I met with her at Southeast Station on August 1st.

24 She said she was in the area of 103rd and I believe Beach,
25 I believe. I'm not exactly sure, I can review the report.

1 Q Was it your recollection that it was 103rd and Beach?

2 A Yes, sir.

3 Q And what happened at that location?

4 A She was approached by Mr. Taylor and he proceeded to argue
5 with her based on their prior relationship that he wanted to
6 continue dating her.

7 Q What did she tell you happened next?

8 A She was punched.

9 MR. TEDFORD: Objection. Hearsay.

10 MR. MAUSNER: It's admissible, Your Honor, in a
11 revocation proceeding.

12 THE COURT: Go ahead.

13 THE WITNESS: He punched her twice in the face.

14 BY MR. MAUSNER:

15 Q What happened next?

16 A He pulled her by the hair and he dragged her to his car.
17 He got into the driver's side, and he drove off while
18 holding her hair.

19 Q Okay. In the course of your investigation, did you obtain
20 photographs regarding the victim's injuries as a result of that
21 assault on June 17th?

22 A Yes, sir.

23 MR. MAUSNER: Your Honor, may I approach with what
24 will be Exhibits 1 and 2?

25 THE COURT: Why don't you just display them?

1 MR. MAUSNER: Will do.

2 THE COURT: Adjust the camera. Is it all the way
3 fully extended?

4 BY MR. MAUSNER:

5 Q Do you recognize Government's Exhibit 1?

6 A Yes, sir.

7 Q Is this a photograph that you took of the victim?

8 A Yes, sir.

9 Q Was this photograph taken some time period after the
10 June 17th assault?

11 A Yes. It was on August 1st at Southeast Station.

12 Q So on August 1st, is this the remnants more than a month
13 later of the injury that victim MJ sustained?

14 A Yes, sir.

15 Q Is this photograph consistent with how you viewed that on
16 that date?

17 A Yes, sir.

18 MR. MAUSNER: Move to admit Exhibit 1, Your Honor.

19 THE COURT: Okay.

20 (Exhibit 1 received into evidence.)

21 BY MR. MAUSNER:

22 With respect to Exhibit 2, is this another photograph that
23 was taken -- this time of victim MJ's leg?

24 A Yes, sir.

25 Q Does that leg show bruising there, discoloration in the

1 center of the photograph?

2 A Yes, sir.

3 Q And did the victim tell you how the two injuries both to
4 her head and leg were sustained?

5 A By when she was dragged by -- when Mr. Taylor driving the
6 car, her hair -- braids fell from her scalp, and she received
7 bruising in her knee when she fell to the pavement.

8 Q Just to be clear, Mr. Taylor took the defendant, grabbed
9 her by her hair, dragged her to his car?

10 A Yes.

11 Q And began to drive down the street while holding onto her
12 hair?

13 A Yes, sir.

14 Q And did Mr. Taylor tell the victim --

15 MR. TEDFORD: Objection. Leading. He's testifying.

16 MR. MAUSNER: I can restate, Your Honor.

17 BY MR. MAUSNER:

18 Q What did the defendant tell the victim as he was grabbing
19 her hair and driving down the street?

20 MR. TEDFORD: Objection. That is two levels of
21 hearsay now.

22 THE COURT: Go ahead.

23 THE WITNESS: She didn't mention anything to me
24 regarding that.

25 BY MR. MAUSNER:

1 Q Would it refresh your recollection to look at the report?

2 A Yes, sir.

3 MR. MAUSNER: May I approach, Your Honor?

4 THE COURT: Yes.

5 BY MR. MAUSNER:

6 Q Does looking at the report refresh your recollection of
7 what the defendant told the victim?

8 A Yes.

9 Q What was that?

10 A As he was driving, he wasn't going to let her go.

11 Q Have you spoken with the victim MJ throughout the course
12 of this investigation?

13 A Yes, sir.

14 Q And did the victim come into the police station to
15 identify Mr. Taylor?

16 A She did.

17 Q And did you -- did she sign a photograph of Mr. Taylor and
18 write on it, this is Clarence Taylor and sign it August 1st,
19 2018?

20 A Yes, sir.

21 Q I will place Exhibit 3 on the Elmo.

22 Is this the signed identification you are referring to?

23 A Yes, sir.

24 MR. MAUSNER: Government would move to admit
25 Exhibit 2 and 3, Your Honor.

1 THE COURT: Any objection?

2 MR. TEDFORD: No objection.

3 THE COURT: It will be admitted.

4 (Exhibits 2 and 3 received into evidence.)

5 BY MR. MAUSNER:

6 Q In the course of your investigation in this matter, did
7 you request the 911 tape of the -- excuse me -- the 911
8 recording regarding this incident on June 17th?

