

1 COUNSEL FOR THE PEOPLE: Ms. Jones

2 THE WITNESS: Peter Brown

3 COUNSEL FOR THE DEFENSE: Mr. Clark

4 THE COURT

5

6 **WARMUP**

7

EXAMINATION

8 BY MS. JONES:

9 Q Good morning, Mr. Brown.

10 A Good morning.

11 Q On August 14 of last year at around 5:30 in
12 the evening, were you in the area of / Valley Park in the
13 city of Los Angeles?

14 A Correct.

15 Q And what were you doing there at that time?

16 A I was riding my bicycle.

17 Q Okay. Where / were you headed?

18 A I was heading to purchase an ice cream.

19 Q Okay. Were you alone, or were you with
20 somebody else?

21 A I was alone.

22 Q And / what happened to you that evening as you
23 were riding your bicycle at Valley Park?

24 A I was crossing on the grass area, and I
25 observed // that there was a group of people on the

1 sidewalk, and one of them darted in front of me.

2 MR. CLARK: Are you understanding this?

3 THE WITNESS: Absolutely.

4 Q BY MS. JONES: Okay. When / you observed this
5 group of people, were they males or females or a
6 combination of both?

7 A I was not able to tell. I just simply /// saw
8 a group of people.

9 Q Do you remember approximately how many?

10 A No. I did not see. I did not see.

11 Q Okay. That person that -- strike / that. Let
12 me back up.

13 When you say you were crossing the grass, were
14 you actually riding your bicycle?

15 A Yes, I was riding the bicycle. /*(1)

16 Q Then you stated that an individual ran towards
17 you?

18 A He ran towards my direction.

19 Q Did he cross in front of you?

20 A Yes.

21 Q That person -- do / you see that individual in
22 court today?

23 A Yes, I do see him.

24 Q Can you please point to that person and
25 describe an article of clothing / they are wearing.

1 A Yes. He is here, and it is the gentleman that
2 is seated over there. He is wearing an orange jumpsuit.

3 THE COURT: The witness / has pointed to and
4 identified the defendant, John Cruz, for the record.

5 You may keep going, ma'am.

6 MS. JONES: Thank you, Your Honor.

7 Q What happened once the // defendant ran across
8 in front of your path?

9 A He stopped directly in front of me. He
10 grabbed the handlebar on the bicycle. He pulled it. /
11 He leaned downward, and he threw several punches at me on
12 the face.

13 Q When you say "several punches" on your face,
14 was that using basically /// a fist?

15 A Correct.

16 Q What happened next?

17 A When I saw that he stopped, I noticed he was a
18 gang member.

19 MR. CLARK: Objection. Lack of foundation.

20 THE COURT: Ladies and / gentlemen, the witness is
21 talking about what he saw, and that is appropriate for
22 you, but you are not to consider the fact that he /*2 is
23 using the word "gang member" to indicate that the
24 defendant is a person of bad character.

25 MR. CLARK: Yes, Your Honor. We would move to

1 strike / that language.

2 THE COURT: The motion to strike is denied. The
3 objection is overruled with the limiting instruction.

4 Go on, sir. I am sorry. Were you done, / or
5 did you need to say something additional?

6 THE WITNESS: Well, the individual -- he stopped in
7 front of me. I had seen him twice in that vicinity. /

8 Q BY MS. JONES: Okay. Let me stop you there a
9 moment.

10 Right now, we are simply going to talk about
11 what happened on this occasion.

12 When you say // that the defendant punched you
13 in the face, what subsequently happened?

14 A I put my shoulder like this to avoid the blow.

15 Q When you stated "to / avoid the blow," was
16 that a subsequent punch, or was that the initial punch?

17 A The initial one.

18 Q Okay. So that initial punch -- did it make
19 /// contact directly with your face?

20 A Absolutely.

21 Q Okay. And what happened to you after you
22 received that first punch to the face?

23 A Well, he took me / by complete surprise.

24 Q You did not expect a confrontation?

25 A Not at all.

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Q What did you do next?

