

REPORTER'S RECORD

VOLUME 7 OF 9 VOLUMES

TRIAL COURT CAUSE NO. 296-83565-2025

COURT OF APPEALS NO. 05-26-00840-CR

STATE OF TEXAS)
vs.)
KARMELO SINCERE ANTHONY) 296TH JUDICIAL DISTRICT

IN THE DISTRICT COURT

COLLIN COUNTY, TEXAS

296TH JUDICIAL DISTRICT

JURY TRIALJUNE 8, 2026

On the 8th day of June, 2026, the following
proceedings came on to be held in the above-titled and
numbered cause before the Honorable John Roach, Jr.,
Judge Presiding, held in McKinney, Collin County, Texas.

Proceedings reported by computerized stenotype
machine.

Jan Dugger, CSR
296th District Court

APPEARANCES

ATTORNEYS FOR THE STATE OF TEXAS:

Mr. Greg Willis

SBOT NO. 21653500

Mr. Bill Wirskye

SBOT NO. 00788696

Mr. Dewey Mitchell

SBOT NO. 24032865

Ms. Lisa Braxton

SBOT NO. 00787131

Ms. Christina Skipper

SBOT NO. 24051418

Ms. Alyssa Mattingly

SBOT NO. 24123788

2100 Bloomdale Road

McKinney, Texas 75071-8318

Telephone: 214-548-4323

ATTORNEYS FOR THE DEFENDANT:

Mr. Mike Howard

SBOT NO. 24047384

Ms. Tasha Gupta

SBOT NO. 24149035

3010 LBJ Freeway, Suite 1200

Dallas, Texas 75234-2710

Telephone: 214-296-2221

Mr. Toby Shook

SBOT NO. 18293250

717 N. Harwood Street, Suite 2750

Dallas, Texas 75201-6528

Telephone: 214-850-9229

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P R O C E E D I N G S

THE COURT: We're back on the record in State versus Anthony for, I think it is, our fourth day of jury trial.

Is the State ready?

MR. WIRSKYE: The State is ready, Your Honor.

THE COURT: Is the Defense ready?

MR. HOWARD: Yes, Your Honor.

THE COURT: Bring in the jury, please.

For those who are new in the courtroom, I have a policy that you do not speak while you are in here. If I see anybody talking at all, whispering to the person next to them, or anything else, you will be removed from the courtroom and not allowed back in.

THE BAILIFF: All rise.

(Jury present.)

THE COURT: Everyone be seated, please.

Good morning. I hope y'all enjoyed our one day off, and we are ready to start back on this Monday morning. The State -- I'm sorry, the Defense, call your first witness.

MR. HOWARD: Thank you, Your Honor. The Defense calls [REDACTED] [REDACTED]

THE COURT: Okay. While we are --

09:10:05 1 [REDACTED] [REDACTED] while we are doing that, get your
09:10:08 2 lavaliers on. We are going to keep doing that. That
09:10:10 3 seems to work better for y'all, right, to do that?

09:10:14 4 JUROR: Yes.

09:10:18 5 THE COURT: I know you don't like it.

09:10:20 6 All right. Sir, look at me. Walk across
09:10:33 7 the courtroom and head to this black chair over here to
09:10:34 8 my right.

09:10:35 9 Before you sit down, turn to me and raise
09:10:42 10 your right hand.

11 (Witness sworn.)

09:10:45 12 THE COURT: Put your hand down and be
09:10:47 13 seated, please. Speak into the microphone so everybody
09:10:48 14 can hear you, all right?

09:10:52 15 THE WITNESS: Okay. Is that good?

09:10:53 16 THE COURT: Yes, sir, very good.

09:10:54 17 Mr. Howard.

09:10:54 18 MR. HOWARD: Thank you, Your Honor.

19 [REDACTED] [REDACTED]
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

09:10:55 22 BY MR. HOWARD:

09:10:56 23 Q Can you please introduce yourself to the jury?

09:10:58 24 A My name is [REDACTED] [REDACTED]

09:11:01 25 Q And how old are you?

09:11:02 1 A 17.

09:11:04 2 Q Are you in school?

09:11:05 3 A Yes, sir.

09:11:06 4 Q where do you go to school?

09:11:07 5 A Centennial High School.

09:11:09 6 Q And, let's see. This is your summer break, so

09:11:12 7 what year are you going into?

09:11:13 8 A I'm going into my senior year.

09:11:16 9 Q And we had some scheduling issues with you

09:11:19 10 because you were going to look at colleges, correct?

09:11:21 11 A Yes, sir.

09:11:22 12 Q what colleges did you just go look at?

09:11:25 13 A I went to a football camp, so there is a bunch

09:11:28 14 of schools there, and they were just taking a look at me

09:11:32 15 to see if they wanted me to play at the next level for

09:11:35 16 them.

09:11:37 17 Q So I think your mom was maybe leaning towards

09:11:39 18 TCU?

09:11:40 19 A Yeah, that was the campus we were on.

09:11:43 20 Q Your mom is here in the courtroom, correct?

09:11:45 21 A Yes.

09:11:46 22 MR. HOWARD: I am going to -- this might

09:11:50 23 tend to be a little loud so I am going to move this down

09:11:53 24 a little bit so I don't hurt y'all's ears.

09:11:55 25 Q I am going to have some questions for you. If

09:11:59 1 my questions aren't clear, just please let me know,
09:12:01 2 okay?

09:12:02 3 A Yes, sir.

09:12:03 4 Q Back on April 2nd, 2025 -- I assume you
09:12:09 5 remember that day?

09:12:11 6 A Yes, sir.

09:12:11 7 Q You spoke to a Detective Adams with the Frisco
09:12:16 8 Police Department, and that was video-recorded. Do you
09:12:21 9 remember that?

09:12:22 10 A Yes, sir.

09:12:22 11 Q And have you had a chance to -- has either
09:12:27 12 side kind of gone over that video with you?

09:12:30 13 A Yes, sir.

09:12:30 14 Q Okay. I am going to be asking you some
09:12:31 15 questions about that and what you witnessed at
09:12:36 16 Kuykendall Stadium that day, okay?

09:12:40 17 A Yes, sir.

09:12:43 18 Q So -- so you go to Centennial, and have you
09:12:46 19 gone to Centennial all three years, so far, of high
09:12:49 20 school?

09:12:50 21 A Yes, sir.

09:12:50 22 Q And so Melo went to Centennial -- and I am
09:12:54 23 calling him Melo. Do you know Melo?

09:12:56 24 A Yes, sir.

09:12:57 25 Q Do you know him as Melo?

09:12:58 1 A Yes, sir.

09:13:01 2 Q Did you know him when he was a student at
09:13:05 3 Centennial the same time you were?

09:13:07 4 A Yes, sir.

09:13:09 5 Q How did you become acquainted with Melo?

09:13:12 6 A Well, we were on the same football team.

09:13:15 7 Q So when he was a senior, you would have been,
09:13:18 8 what, a freshman, a sophomore?

09:13:21 9 A Sophomore.

09:13:23 10 Q A sophomore. And so were you playing on the
09:13:27 11 varsity team as a sophomore?

09:13:31 12 A Yes, sir.

09:13:31 13 Q Pretty good.

09:13:32 14 A Thank you.

09:13:34 15 Q And so what position do you play?

09:13:37 16 A Safety.

09:13:38 17 Q Free safety or strong safety?

09:13:39 18 A Free safety.

09:13:40 19 Q What position did Melo play?

09:13:43 20 A I think he was the free safety, also. He
09:13:46 21 played safety; I know that. I just don't know which
09:13:48 22 one.

09:13:49 23 Q And sometimes safeties can kind of --

09:13:51 24 A Switch.

09:13:51 25 Q -- switch back and forth?

09:13:54 1 A Yes, sir.

09:13:54 2 Q Just for the court reporter's sake, I will go
09:13:56 3 ahead and jump in now. It is really normal in every day
09:14:00 4 conversation for us to kind of talk at the same time or
09:14:04 5 interrupt. That makes it really difficult for the court
09:14:07 6 reporter. So I will do my best not to jump -- you know,
09:14:10 7 to talk over you, and just make sure that you wait until
09:14:13 8 what you think is the end of my question to answer,
09:14:17 9 okay?

09:14:18 10 A Yes, sir.

09:14:18 11 Q Okay. So y'all play the same position. So
09:14:28 12 going to your sophomore year, which was Melo's senior
09:14:33 13 year, did he play the whole season?

09:14:35 14 A well, what do you mean, like he was on the
09:14:38 15 team the whole season, or he actually played in games?

09:14:41 16 Q Did he actually play in games the whole
09:14:43 17 season?

09:14:44 18 A No, sir.

09:14:45 19 Q Okay. what happened?

09:14:46 20 A Something with his shoulder during one of our
09:14:47 21 games.

09:14:47 22 Q He got injured and then missed the rest of the
09:14:50 23 season?

09:14:51 24 A Yes, sir.

09:14:53 25 Q And then besides playing football together,

09:14:56 1 did you know him from any other context? Did you play
09:15:02 2 any other sports together?

09:15:03 3 A No, sir. Maybe track at that time, but I was
09:15:06 4 doing soccer, so I was kind of in both, so I was never
09:15:09 5 really able to go to track. So I would say no.

09:15:12 6 Q okay. So you didn't know him well --
09:15:14 7 (Microphone feedback.)

09:15:18 8 THE COURT: Okay.

09:15:18 9 Q You didn't know him well --

09:15:20 10 THE COURT: So you can't do both, so put
09:15:22 11 it back up where it was and I turned the volume down.

09:15:26 12 MR. HOWARD: Yes, sir.

09:15:27 13 Q You didn't know him well from the track team;
09:15:30 14 is that fair?

09:15:31 15 A Yes. Yes, sir.

09:15:32 16 Q Because you are on the track team but you are
09:15:34 17 also playing soccer, so you are not at every track
09:15:37 18 practice?

09:15:37 19 A Correct. Yes, sir.

09:15:44 20 Q So I want to turn and talk to you about the
09:15:48 21 track event at Kuykendall Stadium on April 2nd, 2025.
09:15:53 22 Were you on the team that went to that event?

09:15:57 23 A Yes, sir.

09:15:58 24 Q And were you on that first bus that arrived --
09:16:01 25 I guess you weren't on the bus, but were you there at

09:16:05 1 the beginning of the track meet, 8:30, 9 o'clock in the
09:16:10 2 morning?

09:16:10 3 A Yes, sir.

09:16:11 4 Q what is the first thing you recall when you
09:16:14 5 arrived?

09:16:14 6 A Just everyone was kind of sitting in the
09:16:17 7 bleachers, from the Centennial team, I mean, and we were
09:16:20 8 all just kind of sitting together.

09:16:23 9 Q Did you see Melo at that time?

09:16:26 10 A Yes, sir.

09:16:27 11 Q Did you sit with him or near him or spend any
09:16:29 12 time around him?

09:16:31 13 A Yes, sir.

09:16:32 14 Q How did he appear? was he in a normal mood,
09:16:35 15 an abnormal mood? How would you describe it?

09:16:39 16 A A normal mood.

09:16:41 17 Q And how much time would you say you spent
09:16:44 18 there with him when you said the team was kind of
09:16:48 19 sitting on the bleachers hanging out?

09:16:53 20 A A pretty decent amount of time, because we all
09:16:56 21 had to wait for our events; and also, the weather they
09:17:00 22 were expecting to roll in, so we were kind of not sure
09:17:04 23 what was going to happen, so we all just kind of
09:17:06 24 congregated right there.

09:17:10 25 Q All right. Okay. So you are sitting on the

09:17:17 1 bleachers, kind of hanging out, chitchatting, I assume
09:17:19 2 scrolling on the phone?

09:17:22 3 A Yes, sir.

09:17:24 4 Q Now, at the time, you are a sophomore. You
09:17:29 5 said you were on the varsity football team. Were you
09:17:34 6 junior varsity track or varsity?

09:17:36 7 A At sophomore time, I did both. So for some
09:17:40 8 relays, I would be on the junior varsity team, and then
09:17:44 9 an open race, I would be on varsity, or switch it
09:17:47 10 around. So it really just depended.

09:17:49 11 Q Were you part of the junior varsity 4-by-100
09:17:53 12 team that day?

09:17:54 13 A Yes, sir.

09:18:00 14 Q Okay. And do you know specifically what
09:18:04 15 events Melo was there for that day? Does that ring a
09:18:08 16 bell for you?

09:18:09 17 A I want to say long jump or triple jump. One
09:18:14 18 of the jumping events; that's all I know.

09:18:16 19 Q I would like to turn and talk to you a little
09:18:19 20 bit about the -- whether we call it track culture or
09:18:22 21 just kind of the atmosphere at a track event.

09:18:26 22 A Yes, sir.

09:18:26 23 Q You play both football and track, right?

09:18:29 24 A Yes, sir.

09:18:29 25 Q Would you agree with me that, like, in a

09:18:32 1 football game, it is more of a
09:18:36 2 our-team-versus-their-team culture? Is that fair?

09:18:43 3 A Yes, sir.

09:18:43 4 Q And you wouldn't go wander over to the other
09:18:47 5 team's sideline; is that fair?

09:18:48 6 A In football?

09:18:49 7 Q In football.

09:18:50 8 A Yes, sir.

09:18:51 9 Q What about track?

09:18:52 10 A I kind of talk to everyone at, like --
09:18:55 11 regardless of the school, if I knew someone from another
09:18:59 12 school and we were talking, that was -- that's how it
09:19:01 13 was.

09:19:02 14 Q Okay. So if Coach Linwood said part of the --
09:19:06 15 you know, we want our kids to compete, but it is also --
09:19:09 16 part of the point of this is for them to make friends
09:19:12 17 and for them to be social, is that kind of what your
09:19:16 18 experience is?

09:19:17 19 A I would agree, yeah.

09:19:20 20 Q The -- is there a fair amount of downtime
09:19:23 21 between events, and long days?

09:19:25 22 A A lot, yes, sir.

09:19:26 23 Q And so during that downtime, what sorts of
09:19:29 24 things would you do to pass the time?

09:19:33 25 A Scroll on my phone, talk to friends, sleep;

09:19:37 1 like a lot of different things. Get food; all types of
09:19:42 2 things.

09:19:42 3 Q Are your friends limited to just Centennial or
09:19:45 4 do you have friends at other schools?

09:19:47 5 A If -- I knew people at other schools, too,
09:19:50 6 yes, sir.

09:19:51 7 Q So if you are bored and you have friends at
09:19:55 8 other schools, would you go wander around and meet up
09:19:59 9 with them to visit with them?

09:20:01 10 A Yes, sir.

09:20:05 11 Q What about spending time under other teams'
09:20:09 12 tents? Is that something that you would do, wouldn't
09:20:12 13 do?

09:20:12 14 A I don't think I ever had done it, but I never,
09:20:18 15 like, avoided it. I was never, like, oh, let me stay
09:20:21 16 away from this team, or anything like that. It never
09:20:24 17 crossed my mind like that.

09:20:25 18 Q Okay. So it sounds like you weren't aware of
09:20:28 19 any sort of "it is not okay to go to another team's
09:20:32 20 tent" --

09:20:32 21 A Correct.

09:20:32 22 Q -- "I know somebody"?

09:20:32 23 A Yes, sir.

09:20:33 24 Q But it wasn't something you had specifically
09:20:36 25 done?

09:20:36 1 A No. No, sir.

09:20:37 2 Q Had you ever seen other kids do that?

09:20:40 3 A I can't put my finger on a time, like, where I

09:20:43 4 just noticed it but --

09:20:47 5 Q Okay. So back to talking about April 2nd, you

09:20:52 6 said that you spent time with Melo, and he seemed like

09:20:56 7 he was in a normal mood when you are on the bleachers,

09:20:59 8 kind of hanging out?

09:21:01 9 A Yes, sir.

09:21:01 10 Q You said that was for a decent amount of time.

09:21:05 11 what happened after that?

09:21:08 12 A Like after the bleachers?

09:21:09 13 Q After the bleachers, yes, sir.

09:21:13 14 A It started to rain a little bit, so we went to

09:21:16 15 the baseball dugout, which is behind the stadium, and

09:21:20 16 we --

09:21:20 17 Q Okay.

09:21:21 18 A I was just going to leave it there.

09:21:24 19 Q Okay. Is it normal for when you get to a

09:21:29 20 track meet for the whole team to take the field and kind

09:21:32 21 of do a team warm-up?

09:21:35 22 A Yes, sir.

09:21:35 23 Q Do you recall if that happened that day or

09:21:38 24 not?

09:21:38 25 A With my relay and a few other people, it was

09:21:42 1 just whoever was there, yes, sir.

09:21:44 2 Q So if Coach Linwood talked about that there
09:21:46 3 were kids coming in waves, there was a first bus, a
09:21:50 4 second bus --

09:21:50 5 A Correct.

09:21:50 6 Q So what you are saying is everybody who was
09:21:53 7 there, that's the whole team that is available --

09:21:57 8 A Pretty much.

09:21:58 9 Q -- and they warmed up?

09:21:58 10 A Yes, sir.

09:21:58 11 Q Okay. And then at some point, it starts
09:21:59 12 raining, and you said you went to the dugout?

09:22:02 13 A Yes, sir.

09:22:02 14 Q And the dugout, so we are talking about
09:22:04 15 Kuykendall Stadium. Is there a baseball field or
09:22:07 16 stadium right next to it?

09:22:09 17 A Yes, sir, right behind the bleachers.

09:22:12 18 Q And so you went to the dugout for that
09:22:15 19 baseball field?

09:22:17 20 A Yes, sir.

09:22:17 21 Q Did you go there alone or with other people?

09:22:20 22 A With other people.

09:22:22 23 Q Do you recall who all went with you to the
09:22:24 24 baseball dugout?

09:22:25 25 A Karmelo went, me, and I don't remember which

09:22:30 1 other two people were there, but there was two -- two or
09:22:34 2 three people that were with us.

09:22:35 3 Q So it is four, five-ish people?

09:22:39 4 A Yes, sir.

09:22:40 5 Q How long, approximately, were y'all in the
09:22:42 6 baseball dugout?

09:22:45 7 A Not very long.

09:22:47 8 Q Okay. You kind of laughed and said not very
09:22:49 9 long. why was it not very long?

09:22:51 10 A I think it was the Frisco High School baseball
09:22:54 11 coach, but whichever coach was kind of in charge of that
09:22:57 12 field, or whatever, told us that we can't be in there,
09:23:00 13 whether it was raining or not. So we started to leave.

09:23:03 14 Q You said whether it was raining or not. what
09:23:05 15 was the purpose of y'all going to the dugout in the
09:23:08 16 first place?

09:23:09 17 A Because it started raining, so we were just
09:23:11 18 trying to get out of the rain. We didn't have a tent,
09:23:14 19 so we were trying to get away from it.

09:23:17 20 Q Okay. so y'all didn't have a tent that day?

09:23:19 21 A Yes, sir.

09:23:19 22 Q And it started raining, and so you don't have
09:23:22 23 any shelter from the rain?

09:23:24 24 A No, sir.

09:23:24 25 Q And you head to the baseball dugout because a

09:23:27 1 dugout is covered and that gives us shelter?

09:23:30 2 A Correct.

09:23:31 3 Q But you are there a short time, and then the
09:23:33 4 coach said, hey, you guys have to leave?

09:23:35 5 A Yes, sir.

09:23:35 6 Q Do y'all argue with him, do you go, or what do
09:23:38 7 you do?

09:23:38 8 A No, we just said, yeah, we'll leave.

09:23:41 9 Q At that point, what happens next, if you
09:23:42 10 recall?