9 A Yes, sir.

10 Q And did you receive that recording?

11 A Yes, sir.

12 MR. MAUSNER: May I have a moment, Your Honor? The
13 government would now like to play what is Exhibit 4.

14 For the record, I will note with regard to the hearsay
15 objections that defendant has made, all of the statements that
16 were given to police officers and particularly the recording
17 are both excited utterances as well as present tense
18 impressions that are not hearsay under the rules, and to the
19 extent Your Honor were to find they are hearsay, they would
20 nonetheless be admissible in a revocation proceeding.

21 MR. TEDFORD: I would just like to respond to that
22 if I might, Your Honor.

23 There are certain circumstances by which hearsay is
24 allowed at a revocation hearing; however, I don't think any of
25 those elements have been met yet by the government, and I'm

1 sure Mr. Mausner knows that.

2 So, to that extent, I would renew my objection to hearsay.

3 Furthermore, he's trying to offer multiple levels of
4 hearsay, not just one.

5 MR. MAUSNER: Would Your Honor like me to address
6 that now or once the evidence is closed?

7 THE COURT: Go ahead.

8 MR. MAUSNER: Exhibit 4 is the recording of the 911
9 call of the June 17th, 2018 incident.

10 (Audio played in open court.)

11 MR. MAUSNER: Move to admit Exhibit 4, Your Honor.

12 THE COURT: Any objection?

13 MR. TEDFORD: No.

14 (Exhibit 4 received into evidence.)

15 BY MR. MAUSNER:

16 Q Did you recognize the first voice of the beginning of the
17 call purported to be the victim's mother?

18 A Yes.

19 Q Have you spoken with the victim's mother?

20 A I have.

21 Q Does that appear to be her voice?

22 A Yes.

23 Q The second voice, the one that appeared to be crying and
24 reporting the incident, does that appear to be the victim MJ's
25 voice?

1 A Yes, sir.

2 Q There was a mention on the recording where MJ states that
3 this has happened before?

4 A Yes, sir.

5 Q Do you recall that portion of the recording?

6 A Yes, sir.

7 Q In the course of your investigation, did you discover a
8 prior assault by the same defendant against the same victim?

9 A Yes, sir.

10 Q Was that prior assault on June 4th, 2018?

11 A Yes, sir.

12 Q And what did you learn to discover about that assault in
13 the course of your investigation?

14 A The victim was home.

15 Mr. Taylor approached her, argued with her again. He put
16 pepper spray and sprayed her in the face and he took off.

17 The victim called for her mother, Ms. Lillian Williams,
18 when you heard on the recording she was upstairs in the house,
19 and she comes down and was helping the victim by calling 911
20 and helping her with the pepper spray in her face.

21 Q Did you obtain the 911 tape for this June 4th, 2018
22 incident as well?

23 A Yes, sir.

24 MR. MAUSNER: Your Honor, at this time I would like
25 to play Exhibit 5.

1 THE COURT: Please.

2 (Audio played in open court.)

3 MR. MAUSNER: Government would move to admit
4 Exhibit 5, Your Honor.

5 THE COURT: Any objection?

6 MR. TEDFORD: No objection.

7 THE COURT: It will be received.

8 (Exhibit 5 received into evidence.)

9 BY MR. MAUSNER:

10 Q Officer Patsenhann, did you recognize the voice of the
11 individual speaking on that call?

12 A Yes, sir.

13 Q Was that MJ's mother?

14 A Yes, sir.

15 Q To the extent you could hear the voice in the back that
16 appeared to be crying and yelling about being pepper sprayed,
17 did that appear to be victim MJ?

18 A Yes, sir.

19 Q In speaking with victim MJ, did she also identify
20 defendant Clarence Ray Taylor as the perpetrator of that
21 assault as well?

22 A Yes, sir.

23 Q And speaking with MJ, did you speak with her regarding her
24 going to the hospital the night of the -- the later -- the
25 June 17th, 2018 incident?

1 A Yes, I did.

2 Q And what did Ms. J [REDACTED] tell you with regard to her going
3 to the hospital to attempt to get medical care?

4 A She arrived at the hospital, and I guess she waited for a
5 while, and it was a long line so she had to work that night, so
6 that's why she didn't stay and receive medical care, so she
7 left.

8 Q Following up on your investigation, was the defendant,
9 Clarence Taylor, eventually arrested for the two assaults we
10 have discussed?