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A I just started trying to hit him back. /*3

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END OF WARMUP

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EXAM

Q BY MS. JONES: Okay. You started to defend yourself?

A I started to hit him.

Q At the point when you say that you started to defend yourself, were you / still on the bicycle?

A Correct. I was still on the bicycle.

Q Then what happened?

A He made me fall off the bicycle.

Q How did he make / you fall off the bicycle?

A He pushed me, and he started to hit me.

Q So the defendant pushed you off the bicycle. At that moment, / were you on the sidewalk?

A I was on the sidewalk.

Q And you stated he continued to hit you?

A Correct.

Q How did he continue to hit // you?

A He was beating me rapidly with blows.

THE COURT: With a clenched fist?

THE WITNESS: With his clenched fist.

Q BY MS. JONES: And approximately how many times did he punch you / when you were on the sidewalk?

A I was not able to count the punches.

Q Understood. That is understood.

Exactly where were you hit? Where were ///

1 you punched when you were on the sidewalk?

2 A Throughout my face.

3 Q Anywhere else on your body?

4 A No.

5 Q Okay. What happened once you landed on the /
6 sidewalk and you started being beaten in the face?

7 A Well, I do not have any teeth. I only have
8 dentures. I was trying to protect /*(1) my face so that
9 he would stop hitting me and I would not be knocked out.

10 Q Understood. Did you begin to defend yourself?

11 A Eventually I / did. I was hitting him many
12 times around the upper body so that he would not be able
13 to contact my face.

14 Q Was he punching / you after you were on the
15 sidewalk while you were punching also?

16 A Correct.

17 Q At any point did anything happen to your cell
18 phone?

19 A Correct. I / dropped it during the
20 altercation.

21 Q When you stated you "dropped it," did you
22 retain it in your pocket or did you conceal it on your //
23 person?

24 A I had it located here.

25 THE COURT: Please demonstrate for us.

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THE WITNESS: I had it like this.

MS. JONES: May the record reflect the witness stood up and is / currently holding his cell phone by his waistband on the right-hand side.

THE COURT: The record will so reflect.

Thank you, sir. Please continue.

Q BY MS. JONES: Mr. Brown, /// right now when you stood up and demonstrated to us where you have your cell phone currently, is that where you were carrying your cell / phone on the date of the incident?

A Correct.

Q Okay. As you were fighting with the defendant, your cell phone fell out of your waistband?

A Correct. /* (2)

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START TYPING

Q BY MS. JONES: What happened next?

A The young gentleman, the person, went after my cell phone.

Q And what subsequently happened?

A I grabbed him around the shirt.

Q At the / moment when you grabbed the defendant by the shirt --

MR. CLARK: Objection. It is unclear whether he could locate the phone at that moment.

THE COURT: Ms. Jones had / not finished her question.

Q BY MS. JONES: At the moment when you grabbed the defendant by the shirt, was he able to grab the cell phone?

A Easily.

Q At / the moment when you grabbed the defendant by the shirt, did you observe the defendant with the cell phone in his hand?

A Absolutely.

Q And when // you initially observed the defendant grab the cell phone with his hand, did he take any steps?

A Maybe several steps.

Q And what did you do? /

1 A I confronted him, and I believe I startled
2 him. I told him he needed to return my personal
3 property.

4 Q At the moment when he took /// several steps
5 holding your cell phone, you grabbed him by the clothing?

6 A Correct.

7 Q And then you testified that you confronted the
8 defendant?

9 A Yes.

10 Q And how / did the defendant respond?

11 A Hitting me back.

12 Q Where did he hit you?

13 A Along here.

14 Q How many times, if you remember?

15 A I do not remember.

16 THE COURT: You /*(1) did not count how many times?

17 THE WITNESS: No. The problem is that I just cannot
18 recall.

19 THE COURT: That is very understandable, sir.

20 Go ahead.

21 Q BY MS. JONES: And once you / grab him by the
22 clothing, are you at that moment demanding your cell
23 phone back?

24 A Correct.

25 Q What did the defendant do next?

1 A He indicated that / the property belonged to
2 him.

3 Q How did you respond?

4 A I assured him that cell phone belonged to me.

5 Q What did the defendant do at that / point?

6 A He concealed the cell phone inside his pocket.

7 Q What did he do next?

8 A He was pulling himself so hard that eventually
9 his shirt came // off, and immediately I grabbed him by
10 the pants.

