

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

LOS ANGELES, LX DIV. 145

HON. KEITH L. GRONEMAN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

MIGUEL GARCIA,

Defendant/s.

No. OWL02904

COPY

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

Tuesday 10-24-00 & Wednesday 10-25-00

APPEARANCES:

For the People:

MS. DUPERON, L.A.C.A.  
LX Superior Court  
4th Floor  
11701 S. La Cienega Blvd.  
Los Angeles, CA 90045

For the Defendant:

In Propria Persona

**FILED**  
LOS ANGELES SUPERIOR COURT  
APR 05 2002

STELLA A. CORDOVA, CSR #7538  
Official Reporter

BY JOHN A. CLARKE, CLERK  
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PEOPLE'S WITNESSES

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EXHIBITS

(none)

1 CASE NUMBER: OWL02904  
2 CASE NAME: PEO. vs. GARCIA  
3 LOS ANGELES, CALIFORNIA TUES, 10-24-00  
4 DIV. 145 HON. KEITH L. GRONEMAN  
5 REPORTER: STELLA A. CORDOVA, CSR #7538  
6 TIME: 9:30 AM  
7

8 APPEARANCES: (Deft. is present in propria persona;  
9 The People of the State of California  
10 Are represented by MS. DUPERON,  
11 L.A.C.A.)  
12

13 (Partial transcript of proceedings.)  
14

15 MS. DUPERON: Thank you. The People call Carmen  
16 Gibson.  
17

18 CARMEN GIBSON  
19

20 called as a witness for the People, was duly sworn and  
21 testified as follows:

22 THE CLERK: You do solemnly swear that the  
23 testimony that you shall give in the cause now pending  
24 before this Court shall be the truth, the whole truth and  
25 nothing but the truth, so help you God?

26 THE WITNESS: Yes, yes, I do.

27 THE CLERK: Please state your name for the record,  
28 spelling your first and last name.

1 THE WITNESS: Carmen Gibson.

2 THE CLERK: C-a-r-m-e-n?

3 THE WITNESS: C-a-r-m-e-n, G-i-b-s-o-n.

4

5 DIRECT EXAMINATION

6

7 Q BY MS. DUPERON: Good morning.

8 A Can I just say something before? I have learned --

9 THE COURT: There is no question pending.

10 Q BY MS. DUPERON: Do you want to be here today?

11 A Not really.

12 Q Why don't you want to be here today?

13 A Because it's stress. I don't want to be sending  
14 the father to jail, and that I don't like this.

15 Q Thank you.

16 Do you recognize the man to my left seated at  
17 counsel table?

18 A Yes.

19 Q And who is he, please?

20 A The father of my two kids.

21 Q And were you married to him?

22 A Yes. I did marry him.

23 Q And how long were you married?

24 A Five years.

25 Q And when did you divorce?

26 A The procedure started in 1993, but it was concluded  
27 January 24, 1994.

28 Q And you have two children with him?

1           A     Yes.

2           Q     How old are they?

3           A     Alex is 11 and Linda is 10.

4           Q     Is Alex a boy?

5           A     Yes.

6           Q     Do you have any other children?

7           A     I've been married with my second husband for seven  
8 years. I have a child who is three years old.

9           Q     Now, on August the 21st, 2000, will you please tell  
10 the Court -- I mean the jury, what happened at around 11:30  
11 p.m. or right after that.

12               Where were you, first of all, at that time? Where  
13 were you?

14           A     I was in my home, and then I went to his house to  
15 pick up Alex and Linda.

16           Q     Indicating Mr. Garcia?

17           A     Mr. Garcia's house, and so -- and so I went inside.  
18 I tried to wake up the kids and take them to go home. He  
19 didn't want me to. I got really upset because I saw a bed  
20 that was close to my daughter's bed, and that's what started  
21 myself to be very upset; and so I was assuming that he was  
22 sleeping with my daughter, and so then I got very upset.  
23 And so the kids -- my daughter has an item -- has a pajama,  
24 and she was very deep asleep, so then I tried to get him up.  
25 Then he didn't want me to, so he grabbed me.