11 A Yes, sir.

12 Q Do you recall on what date Mr. Taylor was arrested?

13 A It was on July 31st, 2018.

14 Q Do you recall the address at which he was arrested?

15 A Yes. He was arrested at 1357 23rd Street in the City of
16 Signal Hills.

17 MR. MAUSNER: May I have a moment, Your Honor?

18 No further questions, Your Honor.

19 THE COURT: Cross?

20

21 CROSS-EXAMINATION

22 BY MR. TEDFORD:

23 Q Good afternoon. It is Detective Patsenhann; is that
24 correct?

25 A Yes, sir.

1 Q Good afternoon. So, MJ comes to see you on August 1st,
2 correct?

3 A Yes, sir.

4 Q That happens to be the day after Mr. Taylor is arrested,
5 right?

6 A Yes, sir.

7 Q And so what was it you were doing during your
8 investigation for the previous six weeks?

9 A I was trying to locate Mr. Taylor and have him arrested.

10 Q Okay. How about the gentleman that you described, the one
11 she was with, did you interview him?

12 A No, sir.

13 Q What was his name?

14 A I never asked her.

15 Q You never asked her?

16 A No, sir.

17 Q This was an eye witness, right?

18 A Yes, sir.

19 Q You did not ask who that person was?

20 A No, sir.

21 Q No attempt to ascertain the identification of an eye
22 witness to an alleged crime?

23 A No, sir.

24 Q You also indicated on direct that MJ had reported to you
25 or reported to another officer, I guess, that on June 17th, she

1 had been struck in the face twice with a closed fist by
2 Mr. Taylor, correct?

3 A Yes, sir.

4 Q And you reviewed that police report during your
5 investigation, right?

6 A Yes, sir.

7 Q Did you talk to the actual officers who had taken the
8 report?

9 A Later on that day, yes.

10 Q Okay. And you must have asked them -- the injuries must
11 have been very severe from those punches to the face, correct?

12 A Yes, sir.

13 Q Do you know if she had sustained any fractures?

14 A I do not.

15 Q Did you have any photographs of any swelling to the cheek,
16 the nose?

17 A I did not have photos of those.

18 Q Was there any description in the report about any injury
19 to her face other than where her braids were pulled off?

20 A No, sir.

21 Q None?

22 A No, sir.

23 Q Did you find that to be curious?

24 A I asked him why the photos weren't taken. I asked the
25 officers that.

1 They told me the camera wasn't available in the kit room,
2 so one wasn't checked out.

3 Q Did you inquire whether anybody else in the entire police
4 department had a camera available to them?

5 A I was with the unit that night, so I would --

6 Q Did you inquire whether those two officers carry cell
7 phones that have cameras on them?

8 A They are not allowed to take personal photos of crime
9 scenes.

10 Q Detective, you don't expect this Court to believe that
11 those officers even attempted to take photographs of any
12 injuries that weren't described in the report, do you?

13 THE COURT: Mr. Tedford, settle down.

14 MR. MAUSNER: Objection. Argumentative. If he
15 could let the witness --

16 THE COURT: Be quiet, back off, all right. Just
17 back off.

18 BY MR. TEDFORD:

19 Q Did you ever see any evidence of any punch to MJ's face?

20 A Any injuries to her face? No, sir.

21 Q Okay. Did you go to Centinela Hospital and request the
22 records showing where she had been admitted and waited?

23 A She said she never went in. She waited, but she didn't
24 register.

25 Q So, did you ask her how she would know how long the line

1 would be if she never even inquired?