11 Q Okay. So at the point that the defendant
12 concealed the cell phone inside his pocket, he / was able
13 to squeeze out of the shirt?

14 MR. CLARK: Objection. That question is leading.

15 THE COURT: Overruled.

16 THE WITNESS: Yes.

17 Q BY MS. JONES: Were you then holding just the
18 shirt?

19 A Correct.

20 Q At the /// moment when you lost control of the
21 defendant, did the defendant take any steps?

22 A He was not able to. He was not able to
23 because / I grabbed him by the pants.

24 Q Understood.

25 Explain to us what happened after you grabbed

1 him by the pants.

2 A I felt that another person was /*(2) poking me
3 with a knife back here.

4 Q When you say "back here," where are you
5 indicating?

6 A Approximately here on the elbow.

7 MS. JONES: May the record reflect / the witness is
8 holding up his right elbow.

9 THE COURT: There is definitely a scar above your
10 elbow. Is that from the knife or from something else? /

11 THE WITNESS: Yes. Correct. From the knife.

12 THE COURT: All right. Counsel, if you want to
13 approach and take a look.

14 MR. CLARK: Yes, Your Honor.

15 THE COURT: I apologize for asking, but / we need
16 to establish a record.

17 MR. CLARK: Thank you.

18 THE COURT: The record should reflect the defendant
19 revealed a scar on his elbow that he pointed to and //
20 indicated that is where he was struck with the weapon.

21 Is that correct?

22 THE WITNESS: Yes, that is correct.

23 THE COURT: Please continue.

24 Q BY MS. JONES: What happened after you felt
25 that / knife?

1 A I simply would not let go of him because I
2 wanted him as a shield to protect myself.

3 Q Interesting. When you say you utilized ///
4 him as a "shield" to protect yourself, at that moment who
5 were you protecting yourself from?

6 A From the fellow that had the weapon.

7 Q Was there / anyone else there?

8 A At that very moment I only noticed two people.

9 Q Okay. At that time, you still had a grip on
10 the defendant?

11 A Right. /* (3)

12 Q Okay. And what did the other man with the
13 knife do?

14 MR. CLARK: Objection, Your Honor. Calls for a
15 narrative.

16 THE COURT: Perhaps you could break it down,
17 Counselor. /

18 MS. JONES: Certainly.

19 Q Did you see the individual with the knife?

20 A I no longer saw him because, in my mind, I
21 just figured they were going to / kill me. He had a
22 weapon.

23 Q What did you subsequently do?

24 A What I did initially is I looked around trying
25 to decide what I could / use to defend myself.

1 Q I understand.

2 A I thought about letting the guy go and picking
3 up the bicycle to throw it against the guy with // the
4 knife.

5 Q Okay. Is that what you decided?

6 A No. When I looked toward the sidewalk, I saw
7 my bicycle. Adjacent to it, I observed the / cord I use
8 to secure my bicycle.

9 Q Okay.

10 A And that is what I ended up grabbing to defend
11 myself.

12 Q And when you stated a "cord," /// what is this
13 material made out of?

14 A It has metal inside of it. On the outside,
15 there is hose material.

16 Q Meaning it is kind of / a steel material that
17 is covered with some kind of rubber?

18 A Yes.

19 THE COURT: An average bike lock?

20 THE WITNESS: Yes.

21 MR. CLARK: Thanks, Your Honor. I was unclear.

22 THE COURT: Go ahead /* (4) and continue.

23 Q BY MS. JONES: What did you do after you
24 picked the cord up?

25 A I started to hit him around the lower body.

1 Q Okay. What happened next? /

2 A I told him to hand over my cell phone.

3 Q And did the defendant respond?

4 A Eventually. I hit him four or five times. He

5 gave it / back after that. At first, he refused to

6 return it.