09:23:43 11 A We were leaving the dugout and our coach,
09:23:48 12 Coach Wooten, told us to go start warming up for our
09:23:52 13 relay, because it is starting soon, even though we kind
09:23:55 14 of just assumed that our relay would be -- or the
09:23:58 15 events, everything, would be delayed because of the
09:24:00 16 weather rolling in. But we were wrong, so he told us to
09:24:04 17 go ahead and start warming up, as we were walking out of
09:24:06 18 the dugout.

09:24:08 19 Q So as you are walking out of the dugout, you
09:24:10 20 said Coach Wooten -- is he one of the other track
09:24:14 21 coaches for Centennial?

09:24:15 22 A Yes, sir. He was the sprinter coach.

09:24:17 23 Q So Coach Linwood is the head track coach and
09:24:20 24 then Coach Wooten is the sprinter track coach?

09:24:24 25 A Yes, sir.

09:24:25 1 Q So I assume they are like a thrower coach and
09:24:27 2 a sprinter coach and --
09:24:28 3 A Yes, sir.
09:24:28 4 Q So Coach Wooten says, hey, it is not delayed,
09:24:31 5 guys; you guys need to get out to the field and warm up?
09:24:33 6 A Yes, sir.
09:24:35 7 Q You had said the weather was rolling in, so
09:24:37 8 you went to the dugout because it was raining. But did
09:24:42 9 it look like it is just going to be a brief rain or did
09:24:45 10 it look like a big storm was coming in? How would you
09:24:47 11 describe that?
09:24:47 12 A I would say a big -- a pretty big storm.
09:24:50 13 Q Okay. Like dark clouds, looks ominous?
09:24:54 14 A Yes, sir.
09:25:00 15 Q Okay. So after Coach Wooten has told y'all to
09:25:05 16 go to the field to warm up, what do you do?
09:25:09 17 A We go put on our spikes and then -- well,
09:25:12 18 first, we walk out to the field and then we put on our
09:25:17 19 spikes and start to warm up.
09:25:18 20 Q Okay. So -- and who is we? I assume it is
09:25:21 21 the 4-by-100 team?
09:25:23 22 A Yes, sir.
09:25:23 23 Q Anybody else besides the 4-by-100 team that
09:25:26 24 goes out to the field to warm up?
09:25:28 25 A I am pretty sure it was -- it was a good

09:25:30 1 amount of people. There was a few people already out
09:25:34 2 there warming up, so we just kind of went and joined
09:25:38 3 them, as in the 4-by-1 team, and Karmelo was with us,
09:25:40 4 too.

09:25:41 5 Q Okay. So Karmelo had been in the dugout with
09:25:45 6 you?

09:25:45 7 A Yes, sir.

09:25:46 8 Q And I assume all or some of the 4-by-100 team
09:25:50 9 is in there?

09:25:51 10 A Yes, sir. I think all.

09:25:52 11 Q And then you guys and Karmelo go out to the
09:25:57 12 field to warm up?

09:25:59 13 A Yes, sir.

09:26:00 14 Q What happens once you get out to the field and
09:26:02 15 start warming up?

09:26:05 16 A It started -- the rain had kind of died down,
09:26:10 17 almost to a full stop; and then it started to pick up
09:26:15 18 again while we were out there.

09:26:17 19 Q Okay. So kind of like Texas weather, it's --

09:26:21 20 A Right.

09:26:21 21 Q -- raining hard, and then it stops, and then
09:26:23 22 it comes again?

09:26:23 23 A Yes, sir.

09:26:26 24 Q Does Karmelo stay on the field? What does he
09:26:29 25 do?

09:26:30 1 A After the rain -- or it was about to start
09:26:32 2 raining. He went back to the stands, or to the
09:26:36 3 bleachers -- towards the bleachers.

09:26:37 4 Q Okay. So a second ago, you said after it
09:26:39 5 rained for a bit, it stops; while it is stopped, just
09:26:43 6 before it starts raining, Karmelo heads to the
09:26:46 7 bleachers?

09:26:47 8 A Yes, sir.

09:26:48 9 Q And then what are you doing -- are you paying
09:26:53 10 attention to everything he is doing as he goes to the
09:26:56 11 bleachers?

09:26:57 12 A No, sir.

09:26:58 13 Q Do you ever see him again?

09:27:01 14 A Later on, when he was in the bleachers, yes,
09:27:04 15 sir.

09:27:04 16 Q Okay. What made you notice him in the
09:27:06 17 bleachers? Like, if you are on the field warming up,
09:27:09 18 why do you happen to look over at the bleachers and see
09:27:11 19 him?

09:27:12 20 A I was just -- I was just looking around and I
09:27:14 21 saw someone I recognized. And you kind of just know,
09:27:17 22 like, when you see them. I was, like, oh, there is
09:27:19 23 Karmelo. Like that was all.

09:27:28 24 Q And so where did you see him in the bleachers,
09:27:30 25 specifically, if you remember?

09:27:32 1 A I saw him walking from kind of where our,
09:27:35 2 like, tarp was, towards the other side. So we were
09:27:40 3 on -- our tarp was on the left side of the bleachers, if
09:27:43 4 you are facing towards it. He was walking to the right.
09:27:46 5 Q So if I am on the field like you are --
09:27:47 6 A Yes, sir.
09:27:48 7 Q -- and I am looking at the full bleachers, you
09:27:51 8 said your tarp is towards the left side?
09:27:53 9 A Yes, sir.
09:27:54 10 Q And then he is walking from that direction
09:27:58 11 towards the right side?
09:28:00 12 A Correct.
09:28:00 13 Q Okay. And so you see him walking. Do -- is
09:28:04 14 that the last time you see him, or do you see him again?
09:28:07 15 A I see him a little later on.
09:28:09 16 Q When -- when is that and where do you see him?
09:28:12 17 How does that happen?
09:28:19 18 A During -- the rain started to pick up a little
09:28:21 19 more, and then I saw him under the Memorial tent, and
09:28:26 20 that's when -- that was the next time I saw him.
09:28:31 21 Q It has been a long time since I was anywhere
09:28:34 22 around track, but you guys are -- when you say on the
09:28:36 23 field, you are on the grass warming up?
09:28:38 24 A Yes, sir. Yes, sir.
09:28:40 25 Q But when you run a sprint race, like a

09:28:43 1 4-by-100, that's on the track portion, right?

09:28:46 2 A Yes, sir.

09:28:46 3 Q Do you ever head over to the track; are you
09:28:48 4 testing out the track? How does that work?

09:28:50 5 A Yes, sir. Since the rain had came down, I had
09:28:53 6 never ran in the rain before, so I thought I would see
09:28:55 7 how my spikes felt on the track.

09:28:58 8 Q Is it before then, during then, or after then
09:29:01 9 that you see Melo under -- under a tent?

09:29:08 10 A Right after.

09:29:09 11 Q Right after. So you head over to the track,
09:29:11 12 you are testing it out, and then while you are there or
09:29:14 13 headed back, that's when you see --

09:29:17 14 A Headed back, yes, sir.

09:29:18 15 Q Headed back. Okay. And where, specifically,
09:29:20 16 did you see him?

09:29:21 17 A Under -- like in the tent, or just where I saw
09:29:24 18 him?

09:29:24 19 Q In the tent.

09:29:25 20 A In the tent, top-right corner.

09:29:28 21 Q Okay.

09:29:28 22 A If I am looking at it, top-right corner.

09:29:30 23 Q And when we say "the tent," are we talking
09:29:34 24 about Liberty's tent, Memorial's tent --

09:29:36 25 A Memorial's tent, yes, sir.

09:29:38 1 Q Memorial's tent.

09:29:38 2 MR. HOWARD: May I approach the witness,
09:29:39 3 Judge?

09:29:41 4 THE COURT: You may.

09:29:45 5 Q So I am going to show you what's been marked
09:29:49 6 State's Exhibit-23. This is a picture that's been
09:29:55 7 zoomed in of the bleachers, okay?

09:29:58 8 A Yes, sir.

09:29:59 9 Q And if I represent to you that that yellow
09:30:02 10 square marks out where the Memorial tent was, you said
09:30:07 11 that you saw Melo in the top-right-hand corner?

09:30:11 12 A Yes, sir.

09:30:12 13 Q So you are saying in this region?

09:30:14 14 A That area, yes, sir.

09:30:14 15 Q Okay. Did you see, specifically, like he is
09:30:17 16 in this seat versus that seat versus this seat?

09:30:20 17 A No, sir.

09:30:20 18 Q Okay. Just in this corner?

09:30:23 19 A That vicinity, yes, sir.

09:30:26 20 Q Okay. Thank you.

09:30:26 21 when you look up and see Melo in the
09:30:46 22 top-right-hand corner of the Memorial tent, is he alone
09:30:50 23 in the tent, are there other people in the tent?

09:30:53 24 A There are other people.

09:30:54 25 Q would you say it is, you know, packed to the

09:30:57 1 gills, medium-empty? where would you put that?

09:31:02 2 A Just right in the middle; medium-full, I would

09:31:04 3 say.

09:31:05 4 Q Medium-full. So not there is not a seat to

09:31:08 5 spare, but medium-full?

09:31:11 6 A You -- I would say you would have to squeeze

09:31:13 7 in, if you wanted to fit more people.

09:31:16 8 Q Okay. So getting crowded?

09:31:18 9 A Yes, sir.

09:31:22 10 Q On the field -- you said that you had gone to

09:31:28 11 the track and now you are on your way walking back to, I

09:31:32 12 assume, to the grass area of the field?

09:31:35 13 A Yes, sir.

09:31:36 14 Q where do you head on the field? Because you

09:31:39 15 know a field is a hundred yards long and 50 yards wide.

09:31:43 16 where, about, are you for the next portion of your

09:31:46 17 testimony?

09:31:47 18 A 40-ish yardline of -- if you are facing

09:31:52 19 towards the Memorial tent on the left side, so that 40.

09:31:56 20 Q Okay. So if I have an overview of the field,

09:31:58 21 there is usually, like, a big logo in the center of the

09:32:02 22 field?

09:32:03 23 A Yes, sir.

09:32:03 24 Q And this one, it is the Frisco logo with the

09:32:06 25 little, like, crown spikes?

09:32:07 1 A Yes, sir.

09:32:07 2 Q And you said -- so that's right at the 50, and
09:32:10 3 then we have the 40-yard line on either side, you are
09:32:13 4 on --

09:32:14 5 A The 40-to-35 area. We were kind of in that
09:32:17 6 little zone, just kind of moving around, since we were
09:32:20 7 warming up; so we weren't all in one place standing
09:32:22 8 still.

09:32:22 9 Q And when you say "we," I assume you mean you
09:32:26 10 and the other members of your 4-by-100 team?

09:32:30 11 A Yes, sir.

09:32:30 12 Q How far, approximately, would you say you are,
09:32:32 13 from where Melo is under the Memorial tent?

09:32:40 14 A 30, 40-ish yards, I would say.

09:32:43 15 Q Okay. Close enough that you can clearly see
09:32:45 16 it is Melo?

09:32:46 17 A Yes, sir. I would say it was fluctuating,
09:32:48 18 because we were warming up and working on handoffs, so
09:32:51 19 you had to be moving. So at one point, I would be 20
09:32:54 20 yards, another point I would be 30; another, 40.

09:32:59 21 Q Okay. So at some point, you had mentioned you
09:33:02 22 had seen Melo sitting there. You said that it is
09:33:06 23 getting crowded; that if you wanted to fit more people
09:33:10 24 in, you would have to squeeze in?

09:33:13 25 A Yes, sir.

09:33:14 1 Q Describe what the people under the tent at
09:33:16 2 that point, when you first see Melo, what is happening?
09:33:19 3 Are they sitting there normally, are they reacting to
09:33:23 4 something, are they scrolling on their phones?

09:33:27 5 A Everything looked completely normal; some
09:33:30 6 people scrolling on their phone, some people talking.
09:33:33 7 It looked completely normal to me. I didn't really pay
09:33:37 8 too much attention to it because, I mean, I didn't think
09:33:40 9 anything of it.

09:33:41 10 Q Yeah, you are warming up?

09:33:43 11 A Yeah, exactly.

09:33:44 12 Q At some point, do you see Melo again and
09:33:47 13 things seem to be changing?

09:33:49 14 A Yes, sir.

09:33:50 15 Q Describe for the jury what you saw and what
09:33:57 16 you thought.

09:33:57 17 A So I had looked up. And when I looked up,
09:34:03 18 there was -- well, I heard -- so I had only looked over
09:34:08 19 there because I heard, like, a sound. Not like yelling
09:34:12 20 or anything at this point, but I heard -- I heard louder
09:34:17 21 voices than usual, so I kind of looked over there. And
09:34:20 22 when I looked over there, everyone had kind of -- people
09:34:24 23 were facing towards the field, and when I looked over
09:34:26 24 there, people weren't facing toward the field anymore.
09:34:30 25 They were looking back. And so I kind of -- it caught

09:34:34 1 my attention at that point that something was going on
09:34:39 2 over there.

09:34:40 3 Q When you say that -- okay. So it caught your
09:34:42 4 attention; you thought something was going on over
09:34:45 5 there. You mentioned that people are looking back.
09:34:51 6 Melo is in the top corner. Does it appear to you that
09:34:55 7 people are looking at him? Do you notice something -- I
09:34:57 8 mean, does it strike you that he is involved in some
09:35:00 9 way?

09:35:01 10 A Yes, sir, it was -- I would say when I talk
09:35:03 11 about the people looking back, I am talking about, like,
09:35:06 12 kind of that front row of people. And those were the
09:35:09 13 ones looking back up at what was going on behind them,
09:35:14 14 and Karmelo's behind them.

09:35:16 15 Q Do you notice if people are standing or
09:35:18 16 sitting, or does it register?

09:35:20 17 A It was a mix. Some people were standing, some
09:35:22 18 people were sitting, some people were walking by.

09:35:24 19 Q Okay. But enough of a change in tone that you
09:35:29 20 took notice of it and thought that looks different?

09:35:32 21 A What caught my attention was the people
09:35:35 22 looking back and like the change of demeanor in it, yes,
09:35:40 23 sir.

09:35:41 24 Q Do you remember telling the detective that my
09:35:43 25 immediate thought was I thought my teammate might be in

09:35:47 1 trouble, I might need to go help him?

09:35:50 2 A Yes, sir. It was kind of flying-in-blind,
09:35:53 3 because it could be people just messing around, it could
09:35:57 4 be something serious, it could be, like, they knew each
09:36:01 5 other under there and they were just talking and maybe
09:36:03 6 the people in front didn't know. I really had no idea.

09:36:06 7 Q But at the time, it was enough to strike you
09:36:08 8 as like --

09:36:09 9 A Something is wrong, yes, sir.

09:36:10 10 Q -- something is wrong or could be wrong?

09:36:12 11 A Could be wrong, yes, sir.

09:36:14 12 Q Do you stand there? Do you move closer?

09:36:18 13 A A slow walk closer while I am looking over my
09:36:21 14 shoulder, because -- well, so like I said, I thought
09:36:25 15 something could be wrong. I wanted to see if my
09:36:27 16 teammates could see it, too, so I was looking back over
09:36:31 17 my shoulder. So I didn't really think too much of it at
09:36:34 18 this point, because my -- when I looked back, my
09:36:37 19 teammates didn't seem out of the ordinary.

09:36:40 20 MR. HOWARD: Okay. May I approach the
09:36:40 21 witness, Judge?

09:36:41 22 THE COURT: You may.

09:36:44 23 Q So to demonstrate, you said if I am you and
09:36:46 24 the tent is in your direction, right?

09:36:48 25 A Yes, sir.

09:36:48 1 Q I'm on the field. You said that you see this
09:36:51 2 thing happening that makes you concerned, as possibly an
09:36:54 3 issue, right?

09:36:55 4 A Yes, sir.

09:36:56 5 Q And so you said you start to kind of slowly
09:36:58 6 walk that way and you are watching it, but you are also
09:37:01 7 looking back over your shoulder where your teammates
09:37:04 8 are, to see if they are registering this issue?

09:37:06 9 A Yes, sir, and I was even asking them, like, is
09:37:08 10 something going on over there.

09:37:10 11 Q Do you stay back looking backwards for an
09:37:12 12 extended period of time, or do you look back towards the
09:37:15 13 stands?

09:37:16 14 A I would say a little bit of a time, because at
09:37:19 15 one point I had kind of fully turned my body into, like,
09:37:23 16 a back peddle, and then -- but still very slow.

09:37:27 17 Q Okay. So as you are checking in with them,
09:37:30 18 are y'all seeing this --

09:37:34 19 A That's when they also looked over, too, and
09:37:36 20 they were a little, like, okay, what's going on.

09:37:39 21 Q So then you, I assume, turn back?

09:37:41 22 A Yes, sir.

09:37:42 23 Q Okay. So now you are back to facing the tent?

09:37:44 24 A Yes, sir.

09:37:45 25 Q And has the thing that you were describing, is

09:37:48 1 it continuing, has it stopped?

09:37:51 2 A It was continuing.

09:37:53 3 Q what did you see next?

09:37:55 4 A That's whenever I saw a push.

09:38:06 5 Q A push. So I believe the detective asked you
09:38:08 6 if the push you are seeing, if that was Austin, his back
09:38:12 7 is to you, how could you tell it was a push. Do you
09:38:16 8 remember what you told him?

09:38:17 9 A Arms; I saw the arms go out. So I didn't know
09:38:20 10 who it was or, like, why it had happened or anything. I
09:38:23 11 just saw arms go out and make contact with Karmelo.

09:38:27 12 Q Okay. And so you see arms, and I think you
09:38:30 13 described like the flaring of elbows?

09:38:31 14 A Yes, sir.

09:38:31 15 Q You see this? If the jury is you, you see
09:38:35 16 this (demonstrating)?

09:38:35 17 A Yes, sir.

09:38:36 18 Q To be fair, can you see how much contact or
09:38:41 19 how contact is being made with Melo?

09:38:44 20 A No, sir.

09:38:44 21 Q You just see arms going out towards Melo?

09:38:48 22 A Yes, sir.

09:38:48 23 Q Was that concerning to you in that moment?

09:38:51 24 A Yes, sir.

09:38:51 25 Q Are you continuing to move forward out of that

09:38:59 1 concern?

09:39:00 2 A Yes, sir. That's whenever I -- well, I was
09:39:04 3 still -- I had been moving forward, but I was still
09:39:06 4 looking over my shoulder, especially since I had seen
09:39:10 5 that push. I was wondering if, well, my teammates had
09:39:16 6 seen it and I was also asking them, like, is there about
09:39:19 7 to be a fight, are they friends. It just depended.
09:39:25 8 Like I was still kind of in the dark about it.

09:39:29 9 Q So you weren't sure this was a fight, but you
09:39:31 10 were thinking this could be a fight and you were
09:39:34 11 concerned; is that fair?

09:39:35 12 A Yes, sir, I thought it could be anything.

09:39:37 13 Q Okay. And you said that there are people kind
09:39:41 14 of all around Melo, fairly full in the tent?

09:39:46 15 A Yes, sir.

09:39:47 16 Q You, I assume, had seen a fight break out at a
09:39:52 17 school?

09:39:53 18 A Yes, sir.

09:39:53 19 Q Or just in general?

09:39:54 20 A Yes, sir.

09:39:56 21 Q Is it common for kids to kind of circle around
09:40:01 22 a fight or move towards a fight or stand up to get a
09:40:06 23 better look, or whatever?

09:40:08 24 A Yes, sir.

09:40:08 25 Q Had you seen instances where kids will jump in

09:40:10 1 and get involved in the fight?