2 A She saw a lot of people in the lobby, so she waited and
3 she didn't -- never got called, so she left.

4 Q She never registered and asked to be treated, correct?

5 A No, sir.

6 Q The incident that occurred allegedly on June 17th, where
7 did that occur?

8 A On Beach and 103rd.

9 Q Is that in the Watts area?

10 A Yes, sir.

11 Q It's not where she resides, is it?

12 A No, sir.

13 Q She doesn't reside anywhere near the Watts area?

14 A No, sir.

15 Q But Mr. Taylor does?

16 A Yes, sir.

17 Q So do you know how she happened to be in the vicinity of
18 Mr. Taylor's home at that time?

19 A She was visiting a friend.

20 Q Was this the friend that you did not ask who they were?

21 A Yes, sir.

22 Q Is this the friend that was in a mutual combat fight with
23 Mr. Taylor?

24 A Yes, sir.

25 Q One that jumped him?

1 MR. MAUSNER: Objection, Your Honor. Argumentative.

2 THE COURT: Overruled.

3 BY MR. TEDFORD:

4 Q I mean, they were at his home, correct, Mr. Taylor's home?

5 A I was unaware of that, sir.

6 Q And you presented this case to the LA County District
7 Attorney's office and they rejected it, right?

8 A Yes, sir.

9 Q Because of insufficient evidence, true?

10 MR. MAUSNER: Lacks foundation, Your Honor.

11 THE COURT: Sustained.

12 BY MR. TEDFORD:

13 Q Did you meet with LA County District Attorney's office?

14 A Yes, I did.

15 Q A deputy?

16 A Yes.

17 Q Did you provide him all of the information you have talked
18 about today in court?

19 A Yes, sir.

20 Q And they declined to file the charge, right?

21 A Yes, sir.

22 Q Did they tell you why?

23 A It was based on the DA's Policy 101.

24 Q Okay. That is insufficient evidence?

25 A Yes, sir.

1 MR. TEDFORD: Nothing further.

2 THE COURT: Any redirect?

3 MR. MAUSNER: Yes, Your Honor.

4

5 REDIRECT EXAMINATION

6 BY MR. MAUSNER:

7 Q Mr. Tedford asked you about a mutual combat event; is that
8 correct?

9 Did Mr. Taylor (sic) ask you about a quote/unquote mutual
10 combat incident?

11 A Yes, sir.

12 Q And that mutual combat incident was the June 4th, 2018,
13 incident; is that correct?

14 A The pepper spray is on June 4th.

15 Q Correct. The incident in which there were two men
16 involved in a fight describes the June 4th incident?

17 A Yes, sir.

18 Q There was no other male individual involved in the
19 June 17th incident, was there?

20 A Correct.

21 Q So when Mr. Taylor (sic) is asking you about a mutual
22 combat incident, he is referring to the June 4th incident and
23 not the allegation here, correct?

24 A Yes, sir.

25 Q And regarding that June 4th incident, isn't it true that

1 the victim told you that by the time the pepper spray incident
2 and the fight had occurred, she had told that other individual
3 her male friend to leave the scene and he in fact left; is that
4 correct?

5 A Yes, sir.

6 Q So he would not have been an eye witness to the assault;
7 is that right?

8 A Yes, sir.

9 Q With regard to cell phone photographs as Mr. Taylor
10 suggests, is it against LAPD policy to take official pictures
11 with personal items?

12 A Yes, sir.

13 Q 103rd and Beach Street was referred to by Mr. Taylor
14 (sic).

15 Do you recall that?

16 A Yes, sir.

17 MR. TEDFORD: Make sure the record is clear. He
18 keeps referring to Mr. Taylor.

19 MR. MAUSNER: Sorry, Mr. Tedford. I apologize.

20 BY MR. MAUSNER:

21 Q Mr. Tedford referred to Beach and 103rd Street; is that
22 right?

23 A Yes, sir.

24 Q And he tried to ask you questions about a mutual combat
25 incident at Beach and 103rd?

1 A Yes, sir.

2 Q The mutual combat incident on June 4th occurred on Martin
3 Luther King Boulevard; is that correct?

4 A Yes, sir.

5 Q That is an entirely different incident than the incident
6 involving the defendant and victim that occurred on 103rd and
7 Beach 13 days later, correct?

8 A Yes, sir.

9 Q The area around Beach and 103rd, is that a heavily
10 populated area?

11 A Yes, it is.

12 Q Is it -- that particular area associated with a particular
13 gang in Los Angeles?

14 A Yes, sir.

15 Q And what gang would that be?

16 A Grape Street.

17 Q With regard to the Grape Street, is that a set of Crips?

18 A Yes.

19 Q Does -- based on your review of the record here, and
20 review of Mr. Taylor -- Mr. Taylor's prior history as well as
21 your investigation in this case, did it reveal that Mr. Taylor
22 identifies as a Grape Street Crip member?

23 A Yes, sir.

24 Q Has he previously been documented as a Grape Street Crips
25 member?

1 A Yes.

2 Q With regard to Mr. Tedford's statement regarding someone
3 quote/unquote jumping the defendant, do you have any
4 information to substantiate that the defendant was jumped
5 either on June 4th or on June 17th?

6 A No, sir.

7 Q Lastly, with regard to the what Mr. Tedford referred to as
8 declined prosecution, are you the person in charge of making
9 decisions regarding a case whether the DA's office takes it or
10 declines it?

11 A No, sir.

12 Q The information you were given was that this current case
13 is currently declined; is that correct?

14 A Yes, sir.

15 Q Was it specifically declined pending further
16 investigation?

17 A Yes, sir.

18 Q So Mr. Tedford's characterization as it being declined for
19 lack of evidence; is that inaccurate?

20 A Yes, sir.

21 Q Lastly, Mr. Taylor referred to -- sorry, Mr. Tedford
22 referred to August 1st as the date that MJ met with you
23 regarding the identification and telling you her recounting of
24 the events; is that correct?

25 A Yes, sir.

1 Q Mr. Tedford stated that that just happened to be the day
2 after Mr. Taylor was arrested.

3 Do you recall that?

4 A Yes, sir.

5 Q Is there any significance to you of the victim waiting
6 until after the defendant was arrested to want to speak with
7 you?

8 A Yes.

9 Q What is the significance?

10 A Prior to meeting her on August 1st, I talked to her over
11 the phone a few times. Every time I talked to her she began
12 crying, and to me, I asked her why she was crying, she said she
13 was scared of him just based on his history and other known
14 group of friends that he has or hangs out with that had -- she
15 was fearful of retaliation.