7 Q And were there any other people around you at

8 that point?

9 A Several people started to / come over.

10 Q Okay. And when you say "several," about how

11 many?

12 A It was four to five males.

13 Q Okay. Do you remember whether or not they //

14 were all males, or were there also females in the group

15 by you?

16 A It was all guys. Definitely guys.

17 Q Did those other males do anything? /

18 A Yes. They started to hit me. One of them

19 carried a baseball bat.

20 Q Okay. And at that moment when the other males

21 were also hitting /// you, where was the defendant

22 located?

23 A We were on the sidewalk.

24 Q Both you and the defendant?

25 A Correct.

1 Q At that point had you retrieved your cell /
2 phone back?

3 A Yes.

4 Q Did the police arrive?

5 A Eventually.

6 I did not mention yet that he bit me over
7 here. He bit me here.

8 MR. CLARK: Objection. No /*(5) question pending.

9 THE COURT: I will sustain the objection, but you
10 can go into the area.

11 MS. JONES: I want to ask about the injuries.

12 THE COURT: All right.

13 Q BY MS. JONES: We will / get to that in a
14 moment. My question was at some point did the officers
15 arrive?

16 A Well, I did not really notice. They took
17 about / 10 minutes.

18 Q But at some point the police arrived?

19 A Correct.

20 Q Mr. Brown, let me ask the question a little
21 differently.

22 A Well, okay.

23 Q From the time / that you started to defend
24 yourself to the time that the police arrived, do you
25 recall about how long that took?

1 A About 10 minutes, maybe. //

2 Q Okay. You started to talk about it, but I
3 wanted to ask you if you had any injuries as a result of
4 this incident.

5 A I / did.

6 Q Would you please describe the injuries that
7 you suffered.

8 A They transported me to the hospital on that
9 day.

10 MR. CLARK: Objection. Vague as to who he ///
11 suffered the injuries from or when.

12 THE COURT: I will sustain the objection. I will
13 ask you to be more specific.

14 MS. JONES: Okay.

15 Q Mr. Brown, you stated that / the defendant bit
16 you on your finger.

17 A He bit my hand.

18 MS. JONES: May the record reflect the defendant is
19 holding up his right hand and is /* (6) indicating the
20 outer side of the palm area.

21 THE COURT: Well, no, he is indicating both as if
22 his fingers were teeth. It is on the inside / of the
23 hand and the outside of the hand.