09:40:15 2 A Yes, sir.

09:40:16 3 Q Is that part of your, kind of, concern? I am
09:40:20 4 seeing something that could be a fight, and also, there
09:40:23 5 is people all around?

09:40:25 6 A Yes, sir. I -- I guess at the time, I didn't
09:40:28 7 really think too far into that. I was more wondering
09:40:32 8 why, what was causing it; like the original shove. Like
09:40:37 9 I was running through all of the possibilities of maybe
09:40:39 10 it is his friend, maybe it is -- maybe something
09:40:42 11 happened, maybe something didn't happen. I was just
09:40:46 12 running through everything, so I wasn't thinking too
09:40:48 13 much about it.

09:40:49 14 Q To be fair, you don't have context, right?

09:40:53 15 A Correct. Yes, sir.

09:40:53 16 Q You don't know what's happened just before
09:40:55 17 this?

09:40:55 18 A No idea.

09:40:56 19 Q Whether they are horsing around or if this is
09:40:59 20 super serious?

09:40:59 21 A Yes, sir.

09:41:00 22 Q But it was enough of a concern to you that you
09:41:03 23 are paying closer and closer attention?

09:41:04 24 A Yes, sir. It caught my attention.

09:41:07 25 Q So after you see the arms go out towards Melo,

09:41:11 1 you said that that -- that's when you turned back to see
09:41:15 2 if your teammates are registering this again?

09:41:19 3 A Yes, sir.

09:41:19 4 Q Do you end up looking back?

09:41:22 5 A Yes, sir.

09:41:26 6 Q What happens then?

09:41:27 7 A Yelling, which was -- it kind of sounded
09:41:32 8 like -- I really couldn't -- it was -- it got super
09:41:34 9 loud. People started standing up and I was, like, well,
09:41:40 10 what happened; and that was what happened.

09:41:43 11 Q So I think when you talked to me a couple of
09:41:46 12 weeks ago, you said that at first I thought it might be
09:41:50 13 like a bee, or something?

09:41:51 14 A Yes, sir.

09:41:51 15 Q Because people are making noise and kind of
09:41:55 16 running about?

09:41:56 17 A Yes, sir.

09:41:56 18 Q Okay.

09:41:56 19 A Yeah, I thought it would be -- I thought it
09:41:59 20 was something, like, small; like a bee sting, anything,
09:42:03 21 because people were making different sounds. Some
09:42:06 22 people sounded like they might have been laughing, which
09:42:10 23 is why I thought it might have been a bee sting.

09:42:13 24 Q Okay. But then, obviously, as the seconds go
09:42:17 25 by, you see that it is something much more serious?

09:42:20 1 A Yes, sir.

09:42:21 2 Q And before I move into the next moments -- so
09:42:31 3 it seems pretty clear that you see the push and then you
09:42:35 4 look away, and the next thing you see is kind of chaos,
09:42:39 5 running around?

09:42:40 6 A Yes, sir.

09:42:41 7 Q So you did not see the stab or the moment of
09:42:45 8 that, correct?

09:42:46 9 A No, sir. Correct.

09:42:47 10 Q You see a push, and you turn, and then you
09:42:50 11 miss whatever happened in the next second?

09:42:52 12 A Yes, sir.

09:42:55 13 Q When you saw the push, is Melo seated?

09:43:01 14 A No, sir.

09:43:02 15 Q Okay. Is he standing?

09:43:04 16 A Yes, sir.

09:43:04 17 Q Okay. So you see the push, you look back, and
09:43:13 18 then you turn back and you see chaos happening. What's
09:43:17 19 happening next?

09:43:17 20 A What I didn't know at the time was it was --
09:43:19 21 Austin had started pulling up his shirt and saying that
09:43:23 22 he had got stabbed; and everyone -- some people were
09:43:28 23 trying to help him, some people were, like, frozen. It
09:43:31 24 was a mix of emotions.

09:43:33 25 Q A really scary incident?

09:43:35 1 A Yes, sir.

09:43:38 2 Q You said -- you didn't know Austin at the
09:43:40 3 time?

09:43:40 4 A Correct.

09:43:40 5 Q At the time, it is just this person lifts up
09:43:44 6 his shirt and says that, but now you, through all of
09:43:47 7 this, have come to know that that's Austin?

09:43:50 8 A Yes, sir.

09:43:51 9 Q And then in the moments of people helping him
09:43:54 10 and freezing, do you see Melo at some point?

09:43:57 11 A Yes, sir.

09:43:58 12 Q Do you see him running away, do you see him
09:44:00 13 standing there? What do you see Melo doing?

09:44:04 14 A Kind of a light jog on the -- like going to
09:44:09 15 the right on the bleachers.

09:44:12 16 Q Okay. So you register him there -- there
09:44:18 17 seated, and then maybe standing, and then chaos; and the
09:44:22 18 next time you see him is he is moving across the
09:44:27 19 bleachers in a light jog?

09:44:29 20 A Yes, sir.

09:44:30 21 Q Do you follow him every second of this
09:44:31 22 journey, or are you looking back and forth, or what's
09:44:35 23 happening?

09:44:36 24 A Flipping back and forth.

09:44:38 25 Q Okay. As you flip back and forth, do you

09:44:41 1 catch -- does Melo catch your eye again at anywhere in a
09:44:46 2 different place?

09:44:46 3 A He was on the track whenever I next looked at
09:44:50 4 him.

09:44:50 5 Q Okay. So if I go from the bleachers and then
09:44:53 6 I go kind of around the track, there is a fence between
09:44:57 7 me and the track, correct?

09:44:59 8 A Yes, sir.

09:44:59 9 Q And then as I go -- as I go around towards,
09:45:02 10 you know, the end zone and behind the goal posts, I am
09:45:06 11 headed towards the exit if I want to, correct?

09:45:10 12 A Yes, sir.

09:45:10 13 Q And I could just run out to the parking lot,
09:45:13 14 correct?

09:45:13 15 A Yes, sir.

09:45:14 16 Q But if I get to the field, I am turning and
09:45:17 17 going through the little entrance in that fence onto the
09:45:21 18 field?

09:45:23 19 A Correct.

09:45:23 20 Q So you next see Melo on the field. What is he
09:45:27 21 doing?

09:45:27 22 A He is crying and there is a coach kind of
09:45:32 23 comforting him, like holding him.

09:45:34 24 Q Okay. And it seemed like comforting to you,
09:45:38 25 in the moment?

09:45:39 1 A Yes, sir.

09:45:39 2 Q You said he was crying. You know, people cry
09:45:43 3 differently. How would you describe his demeanor and
09:45:47 4 that experience, in your view?

09:45:54 5 A I think -- I feel like the best word for it
09:45:56 6 was he was, like, distraught, I would say is the best
09:46:00 7 way to describe it.

09:46:02 8 Q Okay. Distraught. Did you get a feeling --
09:46:07 9 did you feel in that moment that that distraught was
09:46:11 10 real or a put-on or --

09:46:13 11 A I would say -- I would say everything going on
09:46:15 12 for everyone there was very, very real.

09:46:23 13 Q Where are you? Are you frozen? You describe
09:46:25 14 how some people are running; some people are frozen.
09:46:28 15 Where are you during all of this time? Are you moving
09:46:32 16 around, or what?

09:46:33 17 A I was moving around. I was moving towards the
09:46:37 18 right from the field, so I was, like, going at an angle
09:46:43 19 towards the bleachers, I guess.

09:46:45 20 Q You had been kind of mid-field, headed toward
09:46:47 21 the bleachers?

09:46:48 22 A Yes, sir.

09:46:48 23 Q And then everything happened, and you said you
09:46:51 24 start to go towards the right?

09:46:53 25 A Yes, sir.

09:46:53 1 Q So towards the direction you end up seeing
09:46:55 2 Melo on the track or the field?

09:46:57 3 A Yes, sir.

09:46:58 4 Q And then do you walk past Melo or do you turn
09:47:01 5 around?

09:47:02 6 A I turned around.

09:47:03 7 Q And so are you close to Melo at any time that
09:47:07 8 he's got the -- the coach is comforting him?

09:47:10 9 A I would say the closest I got was 10 yards, 15
09:47:15 10 yards.

09:47:16 11 Q 10 yards, I mean, is a lot closer than you and
09:47:19 12 I are now, right?

09:47:21 13 A Yes, sir. I would I say -- I would say the
09:47:23 14 closest I got -- actually, I would say it is about how
09:47:28 15 we are now. So if you -- say, 20 yards, maybe.

09:47:30 16 Q 15 or 20 yards?

09:47:33 17 A Yeah, that area.

09:47:36 18 Q Close enough to hear him?

09:47:37 19 A Yes, sir, I could hear him.

09:47:38 20 Q You could hear him crying?

09:47:40 21 A Yes, sir.

09:47:40 22 Q Was he saying anything, that you heard?

09:47:42 23 A Yes, sir. I was hearing him say, like, I told
09:47:45 24 him not to touch me.

09:47:49 25 Q Okay. Do you remember telling the detective,

09:47:50 1 he put his hands on me, I told him not to, I didn't know
09:47:53 2 what to do?

09:47:55 3 A Yes, sir.

09:47:56 4 Q And is that what you remember?

09:47:57 5 A Yes, sir, I remember hearing that.

09:47:59 6 Q How is he saying that? Is he saying that
09:48:02 7 calm, is he saying that distraught?

09:48:05 8 A Very distraught, yeah.

09:48:13 9 Q I really appreciate you coming down here and
09:48:18 10 telling this jury what you heard. I know this is not
09:48:22 11 where you wanted to be, and especially with everything
09:48:25 12 going on. So I appreciate you and I am sure everybody
09:48:28 13 appreciates you, like everybody else, their involvement.
09:48:32 14 I just have a couple of questions for you here at the
09:48:34 15 end.

09:48:40 16 You didn't see large parts of what happened
09:48:45 17 under the tent; is that fair to say?

09:48:47 18 A Yes, sir.

09:48:48 19 Q Do you know the context of before the shove,
09:48:50 20 or anything like that?

09:48:51 21 A No, sir.

09:48:52 22 Q Do you know whether the shove was justified or
09:48:57 23 not?

09:48:57 24 A No, sir.

09:48:58 25 Q Do you know whether Melo's reaction was

09:49:02 1 justified or not?

09:49:04 2 A No, sir.

09:49:05 3 Q Do you know whether Melo was provoking it or
09:49:08 4 Austin was provoking it, or anything else?

09:49:11 5 A No, sir.

09:49:12 6 MR. HOWARD: Pass the witness, Judge.

09:49:20 7 THE COURT: Mr. Wirskye.

8 CROSS-EXAMINATION

09:49:22 9 BY MR. WIRSKYE:

09:49:24 10 Q [REDACTED] how are you this morning?

09:49:26 11 A I am all right.

09:49:27 12 Q And just so the jury knows, you, your mom, and
09:49:31 13 a couple of people on the prosecution team met back in
09:49:36 14 April, right?

09:49:37 15 A Yes, sir.

09:49:37 16 Q Do you remember the last question that you and
09:49:39 17 your mom asked me as y'all were leaving?

09:49:43 18 A I do not.

09:49:44 19 Q You said, what do I do if the Defense talks to
09:49:48 20 me. Do you remember that, asking that?

09:49:50 21 A I think I do, yes, sir.

09:49:52 22 Q Do you remember my answer?

09:49:56 23 A I don't --

09:49:57 24 Q My answer was, that's okay if they do, just
09:50:00 25 tell them now you have seen the videotape, and you had a

09:50:04 1 few things wrong. Do you remember that?

09:50:06 2 A Yes, sir.

09:50:07 3 Q Okay. You had a few things wrong when we
09:50:10 4 talked, right?

09:50:10 5 A Yes, sir.

09:50:11 6 Q Okay. And in fairness to you -- and I am not
09:50:14 7 trying to embarrass anyone; I didn't want to embarrass
09:50:17 8 you that day -- but we just showed you the video of the
09:50:21 9 stabbing showing the Memorial tent, right?

09:50:23 10 A Yes, sir.

09:50:23 11 Q You never looked at the video we had of the
09:50:26 12 other side of the field, did you?

09:50:27 13 A What do you mean?

09:50:28 14 Q Where you would have been, that captured you
09:50:30 15 and the other Centennial athletes warming up.

09:50:33 16 A No, sir.

09:50:33 17 Q And we never really talked to you about
09:50:34 18 timelines and who was looking where when, right?

09:50:38 19 A Yes, sir.

09:50:38 20 Q Okay. What we determined at that meeting was
09:50:41 21 your initial statement to the police, and some of your
09:50:44 22 statements today, that you saw Karmelo Anthony
09:50:47 23 surrounded, had to have been after the stabbing? You
09:50:51 24 recall that?

09:50:51 25 A Like when me and you talked?

09:51:01 1 Q Yes.

09:51:02 2 A Yes, sir.

09:51:02 3 Q And you walked out of there -- I guess
09:51:02 4 everybody sees what they see and then they create a
09:51:06 5 story in their head. Would you agree with that?

09:51:07 6 A Yes, sir.

09:51:07 7 Q And you had a story in your head when we
09:51:09 8 visited, right? Based on what you had seen, what you
09:51:11 9 had heard?

09:51:12 10 A Yes, sir.

09:51:12 11 Q And when you left that meeting, your eyes were
09:51:15 12 opened a little bit, because now you had seen objective
09:51:18 13 video proof of the stabbing, correct?

09:51:20 14 A Correct.

09:51:21 15 Q Okay. We're going to come back to that and I
09:51:25 16 am going to show you the video from the other side of
09:51:29 17 the field, and I am going to juxtapose it on the
09:51:32 18 timeline and I think it will give you and the jury some
09:51:34 19 insight as to what you actually saw and what story you
09:51:40 20 may be telling yourself based on what you saw. Does
09:51:43 21 that sound fair?

09:51:44 22 A Yes, sir.

09:51:45 23 Q Okay. Let's start earlier that morning. You
09:51:49 24 said Karmelo was normal?

09:51:51 25 A Yes, sir.

09:51:53 1 Q Coach Wooten came and told you guys to get on
09:51:55 2 the field and warm up, right?

09:51:57 3 A Yes, sir.

09:51:57 4 Q And Coach Linwood expects everybody in the
09:51:59 5 relays, JV and varsity, to warm up together and practice
09:52:03 6 handoffs, right?

09:52:04 7 A Yes, sir.

09:52:05 8 Q For some reason, Karmelo Anthony chose to go
09:52:08 9 up to the bleachers, right?

09:52:10 10 A Yes, sir.

09:52:11 11 Q And with respect to this rain, did you ever
09:52:14 12 take shelter from the rain under the bleachers?

09:52:16 13 A Under the bleachers?

09:52:17 14 Q Yes, sir.

09:52:19 15 A No, sir.

09:52:19 16 Q But people were?

09:52:20 17 A I have no idea if they were or not.

09:52:22 18 Q But you are familiar with the track, anyone
09:52:24 19 that wanted to get out of the rain would just stand
09:52:27 20 under the bleachers, correct?

09:52:28 21 A Yes, sir.

09:52:29 22 Q And Karmelo Anthony left you quite a while
09:52:32 23 before the events you described, right?

09:52:34 24 A Yes, sir.

09:52:35 25 Q And again, you haven't seen the other video,

09:52:37 1 we didn't share it with you, just out of respect for you
09:52:41 2 and your mom.

09:52:41 3 You go over to the baseball dugout, the coach
09:52:45 4 tells you to leave, right?

09:52:47 5 A Yes, sir.

09:52:47 6 Q And you leave, right?

09:52:49 7 A Yes, sir.

09:52:50 8 Q Why was that?

09:52:50 9 A Because he told us to.

09:52:52 10 Q Somebody asks you to leave, you leave, right?

09:52:54 11 A Yes, sir.

09:52:54 12 Q You weren't supposed to be there, right?

09:52:56 13 A Yes, sir.

09:53:08 14 Q My impression when we first met, [REDACTED] you
09:53:12 15 thought when you saw people surrounding Karmelo Anthony,
09:53:16 16 it was before the stabbing, right?

09:53:20 17 A Yes, sir.

09:53:21 18 Q And you realized after seeing the video that
09:53:23 19 the people that you thought were surrounding and maybe
09:53:27 20 jumping a teammate of yours, that was actually after the
09:53:30 21 stabbing, right?

09:53:31 22 A I couldn't really tell when the stabbing
09:53:33 23 happened on the video.

09:53:35 24 Q Would you like to look at it?

09:53:38 25 A We can.

09:53:39 1 Q Okay. I showed it to you, remember?

09:53:41 2 A Oh, that video? Yes, sir.

09:53:43 3 Q Yeah, there is a push and then there is a
09:53:45 4 stab, and then Karmelo -- and when that happens,
09:53:48 5 remember looking at the video, everyone under the tent
09:53:51 6 is seated? You remember that?

09:53:53 7 A Yes, sir.

09:53:53 8 Q Would you like to see it again?

09:53:56 9 A I don't think it is needed, no, sir.

09:53:58 10 Q Okay. Any doubt in your mind, when you first
09:54:00 11 looked back over at the Memorial tent, everybody was
09:54:03 12 seated?

09:54:05 13 A No, sir. No doubt. Actually, I saw people
09:54:09 14 walking around and standing up around the tent, but I
09:54:11 15 wasn't --

09:54:12 16 Q Like normal, though, right?

09:54:13 17 A Yes, sir. I wasn't --

09:54:15 18 Q This was before the commotion, before you
09:54:17 19 thought maybe there was a bee sting, right?

09:54:19 20 A Yeah, because --

09:54:20 21 Q So you look over there --

09:54:21 22 MR. HOWARD: Your Honor, I object --

09:54:23 23 THE COURT: Let's try to let each other
09:54:25 24 answer and question, okay? Don't interrupt each other.

09:54:29 25 Q [REDACTED] you look over there --

09:54:31 1 THE COURT: Hey, did you hear what I
09:54:32 2 said?

09:54:33 3 MR. WIRSKYE: Yes, sir.

09:54:33 4 Q [REDACTED] you look over there, everything is
09:54:35 5 normal, correct?

09:54:35 6 A Yes, sir.

09:54:36 7 Q You look away, go about your business, you
09:54:37 8 look back, there is a commotion?

09:54:40 9 A Yes, sir.

09:54:41 10 Q People are standing up. And when you and I
09:54:44 11 met, you told me that's when you thought -- you thought
09:54:48 12 that was before the stabbing, right?

09:54:50 13 A I thought it was right when the stabbing
09:54:53 14 happened.

09:54:53 15 Q And now you know you are wrong, after seeing
09:54:56 16 the video back in April, right?

09:54:58 17 A Yeah, because I hadn't -- I hadn't seen the
09:54:58 18 stabbing, because I was looking back and forth, yes,
09:55:02 19 sir.

09:55:02 20 Q would you like to see the video from the other
09:55:04 21 side of the field that shows where you and your
09:55:06 22 Centennial teammates were as you warmed up?

09:55:10 23 A We can, yes, sir.

09:55:11 24 MR. WIRSKYE: Okay. I would ask
09:55:14 25 permission to publish State's-5.

09:55:16 1 THE COURT: Yes, sir. On the computer,
09:55:16 2 right?

09:55:17 3 MR. MITCHELL: Yes, sir.

09:55:17 4 Q [REDACTED] it will come up in just a few seconds
09:55:19 5 on the monitor. Everybody in the courtroom will get to
09:55:23 6 see it on the other monitors.

09:55:25 7 You have it right there?

09:55:26 8 A Yes, sir.