16 And after August 2nd, she had e-mailed me a restraining
17 order she had filed against Mr. Taylor.

18 Q Are you familiar with that restraining order that she has
19 filed against Mr. Taylor?

20 A Yes, sir.

21 Q And is that a state restraining order against Mr. Taylor?

22 A Yes, sir.

23 Q Do you know one way or another whether that restraining
24 order has been served on Mr. Taylor?

25 A It has not been served.

1 Q Based on your conversations with the victim throughout
2 this investigation, would you describe her as scared?

3 A Yes, sir.

4 Q Would you describe her as scared of Mr. Taylor?

5 A Yes, sir.

6 Q Would you describe her as not wanting to cooperate and not
7 wanting to testify in this matter due to her fear of
8 Mr. Taylor?

9 A Very much so, yes, sir.

10 MR. MAUSNER: No further questions, Your Honor.

11 THE COURT: Recross?
12

13 RECROSS EXAMINATION

14 BY MR. TEDFORD:

15 Q So, there were two incidents, right, one on June 17th, and
16 one on June 4th, correct?

17 A Yes, sir.

18 Q My understanding they both occurred in a heavily populated
19 area; is that right?

20 A Yes, sir.

21 Q Okay. And yet despite that, you were not able to locate
22 one independent witness to either of these events, correct?

23 A Yes, sir.

24 Q You tried, though, right?

25 A Yes, sir.

1 Q Other than not asking the victim for the man's name that
2 was with her, the man that got in a fight with Mr. Taylor,
3 right?

4 A Yes, sir.

5 Q Okay. Did you have a discussion with her as to why her
6 and the male subject were looking for Mr. Taylor together?

7 A No, sir.

8 MR. TEDFORD: Thank you.

9 THE COURT: May this witness be excused?

10 MR. MAUSNER: Yes, Your Honor.

11 THE COURT: You may step down, sir.

12 THE WITNESS: Yes, sir.

13 MR. MAUSNER: Government calls LAPD Officer
14 Enriquez.

15 THE COURT: Officer Enriquez?

16 THE COURTROOM DEPUTY: You can have a seat right
17 there.

18 Raise your right hand.

19 (Oath was administered.)

20 THE WITNESS: I do.

21 THE COURTROOM DEPUTY: Please be seated. Please
22 state your first and last name and spell it for the record and
23 speak slowly.

24 THE WITNESS: First name is Jose, J-o-s-e, last
25 name, Enriquez, E-n-r-i-q-u-e-z.

1 JOSE ENRIQUEZ,
2 having been duly sworn,
3 testified as follows:
4

5 DIRECT EXAMINATION

6 BY MR. MAUSNER:

7 Q Officer Enriquez, where are you currently employed?

8 A I'm currently employed for LAPD Southwest Division.

9 Q How long have you been with the LAPD?

10 A Approximately 14 months.

11 Q Can you briefly describe your training and experience
12 prior to and in the course of your employment with LAPD?

13 A I spent my first six months at the LAPD Academy, and I
14 have been working with a field training officer for the past
15 few months at Southwest Division.

16 Q And in the course of your duties as an LAPD officer, did
17 you report to the scene of a purported battery on June 4th,
18 2018?

19 A I did.

20 Q And how were you first alerted to need to report to that
21 location?

22 A We were alerted via our system for a battery investigation
23 at 1750 West Martin Luther King Boulevard.

24 Q Was that the result of the a 911 call that was placed to
25 dispatch?

1 A That's correct.

2 Q Did you report to that address on Martin Luther King
3 Boulevard on the 4th?

4 A Yes, we did.

5 Q What did you see when you got there?

6 A We -- based on the comments on the call we went into the
7 apartment building, and we spoke with the victim.

8 She was in pain and agony holding her eyes being pepper
9 sprayed.

10 Q Was she alone in the apartment?

11 A No. She was in there with her mother.

12 Q Did you speak with both her mother and the victim whose
13 initials are MJ?

14 A Yes.

15 Q And you stated the victim appeared to be in agony and was
16 rubbing her eyes and had pain in her eyes?

17 A That is correct.

18 Q Did she tell you what happened and why her eyes were
19 burning?

20 A She stated that a friend of hers pepper sprayed her as a
21 result of him possibly being jealous of her hanging around with
22 another male friend.

23 Q What did she tell you were the circumstances of what
24 happened that led up to her being pepper sprayed?

25 A She stated that after coming from an amusement park, she

1 came down from her apartment with her male friend.

2 At that point Mr. -- I believe his name is Taylor, Ray
3 Taylor approached them trying to confront him, so she told her
4 friend to get away, not to get involved.

5 Her friend drove away and Mr. Taylor went back to his car,
6 grabbed the can of pepper spray and sprayed her.

7 Q And did Mr. Taylor say anything to the victim either
8 before or while pepper spraying her?

9 A She stated something along the lines or -- if I may refer
10 to my report?

11 Q Would it refresh your recollection to see your report
12 regarding the words used by the defendant?

13 A Yes.

14 MR. MAUSNER: Your Honor, may I approach?

15 THE COURT: Please.

16 THE WITNESS: So prior to being sprayed, the --
17 Mr. Taylor states quote/unquote, I will beat you up. I will
18 kill you. I will flatten your tires all on baby loke,
19 quote/unquote.