26               So both of them, they were still in the bunk bed,  
27 my son on the top and my daughter on the bottom, and then he  
28 pulled me to the hallway -- you know, between the bedroom

1       there is a little space like the kitchen area, the dinner  
2       (sic) room, then the living room, so he dragged me over  
3       there, and then I started -- do I have to say everything?

4           Q     Please, you really have to give your best recall of  
5       what happened.

6           A     Well, he dragged me and then he pulled my hair, and  
7       then somehow I remembered something was -- grabbed me from  
8       my arms, so I fell, and so I hurt myself and that -- my  
9       knee.

10                Then he was coming back to me, and that's when I  
11       started screaming, "Help, help," then in the living room, my  
12       kids, they were not there, they were still in the bedroom.  
13       I think at the time they were -- so much screaming, so they  
14       get up.

15                So I don't know exactly what they see, and when I  
16       asked them, because I did want to ask them what happened,  
17       what they saw, they said -- they told me that they don't  
18       know anything.

19                MR. GARCIA:  Objection.

20                THE COURT:  Sustained.

21           Q     BY MS. DUPERON:  After you asked them what they  
22       saw, what else -- did you ask them what they saw when you  
23       were at the apartment?

24           A     Yes.

25           Q     After you asked them that, what else did you do?

26           A     Well, I just was trying -- the kids had no clothes  
27       the way they were.  I left the apartment, and they were  
28       following me, and then I going to get in my car because my

1 baby was in the car seat.

2 So the police officer was outside already. So they  
3 said to make out a declaration what happened that time.  
4 That's what I did.

5 Q Can you please describe what the actual injuries  
6 were that you suffered that night?

7 A Well, my back hurts, my elbow was bleeding, and  
8 that's it.

9 Q Your back hurt after?

10 A Yeah, my arm and my back.

11 Q Were there any prior instances of spousal abuse  
12 that you experienced at the hands of Mr. Garcia?

13 A Yes.

14 Q Will you please explain? Tell us about what prior  
15 incident.

16 A At the -- the whole relationship was physical abuse  
17 before and after marriage, and so that's it.

18 Q Did you ever call the police on him while you were  
19 still married to him?

20 A Yes.

21 Q And was he arrested?

22 A Yes.

23 Q Was he prosecuted for that incident?

24 A I didn't want to.

25 Q Do you remember what he did that made you call the  
26 police for that incident?

27 A I lost consciousness that time.

28 Q How did you lose consciousness, please, Mrs.

1 Gibson?

2 A I just recall when I wake up, I was in the floor,  
3 and my son was crying around, and so it was just probably a  
4 couple minutes because my son was there still.

5 Q How did you lose consciousness? What happened that  
6 made you fall to the floor or be on the floor?

7 A He push me. He was, first of all, putting the hand  
8 in the back of my leg. Then somehow we ending up in the  
9 living room, and so I don't know what happened, but I went  
10 back, and that's what I don't remember -- anything.

11 Q And do you remember what year this happened?

12 A November 1993.

13 Q Do you believe -- do you know if your son Alex saw  
14 you fall that time?

15 A Yes. He was very young.

16 Q About seven years old or younger?

17 A No, younger. Probably like not even three years  
18 old, seven years ago -- so five years old, five or four.

19 Q Can you tell the jury one of the reasons that you  
20 divorced the defendant, please?

21 A He divorced me. He divorced me. I make that  
22 restraining order, and then he started the proceedings for  
23 divorcing me.

24 Q Is that in 1993?

25 A Yes.

26 MS. DUPERON: I don't have any further questions,  
27 thank you.

28 THE COURT: Mr. Garcia, you may cross-examine.



CROSS-EXAMINATION

Q BY MR. GARCIA: Mrs. Gibson, isn't it true that two possibilities were offered to you on that day so that you didn't actually have to come to my home at that time of the day to pick up the children?