09:55:27 9 Q All right. I would ask Mr. Mitchell to focus
09:55:29 10 in, and for your purposes and for everyone in the
09:55:32 11 courtroom's purposes, and they may recall from last
09:55:35 12 wednesday, the murder -- the push and the stab occurs at
09:55:40 13 10 o'clock and 50 seconds. Are you tracking?

09:55:46 14 A Yes, sir.

09:55:47 15 Q Do you see yourself?

09:55:48 16 A I can't tell which one I am, no, sir.

09:55:51 17 Q Okay. Let's let the video play a little bit.

09:55:54 18 A Okay.

09:55:55 19 Q And you understand at this point, the shove
09:55:56 20 and the stab haven't happened, right?

09:56:00 21 A Yes, sir.

09:56:00 22 Q You trust me on that, right?

09:56:02 23 A Yes, sir.

09:56:03 24 Q Okay. And you agree right now, most of you
09:56:10 25 and your teammates -- y'all are in white, right? That's

09:56:13 1 your school color?

09:56:15 2 A Yes, sir.

09:56:16 3 Q Most of your teammates aren't looking back
09:56:18 4 over their shoulder to the Memorial tent, are they?

09:56:21 5 A No, sir.

09:56:22 6 Q We are about 15 seconds away from the shove
09:56:27 7 and the stab. No one is looking, right?

09:56:37 8 Boom, stop, the murder just happened, okay?

09:56:40 9 MR. HOWARD: I am going to object to Mr.
09:56:42 10 wirskye characterizing murder as a legal conclusion.

09:56:48 11 THE COURT: That's the State's position
09:56:49 12 in a document.

09:56:50 13 Q Okay. The shove and the stab -- the jury will
09:56:54 14 decide whether it is murder. The shove and the stab
09:56:57 15 just happened. Is that you looking back towards the
09:57:01 16 Memorial tent or are you one of the ones looking away?

09:57:04 17 A I honestly can't tell.

09:57:06 18 Q It is hard to tell, isn't it?

09:57:08 19 A Yes, sir.

09:57:08 20 Q Okay. Now let's let it run a little further.
09:57:12 21 Now everybody is looking back, right?

09:57:17 22 A Yes, sir.

09:57:18 23 Q 10 o'clock, 55 seconds, people have started to
09:57:22 24 run. And we can move the box up. That's when the
09:57:27 25 commotion starts, right?

09:57:30 1 A Yes, sir.

09:57:31 2 Q And that's when you and your teammates look
09:57:35 3 back at the tent, right?

09:57:38 4 A Yes, sir.

09:57:39 5 Q And I know you don't know this, because you
09:57:42 6 don't know the evidence, you haven't heard from any
09:57:44 7 witnesses, but assuming there was only one shove and
09:57:49 8 assuming there was only one stab, the shove you claim
09:57:52 9 you have seen must have been well before the time of the
09:57:56 10 murder, right, because you weren't looking back at the
09:57:58 11 time of the murder, correct?

09:58:00 12 A At the time, no, sir.

09:58:02 13 Q So that shove must have been much earlier,
09:58:05 14 correct?

09:58:06 15 A Yes, sir.

09:58:14 16 Q And just like it was April 28th, when we spoke
09:58:18 17 and you learned a few extra things, have you learned a
09:58:22 18 few extra things about how the mind can play tricks on
09:58:26 19 you, based on what you saw, and try to turn it into a
09:58:30 20 narrative or a story?

09:58:32 21 A Yes, sir.

09:58:34 22 Q You were wrong, right?

09:58:37 23 A I am not sure. I couldn't really tell too
09:58:40 24 much on that video.

09:58:41 25 Q The video is the video, the timeline is the

09:58:44 1 timeline, right, [REDACTED]

09:58:45 2 A Yes, sir.

09:58:50 3 Q Just a few extra questions. You didn't have a

09:58:53 4 knife at the track meet that day, did you?

09:58:55 5 A No, sir.

09:58:55 6 Q Frisco ISD has a strict no-weapons policy,

09:58:58 7 correct?

09:58:58 8 A Correct.

09:58:59 9 Q You are aware of that; every student is aware

09:59:01 10 of it, right?

09:59:02 11 A Yes, sir.

09:59:03 12 Q Is there any reason to have a knife at a track

09:59:04 13 meet?

09:59:05 14 A No, sir.

09:59:05 15 Q Have you ever been under another team's tent?

09:59:08 16 A No, sir.

09:59:08 17 Q If you had gone under another team's tent and

09:59:11 18 they asked you to leave, would you have?

09:59:14 19 A Yes, sir.

09:59:14 20 MR. WIRSKYE: I think you would; a very

09:59:15 21 respectful young man.

09:59:17 22 I'll pass the witness.

09:59:18 23 THE COURT: Mr. Howard?

09:59:19 24 MR. HOWARD: Thank you, Your Honor.

25 REDIRECT EXAMINATION

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BY MR. HOWARD:

Q Okay. [REDACTED] I have got some questions for you. Before we get to the timing of the video, okay, because I think there is some very important -- like Mr. Wirskye said, you haven't heard all of the testimony, right?

A Yes, sir.

Q As a witness, you don't get to be in the courtroom to hear other witnesses testify?

A Yes, sir.

Q The idea is for justice, we don't want you, you know, hearing what other people say and then changing your testimony, either intentionally or unintentionally, okay?

A Okay.

Q So you wouldn't know testimony that's been earlier about whether or not the videos perfectly sync up, but we'll get there in just a second.

Before Mr. Wirskye talked to you about that, he talked to you about the team warming up, okay?

A Yes, sir.

Q So I want to go back. You said that after you left the dugout, Coach Wooten tells you to go to the field to warm up?

A Yes, sir.

10:00:24 1 Q And I guess by you, it is the 4-by-100 team
10:00:28 2 that is being called?
10:00:29 3 A Yes, sir.
10:00:30 4 Q And Melo wasn't on your JV 4-by-100 team, was
10:00:35 5 he?
10:00:36 6 A Correct.
10:00:37 7 Q Melo doesn't run the 4-by-100?
10:00:39 8 A I don't think so.
10:00:40 9 Q Not even on the varsity team, correct?
10:00:43 10 A Correct.
10:00:43 11 Q And so although there is a full team warm-up,
10:00:47 12 that's usually at the beginning when you first arrive;
10:00:50 13 is that fair?
10:00:51 14 A Yes, sir.
10:00:52 15 Q The full team doesn't go out and warm up
10:00:55 16 before every event; that would be crazy, wouldn't it?
10:00:59 17 A Correct.
10:01:00 18 Q It would be warming up all throughout the day
10:01:02 19 for no apparent reason?
10:01:04 20 A Yes, sir.
10:01:05 21 Q So when -- when Coach Wooten says go warm up,
10:01:09 22 that's to the 4-by-100 team, but Melo did go with you?
10:01:14 23 A Correct.
10:01:15 24 Q Is that -- is he -- does he have to do that at
10:01:18 25 that time?

10:01:19 1 A No, sir, I don't think so.

10:01:21 2 Q He doesn't have an event to warm up for,

10:01:24 3 correct?

10:01:24 4 A Correct.

10:01:25 5 Q The other guys on the team that are not on the

10:01:27 6 4-by-100, they don't have an event to warm up for, they

10:01:31 7 don't need to warm up, correct?

10:01:33 8 A Correct.

10:01:34 9 Q But Melo goes with you as a teammate?

10:01:37 10 A Correct.

10:01:38 11 Q Okay. So then there is another topic Mr.

10:01:45 12 wirsky asked you about, about the term "surrounded,"

10:01:51 13 okay?

10:01:52 14 A Yes, sir.

10:01:56 15 Q To be fair, when you first talked to the

10:01:58 16 detective, you used the term "surrounded;" did you not?

10:02:01 17 A Yes, sir.

10:02:02 18 Q And I think you described people forming a "U"

10:02:05 19 around Melo; is that correct? Initially when you talked

10:02:10 20 to the detective?

10:02:10 21 A Initially, yes, sir.

10:02:11 22 Q Now, after you saw the video, you said, well,

10:02:14 23 looking at that, it looks more like an "L"?

10:02:17 24 A Yes, sir.

10:02:18 25 Q That was what you said to me -- I'm sorry.

10:02:20 1 MR. WIRSKYE: I'm sorry, Counsel. I am
10:02:21 2 going to have to object to leading. We are on redirect.

10:02:25 3 THE COURT: Sustained.

10:02:26 4 Q Okay. So when you testified earlier, did you
10:02:33 5 use the word "surrounded?" I don't think I heard that.
10:02:37 6 Did you say he was surrounded?

10:02:48 7 A No, sir.

10:02:48 8 Q You talked about the tent. The tent, you
10:02:51 9 said, was medium-full, right?

10:02:58 10 A Yes, sir.

10:03:01 11 Q But not, like, packed?

10:03:02 12 A Correct.

10:03:03 13 Q Okay. So when you were talking to this jury,
10:03:10 14 you were saying that people were around Melo in the
10:03:12 15 sense that they are seated around him?

10:03:14 16 MR. WIRSKYE: Excuse me, Counsel. Judge,
10:03:16 17 I am going to have to object, again, to leading. I'm
10:03:18 18 sorry.

10:03:19 19 THE COURT: Sustained.

10:03:20 20 Q Prior to the push, are there people sitting
10:03:23 21 around Melo?

10:03:24 22 A They are all just sitting under their tent,
10:03:27 23 yes, sir.

10:03:27 24 Q And is the tent still medium-full or has it
10:03:31 25 gotten less, has it gotten more?

10:03:33 1 A I would say it is about medium, still.

10:03:36 2 Q Okay. Earlier you had characterized it as if
10:03:40 3 you wanted to fit more people in, you would have to
10:03:42 4 squeeze them in. Has it changed since then? Has it
10:03:45 5 gotten less full?

10:03:47 6 A No, I would say it still wouldn't be a very
10:03:49 7 comfortable fit.

10:03:50 8 Q And I am not asking you to have perfect recall
10:03:54 9 of there was absolutely a person who was left or who was
10:03:58 10 right, but did you see people around him, or no?

10:04:01 11 A Yes, they are all under the tent.

10:04:04 12 Q And by "him", I mean, just to be very clear,
10:04:08 13 Melo?

10:04:09 14 A Yes, sir.

10:04:18 15 Q And earlier, when you first noticed Melo,
10:04:20 16 people are seated or are they standing when you first
10:04:24 17 noticed him and everything, before you noticed something
10:04:27 18 off?

10:04:28 19 A All types of stuff. There is people walking
10:04:30 20 and people standing, sitting.

10:04:32 21 Q You described some people are scrolling?

10:04:34 22 A Yeah. Yes, sir.

10:04:35 23 Q Some people are just walking around, just
10:04:37 24 normal?

10:04:38 25 A Yes, sir.

10:04:42 1 Q But then when you first noticed something off,
10:04:49 2 had that changed?

10:04:51 3 A No -- wait. What do you mean?

10:04:53 4 Q Are people acting normal, scrolling, or are
10:04:56 5 they noticing something?

10:04:58 6 A Whenever I noticed it, I think that they were
10:05:01 7 turning around, yes, sir.

10:05:03 8 Q Okay. I think you said earlier the people in
10:05:05 9 the bottom seemed to be turning --

10:05:08 10 A Yes, sir.

10:05:09 11 Q Got it.

10:05:09 12 Okay. The last set of questions. Mr. Wirskeye
10:05:16 13 asked you, you know, you don't know all of the evidence;
10:05:19 14 is that fair?

10:05:20 15 A Yes, sir.

10:05:21 16 Q And you haven't heard all of the testimony?

10:05:23 17 A Yes, sir.

10:05:25 18 Q Do you have any way of knowing whether those
10:05:28 19 video timestamps are perfectly synced up or not?

10:05:32 20 A No, sir.

10:05:32 21 Q When Mr. Wirskeye says that the push and the
10:05:36 22 stab occurred at 10:50, do you know whether or not that
10:05:42 23 timestamp perfectly syncs with a second video, or not?

10:05:46 24 A No, sir.

10:05:48 25 Q You have no way of knowing that?

10:05:50 1 A No, sir.

10:05:51 2 Q And you didn't hear any testimony about how

10:05:53 3 accurate or not accurate timestamps on these videos are?

10:05:58 4 A No, sir.

10:05:59 5 Q So if I told you they were perfectly accurate

10:06:02 6 or I told you they were seconds off or wildly

10:06:05 7 inaccurate, you would have no way of knowing that?

10:06:09 8 A Correct.

10:06:10 9 Q So not knowing how accurate the timestamps

10:06:15 10 are, because you can't know --

10:06:19 11 MR. WIRSKYE: I am going to have to

10:06:20 12 object to leading at this point, Judge. This so

10:06:23 13 redirect.

10:06:23 14 THE COURT: Rephrase your question.

10:06:27 15 Q Okay. So what you described as seeing, is

10:06:31 16 that what you saw, to the best of your recollection?

10:06:34 17 A Yes, sir.

10:06:36 18 MR. HOWARD: Okay. No further questions.

19

20 BY MR. WIRSKYE:

21 Q [REDACTED] just --

22 THE COURT: Hang on.

23 okay.

24 Q [REDACTED] just a few more questions. I don't

25 mean to beat you up, but for over a year, until April

10:06:52 1 28th of this year, what you thought you saw was your
10:06:56 2 teammate surrounded before the stabbing, right?

10:07:01 3 A I would say everything looked normal to me;
10:07:03 4 but yes, he was in the top corner and there was a bunch
10:07:07 5 of people not from his school around him.

10:07:09 6 Q Is that your way of agreeing with me?

10:07:10 7 A I would say so, yes, sir. I just don't want
10:07:14 8 to phrase it as surrounding.

10:07:16 9 Q But that's what you told the police that day?

10:07:18 10 A Okay. well, yes, sir, then.

10:07:21 11 Q And when we first met, I have got my notes
10:07:23 12 right here, that's what you told me, right?

10:07:25 13 A Yes, sir.

10:07:25 14 Q Okay. And that changed once you saw the
10:07:26 15 video, right?

10:07:28 16 A I think that -- well, yes, sir. Yes, sir.

10:07:30 17 Q It changed?

10:07:31 18 A Yes, sir.

10:07:32 19 Q And when we showed you the video from the
10:07:34 20 other side of the field, all this talk about timestamps
10:07:37 21 synced up? Remember when Mr. Mitchell went up to show
10:07:42 22 the kids running away?

10:07:43 23 A I do not remember that exactly, no, sir.

10:07:45 24 Q That's why we showed it, to let the members of
10:07:48 25 the jury know the times between the right camera and the

10:07:52 1 camera on the software are synced up. You take me at my
10:07:57 2 word?

10:07:57 3 A Yes, sir.

10:07:57 4 Q Okay. And I -- I have just got to correct
10:08:01 5 this point, because the jury has heard some things. To
10:08:04 6 the best of your memory, as you sit there right now,
10:08:06 7 Karmelo Anthony wasn't on a relay team, right?

10:08:12 8 A You are saying he was not? Yes, sir.

10:08:12 9 Q That day?

10:08:13 10 A Yes, sir.

10:08:13 11 Q On a scale of one to a hundred, how sure are
10:08:17 12 you of that, [REDACTED]

10:08:20 13 A 99.9.

10:08:21 14 Q would it surprise you to know that he was
10:08:22 15 actually an alternate on the varsity 4-by-100?

10:08:25 16 A It wouldn't surprise me, no, sir.

10:08:26 17 Q That's what Coach Linwood said.

10:08:28 18 A Okay.

10:08:28 19 Q Okay. And again, Coach Linwood's rule is
10:08:31 20 everybody on the relay warms up together on the field to
10:08:34 21 practice handoffs, correct?

10:08:36 22 A Yes, sir, I think so.

10:08:41 23 MR. WIRSKYE: Nothing further.

10:08:43 24 THE COURT: Mr. Howard?

10:08:43 25 MR. HOWARD: Yes, Judge. Thank you.

REDIRECT EXAMINATION

BY MR. HOWARD:

Q And if I told you that it was the 4-by-400 --

MR. WIRSKYE: I am going to object to that as leading.

THE COURT: Hang on. I haven't even heard what he said. Try again.

Q If I said that he was a member of the 4-by-400 varsity team, would you know that to be true or not true? Do you know?

A No, sir.

Q I mean, to be fair, a year ago, knowing exactly what specific event somebody is in, is that something that you feel a hundred percent confident saying I know this person was in this event for sure?

A I would say I would know.

Q Okay. And when Mr. Wirsbye keeps asking you about the relay people warming up together as a team, is that before each and every relay event?

A What do you mean? Like every single person on the relay team warms up before every single relay event?

Q Correct.

A No, sir, just your own.

Q Right. So at some point -- it sounds like what you are saying is, at some point the relay people

10:09:52 1 may workout together to work on handoffs?

10:09:56 2 A Yes, sir. I have never had to warm up with
10:09:58 3 another relay team.

10:10:01 4 Q Okay. Because -- are the relay events all
10:10:03 5 together, one after another, or are they spread out,
10:10:07 6 like we've been talking about the other events?

10:10:10 7 A They are pretty spread out.

10:10:11 8 Q Okay. So when -- like when you said you don't
10:10:13 9 all go out and warm up together every time because it is
10:10:17 10 spread out, is that what you are saying?

10:10:18 11 A Yes, sir.

10:10:19 12 Q Okay. Got it.

10:10:20 13 MR. HOWARD: No further questions.

10:10:21 14 THE COURT: Mr. Wirskey?

10:10:22 15 MR. WIRSKYE: Nothing further.

10:10:23 16 THE COURT: Is this witness excused by
10:10:24 17 the Defense?

10:10:25 18 MR. HOWARD: Yes, Your Honor.

10:10:25 19 THE COURT: And by the State?

10:10:26 20 MR. WIRSKYE: No objection.

10:10:27 21 THE COURT: You are excused. Thank you.
10:10:28 22 Step down.

10:10:28 23 Mr. Howard, call your next witness. Hey,
10:10:31 24 I want to -- call your next witness.

10:10:34 25 MR. HOWARD: officer -- the Defense calls

10:10:36 1 Officer Riley.

10:10:37 2 THE COURT: Okay. Officer Riley.

10:10:38 3 I need Ms. Wallace here, and I need

10:10:40 4 counsel at the side-bar.

5 (Off-the-record discussion.)

10:11:38 6 THE COURT: Yes, sir.

10:11:38 7 JUROR: May we ask for a quick recess?

10:11:43 8 THE COURT: Is five minutes okay?

10:11:44 9 Okay. Five minutes. Go.

10:11:48 10 (Jury not present.)

10:11:48 11 THE COURT: We are not opening the doors

10:11:53 12 for the audience to leave. If you leave, you are not

10:12:10 13 coming back.

14 (Recess in proceedings.)

10:18:16 15 THE BAILIFF: All rise.

16 (Jury present.)

10:18:38 17 THE COURT: Everyone be seated. Bring in

10:18:41 18 the officer, please.

10:18:54 19 Sir, look at me. You are going to head

10:18:57 20 to this black chair over here to my right. That's the

10:18:59 21 witness chair. This way. Come across.

10:19:02 22 Before you sit down, please turn to me

10:19:06 23 and raise your right hand.

10:19:07 24 (Witness sworn.)

10:19:09 25 THE COURT: Put your hand down and be

10:19:10 1 seated, please.

10:19:11 2 All right. Do you have the mic?

10:19:19 3 All right. You are good.

4 BEAU RILEY,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

10:19:21 7 BY MR. SHOOK:

10:19:22 8 Q State your name, please.

10:19:24 9 A My name is Beau Riley.

10:19:26 10 Q And how are you employed, sir?

10:19:28 11 A I'm currently employed by the City of Frisco.

10:19:31 12 Q As a police officer?