20 BY MR. MAUSNER:

21 Q During your meeting with the victim directly after the
22 incident occurred, did she identify who the perpetrator of the
23 assault was?

24 A Yes. Upon asking her, she did reveal that it was Clarence
25 Ray Taylor.

1 Q She identified him by name?

2 A Yes.

3 Q She also identified his description and certain tattoos
4 that he had?

5 A That is correct.

6 Q And did she give you his phone number as well as his
7 believed address?

8 A That is correct.

9 Q Do you recall what the phone number and address were?

10 A Not off the top of my memory, I would have to refer back
11 to the report.

12 MR. MAUSNER: May I, Your Honor?

13 THE COURT: Sure.

14 THE WITNESS: So the victim did provide a telephone
15 number of (323) 359-6328.

16 She wasn't aware of the actual physical address, but told
17 us that it was around the area of 103rd Street and Beach Street
18 in the Watts area.

19 MR. MAUSNER: No further questions, Your Honor.

20 THE COURT: Cross?

21

22 CROSS-EXAMINATION

23 BY MR. TEDFORD:

24 Q Officer Enriquez, you authored the report, correct?

25 A Yes, sir.

1 Q Okay. And that was documenting this alleged June 4th,
2 2018 incident, right?

3 A That is correct, sir.

4 Q You had the name of an independent witness that was there,
5 correct?

6 A That is correct.

7 Q Did you interview that person?

8 A We did not.

9 Q Did you attempt to interview that person?

10 A We did not.

11 Q Did you ask the victim to give you a phone number and
12 address of that person?

13 A Yes, we did. We were given a phone number and name.

14 Q Did you make any attempts to contact that person?

15 A We did not. I believe our detectives did.

16 Q You were told that the incident, right, that that other
17 individual had fought with Mr. Taylor, correct?

18 A Repeat the question.

19 Q Yeah. This person -- let's identify him as JG, is that
20 accurate?

21 A Yes.

22 Q You were told by the alleged victim in this case that JG
23 fought with Mr. Taylor, correct?

24 A There was no altercation.

25 Q You are not aware of an altercation; is that what you

1 said?

2 A No, sir.

3 Q I'm sorry. You are not aware of an altercation?

4 A No, we did not see an altercation, no.

5 Q And did you ask him whether he had been in an altercation
6 with Mr. Taylor?

7 A We never spoke to that witness.

8 Q I see. So he had already fled the scene before you
9 arrived?

10 A Based on the comments of the victim, she stated that she
11 told him to leave the scene to avoid a confrontation.

12 Q That's what she told you, right?

13 A That's what she told us.

14 Q All right. You weren't there during the alleged
15 confrontation, so you really wouldn't know, would you?

16 A No.

17 Q Did you make any attempt to interview Mr. Taylor?

18 A No.

19 Q Did you call an ambulance for the victim?

20 A Our dispatch went ahead and called them so they were at
21 scene along with us.

22 Q Did you know whether she was transported to any location?

23 A She was not transported, but she was treated for OC spray
24 on scene.

25 Q And are you familiar with what baby loke is?

1 A I'm not, sir.

2 MR. TEDFORD: Nothing further.

3

4 REDIRECT EXAMINATION

5 BY MR. MAUSNER:

6 Q As the reporting officer, would it have been your duty to
7 follow up and attempt to interview the purported suspect or
8 would that have been the detective's job?

9 A That would be the detectives. We just take the report of
10 witnesses and victims, and if we're able to get the defendant's
11 information we can, but we normally don't.

12 Q Do you know one way or another whether one of the
13 detectives in this case attempted to contact Mr. Taylor?

14 A I don't.

15 MR. MAUSNER: No further questions.

16 THE COURT: All right. You may step down.

17 I'm guessing since we're only proceeding on one of the
18 allegations that we're done?

19 MR. MAUSNER: We could be, Your Honor, however, in
20 order to rebut some of the arguments that the government
21 expects from defense counsel regarding the admission of
22 hearsay, we could present additional evidence to show the
23 victim's credible fear in this case and the reason why, on
24 balance, as the Court is supposed to do in admitting hearsay,
25 why on balance, the need to admit hearsay outweighs the

1 defendant's due process rights.

2 THE COURT: Given the fact she's not here, I think
3 the point has been made.

4 MR. MAUSNER: Thank you, Your Honor.

5 THE COURT: All right. Mr. Tedford, even though
6 your client has no obligation to do so, do you intend to put on
7 any evidence?