MS. DUPERON: Objection, irrelevant.

THE COURT: Sustained.

Q BY MR. GARCIA: What was the reason that you came so late at night to pick up children?

A Because he didn't want to give me the keys in the morning. You told -- when I called, you said the keys are with a friend. Then you told me you would drop the kids in the house, then my friend Julie, in her house, in my friend's house, asked you to bring the keys, and you promised to bring the keys to their house. Then later you told Julie that she can go and pick up the kids, and still you didn't do that.

So then once she called me saying that she was going to pick up the kids -- she has two kids, three and four -- and it was very late, so I thought, you know, I appreciate what she was doing for me, so I said, "Don't worry, Julie, I'll go and pick the kids up."

Then she says, "Fine."

Q But it's true that Julie offered you an option, she said, "I can go pick up those children"; correct?

A Yes.

Q Did they she also mention to you that I

1 personally --

2 MS. DUPERON: Objection. Calls for hearsay answer.

3 THE COURT: Sustained.

4 Q BY MR. GARCIA: So after Julie suggested that she

5 could do the picking up for yourself, you testified that you

6 rejected that possibility?

7 A Not rejected --

8 Q Declined --

9 A I thought it --

10 MS. DUPERON: Objection. Irrelevant.

11 THE WITNESS: I thought it --

12 THE COURT: Excuse me. There is an objection

13 pending. The objection is sustained.

14 Q BY MR. GARCIA: And so you came to my home around

15 11:30; is that right?

16 A Yes.

17 Q And did you ring the bell, did you knock on the

18 door or what?

19 A Yes.

20 Q What did you do?

21 A I knocked the door.

22 Q You knocked the door.

23 And who came to the door?

24 A You.

25 Q When I came to the door, did I open the door for

26 you?

27 A Yes.

28 Q Isn't it true that you pushed the door on my face?

1           A     No.

2           Q     It is not true?

3           A     No.

4           Q     Do you remember having sworn here to tell the  
5 truth?

6           A     Yeah.

7           MS. DUPERON:  Objection, argumentative.

8           THE COURT:  Sustained.

9           Q     BY MR. GARCIA:  Is it your understanding that you  
10 had permission to enter my apartment at that time of the  
11 night?

12          A     With my keys inside, yeah, I thought it was okay.

13          Q     From my communication with you, how did you  
14 ascertain that you had permission to go in?

15          A     Because you opened the door.

16          Q     How wide did I open the door?

17          A     Enough for me to go inside.

18          Q     Was there enough room for you to go inside without  
19 pushing the door on my -- on me?

20          A     No.  There was enough space.

21          Q     You testified that you went inside the room to try  
22 to wake up the children.

23          A     Yes.

24          Q     Do you remember my helping Alex to change?

25          A     No.

26          Q     You don't remember what kind of clothing he was  
27 wearing when he woke up?

28          A     No.  I guess I just saw him with no shirt.  That's

1 the only thing I remember.

2 Q Do you remember him getting out of the bed and  
3 going into the bedroom to change?

4 A He was in the bedroom. He was in the bedroom. He  
5 was in the bed, so he was in the bedroom. He didn't go  
6 anywhere.

7 Q You don't remember having seen him going into the  
8 bathroom to change?

9 A No.

10 Q You don't remember seeing me handing him a pair of  
11 slacks so he could change?

12 A No.

13 Q You don't remember me standing by the bathroom door  
14 and Alex handing me his swim trunks?

15 A No. I don't.

16 Q You don't remember pulling those swim trunks from  
17 my hand when Alex came out of the bathroom?

18 A I remember you have some clothes in your hand. I  
19 don't remember what kind of clothes you have in your hand.

20 Q Do you remember pulling that piece of clothing from  
21 my hands?

22 A Yes. I remember.

23 Q Do you remember my pulling back that same piece of  
24 clothes from you?

25 A Yes.

26 Q Do you remember where you were standing when that  
27 was happening, the pulling of the piece of clothes?

28 A In the bedroom.

1           Q     Do you remember where Alex and Linda were the time  
2     that you made contact with the floor?

3           A     I remember Linda was in the hall. I was in the  
4     floor -- in the living room, and Alex -- I don't see Alex  
5     there. I didn't see Alex.