10:19:32 13 A Yes, sir.

10:19:34 14 Q How long have you been a police officer with
10:19:36 15 the City of Frisco?

10:19:37 16 A For a little over five years.

10:19:39 17 Q Have you worked at any other police agencies
10:19:42 18 prior to that?

10:19:43 19 A Yes, sir, I worked in the State of California
10:19:44 20 for approximately six-and-a-half years before I started
10:19:48 21 with the City of Frisco.

10:19:49 22 Q You are originally from California?

10:19:52 23 A Yes, sir.

10:19:53 24 Q And what particular division do you work in at
10:19:55 25 Frisco PD?

10:19:56 1 A So I currently serve as a detective in our
10:19:59 2 crimes against children unit, and I've been doing that
10:20:02 3 for over three years.

10:20:04 4 Q Let me turn your attention back to April 2nd
10:20:06 5 of 2025. Were you called out to Kuykendall stadium on
10:20:09 6 that day?

10:20:10 7 A Yes, sir, I was.

10:20:10 8 Q All right. Was it -- that interrupted some of
10:20:18 9 what your normal activities were; is that correct?

10:20:20 10 A Yes, it did.

10:20:22 11 Q What were you doing at the time you were
10:20:24 12 called out?

10:20:24 13 A I was serving a search warrant on a case that
10:20:26 14 was related to an internet crime against children.

10:20:29 15 Q Then were you and other detectives told to
10:20:31 16 come to the stadium?

10:20:33 17 A Yes, sir.

10:20:34 18 Q And what was your assignment once you arrived
10:20:37 19 at this stadium?

10:20:38 20 A To assist with interviewing any available
10:20:41 21 witnesses.

10:20:42 22 Q Okay. How many people or witnesses did you
10:20:45 23 interview at that time?

10:20:46 24 A I interviewed two, sir.

10:20:48 25 Q One of those persons an [REDACTED] [REDACTED]

10:20:51 1 A I'm sorry, can you repeat?

10:20:54 2 Q [REDACTED] [REDACTED]

10:20:56 3 A Yes, sir.

10:20:59 4 Q Introduced themselves as [REDACTED] [REDACTED] to you?

10:21:02 5 A Yes, sir.

10:21:02 6 Q And that interview, where did that take place?

10:21:06 7 A That took place in the fieldhouse that is

10:21:08 8 located just east of the football field.

10:21:10 9 Q Did you record that interview?

10:21:12 10 A Yes, sir.

10:21:14 11 Q At the end of the interview, pursuant to what

10:21:18 12 Mr. [REDACTED] told you about his phone, did you ask to look

10:21:23 13 at his phone?

10:21:24 14 A I did.

10:21:25 15 Q And why was that?

10:21:26 16 A Just to exercise due diligence, since he had

10:21:30 17 told me that he had held his phone up at some point

10:21:33 18 during the incident.

10:21:34 19 Q He told you that he acted like he was taking a

10:21:37 20 video?

10:21:38 21 A Yes, sir.

10:21:38 22 Q So you wanted to review -- look at the phone

10:21:41 23 and review that?

10:21:42 24 A Yes, sir.

10:21:43 25 Q And tell the jury what type of examination you

1 did with the phone.

2 A So I did a consent-based. So with his
3 permission, just a on-site review of the phone; of
4 course, with him assisting and accessing his cell phone.

5 Q Okay. Was that a pretty quick review?

6 A Difficult to say, sir.

7 Q Well, so you looked at the phone. What did
8 you check?

9 A So I had asked Mr. [REDACTED] to check his camera
10 roll, his text messages, phone calls, and his Snapchat
11 account.

12 Q And were you the one that was actually
13 scrolling, checking those things, or did Mr. [REDACTED] do
14 that in your presence?

15 A A combination of the two, I believe.

16 Q And you saw some deleted photos; is that
17 right?

18 A I can't recall any specifics, sir.

19 Q Okay. Did that examination take -- I hate to
20 say not a long time -- were you there for 30 or 40
21 minutes looking through the phone, or was it just as you
22 stood there, and tried to see if anything was of
23 interest or relevant that you could see on the phone
24 that day?

25 A I would describe the consent-based, on-site

10:23:03 1 review as being thorough, yet I would say it does take a
10:23:08 2 few minutes to go through someone's device, looking at
10:23:12 3 those specific areas.

10:23:14 4 Q You are not a forensic phone examiner; is that
10:23:17 5 right?

10:23:17 6 A No, sir.

10:23:17 7 Q There are officers at Frisco that do that?

10:23:20 8 A Yes, sir.

10:23:20 9 Q And that's a more detailed downloading of a
10:23:23 10 phone, so you look at the entire phone; that type of
10:23:26 11 thing?

10:23:27 12 A Yes, sir, that's correct.

10:23:29 13 Q Does that happen often in the line of work you
10:23:31 14 are in, the position you are in?

10:23:33 15 A Yes, sir, it does.

10:23:34 16 Q But you don't do those actual forensic
10:23:35 17 examinations?

10:23:36 18 A No, sir.

10:23:37 19 Q You have to be specially trained for that?

10:23:40 20 A Yes, sir.

10:23:41 21 Q And those can take quite a bit of time to go
10:23:44 22 through that?

10:23:45 23 A Yes, sir, they can.

10:23:46 24 Q At that time, you didn't ask to take the
10:23:48 25 phone, for it to be possibly taken into custody, that it

10:23:54 1 might be looked at for one of those types of forensic
10:23:58 2 examinations, did you?

10:23:59 3 A No, sir.

10:24:00 4 Q Did you make note of the fact, though, that
10:24:01 5 you had looked at the phone in your report?

10:24:04 6 A Yes, sir, I did.

10:24:05 7 Q And did you feel that any further decisions
10:24:09 8 would be made by other detectives in the case?

10:24:12 9 A Yes, sir, I did.

10:24:13 10 Q Let me ask you another matter. You know under
10:24:16 11 the Texas law, there are certain items that are
10:24:23 12 prohibited at locations. Are you aware of what I am
10:24:27 13 talking about? Firearms, knives; that type of thing?

10:24:30 14 A Yes, sir.

10:24:30 15 Q Okay. As far as knives, under five-and-a-half
10:24:35 16 inch blades, those are not illegal to possess by a
10:24:38 17 person at a sports stadium, or just walking around in
10:24:43 18 general, are they?

10:24:44 19 A No, sir.

10:24:45 20 Q Okay. Those are -- when you were a patrol
10:24:50 21 officer, did you have a utility knife?

10:24:53 22 A Yes, sir, I did.

10:24:54 23 Q Many police officers do; is that right?

10:24:56 24 A That's correct.

10:24:56 25 Q Those are the same types of knives, the blades

10:24:59 1 are under five-and-a-half? Some people call it a pocket
10:25:03 2 knife that regular citizens walk around with; is that
10:25:06 3 right?

10:25:06 4 A Sure.

10:25:07 5 Q Are you familiar with that, that some people
10:25:09 6 carry pocket knives around?

10:25:11 7 A Yes, sir.

10:25:12 8 Q But those aren't illegal to carry or carry to
10:25:15 9 a stadium, per se? It is not against the law, correct?

10:25:19 10 A No, sir.

10:25:21 11 Q Against school policy, obviously; is it not?

10:25:24 12 A Sure.

10:25:24 13 Q Are you aware of that?

10:25:27 14 A The specific Fisd school policy?

10:25:30 15 Q Yes.

10:25:31 16 A I can't speak to the Fisd school policy,
10:25:33 17 specifically.

10:25:36 18 Q It wouldn't surprise you if schools have
10:25:38 19 policies against that, though?

10:25:40 20 A That's correct.

10:25:41 21 MR. SHOOK: Thank you. That's all we
10:25:42 22 have, Judge.

10:25:43 23 THE COURT: Mr. Wirskye?

10:25:46 24 MR. WIRSKYE: Thank you, Your Honor.

10:25:47 25 THE COURT: You are on.

CROSS-EXAMINATION

BY MR. WIRSKYE:

Q Detective, you said you were thorough, right,
when you looked at [REDACTED] [REDACTED] phone?

A Yes, sir.

MR. WIRSKYE: That's all we have, Judge.

THE COURT: Thank you. Is this witness
excused by the Defense?

MR. SHOOK: Yes, Your Honor.

THE COURT: By the State?

MR. WIRSKYE: No objection.

THE COURT: You are excused, sir. Thank
you.

Mr. Howard, call your next witness,
please.

MR. HOWARD: Yes, Your Honor, the Defense
calls [REDACTED] [REDACTED]

The Defense calls [REDACTED] [REDACTED]

THE COURT: Thank you.

Sir, look at me. Over here. Walk across
the courtroom. Do you have gum in your mouth?

Spit it out or swallow it. There is a
tissue over there. You can put it in a tissue.

Okay. Walk around that wall. You are
headed to this black chair to your right.

10:27:00 1 Before you sit down, turn to me and raise
10:27:01 2 your right hand.

3 (Witness sworn.)

10:27:05 4 THE COURT: All right. Put your hand
10:27:06 5 down and be seated.

10:27:07 6 All right. Mr. Howard.

10:27:12 7 MR. HOWARD: Thank you, Judge.

10:27:13 8 THE COURT: Yes, sir.

9 [REDACTED]
10 having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

10:27:14 12 BY MR. WIRSKYE:

10:27:14 13 Q Can you please introduce yourself to the jury?

10:27:17 14 A Hi. My name is [REDACTED]

10:27:18 15 Q How old are you, [REDACTED]

10:27:21 16 A I am 17.

10:27:23 17 Q Are you currently -- not currently, because we
10:27:25 18 are in the summer break, but are you enrolled in school?

10:27:28 19 A Oh, yes, sir.

10:27:28 20 Q Where do you go to school?

10:27:30 21 A Frisco High School.

10:27:31 22 Q So not Memorial, not Centennial; Frisco High
10:27:34 23 School?

10:27:34 24 A Yes, sir.

10:27:38 25 Q You are 17. You are going into your senior

10:27:41 1 year; is that right?

10:27:42 2 A Yes, sir.

10:27:45 3 Q I believe -- and your dad, I think, is here in
10:27:48 4 the courtroom; is that right?

10:27:49 5 A Yes, sir.

10:27:50 6 Q Okay. Do you play any sports at Frisco High
10:27:55 7 School?

10:27:55 8 A Yes, sir. I play football and run track.

10:27:59 9 Q What position do you play in football?

10:28:01 10 A Receiver and running back.

10:28:03 11 Q Receiver and running back. Is it -- you are a
10:28:07 12 three-star recruit?

10:28:09 13 A Yes, sir, I am.

10:28:10 14 Q Okay. And is that mainly for receiver or
10:28:13 15 running back?

10:28:14 16 A It is both; I am a hybrid.

10:28:16 17 Q Oh, you're a hybrid?

10:28:18 18 A Yes, sir.

10:28:18 19 Q That's kind of become more of a thing in
10:28:20 20 today's game; is that fair?

10:28:23 21 A Yes, sir.

10:28:23 22 Q And I think you have told me earlier you had
10:28:27 23 some big news. Did you end up committing to a school?

10:28:31 24 A Yes, sir. I committed to LSU.

10:28:33 25 Q And that happened just --

10:28:34 1 A Two days ago.

10:28:35 2 Q Two days ago?

10:28:36 3 A Yes, sir.

10:28:36 4 Q Congratulations.

10:28:37 5 A Thank you. I appreciate it.

10:28:39 6 Q Okay. So you -- you play receiver and running

10:28:44 7 back at Frisco?

10:28:45 8 A Yes, sir.

10:28:45 9 Q And you said you run track?

10:28:47 10 A Yes, sir.

10:28:48 11 Q What events do you run in track?

10:28:50 12 A I run the 100, the 200, 4-by-1, long jump and

10:28:54 13 high jump and the 4-by-2.

10:28:57 14 Q Okay. Just to make sure the court reporter

10:29:02 15 can get everything down -- and I am not going to ask you

10:29:05 16 to go through that list again -- but just make sure,

10:29:08 17 especially as you are listing things, go a little slower

10:29:11 18 to make sure she can type everything.

10:29:13 19 A Okay.

10:29:17 20 Q So a lot of events?

10:29:18 21 A Yes, sir.

10:29:19 22 Q Mostly sprinting events?

10:29:21 23 A Yes.

10:29:21 24 Q Fast receiver, right?

10:29:23 25 A Yes, sir.

10:29:23 1 Q Okay. I want to turn your attention to April
10:29:29 2 2nd, 2025. I assume that day is stuck in your memory;
10:29:34 3 is that fair?

10:29:35 4 A Yes, sir.

10:29:35 5 Q Were you at the district track meet at
10:29:39 6 Kuykendall Stadium that day?

10:29:40 7 A Yes, sir, I was.

10:29:41 8 Q And were you part of the Frisco team or
10:29:44 9 another team?

10:29:45 10 A I was a part of the Frisco team.

10:29:49 11 Q Do you remember, specifically, what events you
10:29:51 12 would have been running that day?

10:29:53 13 A I think it was the 100-meter and the 200-meter
10:29:57 14 that day.

10:29:58 15 Q So sometimes you run more events, but that
10:29:59 16 day, the 100 and the 200?

10:30:02 17 A Yes, sir.

10:30:03 18 Q After what happened at the track meet, do you
10:30:08 19 remember speaking to a police officer, Officer Anderson,
10:30:14 20 and giving a statement?

10:30:15 21 A Yes, sir.

10:30:16 22 Q Both a verbal interview -- right?

10:30:19 23 A Yes, sir.

10:30:20 24 Q And do you recall -- did they tell you that
10:30:22 25 was recorded?

10:30:23 1 A Yes, sir.

10:30:24 2 Q And you also gave a written statement,
10:30:26 3 correct?

10:30:26 4 A Yes, sir.

10:30:27 5 Q Okay. I am going to ask you some questions
10:30:30 6 about what you saw that day and how you remember it,
10:30:36 7 okay?

10:30:37 8 A Okay.

10:30:44 9 Q So, I guess, before we get there, track --
10:30:48 10 since you play both track and football, how is the
10:30:53 11 culture around a track meet different from, like, a
10:30:58 12 football game, as far as, you know, what you would be
10:31:01 13 doing during the game?

10:31:04 14 A Well, track meets, they are really social. So
10:31:09 15 everybody would typically know each other, go see each
10:31:13 16 other; if somebody walks by, they will say hey, and go
10:31:16 17 on with your day. Like you could talk to them one
10:31:19 18 second, thirty seconds, five minutes, ten minutes. So
10:31:23 19 it is really social.

10:31:25 20 Q And when you see these people that you know
10:31:27 21 that are friends or you're friendly with and you stop
10:31:30 22 and talk to them for the period of time you are talking
10:31:33 23 about, it could be a few seconds, it could be five
10:31:36 24 minutes, right?

10:31:37 25 A Yes, sir.

10:31:37 1 Q Is that only on the field, only in the
10:31:41 2 bleachers, all over the place? How would you describe
10:31:44 3 it?

10:31:45 4 A It is all over the place.

10:31:46 5 Q What about the teams' tents? After this
10:31:54 6 incident that happened, I'm sure that policy probably
10:31:57 7 changed. But April 2nd of 2025 and back, did kids go
10:32:04 8 see each other under the other teams' tents?

10:32:07 9 A Yes, sir.

10:32:07 10 Q Was that something that you saw commonly?

10:32:09 11 A Yes, sir.

10:32:10 12 Q Is that something you ever did?

10:32:12 13 A No, sir.

10:32:12 14 Q Did you say yes, sir or no, sir?

10:32:14 15 A I said no, sir.

10:32:15 16 Q No, sir. Okay. Did you have other kids from
10:32:18 17 other schools ever come over to your tent and say hi?

10:32:22 18 A Yes, sir.

10:32:23 19 Q Something you witnessed?

10:32:24 20 A Yes, sir.

10:32:24 21 Q Did you think anything weird of that?

10:32:28 22 A Not at the time because, you know, I knew them
10:32:31 23 so --

10:32:31 24 Q If you knew somebody, it wasn't a big deal?

10:32:35 25 A Yeah, it wouldn't hurt to say, you know, hi.

10:32:38 1 Q And would it hurt to say more than hi and sit
10:32:42 2 and talk for a few minutes, like you were talking about?
10:32:45 3 A No, it wouldn't hurt.
10:32:49 4 Q Now I want to turn back to April 2nd, okay?
10:32:51 5 A Yes, sir.
10:32:53 6 Q At the time that the incident occurred, do you
10:32:57 7 recall where you were in the stadium?
10:33:00 8 A So I was by the gates where I was walking into
10:33:07 9 the stadium, because my track team -- well, the JV, they
10:33:10 10 wanted me to cheer them on and help them stretch and get
10:33:14 11 ready for the 4-by-1 coming up and -- yeah, that's where
10:33:17 12 I was.
10:33:17 13 Q So you are walking onto the field?
10:33:19 14 A Yes, sir.
10:33:20 15 Q And you said that your JV 4-by-100 team is
10:33:25 16 getting ready to compete?
10:33:27 17 A Yes, sir.
10:33:27 18 Q And you are going to cheer them on?
10:33:29 19 A Yes, sir.
10:33:30 20 Q And so do you stay by the gates or do you walk
10:33:33 21 out on the field completely?
10:33:35 22 A Not completely, but we were almost to, like,
10:33:37 23 the infield.
10:33:42 24 Q To the infield?
10:33:43 25 A Yes, sir.

10:33:43 1 Q And so if I am looking up at the stands where
10:33:45 2 the Memorial tent is, are you on -- close to the right
10:33:51 3 end zone or the left end zone?
10:33:54 4 A I'm closer to the right end zone.
10:33:54 5 Q Okay. When you say closer, are you in the end
10:33:55 6 zone, or are you out on the 10, the 20? Where would you
10:34:01 7 say -- and no one is asking exactly, but where do you
10:34:07 8 remember being around?
10:34:07 9 A I was, like, right at where the white paint is
10:34:11 10 on the end zone; like, I was right there.
10:34:13 11 Q What would you call the goal line?
10:34:15 12 A Yes, sir -- no, like by the goal post; like
10:34:17 13 that white line by the goal post.
10:34:19 14 Q The back line of the end zone?
10:34:21 15 A Yes, sir.
10:34:22 16 Q So you are just kind of, what we would call,
10:34:25 17 stepping onto the actual field?
10:34:27 18 A Yes, sir.
10:34:28 19 Q And did anything happen that you took
10:34:39 20 particular notice of in the stands?
10:34:41 21 A So as we were walking, everybody got up and
10:34:48 22 was then congregating; like, everybody was standing up.
10:34:52 23 And then all of a sudden, I saw somebody get, like,
10:34:55 24 pushed or, like, punched -- I don't know -- and we just
10:34:58 25 stopped and we just looked. And then, yeah, that's all.

10:35:02 1 Q So when you say everybody was standing up and
10:35:05 2 congregating, are you talking about the people by where
10:35:09 3 this push or hit is happening, or are you talking about
10:35:11 4 where you are?

10:35:12 5 A where the push or hit was happening.

10:35:15 6 Q Okay. And is that under the Memorial tent?

10:35:17 7 A Yes, sir.

10:35:18 8 MR. WIRSKYE: May I approach the witness,
10:35:21 9 Judge?

10:35:29 10 THE COURT: You may.

10:35:29 11 Q I'm going to show you State's Exhibit-23,
10:35:30 12 which is a blowup of a photo, that's been zoomed in, on
10:35:34 13 those bleachers, okay? And if I represent to you that
10:35:39 14 that yellow square is where the Memorial tent was, do
10:35:45 15 you remember specifically where in the tent, whether it
10:35:48 16 was, you know, in the middle or one of the corners or
10:35:50 17 the bottom, do you remember where, about, this thing was
10:35:53 18 happening?