8 MR. TEDFORD: No, Your Honor.

9 THE COURT: All right, then. Argument?

10 MR. MAUSNER: Your Honor, the evidence has shown by
11 a preponderance, and as the government believes, by clear and
12 convincing evidence here, that the defendant has violated the
13 terms of his supervised release as alleged in Allegation 1, and
14 again, I will leave Allegation 2 aside since defendant has now
15 admitted that.

16 With respect to Allegation 1, the evidence showed, both
17 through the testimony of the officers reporting to multiple
18 instances as well as by the 911 tapes themselves, that the
19 defendant assaulted the victim by approaching her, not once,
20 but twice on June 4th, 2018, and on June 17th, 2018, and
21 particularly on the 17th.

22 The evidence showed there were no other individuals
23 involved. There was no mutual combat on that date.

24 On that date, the defendant approached the victim, an
25 altercation ensued, he grabbed her by her hair, dragged her to

1 his car and drove down the street holding onto her hair. And
2 he said that he was going to let her go when he was driving.

3 Now, unluckily or luckily for the victim in this case, her
4 braids tore while being dragged down the street.

5 The evidence showed the victim had remnants of this tear
6 weeks later when she went to speak with Detective Patsenhann.

7 The evidence showed that when falling to the ground after
8 the braids tearing, she hit the pavement and had bruising on
9 her legs.

10 And the evidence showed that this wasn't the defendant's
11 only assault on this victim. He had previously pepper sprayed
12 her and we heard why. The victim did not want to be in a
13 relationship with him, and he couldn't take no. He couldn't
14 take no on the 4th, and couldn't take no on the 17th.

15 And he couldn't control his temper and he assaulted MJ,
16 the victim, by dragging her in his car by her head.

17 The elements of the crime were laid out in the
18 government's briefing, and the elements clearly here are met.

19 The defendant used force -- heavy force as well as an
20 automobile in his assault of the MJ.

21 He assaulted her and he assaulted her with a deadly weapon
22 and with enough force to cause significant injuries.

23 The injuries of ripping her hair out from her head,
24 bruising her to the extent that she couldn't stand on her leg
25 outside the hospital.

1 The elements are met. The evidence shows more than by
2 preponderance of the evidence that defendant is guilty of
3 Allegation 1.

4 THE COURT: Thank you, Mr. Mausner.

5 Thank you. Mr. Tedford?

6 MR. TEDFORD: Yes, Your Honor. I will be very brief
7 since obviously I didn't have the luxury of cross-examining the
8 one and only person who alleged to have seen the events that
9 have been described by multiple different people at multiple
10 different levels.

11 The alleged victim says that she was struck in the face by
12 a closed fist two times, and she proceeded to go to the
13 hospital.

14 No such injuries were ever documented by anyone.

15 In fact, she didn't even go in the hospital and try to
16 seek treatment. She decided that it may take too long.

17 This was somebody who said that she was struck in the face
18 twice with a closed fist and that she was hurt so bad in her
19 leg she couldn't stand, but she left to go to work.

20 That is beyond credulity, I'm sorry.

21 THE COURT: Which part -- about going to work?

22 MR. TEDFORD: The part about being struck in the
23 face two times by a man who is 5'11" 260 pounds, and there not
24 being one piece of evidence -- not a swollen lip, not a fat
25 lip, not a bruise, nothing -- about going to the hospital and

1 stating that she could barely stand or couldn't stand, I
2 believe is the word that the government used, yet she did not
3 seek treatment.

4 THE COURT: My understanding was that it was she
5 felt that the wait was so long she would be late for work.

6 MR. TEDFORD: Sure. But at some point I would
7 assume she would be off work and she could go back to the
8 hospital and seek that treatment she desperately needed.

9 THE COURT: I don't know, maybe with your job, maybe
10 with my job, but everybody isn't that blessed.

11 I hear what you are saying.

12 MR. TEDFORD: Yes. So, certainly something occurred
13 between the two. But I think that, you know, Detective
14 Patsenhann indicated there was an altercation between her
15 boyfriend and Mr. Taylor and described it as mutual combat.

16 THE COURT: Mutual combat. It's like a boxing
17 match. That is mutual combat.

18 MR. TEDFORD: Right.

19 THE COURT: This sounded pretty one-sided.

20 What are we going to do about Exhibit 1?

21 You make the observation that in terms of being struck in
22 the face with a closed fist twice, that no photographs were
23 taken of that, but what about Exhibit 1?

24 MR. TEDFORD: The braids from the hair that was
25 photographed six weeks after the alleged incident? I don't

1 know how that happened.

2 THE COURT: Okay. You don't know how that happened.

3 MR. TEDFORD: Nobody here knows how that happened.

4 THE COURT: Okay.

5 MR. TEDFORD: A photograph might have been taken
6 earlier.

7 THE COURT: Whoa, whoa, what?

8 MR. TEDFORD: I don't think there is any prohibition
9 against the victim using her own phone to take pictures of her
10 alleged injuries.