6           Q     You don't remember Alex sitting right behind me  
7     when you fell?

8           A     No. You were in front of me.

9           Q     Let me rephrase -- let me ask you the same  
10    question.

11                   Do you remember Alex being behind me when you fell?

12          A     No.

13          Q     It is your testimony that when you fell, the  
14    children were still in the bedroom; is that correct?

15          A     I remember Linda when I fell. She was there  
16    somehow, I remember that, but I don't remember if she see  
17    the whole thing. I don't remember that.

18          Q     You don't remember.

19                   But that would be contrary to your statement that  
20    when you fell, the children were in the bedroom; is that  
21    correct?

22          A     I didn't fell (sic) in the bedroom. It was in the  
23    living room.

24          Q     Correct. But what I'm saying is when you fell in  
25    the living room --

26          A     Yeah?

27          Q     -- your prior testimony was that both children were  
28    still in the bedroom?

1 MS. DUPERON: Objection, argumentative.

2 THE WITNESS: No.

3 THE COURT: Overruled.

4 Q BY MR. GARCIA: You're saying that was not your  
5 testimony?

6 A No, because I don't remember Linda. When you asked  
7 me about felling (sic), I remember Linda somewhere right  
8 there close to the hallway.

9 Q I understand, but when the People was asking you --  
10 the lady is called the People -- when the People was asking  
11 you where -- the dynamics of how you fell, you mentioned  
12 that both children were in the bedroom still when you were  
13 recounting that you had fallen in the living room.

14 A I don't know, did I say that? Because I remember  
15 you trying to get me back, in my memory, and so when -- I  
16 remember when I asked the kids, "Kids, what did you see  
17 there?" so they say, "We don't want to get involved," so I  
18 really don't have any answer --

19 MR. GARCIA: Motion to strike the reference to the  
20 answer of what the children say.

21 THE COURT: Motion is granted.

22 MR. GARCIA: Thank you.

23 THE COURT: The jury will disregard that testimony.

24 Q BY MR. GARCIA: Do you remember, once you entered  
25 the bedroom, going around the floor picking up items of  
26 clothing from the floor?

27 A Yes.

28 Q And making reference to, "Oh, here is my underpants

1       that I have been looking for"?

2           A       Yes. I saw my clothes.

3           Q       You proceeded to pick them up?

4           A       No, because I didn't bring anything that was mine.  
5 I left everything there. I was just concerned about getting  
6 the kids out.

7           Q       When you picked up those underpants that you made  
8 the exclamation, "Oh, here are my underpants I've been  
9 looking for," where did you keep those items or that item?

10          A       Where do I keep them? I didn't keep them.

11          Q       Do you remember picking up items from the floor,  
12 clothing?

13          A       Linda's clothes you mean?

14          Q       Yes -- or any clothing.

15          A       Yeah, I remember I was trying to get some clothes  
16 for Linda because she was with a pajama.

17          Q       You went around the bedroom picking them up,  
18 weren't you?

19          A       No. I didn't walk in that bedroom. It was right  
20 there close to Linda's bed. If that's what you are  
21 referring to, it was right there.

22          Q       Do you have any memory of picking up items from the  
23 floor and putting them under your arm?

24          A       No.

25          Q       You don't have any memory of that?

26          A       No.

27          Q       Do you remember pulling that swim trucks that Alex  
28 gave me as he came out of the bedroom, putting them under

1 your armpit?