10:35:54 19 A I think it was right in here.

10:35:57 20 Q Under the tent, like not in the bleachers? So
10:36:00 21 this is the track or the walkway, and then I think this
10:36:04 22 is the first bleacher and then the tent begins here and
10:36:07 23 goes up to here.

10:36:10 24 A Right here (indicating).

10:36:10 25 Q So it looked to you like it was just kind of

10:36:13 1 under the tent?

10:36:14 2 A Yes, sir.

10:36:15 3 Q Okay. Okay. So you said that you -- and I

10:36:35 4 think you said "we," so there is people walking with

10:36:38 5 you?

10:36:38 6 A Yes, sir.

10:36:38 7 Q Is that, like, the 4-by-100 guys?

10:36:41 8 A Yes.

10:36:42 9 Q So you and the JV 4-by-100 guys are walking on

10:36:46 10 the field, and you said you noticed something in the

10:36:49 11 stands. Do you remember describing in your witness

10:36:51 12 statement that it looked like somebody was trying to

10:36:54 13 stop a fight?

10:36:55 14 A Yes, sir.

10:36:56 15 Q Okay. And then you mentioned that you saw

10:36:58 16 somebody get pushed or punched. How well did you see

10:37:03 17 that? were you, like, oh, I'm a hundred percent certain

10:37:07 18 that was a punch, or it could have been a push? How

10:37:10 19 would you characterize that?

10:37:12 20 A well, I don't really know, to be honest with

10:37:15 21 you. It was a long time ago, so I am guessing it was a

10:37:19 22 push or a punch. I don't know.

10:37:21 23 Q Okay. At the time, the words I think you said

10:37:27 24 you used were push -- a push or a hit?

10:37:30 25 A Yes, sir.

10:37:30 1 Q -- or something like that?

10:37:32 2 A Yes, sir.

10:37:33 3 Q And then the person that got pushed or hit,
10:37:39 4 did they react in any way?

10:37:41 5 A I don't know. I don't know.

10:37:44 6 Q Do you recall stating that the kid who got
10:37:49 7 hit, he then does a swing-type motion with his arm?
10:37:54 8 Does that ring a bell?

10:37:55 9 A It doesn't.

10:37:57 10 Q It doesn't?

10:37:57 11 MR. HOWARD: Okay. May I approach the
10:37:59 12 witness?

10:38:04 13 Q I am going to show you your witness statement
10:38:09 14 that you wrote out on April 2nd, 2025. Is that your
10:38:13 15 name?

10:38:13 16 A Yes, sir.

10:38:14 17 Q And April 2nd, 2025?

10:38:16 18 A Yes, sir.

10:38:17 19 Q Do you recognize your handwriting?

10:38:18 20 A Yes, sir.

10:38:18 21 Q Okay. So I want you to read this -- this, not
10:38:23 22 out loud, to yourself, to this fifth line right here
10:38:28 23 into the next line, and just see if that refreshes your
10:38:32 24 recollection.

10:38:45 25 A Yes.

10:38:45 1 Q So the kid who got hit, did he react with,
10:38:48 2 like, a swing-type motion?

10:38:50 3 MR. WIRSKYE: I am going to have to
10:38:50 4 object to leading at this point. The witness has
10:38:53 5 already said he is guessing, so I have got to enforce
10:38:58 6 leading.

10:39:00 7 THE COURT: Overruled.

10:39:00 8 Q You can answer the question.

10:39:01 9 A What was your question again?

10:39:02 10 Q After the kid got hit, or however you
10:39:04 11 described it, did you see him make a swing-type motion?

10:39:07 12 A The kid that --

10:39:08 13 Q The kid that got hit.

10:39:12 14 A Yeah.

10:39:13 15 Q Was that a yes?

10:39:15 16 A Yes, sir.

10:39:15 17 Q Okay. After you saw the kid get hit and
10:39:27 18 then -- and again, to be fair, you said could have been
10:39:30 19 a hit, could have been a push?

10:39:32 20 A Yes, sir.

10:39:33 21 Q So after that could have been a hit, could
10:39:35 22 have been a push, and then the swing-type motion, what
10:39:39 23 happened after that?

10:39:41 24 A I saw, like -- he was doing, like, a swing
10:39:44 25 motion down; and then after that, people just started

10:39:48 1 scattering, saying, oh, my God, he just stabbed him, and
10:39:53 2 we took off and ran.

10:39:55 3 Q Okay. It was pretty chaotic and scary, I
10:39:59 4 assume?

10:40:01 5 A Yes, sir.

10:40:01 6 Q You've never experienced anything like that?

10:40:04 7 A No, sir.

10:40:05 8 Q So after that happened and people start
10:40:09 9 scattering, you said you ran. Do you recall what
10:40:14 10 direction you ran?

10:40:14 11 A I ran -- the way we came in, we ran that way.

10:40:17 12 Q You ran just directly out?

10:40:19 13 A Yes, sir.

10:40:19 14 Q So you are at the back of the end zone, kind
10:40:21 15 of starting to walk towards -- onto the field, proper --

10:40:25 16 A Yes, sir.

10:40:25 17 Q -- you see this thing, you see the reaction,
10:40:27 18 and you turn and you head directly out the exit?

10:40:31 19 A Yes, sir.

10:40:31 20 Q And then do you go out into the parking lot,
10:40:34 21 to the bus? Where do you go?

10:40:36 22 A We ran to the bus.

10:40:37 23 Q Ran to the bus.

10:40:39 24 A Yes, sir.

10:40:39 25 Q So anything that happened after -- after all

10:40:43 1 of that, you wouldn't have seen; is that fair?

10:40:49 2 A Yes, sir.

10:40:51 3 Q Do you remember if you saw the kid that got
10:40:54 4 hit on the -- in the bleachers, or on the field, or
10:40:59 5 anything like that, after?

10:41:01 6 A No, sir, I didn't.

10:41:01 7 MR. HOWARD: May I approach?

10:41:07 8 THE COURT: You may.

10:41:11 9 Q It's okay. And I know it has been a year and
10:41:13 10 it is probably one of the most traumatic events you
10:41:16 11 could imagine; is that fair?

10:41:17 12 A Yes, sir.

10:41:18 13 Q So if I show you, again, this witness
10:41:20 14 statement, if you -- right here, at that word, and kind
10:41:30 15 of down to the end where you have that period, just read
10:41:33 16 that to yourself just quietly.

10:41:50 17 A Okay. Thank you.

10:41:52 18 Q You are welcome.

10:41:52 19 Does that refresh your recollection about if
10:41:54 20 you saw the kid that got hit, in any way, shape, or
10:41:58 21 form, after that initial incident?

10:41:59 22 A Yes, sir, so when we saw the video, he came
10:42:04 23 back down. He was trying to run and then he starts
10:42:07 24 going down, and then there was a kid and he was, like,
10:42:10 25 this guy just stabbed somebody and then the -- the

10:42:15 1 officers -- the officers or the staff grabbed him and
10:42:19 2 then -- yeah, yes, sir.

10:42:21 3 Q He goes onto the field or --

10:42:24 4 A He was walking from, like, where we were
10:42:27 5 running from, like the place where we were.

10:42:30 6 Q Okay. If he went onto the field, you wouldn't
10:42:33 7 have seen that, because by that time, you are heading
10:42:35 8 out?

10:42:36 9 A Yes, sir.

10:42:37 10 Q Okay. And then whatever happened -- if he was
10:42:39 11 on the field, you wouldn't have seen any of that?

10:42:47 12 A No, sir.

10:42:48 13 Q So you got a very small snapshot of this; is
10:42:51 14 that fair?

10:42:52 15 A Yes, sir.

10:42:53 16 Q But you are not a Memorial student, not a
10:42:56 17 Centennial student; just an onlooker that saw the thing?

10:43:00 18 A Yes, sir.

10:43:00 19 Q Do you know or friends with Karmelo Anthony at
10:43:06 20 all?

10:43:09 21 A No, sir.

10:43:09 22 Q Didn't particularly want to come today; is
10:43:11 23 that fair?

10:43:13 24 A I didn't.

10:43:13 25 Q But you wanted to do the right thing, because

10:43:16 1 we asked you to?

10:43:17 2 A Yes, sir.

10:43:18 3 Q I really appreciate you coming.

10:43:20 4 A Thank you.

10:43:20 5 Q Last question for you.

10:43:24 6 The -- you only saw, like you said, this very

10:43:27 7 small window. Do you know the context surrounding why

10:43:31 8 any of this happened, like based on your own personal

10:43:35 9 knowledge?

10:43:36 10 A No, sir.

10:43:36 11 Q So you wouldn't -- you don't know why there

10:43:38 12 was a push or why there was a reaction, or any of that?

10:43:42 13 A No, sir.

10:43:43 14 Q So you don't have any opinions, it sounds

10:43:45 15 like, about right or wrong, or any of that?

10:43:47 16 A No, sir.

10:43:49 17 MR. HOWARD: Okay. Pass the witness.

10:43:50 18 THE COURT: Mr. Wirskye?

19 CROSS-EXAMINATION

10:43:51 20 BY MR. WIRSKYE:

10:43:52 21 Q [REDACTED] how are you?

10:43:54 22 A Good. How are you?

10:43:55 23 Q Just so the jury knows, you and I met -- I

10:43:58 24 don't know -- weeks ago, at the Frisco Police

10:43:59 25 Department, with your dad Toby, right?

10:44:03 1 A Yes, sir.

10:44:04 2 Q All right. Do you remember the last
10:44:08 3 discussion, as that meeting was breaking up?

10:44:12 4 A No, sir, I don't.

10:44:12 5 Q Well, let me restate that. The last thing I
10:44:14 6 asked you was for an autograph --

10:44:16 7 A Oh, yes.

10:44:16 8 Q -- before you get famous and charge for one,
10:44:19 9 right?

10:44:20 10 A Yes, sir.

10:44:20 11 Q Do you remember that?

10:44:20 12 A Yes, sir.

10:44:20 13 Q And you were kind enough to give me an
10:44:22 14 autograph, right?

10:44:23 15 A Yes, sir.

10:44:24 16 Q At that point, I had no idea you were going to
10:44:26 17 sign with LSU or I wouldn't have asked for it. I was
10:44:31 18 holding out for UT or SMU.

10:44:34 19 A Yes, sir.

10:44:35 20 Q Okay. But is it fair to say, the last thing
10:44:36 21 we talked about is if you don't remember, you don't
10:44:39 22 remember. Remember that?

10:44:41 23 A Yes, sir.

10:44:41 24 Q And the one thing you can't do in a courtroom
10:44:44 25 is guess, right?

10:44:45 1 A Yes, sir.

10:44:45 2 Q And you mentioned earlier to counsel's
10:44:47 3 question, and I am not trying to embarrass you at all,
10:44:50 4 but a lot of what you just said, you are kind of
10:44:53 5 guessing, right?

10:44:55 6 A Yes.

10:44:57 7 Q You remember what you remember?

10:44:58 8 A Yes, sir.

10:44:59 9 Q Okay. Good enough.

10:45:00 10 Let me talk to you about this. When you and I
10:45:03 11 met, we talked about whether it was a push or a punch,
10:45:07 12 or whatever. Do you remember us talking about the jab?

10:45:12 13 A I just --

10:45:13 14 Q That you saw, like, a jabbing motion?

10:45:15 15 A I just said it was -- I don't know what it
10:45:17 16 was. It could have been a punch, it could have been a
10:45:20 17 push; I don't know.

10:45:22 18 Q Okay. You just saw what you saw, right?

10:45:26 19 A Yes, sir.

10:45:26 20 Q Do you remember seeing the video I showed you?

10:45:28 21 A Yes, sir.

10:45:28 22 Q It is a little bit different than what you
10:45:31 23 thought you saw, right?

10:45:32 24 A Yes, sir.

10:45:32 25 Q It kind of shook you up that things weren't

10:45:35 1 quite as you remembered them, right?

10:45:37 2 A Yes, sir.

10:45:38 3 Q You have to say yes-or-no.

10:45:39 4 A I said yes.

10:45:40 5 Q It has been a long time?

10:45:42 6 A Yes, sir.

10:45:42 7 Q And you have had a lot going on in your life;
10:45:44 8 all positive, right?

10:45:46 9 A Yes, sir.

10:45:46 10 Q All positive. You are just here today to tell
10:45:50 11 the best you remember, right?

10:45:51 12 A Yes, sir.

10:45:53 13 MR. WIRSKYE: May I approach, Your Honor?

10:45:54 14 THE COURT: You may.

10:45:55 15 Q Do you remember us -- do you remember I had
10:45:56 16 you reenact something with me when we were at the police
10:46:00 17 department? The jab?

10:46:01 18 A Yes, sir, I remember.

10:46:02 19 MR. WIRSKYE: Okay. Permission for the
10:46:03 20 witness to stand up --

10:46:05 21 THE COURT: Yes, sir.

10:46:06 22 MR. WIRSKYE: -- and reenact the jab?

10:46:07 23 Q You can stand up, [REDACTED] You are
10:46:08 24 soft-spoken, so you have got to keep your voice up.
10:46:12 25 Just kind of show the members of the jury the jab you

10:46:16 1 saw.

10:46:16 2 A (Demonstrating.)

10:46:16 3 Q Okay. That was the push?

10:46:18 4 A Yeah -- well --

10:46:18 5 Q Did you ever see a jab?

10:46:20 6 A I don't know what it was.

10:46:21 7 Q This isn't a game. I mean, we are not trying

10:46:26 8 to play "got you." Because you said it was a push or a

10:46:28 9 punch, right?

10:46:29 10 A I don't know.

10:46:30 11 Q You have to speak up.

10:46:31 12 Did you -- once you saw that, did you ever see

10:46:34 13 a jab back?

10:46:36 14 A From the other kid?

10:46:37 15 Q Yeah.

10:46:37 16 A I don't know.

10:46:38 17 Q You don't know. Okay. You can have a seat.

10:46:42 18 You can have a seat. I'm not trying to put you on the

10:46:46 19 spot today, okay?

10:46:47 20 It is fair to say, based on what we talked

10:46:50 21 about and after seeing the video, you did not want to

10:46:52 22 testify, right?

10:46:54 23 A I don't know. I don't know.

10:46:58 24 Q Your dad wanted you to do the right thing for

10:47:01 25 either side?

10:47:02 1 A We both wanted to do the right thing.

10:47:03 2 Q Yeah. And you did the right thing by coming
10:47:06 3 down today and telling us what you do remember, so I
10:47:08 4 appreciate it.

10:47:09 5 MR. WIRSKYE: I will pass the witness.

10:47:10 6 THE COURT: Thank you, Mr. Wirskeye.

10:47:10 7 Mr. Howard, anything else?

10:47:13 8 MR. HOWARD: Yes, Your Honor.

10:47:13 9 THE COURT: You are on.

10 REDIRECT EXAMINATION

10:47:16 11 BY MR. HOWARD:

10:47:17 12 Q Okay. So Mr. Wirskeye asked you about
10:47:20 13 guessing. When I showed you the witness statement of
10:47:24 14 what you wrote, did that refresh your recollection and
10:47:28 15 then your testimony is or isn't your actual memory?

10:47:33 16 A When you showed me, it remembered -- not
10:47:35 17 remembered, but yeah.

10:47:38 18 Q It jogged your memory?

10:47:39 19 A Yes, sir.

10:47:40 20 Q Okay. Like Mr. Wirskeye said, you saw what you
10:47:43 21 saw?

10:47:43 22 A Yes, sir.

10:47:44 23 Q Okay. The demonstration that Mr. Wirskeye just
10:47:49 24 walked through with you, I was a little blocked, but I
10:47:52 25 think it was, kind of, arm out, headed towards his body,

10:47:57 1 correct?

10:47:58 2 A Yes, sir.

10:47:58 3 Q Okay. And then when you testified earlier
10:48:01 4 about after the hit or the jab or push, I saw the kid
10:48:09 5 swing his arm, is that the next thing that happens?

10:48:13 6 A Yes, sir.

10:48:13 7 MR. HOWARD: Pass the witness.

10:48:18 8 THE COURT: Mr. Wirskye?

9 RECROSS-EXAMINATION

10:48:19 10 BY MR. WIRSKYE:

10:48:19 11 Q And, [REDACTED] I am not trying to embarrass
10:48:21 12 you. But what you said that day in your statement was I
10:48:25 13 see the kid get hit in the face and he grabs for
10:48:29 14 something and does a swing-type motion with his arm and
10:48:32 15 then everyone is running, he's been stabbed. That's
10:48:35 16 what -- what you just read that the members of the jury
10:48:37 17 couldn't see, that's what you read, isn't it?

10:48:40 18 A Yes, sir.

10:48:40 19 Q Okay. And again, after seeing the video and
10:48:43 20 talking to us, you realize some of the things you had
10:48:46 21 thought about that morning weren't correct, right?

10:48:49 22 A I can't remember.

10:48:51 23 MR. WIRSKYE: Fair enough. Fair enough.
10:48:52 24 I am not trying to embarrass you.

10:48:53 25 I'll pass the witness.

10:48:55 1 THE COURT: Anything else, Mr. Howard?

10:48:56 2 MR. HOWARD: One thing.

10:48:57 3 THE COURT: Okay.

4 REDIRECT EXAMINATION

10:48:58 5 BY MR. HOWARD:

10:48:59 6 Q Yeah, you initially wrote "in the face," but
10:49:02 7 you are pretty clear that --

10:49:04 8 A I don't know.

10:49:04 9 Q Yeah, you are not sure. You saw a hand moving
10:49:08 10 towards him?

10:49:09 11 A Yes, sir.

10:49:09 12 Q And you described that that's the push or
10:49:10 13 shove that you were describing or --

10:49:11 14 A Yes, sir.

10:49:12 15 Q Thank you very much.

10:49:14 16 A You are welcome.

10:49:14 17 THE COURT: Mr. Wirskey?

10:49:16 18 MR. WIRSKYE: Nothing further, Judge.

10:49:17 19 THE COURT: Is the witness excused by the
10:49:19 20 Defense?

10:49:19 21 MR. HOWARD: Yes, Your Honor.

10:49:20 22 THE COURT: By the State?

10:49:21 23 MR. WIRSKYE: No objection.

10:49:21 24 THE COURT: Okay. You are excused. Step
10:49:23 25 back that way.

10:49:23 1 we're going to take a break. Although
10:49:27 2 y'all got a break, nobody else in the courtroom did, and
10:49:29 3 so we are going to take a break. It is now 10:50.
10:49:31 4 Let's be back and ready to go at 11:05, okay? Remember
10:49:36 5 my previous instructions to you.

10:49:39 6 THE BAILIFF: All rise.

7 (Jury not present.)

8 THE COURT: Let the record reflect the
10:50:04 9 jury has left the courtroom. Everybody listen to
10:50:07 10 security staff as you exit. Remember, you have to
10:50:15 11 re-screen and be in your seats by 11:05. Let's go.

12 (Recess in proceedings.)

11:07:34 13 THE BAILIFF: All rise.

11:07:35 14 THE COURT: Everyone be seated, please.
11:07:37 15 Okay. What's the plan, Mr. Howard?

11:07:41 16 MR. HOWARD: May we approach?

17 (Off-the-record discussion.)

11:14:56 18 THE COURT: All right. Ladies and
11:14:57 19 gentlemen, based upon my side-bar conversations with
11:15:00 20 counsel in how to proceed best today to make it the most
11:15:03 21 efficient, we are going to go to lunch now and we'll be
11:15:07 22 reconvening at 12:30. Listen to the security's
11:15:12 23 instructions, please.