11 THE COURT: Taken earlier? You said it was taken
12 earlier -- earlier than the alleged incident?

13 MR. TEDFORD: No. I understand that the photographs
14 were taken six weeks later by Detective Patsenhann.

15 THE COURT: But you said or they may have been taken
16 earlier? Earlier than what?

17 MR. TEDFORD: Earlier than six weeks after the
18 incident.

19 THE COURT: You are not suggesting they were taken
20 before the date of the incident?

21 MR. TEDFORD: Of course not.

22 I am suggesting if there was an injury that occurred on
23 June 4th or June 17th, I don't know, perhaps the victim would
24 have someone or herself to take a photograph of those injuries.

25 THE COURT: Okay.

1 MR. TEDFORD: Rather than waiting for six weeks
2 appearing in front of a detective who then takes a photograph
3 of some missing hair and a bruise.

4 THE COURT: She may not have appreciated the
5 evidentiary importance of this -- such a picture.

6 MR. TEDFORD: I think that is certainly possible,
7 Your Honor.

8 THE COURT: Okay.

9 MR. TEDFORD: So, based on the lack of evidence, I
10 don't think the government has met its burden, and for that
11 reason, I don't think the violation should be sustained.

12 THE COURT: All right.

13 Ms. Acevedo, is there anything you would like to add to
14 this discussion?

15 MS. ACEVEDO: Your Honor, I would just like to say
16 that we submit on our recommendation of 24 months in custody as
17 we appeared as warranted for the significant breach of the
18 Court's trust and considering the circumstances of the violent
19 conduct committed by Mr. Taylor.

20 THE COURT: Okay.

21 MS. ACEVEDO: Nothing further, Your Honor.

22 THE COURT: All right. Before I get too far ahead,
23 let me make the determination that I find that Allegation No. 1
24 is supported by a preponderance of the evidence.

25 I have no doubt in my mind that the incident alleging that

1 Mr. Taylor grabbed this woman by the hair and drug her down the
2 street, I believe that it did in fact occur, and it looks like
3 maybe he's got a practice of brutalizing this woman.

4 Let's just say, it's a little disturbing.

5 Are we -- do the parties desire to move straight to
6 sentencing at this time, or do you want to put that off?

7 MR. TEDFORD: It would be my request to put that
8 off, because I do anticipate there may be some component of
9 detention. My client would like at least leave on good terms
10 with his employment before he --

11 THE COURT: Oh, there will be a component of
12 detention.

13 MR. TEDFORD: I imagine that would be so. So I
14 would like to give him that opportunity, if it's a week or two
15 weeks, that he can at least notify his employer.

16 THE COURT: Let's put this off for a week.

17 MR. MAUSNER: Your Honor, the government would
18 request a remand at this time based on the conduct as well as
19 the conduct that was briefed in the government's papers that
20 were filed last week, and I can let Ms. Acevedo speak to that
21 if the Court would like.

22 THE COURT: Please.

23 MS. ACEVEDO: Yes, Your Honor. We recommended and
24 we requested a warrant which you approved based off of the fact
25 of safety that he poses to the victim.

1 I have been in contact with the victim since the incident,
2 and she has reported multiple incidents of intimidation and
3 feeling threatened.

4 THE COURT: Good enough. All right.

5 My dear, give me a date. Monday afternoon is fine.

6 THE COURTROOM DEPUTY: For next week? 2:30.

7 THE COURT: 2:30, would that be the 11th?

8 THE COURTROOM DEPUTY: 2/11 at 1430, for sentencing.

9 Mr. Taylor, I'm going to remand you to the custody of the
10 United States Marshal.

11 You will remain in custody until next Monday when we take
12 up the issue of your sentencing in this case.

13 I am concerned that you may be engaged in witness
14 intimidation, and for shorthand, you are a danger to the
15 community and so I'm going to take you out of circulation now.
16 All right. Deputies.

17 MR. TEDFORD: Given the Court's intention, would it
18 be okay if we went right to sentencing then?

19 THE COURT: Sure. Absolutely. It sounds good.

20 MR. TEDFORD: Thank you, Your Honor.

21 THE COURT: Would you like to be heard on the issue
22 of sentencing?

23 MR. TEDFORD: No, Your Honor. I submit it.

24 SENTENCING HEARING

25 THE COURT: The defendant's Criminal History

CERTIFICATE OF OFFICIAL REPORTER

COUNTY OF LOS ANGELES)
)
STATE OF CALIFORNIA)

I, TERRI A. HOURIGAN, Federal Official Realtime Court Reporter, in and for the United States District Court for the Central District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the judicial conference of the United States.

Date: April 29, 2019

/s/ TERRI A. HOURIGAN

TERRI A. HOURIGAN, CSR NO. 3838, CRR, RPR
Federal Official Court Reporter