2 A No.

3 Q When I was pulling the swim trucks from you  
4 physically, where did you have those swim trucks?

5 A Well, if I don't remember having that, so how do  
6 you want me to answer that question?

7 Q Thank you.

8 The question prior was do you remember pulling that  
9 piece of -- item from me, and your answer was, "Yes."

10 A Yeah, I remember you having something in your hands  
11 and I was pulling, but I don't remember those --

12 Q Once you had possession of it, where did you put  
13 it?

14 A I don't know. I didn't have that -- we didn't have  
15 those clothes. I don't know. I don't have any clothes, but  
16 I remember you grabbed my arm. My arm, not --

17 MR. GARCIA: Nonresponsive.

18 THE COURT: Sustained.

19 Q BY MR. GARCIA: The question is, please, as you  
20 admitted, once Alex came out of the bathroom with his swim  
21 trucks in his hand, he handed them over to me and you pulled  
22 those from me; isn't that correct?

23 A No, Miguel. You -- I don't know. You are trying  
24 to change everything.

25 MR. GARCIA: The question has been answered. She  
26 doesn't know.

27 Q BY MR. GARCIA: The next question is --

28 THE COURT: Mr. Garcia, I will decide whether the



1 question has been answered.

2 MR. GARCIA: Sorry.

3 Q BY MR. GARCIA: You can proceed.

4 A I don't know. What can I say?

5 MR. GARCIA: I'm sorry I interrupted her.

6 Q BY MR. GARCIA: You do admit seeing Alex come out  
7 of the bathroom with his swim trucks in his hand?

8 A I said from the beginning I didn't see Alex in the  
9 bathroom.

10 Q You admitted pulling from me a piece of -- item, do  
11 you remember that?

12 A I remember I was pulling something, but you were --  
13 not pulling the item from you, you were pulling my arm.

14 Q The item that you were pulling then, what was that?

15 A Miguel, I don't remember any item. I remember you  
16 pulling my arm, because that's the only thing that I  
17 remember.

18 Q When you were in the living room, do you remember  
19 the location of my furniture in that living room?

20 A You mean the bunk beds?

21 Q In the living room.

22 A Oh, in the living room, do I remember what?

23 Q The location, the sofa, chair and so on.

24 A Kind of, yes.

25 Q You don't remember -- or do you remember standing  
26 right next to a bamboo chair in my living room?

27 A No. I didn't see any bamboo chair. I remember  
28 that you have a sofa, only one sofa. Then the hallway is

1 empty. I didn't see any furniture there. I haven't been to  
2 your place, so I don't know the way you have things in the  
3 house.

4 Q So it is your testimony that you don't remember  
5 pulling a clothing item from my hand?

6 A No. I don't remember that.

7 Q And you're saying that the items on the floor in  
8 the bedroom, you did not pick them up and put them in your  
9 arm -- below your arm?

10 A I'm going to say that, again, I just remember you  
11 pulling my arm. I don't remember pulling any clothes, but,  
12 I don't know. You say I remember I saw clothes, it was my  
13 pair. I said, "Oh, my clothes is here." That's what I  
14 remember.

15 Q Did you decide to leave those in the bedroom?

16 A They stay there. I don't have the clothes still  
17 because Linda went in pajamas and no shoes, and the other  
18 went with pants from you. He was wearing pants from you,  
19 and no shoes at all, too, so we just went outside.

20 Q The pants that Alex was wearing when you took them,  
21 do you remember seeing him wearing those when he was in bed?

22 A No, I don't think so. He has something else.  
23 He was putting those pants --

24 Q So when he gets up out of bed he is not wearing  
25 those pair of slacks that he took with you when you took  
26 him?

27 A I don't think so. He has the pants.

28 Q So he changed in between the time --

1           A     I don't know, Miguel. I just saw he didn't have  
2 those pants. They were not his, or that I would have paid  
3 attention. They were yours, so I don't know.