11:15:13 24 MR. HOWARD: Judge, may I ask a question?

11:15:16 25 THE COURT: Yes.

11:15:16 1 MR. HOWARD: Do we need to bring the jury
11:15:20 2 in to tell them we are going to lunch or --

11:15:22 3 THE COURT: Uh-huh, we'll tell them we
11:15:22 4 are going to lunch. Is that okay with counsel? I am
11:15:25 5 just going to say, hey, we are going to take a break,
11:15:28 6 lunch is coming in, until 12:30.

11:15:28 7 Is that okay, Mr. Howard?

11:15:30 8 MR. HOWARD: Yes, sir.

11:15:30 9 THE COURT: Mr. Wirskey is giving me the
11:15:31 10 thumbs up.

11:15:32 11 Okay. Great. Everybody is excused.
11:15:34 12 12:30.

11:15:38 13 Counsel in chambers, please.

14 (Recess in proceedings.)

13:09:37 15 THE COURT: Come on up here. Y'all come
13:09:39 16 up here and keep your microphones on.

13:09:42 17 Mr. Rollins, if you will lift the
13:09:43 18 microphone up for the Defendant, please, because I will
13:09:45 19 be asking him some questions.

13:09:46 20 We're back on the record in State versus
13:09:48 21 Anthony. Present in the courtroom are counsel for the
13:09:49 22 State, counsel for the Defense, and the Defendant. The
13:09:51 23 jury is not present, nor is the public, at this point in
13:09:55 24 time.

13:09:55 25 We are at a point to where the Defense

13:09:58 1 has to call its next witness, and it appears, at least
13:10:02 2 to the Court at this moment in time, that the Defendant
13:10:05 3 is going to testify, and that's why we are having this
13:10:08 4 outside the presence of the jury and the public.

13:10:09 5 Any objections about doing it this way,
13:10:11 6 Mr. Wirskeye?

13:10:13 7 MR. WIRSKYE: No.

13:10:13 8 THE COURT: Mr. Howard?

13:10:13 9 MR. HOWARD: No.

13:10:15 10 THE COURT: Mr. Howard, I noticed that
13:10:16 11 your client's parents are not here or anybody on his
13:10:19 12 side. We get open courts questions sometimes on appeal.
13:10:24 13 Do you understand that I am offering to let them in?

13:10:27 14 MR. HOWARD: I would like to be able to
13:10:29 15 get them in, just so they can hear all of this and help
13:10:32 16 make the decision.

13:10:33 17 THE COURT: Okay. Who? Who do you want?

13:10:34 18 MR. HOWARD: His parents; his mother and
13:10:37 19 father.

13:10:38 20 THE COURT: Mom and dad.

13:10:38 21 Okay. Any other objections to
13:10:44 22 Constitutional questions with regard to open courts, or
13:10:47 23 anything else --

13:10:48 24 MR. HOWARD: No, sir.

13:10:49 25 THE COURT: -- with regard to not having

13:10:50 1 anybody else in the courtroom?

13:10:51 2 MR. HOWARD: Correct. No objections
13:10:52 3 regarding Constitutional Sixth Amendment, open courts,
13:10:55 4 regarding having no one else but the parties that are
13:10:57 5 here for the State and the Defense, plus --

13:10:59 6 THE COURT: Mom and dad.

13:10:59 7 MR. HOWARD: -- plus the Defendant and
13:11:01 8 mom and dad of Defendant.

13:11:50 9 THE COURT: Off.

10 (Off-the-record discussion.)

13:12:14 11 THE COURT: Mr. and Ms. Anthony, just
13:12:16 12 have a seat, okay?

13:12:17 13 We are back on the record. As requested
13:12:20 14 by the Defense, the Defendant's mom and dad are present
13:12:23 15 in the courtroom. Nobody else is. And Mr. Howard
13:12:26 16 waived any objections to anybody else being in the
13:12:29 17 courtroom.

13:12:29 18 MR. HOWARD: And I restate at this time,
13:12:32 19 that waiver has not changed from a moment ago.

13:12:34 20 THE COURT: Thank you, Mr. Howard.

13:12:35 21 Mr. Wirskeye?

13:12:36 22 MR. WIRSKYE: Judge, at this time, we
13:12:37 23 would like to put some things on the record.

13:12:39 24 The parties in this case, the State and
13:12:41 25 the Defense, have had an agreement whereby the Defense

13:12:46 1 would not try to go into character evidence on our
13:12:49 2 victim or the victim's twin brother. In exchange for
13:12:52 3 that, the State would not -- withdrew any intent to go
13:12:57 4 into 404(b)-type evidence on this Defendant. So far --
13:13:03 5 we're towards the end of the trial, and that agreement
13:13:05 6 has held.

13:13:06 7 The parties got a chance for the first
13:13:08 8 time this morning to work through how the agreement
13:13:10 9 would be handled with a testifying defendant. I believe
13:13:14 10 we have an agreement that we can now put on the record.
13:13:19 11 Obviously, my concern, since we didn't talk about it
13:13:23 12 until this morning, I would like the Defense to be very
13:13:27 13 clear, for the record -- not necessarily for us, because
13:13:29 14 we all know that for courts in the future -- that
13:13:33 15 nothing changed. The State intends to honor their part
13:13:35 16 of the bargain. We just worked through the details.
13:13:39 17 And nothing -- by working through the details, nothing
13:13:43 18 would be unfair surprise to the Defense or cause any
13:13:46 19 change in trial strategy, especially with respect to
13:13:49 20 whether the client waives their Fifth Amendment right
13:13:53 21 and testifies.

13:13:53 22 THE COURT: And I think we probably need
13:13:54 23 to do this at this time, which is y'all had a
13:13:57 24 gentleman's agreement. The Court was somewhat advised
13:14:01 25 of the gentleman's agreement before we started, but

13:14:03 1 nothing about that agreement has been put on the record.
13:14:04 2 There has been -- so what's the gentleman's agreement
13:14:06 3 that we keep talking about?

13:14:10 4 MR. HOWARD: Do you want me to go ahead
13:14:12 5 and take over that?

13:14:13 6 So as Mr. Wirskey just put on the record,
13:14:15 7 so the State had filed its --

13:14:18 8 THE COURT: No, it is not filed.

13:14:19 9 MR. HOWARD: I'm sorry, you are right.
13:14:21 10 Not filed. The State had tendered to us and had
13:14:23 11 tendered to the Court for review only, and neither side
13:14:27 12 had filed. We had also -- the Defense had also tendered
13:14:31 13 to the State and tendered to the Court for review, so
13:14:34 14 each of us gave notice to the other of -- on the State's
13:14:40 15 side, extraneous, character 404(b), typical stuff and,
13:14:46 16 you know, as it pertains to this case.

13:14:48 17 We had given notice under, you know,
13:14:52 18 anticipated theory of ambiguous first aggressor, how
13:14:56 19 that could make uncommunicated character and reputation
13:15:00 20 evidence admissible, on top of the possibility of
13:15:03 21 communicated character, and we gave notice of what -- of
13:15:07 22 what we believed that was. When both sides had that
13:15:12 23 tendered to them, that is when we had the basis of the
13:15:16 24 discussion of this -- what the Court is referring to as
13:15:20 25 a "gentleman's agreement." With -- to be clear, the

State had brought up the possibility of this agreement before, but there had never been a substantive conversation until the tendering of these extraneous/character issues.

At that time, we agreed, and I drafted a motion in limine, that I tendered to the State for review, to see if we would have, like, an agreed motion in limine that would be the enforcement mechanism of this agreement. And that was that all character, reputation, and extraneous/404(b) bad acts of any witness would be limined, and that we would have to approach first. And that was our enforcement mechanism. We did submit that to the Court and that was granted, which is what we've been working under all this time.

The mechanics of the agreement were -- and, you know, we are on the record but not public -- that there were certain, for lack of a better term, bad evidence -- alleged bad evidence that had been found by the State on the Defendant's phone, and other places, that they intended to use, and that they were offering to not go into that. And I think the description was try this case based on what happened that day, which I will just say, I also anticipated, interpreted to, you know, mean, also, the state of mind of the people on that day, descriptions of the state of mind of the

people on that day, not just the physical facts of what happened, but not to go talk about the character and reputation of the Metcalfs, the character and extraneous reputation of the Defendant, and that both sides were getting, you know, a quid pro quo --

THE COURT: Benefits?

MR. HOWARD: -- substantial benefits, yes.

This was a discussion that -- this was a prolonged discussion between the parties for the State and the parties for the Defense. That throughout that process, my co-counsel, Mr. Shook and Ms. Gupta and I, had numerous discussions amongst ourselves and with our client and his parents about the strategy of that decision, of how we were, of course, giving up some things that we felt were in good faith admissible but that we didn't know how the Court would rule, but we would be gaining the benefit of we would also not have the Court possibly rule on the admissibility of things that we were worried about. And so we made that agreement with the State based on that discussion.

This was something that had a tremendous amount of thought. It is a very unusual situation, but this case has also been very unusual. The amount of publicity and the amount of animosity and --

13:18:27 1 THE COURT: Misinformation --
13:18:28 2 MR. HOWARD: -- misinformation and
13:18:30 3 turmoil and everything; threats to the parties for the
13:18:32 4 state, for the Defense, the Defendant's family, myself,
13:18:36 5 the Court, everybody else. And so we felt that this
13:18:40 6 gave Mr. Anthony the best chance at a fair trial for not
13:18:48 7 only procedural due process, but actual substantive due
13:18:52 8 process, under the Federal Constitution and the Texas
13:18:55 9 Constitution. And we had discussions to that effect
13:18:59 10 with Mr. Anthony and felt that he fully understood that,
13:19:03 11 and that was our strategic decision in getting to this
13:19:07 12 point.

13:19:07 13 I believe that covers it.

13:19:10 14 THE COURT: Do you want to add to that,
13:19:11 15 Mr. Wirskeye?

13:19:12 16 MR. WIRSKYE: I would add just a few
13:19:13 17 things.

13:19:13 18 THE COURT: Okay.

13:19:13 19 MR. WIRSKYE: Counsel mentioned evidence
13:19:15 20 in our 404(b) notice. I will just note for the record
13:19:19 21 that we developed it not just from the Defendant's
13:19:22 22 phone. There is actually some evidence that we had
13:19:25 23 asked the -- were going to ask the Court to rule on
13:19:28 24 developed through interviews; more than just the phone.

13:19:30 25 Counsel and I talked before we went on

13:19:33 1 the record. The State intends to honor the bargain, but
13:19:37 2 I believe both sides are making a distinction between
13:19:40 3 the character evidence governed by the agreement versus
13:19:46 4 prior inconsistent statements. So I do believe those
13:19:49 5 are fair game under the agreement.

13:19:51 6 THE COURT: Right, Mr. Howard?

13:19:52 7 MR. HOWARD: Yes. So -- and let me
13:19:55 8 speak, just briefly, so -- to what Mr. Wirskey just said
13:19:58 9 first. I agree. I didn't mean to characterize that it
13:20:01 10 was just from the phone. In general, there was the
13:20:04 11 phone, there was some witness testimony, there was --
13:20:05 12 basically, everything that was in the 404(b), et cetera,
13:20:08 13 notice.

13:20:08 14 But yeah, and I agreed that that deal,
13:20:11 15 for lack of a better term, has held. I believe both
13:20:14 16 parties have abided by it. That deal has not changed.
13:20:19 17 I think Mr. Wirskey said at the outset of this, this
13:20:22 18 is -- I think -- I think the parties had different
13:20:27 19 understandings, but I think that both sides were acting
13:20:31 20 in good faith in interpreting what they believed the
13:20:36 21 other side meant and that, you know, both of us, I
13:20:39 22 think, today, realized that the other wasn't one hundred
13:20:41 23 percent on the same page when it came to the Defendant
13:20:48 24 testifying.

13:20:48 25 I am not saying we are subject to undue

13:20:51 1 surprise or that the State has pulled the rug out from
13:20:54 2 under us. I do not believe that to be the case.
13:20:56 3 Obviously, we have different understandings and
13:20:58 4 different interpretations of what was said, but I --
13:21:01 5 THE COURT: We've worked through that?
13:21:02 6 MR. HOWARD: We have worked through that,
13:21:03 7 yes.
13:21:03 8 Okay. Now --
13:21:04 9 THE COURT: Hang on a second.
13:21:05 10 MR. HOWARD: Yes, sir.
13:21:05 11 THE COURT: Mr. Wirskye?
13:21:06 12 MR. WIRSKYE: Oh, and just with respect
13:21:08 13 to two particular points of evidence -- or maybe three.
13:21:11 14 We've worked through a scenario that's acceptable by the
13:21:16 15 State with -- regarding the presence of the knife with
13:21:19 16 the Defendant that morning and do not intend to
13:21:22 17 cross-examine him based on prior character on that.
13:21:25 18 With respect to self-defense --
13:21:27 19 THE COURT: Or facts on that?
13:21:28 20 MR. WIRSKYE: Yes.
13:21:29 21 THE COURT: Right? I mean, character on
13:21:30 22 one hand, facts on the other?
13:21:33 23 MR. WIRSKYE: Yes, sir. Yes, character
13:21:34 24 versus facts of that day.
13:21:35 25 You know, we have also talked about

13:21:40 1 retreat, and I believe it's counselor's intention to ask
13:21:42 2 his client why didn't he just leave the tent, and I
13:21:46 3 believe counsel knows I intend to follow up on that.
13:21:50 4 This is a self-defense case, and sometimes retreat isn't
13:21:54 5 relevant. And both sides know what to argue with
13:21:58 6 respect to that, but I do expect that series of
13:22:01 7 questions to come from Defense counsel: why didn't you
13:22:04 8 just leave. And I do expect the State will explore that
13:22:08 9 topic, but not with anything character related or
13:22:12 10 anything other than the reasonableness that day.

13:22:15 11 And then finally, another issue we worked
13:22:17 12 through was epilepsy and seizures. And I believe the
13:22:21 13 Defense has made the decision not to proffer that
13:22:25 14 evidence in respect to the agreement that we've struck.

13:22:29 15 So those are kind of the three high-value
13:22:32 16 targets, and I would suggest that the Court, after the
13:22:36 17 Defendant's direct testimony, we take a break. If I
13:22:38 18 believe the door has been opened, the agreement has been
13:22:41 19 violated, we talk about it then. And it seems like a
13:22:44 20 natural point for a break and to discuss these issues.

13:22:49 21 THE COURT: I agree with that.

13:22:50 22 MR. WIRSKYE: But I think that's all our
13:22:51 23 concerns.

13:22:52 24 THE COURT: Okay. Mr. Howard?

13:22:52 25 MR. HOWARD: Yes, Judge. So -- yes, so

13:22:54 1 as to prior inconsistent statements, because we believe
13:22:56 2 that Mr. Wirskey just differentiated between
13:22:59 3 character/reputation/extraneous, I'll just -- from now
13:23:05 4 on, we'll just call all of that character, even though,
13:23:08 5 you know, they are separate categories of evidence,
13:23:10 6 separate from prior inconsistent statements.

13:23:12 7 So we had a discussion off the record
13:23:15 8 with the Court, but not on the record, to make sure we
13:23:18 9 were on the same page before we got to this point. So
13:23:21 10 putting that -- my understanding of that on the record,
13:23:24 11 was that when the State says prior inconsistent
13:23:29 12 statements, that if there is a statement made that is
13:23:32 13 inconsistent -- so if Mr. Anthony testifies and he
13:23:37 14 testifies to -- and I am just going to use the evidence
13:23:39 15 that came through Cortez, because I think it is the
13:23:41 16 easiest -- so Officer Eduardo Cortez has testified to,
13:23:45 17 and his body cam showed, that Mr. Anthony said, "I am
13:23:48 18 not alleged, I did it," okay?

13:23:49 19 That if Mr. Anthony were to say "I didn't
13:23:54 20 say that," then, obviously, that would be an
13:23:56 21 inconsistent statement that could be impeached, but that
13:23:59 22 it wouldn't be opening -- as part of our agreement, and
13:24:01 23 we are not talking about the Court's enforcement --

13:24:03 24 THE COURT: We'll talk about that in a
13:24:06 25 minute.

13:24:06 1 MR. HOWARD: -- or what its ruling would
13:24:07 2 be, but that our understanding of the agreement would be
13:24:10 3 that that would not -- the prosecution is agreeing that
13:24:16 4 they would not go into, quote-unquote, prior
13:24:19 5 inconsistent statements that was from their extraneous
13:24:21 6 notice, like something off of his phone or something off
13:24:24 7 of the other witness and other testimony that would
13:24:27 8 then -- or possible testimony that had been developed
13:24:30 9 from the 404(b) notice.

13:24:31 10 Did I state that correctly?

13:24:34 11 MR. WIRSKYE: I believe so, Counsel.

13:24:34 12 The way the State is thinking about it
13:24:37 13 right now, prior inconsistent statements from that day
13:24:41 14 or the future moving forward. I mean, obviously,
13:24:43 15 everybody is aware that the Defendant in this case gave
13:24:46 16 a volunteer statement to law enforcement. So that seems
13:24:51 17 to be the primary areas of concern.

13:24:53 18 And I will say we've had discussions --
13:24:56 19 I'm sure the Court will address that. Both sides know
13:24:59 20 it is not up to the Court to enforce this. The Court is
13:25:02 21 not bound by it. The Court is bound by the Texas Rules
13:25:05 22 of Evidence, and both parties know that.

13:25:07 23 THE COURT: That's exactly what I was
13:25:08 24 going to point out.

13:25:09 25 Are you finished, Mr. Howard?

13:25:12 1 MR. HOWARD: No.

13:25:12 2 THE COURT: Go ahead.

13:25:12 3 MR. HOWARD: So that was the first issue.

13:25:14 4 On the retreat issue, so Mr. Wirskye said, you know,
13:25:16 5 that the issue of retreat that -- and I agree with Mr.
13:25:20 6 Wirskye's proffer of what the anticipated testimony
13:25:24 7 would be, that I would ask a question about why not just
13:25:29 8 walk away or why not -- I don't know that I would use
13:25:30 9 the word "retreat," but why not just walk away, and that
13:25:35 10 Mr. Anthony would give his answer to that, that Mr.
13:25:40 11 Wirskye would be able to ask follow-up questions about
13:25:43 12 that, that as long as Mr. Anthony's answer has not
13:25:48 13 opened the door in some way -- like, for instance, you
13:25:51 14 know, nonexclusive list -- but if he said "because I
13:25:56 15 don't like to fight," or "I don't get into fights," then
13:25:59 16 that would clearly open the door to evidence that was to
13:26:01 17 the contrary.

13:26:02 18 But if he said -- I am just making things
13:26:04 19 up -- "they are so big," or, "you know, I was just
13:26:08 20 really scared in that moment, there was so many of
13:26:11 21 them," that that wouldn't, by our agreement -- again,
13:26:15 22 not the Court's ruling, but by our agreement, wouldn't
13:26:19 23 have Mr. Wirskye go into extraneous based on that. And
13:26:24 24 that's my understanding of that.

13:26:27 25 THE COURT: Mr. Wirskye?

13:26:27 1 MR. WIRSKYE: That is correct.
13:26:29 2 Everything counsel just said is correct. I am hoping he
13:26:34 3 is about to cover seizures and epilepsy.

13:26:36 4 MR. HOWARD: Yeah, I am just trying to be
13:26:38 5 very thorough for the purposes of the record.

13:26:40 6 THE COURT: You are doing great. You are
13:26:40 7 doing great.