24 Is that correct, sir?

25 THE WITNESS: That is correct. He bit me seriously.

1 THE COURT: Go ahead and continue, Ms. Jones. /

2 Q BY MS. JONES: And as a result of that bite,
3 were you bleeding?

4 A I certainly was.

5 Q You started to indicate that the defendant
6 also bit you on your / head?

7 A Specifically, he bit me around here.

8 THE COURT: The defendant is indicating the left
9 region of his head above the ear.

10 THE WITNESS: Right here is where he bit // me.

11 Q BY MS. JONES: And were you bleeding as a
12 result of that injury?

13 A Yes, ma'am. I sure did.

14 Q Now, did you suffer any other injuries --
15 strike that. /

16 What other injuries were you treated for when
17 you were taken to the hospital after this incident?

18 A I had a break right here.

19 THE COURT: He is /// showing the wrist just above
20 the hand.

21 Q BY MS. JONES: You had a fracture there.

22 Any other injuries that you were treated for?

23 A Yes, ma'am. My elbow where / the redness is.

24 Q Describe the other injuries that you were
25 treated for.

1 A I have not gone yet, but my shoulder hurts
2 every day. I have /*(7) not gone to the hospital for
3 that.

4 THE COURT: The shoulder that you are referring
5 to -- is it the upper portion of your right shoulder?

6 THE WITNESS: Correct. The right shoulder.

7 Q BY MS. JONES: Okay. Were you having any pain
8 to that shoulder before the incident?

9 A No.

10 Q Okay. But now you have been feeling pain to
11 that / shoulder following this incident?

12 A Yes.

13 Q Okay. In terms of your cell phone, you got
14 your cell phone returned that day; is that correct?

15 A Correct.

16 Q Okay. / And was there any damage to your
17 property as a result of the incident?

18 A The screen shattered.

19 Q How much was that phone?

20 A To be honest // with you, I do not remember
21 how much it cost.

22 Q That is okay.

23 And, Mr. Brown, you indicated you had seen the
24 defendant twice before / the day of the incident?

25 A Yes.

1 Q Okay. And where did you recognize him from?

2 A I drink my coffee every day at a bakery, and
3 I /// remember seeing him there.

4 Q All right. You just saw him on two other
5 occasions?

6 A He is the only individual that I had seen
7 there twice. /

8 Q And the only individual from the group of
9 people who were at the park that attacked you?

10 A He was the only person from the group. /* (8)

11 Q You said he was the only individual. I am
12 trying to understand what you mean by that.

13 A There were several guys in the group there, /
14 who attacked me.

15 Q Okay. Was he the only one you recognized from
16 before?

17 A Exactly.

18 MS. JONES: Your Honor, at this time, I am holding
19 in my hand / one page. It includes four color photos.

20 THE COURT: Has it already been provided to defense
21 counsel?

22 MR. CLARK: Yes, Your Honor. We have seen it.

23 MS. JONES: May it be / marked People's Exhibit 1?

24 THE COURT: Yes.

25 MS. JONES: Your Honor, may I approach the witness

1 with this exhibit.

2 THE COURT: Yes, you may.

3 And, Mr. Clark, you may approach as // well,
4 if you decide to do so, sir.

5 MR. CLARK: Thank you, Your Honor.

6 Q BY MS. JONES: Mr. Brown, I am showing you
7 what has been identified as People's Exhibit / 1.

8 A Yes, I have it here.

9 Q Perfect. Do you recognize what is depicted in
10 Photographs A through E?

11 A Yes.

12 Q Okay. That depicts where you were ///
13 injured; is that correct, sir?

14 A That is correct, yes, ma'am.

15 Q Okay. And in terms of People's 1, Photograph
16 A, what is depicted there?

17 A This one / that I am holding?

18 Q Yes, that is the photograph.

19 A That is where the injury is shown.

20 Q Okay. And what is depicted in
21 Photograph B?

22 A This /* (9) is me.

23 Q And what exactly does it depict?

24 A Here I am on the stretcher because of the
25 injuries to my back and my shoulder.

1 Q Okay. / And what is depicted in Photograph C,
2 if you recognize that?

3 A That is where I was hurt from the knife.

4 Q Mr. Brown, showing you Photograph / D, would
5 you describe to us what is depicted here.

6 A That is a photograph of my hand showing where
7 I was bitten.

8 Q Does this accurately / depict the bite injury
9 you sustained?

10 A Yes.

11 Q Okay. I am also showing you what has been
12 marked as Photograph E.

13 A Okay.

14 Q Is the neck // brace that medical staff placed
15 on you due to your neck and shoulder pain?

16 MR. CLARK: Objection. Misstates the testimony.

17 THE COURT: His back, I think he said.

18 Sustained. /

19 Q BY MS. JONES: Excuse me. It was for your
20 back and shoulder pain; is that correct?

21 A Correct.

22 Q And then finally do you recognize Photograph
23 E?

24 A Yes, I do. ///

25 Q What does it depict?

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A Photograph E is where my arm was injured.

Q Is that the injury to your elbow?

A That is correct. That is how / it looked.

Q Thank you. I am now showing you what has been marked as People's Exhibit 2. Are you able to identify this exhibit?

A Yes. /* (10)

*****EACH EXAM VARIES. THE ACTUAL TEST GIVEN
MAY BE SLIGHTLY DIFFERENT*****