13:26:40 8 MR. HOWARD: On epilepsy/seizures, yes,
13:26:43 9 so we have reached an agreement that I will not and Mr.
13:26:46 10 Anthony will not testify to and I will not ask questions
13:26:48 11 about seizures and/or epilepsy; anything of that nature.

13:26:52 12 Again, to the extent that we have made a
13:26:56 13 strategic decision that we are getting, you know, value
13:27:01 14 from that, in enforcing this deal, and that any risk
13:27:05 15 that that could open the door in their mind and then
13:27:10 16 subject them to asking for a ruling, then that would be
13:27:14 17 of a concern to us, so we have made the strategic
13:27:18 18 decision, based on a lot of conversation, that that is
13:27:20 19 of value to us.

13:27:22 20 THE COURT: In conversation with your
13:27:23 21 client, as well?

13:27:23 22 MR. HOWARD: Yes, in conversation between
13:27:25 23 ourselves and with our client, all of us in the room,
13:27:29 24 including his parents.

13:27:30 25 MR. WIRSKYE: In the State's

13:27:32 1 understanding, that would have been offered as to the
13:27:33 2 reasonableness of self-defense, but counsel has made a
13:27:39 3 choice, pursuant to the agreement, not to pursue that.

13:27:41 4 MR. HOWARD: That's correct. It would --
13:27:41 5 yeah, the anticipated value of the testimony is that it
13:27:44 6 would be something -- that it could have been something
13:27:46 7 that was in his mind that led to his reasonableness of
13:27:48 8 his fear, but I do understand, and we understand
13:27:51 9 strategically that, you know, that is arguably, from the
13:27:55 10 State's perspective, getting closer to a line; and
13:27:59 11 because that line is fuzzy and you never know what a
13:28:02 12 person is going to say until the moment, we have made
13:28:05 13 the decision that it is safer to stay away from it.

13:28:08 14 THE COURT: Anything else, Mr. Wirskye?

13:28:10 15 MR. WIRSKYE: No.

13:28:10 16 THE COURT: Okay. The Court has some
13:28:10 17 things when y'all are done.

13:28:12 18 MR. WIRSKYE: I don't believe anything
13:28:12 19 else from the State.

13:28:14 20 MR. HOWARD: The -- well, you referenced
13:28:16 21 at the beginning, but that the way the knife got
13:28:20 22 there so --

13:28:21 23 THE COURT: Oh, yeah.

13:28:23 24 MR. WIRSKYE: It is my understanding the
13:28:25 25 Defendant's story is going to be he grabbed the wrong

13:28:28 1 bag and took it to the track meet. If that's the story,
13:28:32 2 I have plenty of questions about that, but I don't plan
13:28:36 3 on going into anything historical or character based.

13:28:41 4 MR. HOWARD: Yeah, the idea would be it
13:28:43 5 was in a bag, he grabbed the bag, he took it. At some
13:28:46 6 point at the meet, realizes that it is in there, prior
13:28:51 7 to going into the Memorial tent. So we are not claiming
13:28:56 8 accident or anything like that. That it -- yes, but
13:29:03 9 that is the terms of our agreement. And so my
13:29:05 10 understanding is that, you know, that that -- if we stay
13:29:08 11 within those bounds, the agreement between the parties
13:29:11 12 holds.

13:29:12 13 MR. WIRSKYE: That's the State's
13:29:13 14 agreement, Your Honor.

13:29:14 15 THE COURT: Okay. All right. What else?

13:29:16 16 For the record, we've been talking about
13:29:18 17 this in chambers off the record. We've talked about it
13:29:21 18 in court off the record. I have never seen a case where
13:29:26 19 the attorneys work together, went over the
13:29:30 20 cross-examination -- I'm sorry, the direct examination
13:29:33 21 of the Defendant with the prosecutor to help insure that
13:29:37 22 those doors aren't being opened. And although I am
13:29:40 23 mindful of the agreement between the parties -- I have
13:29:42 24 told the parties this already off the record -- that
13:29:45 25 puts the Court in a little bit of a bind because I am

not here to enforce agreements between parties in a criminal case.

And to the degree that motions in limine are involved, and things like that, I think there is an agreement, if the door has been opened, you are going to approach the Court. But the Court does not find itself bound by the agreement between the parties. If asked to make a ruling, it will be based on the Rules of Evidence, and that is all, and has nothing to do with this agreement, although I appreciate it more than you know.

You understand that, Mr. Howard?

MR. HOWARD: Yes, I do, Your Honor.

THE COURT: Mr. Wirskey, you understand that?

MR. WIRSKYE: Yes, Your Honor.

MR. HOWARD: If I may just say one thing for my client's benefit in this.

So I think, Karmelo, that the import of that is in the event that we on the Defense team, you and your lawyers, honestly, in good faith believe we have followed the deal, and the prosecution has a differing view, as much as we think -- could think that they are wrong or maybe even ridiculous, it wouldn't matter. If they feel it has been broken and they

13:30:54 1 approach the judge, the judge is not enforcing this deal
13:30:59 2 and he would make a ruling based on the law and the law
13:31:02 3 alone and that would be -- we would be stuck with it.

13:31:05 4 And I am not saying this would happen.
13:31:07 5 But no matter how much we disagree with it, because
13:31:11 6 there is no such thing as an enforceable deal between
13:31:14 7 the parties in a criminal case like there is in a civil
13:31:18 8 case. That's not this. So this deal is a, you know,
13:31:21 9 gentleman's agreement, which gentleman's agreements are
13:31:25 10 not enforceable, okay, if we got to that.

13:31:26 11 Do you understand that?

13:31:28 12 You have to respond out loud.

13:31:30 13 THE DEFENDANT: Yes, sir.

13:31:31 14 THE COURT: Okay. Are we doing to do
13:31:31 15 the -- are we okay with going to admonishments now?

13:31:35 16 I think it's a good idea.

13:31:38 17 Raise your right hand, Mr. Anthony.

18 (Defendant sworn.)

13:31:46 19 THE COURT: Okay. Put your hand down.

13:31:47 20 All right. State your full name for the
13:31:49 21 record.

13:31:51 22 THE DEFENDANT: Karmelo Sincere Anthony.

13:31:53 23 THE COURT: Mr. Anthony, you are the
13:31:54 24 Defendant in this case; is that right?

13:31:56 25 THE DEFENDANT: Yes, sir.

13:31:58 1 THE COURT: Okay. And you understand
13:31:58 2 where we are in this case?

13:32:01 3 THE DEFENDANT: Yes, sir.

13:32:02 4 THE COURT: Can you explain to me where
13:32:04 5 we are in this case?

13:32:05 6 THE DEFENDANT: Almost to my testimony.

13:32:07 7 THE COURT: Almost to your testimony,
13:32:08 8 that's right. And so the next thing we are going to do,
13:32:11 9 when the jury comes in, is ask the Defense to call their
13:32:15 10 next witness, okay? And so this is the point right now
13:32:19 11 that I'm sure you have talked about for a very, very
13:32:22 12 long time, is whether or not you decide to testify or
13:32:25 13 not testify, okay?

13:32:25 14 I am going to explain to you that if you
13:32:27 15 decide not to testify, that fact cannot be held against
13:32:30 16 you at all and I will specifically instruct the jury
13:32:33 17 that they can't hold that against you at all, okay? And
13:32:36 18 we talked about it a little bit, and you were there for
13:32:38 19 voir dire, right? But I will tell the jury, hey,
13:32:41 20 listen, the fact that someone testifies can't be used as
13:32:44 21 a fact or circumstance against that Defendant for any
13:32:47 22 reason. They can't go back in the jury room, and they
13:32:49 23 will be instructed that they can't go, well, he didn't
13:32:52 24 testify, it must be true. They are not allowed to do
13:32:55 25 that, okay?

13:32:56 1 On the flip side of that, if you decide
13:32:58 2 to testify, then they can use anything -- from the
13:33:02 3 moment you walk up to the stand and open your mouth,
13:33:05 4 they can use everything and anything for you, against
13:33:08 5 you, or neutral. Do you understand that?

13:33:10 6 THE DEFENDANT: Yes, sir.

13:33:10 7 THE COURT: And then you also understand
13:33:12 8 when you get up on the stand and you are asked questions
13:33:16 9 by your own lawyers, when they are finished, I am going
13:33:19 10 to turn it over to the State of Texas to ask what we
13:33:22 11 call cross-examination questions, okay?

13:33:24 12 THE DEFENDANT: Yes, sir.

13:33:24 13 THE COURT: And you cannot refuse at that
13:33:26 14 point and say, okay, I am going to plead the Fifth now
13:33:30 15 with the prosecution's questions. You have to answer
13:33:32 16 those same questions just like you did for your own
13:33:34 17 lawyers.

13:33:35 18 THE DEFENDANT: Yes, sir.

13:33:36 19 THE COURT: Okay. Finally -- this is
13:33:39 20 pretty heavy stuff, okay, and you -- and the things you
13:33:44 21 have got going for you is you have got good lawyers.
13:33:46 22 And they can make recommendations to you, as I think you
13:33:50 23 should testify, I don't think you should testify, and
13:33:53 24 you will have those conversations, right?

13:33:56 25 THE DEFENDANT: Yes, sir.

13:33:56 1 THE COURT: But at the end of the day, at
13:33:58 2 the very end of the day, it is your decision and your
13:34:00 3 decision alone as to whether or not you are going to
13:34:05 4 testify.

13:34:06 5 THE DEFENDANT: Yes, sir.

13:34:06 6 THE COURT: Okay. And so I am going to
13:34:07 7 give you -- I am going to ask you the ultimate question
13:34:12 8 shortly, but I am going to let you step out and have
13:34:14 9 this conversation one more time with your attorneys, and
13:34:16 10 you are going to decide whether or not you want to
13:34:19 11 testify and subject yourself to cross-examination by the
13:34:21 12 State, and all of that I just went over with you, okay?

13:34:24 13 THE DEFENDANT: Yes, sir.

13:34:24 14 THE COURT: Okay. Step out with your
13:34:26 15 attorney and we'll talk in just a minute.

13:34:29 16 Go ahead, Mr. Howard.

13:34:30 17 MR. HOWARD: If we could have just a
13:34:32 18 moment for him to use the restroom --

13:34:33 19 THE COURT: Sure.

13:34:33 20 MR. HOWARD: -- and then get his parents
13:34:35 21 back in there and be able to have a conversation.

13:34:42 22 THE COURT: Go do it.

23 (Recess in proceedings.)

14:05:08 24 THE COURT: We are on the record in the
14:05:11 25 State versus Anthony. Present in the courtroom are

14:05:13 1 counsel for the State -- some of them -- counsel for the
14:05:13 2 Defense, and the Defendant. I actually -- it is my bad.
14:05:19 3 Mr. Wirskey asked to step out, and I forgot I allowed
14:05:23 4 him to. He's supposed to be coming right back.

14:05:25 5 MR. HOWARD: I don't mind holding him
14:05:28 6 accountable, Judge, for being late.

14:05:31 7 THE COURT: Good luck.

14:05:31 8 Can you tell me what your client's
14:05:34 9 decision is?

14:05:35 10 MR. HOWARD: He is not going to testify.

14:05:38 11 THE COURT: Okay. Thank you.

14:06:16 12 Can he get in?

14:06:18 13 Mr. Wirskey is now present.

14:06:30 14 Mr. Wirskey, in your absence, I asked the
14:06:32 15 Defense attorney, Mr. Howard, if his client is going to
14:06:35 16 testify or not. They have chosen he is not going to
14:06:38 17 testify.

14:06:38 18 MR. WIRSKYE: Not going to testify.

14:06:40 19 THE COURT: Yes, sir.

14:06:40 20 Hey, can y'all come up here? I want to
14:06:42 21 talk to Mr. Anthony, real quick, again.

14:06:43 22 Come here.

14:06:45 23 THE DEFENDANT: Yes, sir.

14:06:51 24 THE COURT: Okay. Mr. Anthony, we are
14:06:53 25 back. Remember, and so I told you that you can listen

14:06:56 1 to your lawyers, and all of that stuff, and I'm sure
14:06:59 2 they have given you great advice, pros and cons for
14:07:02 3 both; but ultimately, it is your decision, and I know
14:07:04 4 your parents were in there, too, to help you. What's
14:07:07 5 your decision: Do you want to testify or not testify?

14:07:10 6 THE DEFENDANT: I don't want to testify.

14:07:11 7 THE COURT: Okay. I appreciate it.

14:07:11 8 Did you think you had ample time to talk
14:07:14 9 to your lawyers about that and got feedback from them,
14:07:16 10 feedback from your family? You have had enough time to
14:07:20 11 make that decision?

14:07:21 12 THE DEFENDANT: Yes, sir, we did.

14:07:22 13 THE COURT: Okay. I appreciate it.

14:07:23 14 Y'all have a seat.

14:07:30 15 MR. HOWARD: Thank you, Your Honor.

14:07:31 16 THE COURT: So with that, Mr. Howard,
14:07:32 17 when the jury comes back in and I say call your next
14:07:35 18 witness, what's the Defense's response?

14:07:37 19 MR. HOWARD: We'll rest, Your Honor.

14:07:39 20 THE COURT: Close/close?

14:07:40 21 All right. Let's go off the record and
14:07:43 22 talk to some logistics, real quick, before I bring
14:07:45 23 anybody in, because I have to instruct the jury on what
14:07:47 24 to do tomorrow.

25 (Off-the-record discussion.)

1 (Recess in proceedings.)

2 THE COURT: Everyone be seated, please.

3 Thank you.

4 Is the State ready?

5 MR. WIRSKYE: Green light. Yes, the
6 State is ready.

7 THE COURT: Is the Defense ready?

8 MR. HOWARD: Yes, Your Honor.

9 THE COURT: Okay. I will mute you now.
10 Bring in the jury, please.

11 THE BAILIFF: All rise.

12 (Jury present.)

13 THE COURT: Everyone be seated, please.

14 All right. Ladies and gentlemen, I
15 really appreciate your patience. I know it is kind of
16 tight in the jury room and stuff, and I really
17 appreciate you hanging in there with us.

18 We're ready to continue.

19 Mr. Howard, call your next witness,
20 please.

21 MR. HOWARD: At this time, the Defense
22 rests.

23 THE COURT: Okay. Mr. Wirsbye?

24 MR. WIRSKYE: Your Honor, at this time,
25 ladies and gentlemen of the jury, the State closes the

1 evidence.

2 MR. HOWARD: At this time, the Defense
3 closes the evidence.

4 THE COURT: Thank you, gentlemen.

5 All right. Ladies and gentlemen, what
6 that means is you have heard all of the evidence that
7 you are going to hear in this case. What you haven't
8 heard is the charge of the court, which are the jury
9 instructions we spoke about before, or closing arguments
10 of counsel.

11 So what our plan is, is to dismiss for
12 today, okay? Because doing the charge of the court is
13 complicated and we have to do that, too. I don't want
14 y'all sitting around waiting for that. And the next
15 thing is, is that we are going to start in the morning,
16 because you are going to deliberate all day. And I want
17 to tell you that after today, once the deliberations
18 start, you are going to be sequestered. What that means
19 is you are going to stay in a hotel until you reach a
20 decision, okay, and -- not until you reach a decision.
21 Let me explain it to you.

22 We'll do closing arguments in the morning
23 and then you start to deliberate. We are at the
24 courthouse; we are going to be at the courthouse the
25 whole time. If at some time we are going to call it a

1 day, then you are going to be sequestered in a hotel,
2 okay? The problem with the rules of the hotel are you
3 will have no TV, you will have no phone, you will have
4 no access to your own phone. Your family members will
5 be given an emergency number for a security person, if
6 something were to happen at your home. But otherwise,
7 you are sequestered; you are kept from the outside world
8 during your deliberations.

9 So in my history, when we have done that
10 before, we stayed at the courthouse until ten, eleven
11 o'clock, whatever it takes; because otherwise, if we
12 broke at five o'clock tomorrow afternoon, then all you
13 are going to do is go to a hotel and sit there and stare
14 at the ceiling, so we might as well be here and continue
15 to work, as long as you want to.

16 As soon as y'all call it and say we are
17 done for the day, that's what we are going to do. We
18 are going to call it for the day. But know that you are
19 not going to go home; you are going to go to a hotel
20 until the next morning and we'll start again the next
21 morning, if that's necessary, okay? I don't know if
22 it's going to be necessary or not. I can only control
23 so many things, right? I don't know how long -- this is
24 an important case, as in all cases, so I am not going to
25 rush you. We will just kind of play it by ear tomorrow.

1 So what you need to do tonight is go
2 home, and remember my previous instructions. You are
3 not allowed to discuss this case with anybody, including
4 amongst yourselves. This is where it comes down to it,
5 right? And you start to think about things and you want
6 to bounce ideas off of each other. Don't do it. You
7 can bounce ideas off of each other tomorrow during your
8 deliberations. We've come so far and we've worked so
9 hard, all of us, let's don't blow it.

10 Do not look at any independent resources,
11 don't get on Google and research anything. For God's
12 sake, don't get on social media. They don't know what
13 the heck they are talking about, okay? They absolutely
14 do not. So don't do that and get caught in that trap.

15 If you are wondering or if you want to
16 get a jump start on the law or wonder what this is going
17 to be like, don't do that. I will tell you what the law
18 is in the morning and the only -- the law and the
19 evidence only comes from this room.

20 So what I need you to do tonight is,
21 after you do all of those things, is to pack a bag. Now
22 you ladies, one bag, okay? I am going to put a limit on
23 your bag, okay? Because I've tried with my wife before.
24 You know, just one night, if at all, if at all. And so
25 pack a bag, a roller bag of some sort; and then we'll

1 pick you up at our normal place and get that all loaded
2 up; and then if you need them, then we'll talk about it
3 then. If you don't, we'll stay here as long as you want
4 to, okay?

5 Does anybody have any questions about any
6 of that so far? Not one?

7 Yes, sir.

8 JUROR: About what time tomorrow, the
9 same time as today?

10 THE COURT: The same time; the same thing
11 we did today, yeah. That we've been doing.

12 what else?

13 Okay. So we are -- I am going to dismiss
14 you for today. Remember my instructions. I am telling
15 you, we're getting close, okay?

16 Thank you. Good night.

17 THE BAILIFF: All rise.

18 (Jury not present.)

19 THE COURT: Let the record reflect the
20 jury has left the courtroom. Everyone be seated.

21 Okay. So what I intend to do is adjourn
22 for the day, have an informal charge conference between
23 the lawyers and the Court, and then we'll go from there.

24 Fair enough?

25 MR. HOWARD: Yes, sir.

1 THE COURT: The Court is adjourned.
2 Everybody leave, except for the lawyers, and listen to
3 the security's instructions, please.

4 (Proceedings recessed.)
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1 STATE OF TEXAS

2 COUNTY OF COLLIN

3 I, Janet L. Dugger, Official Court Reporter in and
4 for the 296th District Court of Collin County, State of
5 Texas, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all
7 portions of evidence and other proceedings requested in
8 writing by counsel for the parties to be included in
9 this volume of the Reporter's Record in the above-styled
10 and numbered cause, all of which occurred in open court
11 or in chambers and were reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the
14 exhibits, if any, offered by the respective parties.

15 Certified to this 19th day of July, 2026.

16
17 /s/ Janet L. Dugger

18 Janet L. Dugger, CSR
19 Texas CSR 2575
20 Official Court Reporter
21 296th District Court
22 Collin County, Texas
23 2100 Bloomdale Rd., Suite 20030
24 McKinney, Texas 75071
25 Telephone: (972) 548-4407
Expiration: 8/1/2027

Jan Dugger, CSR
296th District Court