4           Q     Thank you. Do you remember falling down?

5           A     Yes.

6           Q     You don't remember tripping over that chair?

7           A     No.

8           Q     You don't remember being in close proximity to me  
9 and looking at my bare chest and making remarks?

10          A     Yeah. I remember I was -- you were in the front  
11 and I was in the floor, and I thought you were coming and do  
12 something to me, so that's what I started screaming "Help,  
13 help." I remember that.

14          Q     Is there -- do you allow for the possibility that I  
15 was picking you up --

16               MS. DUPERON: Objection. Calls for speculation.

17               THE WITNESS: Not at all.

18               THE COURT: Sustained.

19          Q     BY MR. GARCIA: In your recollection, did you --  
20 did you fall backwards or did you fall forwards?

21          A     I -- first was in front, and in back.

22          Q     So you fell twice?

23          A     Yes.

24          Q     The injury, any picture of that injury?

25          A     Only the -- maybe from the medical report from the  
26 doctor.

27          Q     And your testimony is that you received that elbow  
28 injury when you fell?

1           A     Yeah, and my back again, he gave me some  
2 anti-inflammatory for the contusion, especially in my arm.

3           MR. GARCIA: Nonresponsive, Your Honor.

4           THE COURT: Overruled.

5           Q     BY MR. GARCIA: Isn't it true that you have been  
6 against the living arrangements of my children in the  
7 apartment?

8           A     What do you mean?

9           Q     You mentioned that you walked into the bedroom and  
10 that you saw a bed next to Linda and that that made you  
11 upset?

12          A     Yes.

13          Q     And you also mentioned that you made the assumption  
14 that I was sleeping next to Linda?

15          A     Yes.

16          Q     Are you still having those assumptions?

17          A     We spoke to -- should I answer yes or no?

18          THE COURT: The question is what it is. It can be  
19 answered yes or no.

20          THE WITNESS: Oh, okay.

21                I hope not.

22          Q     BY MR. GARCIA: But do you know for a fact --

23          A     I don't live in your apartment, so how do I know?

24          Q     So the assumption that you made, it's possible that  
25 it was a wrong assumption?

26          MS. DUPERON: Objection. Irrelevant.

27          THE COURT: Sustained.

28          Q     BY MR. GARCIA: You testified that you were upset

1 about your assumption?

2 A Yes.

3 Q But you're not sure that your assumption was

4 correct?

5 MS. DUPERON: Objection, irrelevant.

6 THE COURT: Overruled.

7 Q BY MR. GARCIA: You can answer the question.

8 A I answered the question.

9 THE COURT: You may answer.

10 THE WITNESS: Okay. What was the question?

11 Q BY MR. GARCIA: But you're not sure that you were

12 correct on that assumption?

13 A Of course I'm not. I can have the doubt because --

14 I can't be sure that it's a big -- right there that I

15 slipped on the floor, but it seems most likely that you

16 would have slipped there.

17 Q So you still maintain that you -- your assumption

18 may be correct.

19 A Yeah, because of the background, the whole history.

20 MR. GARCIA: Objection after "Yes."

21 THE COURT: Overruled.

22 Q BY MR. GARCIA: When you were at any time, in the

23 bedroom, were you crying?

24 A You mean tears?

25 Q Any kind of crying.

26 A I think so, yes.

27 Q Before you left my apartment, were you at any time

28 crying?

1           A     I was crying like saying, "Help, help," but tears,  
2     I remember very clear it was in the alley, when I just left,  
3     outside.

4           Q     From the time that you left my apartment until the  
5     time that you reached your car, did you stop in between?

6           A     No.

7           Q     Did you shout anything from outside my door before  
8     you went to your car?

9           A     When I was -- when I was walking from your door to  
10    my car, I was saying, "This is the way you are behaving as a  
11    Christian." That's right.

12          Q     Were you also shouting "hypocrata -- " "hypocrite"?

13          A     Yes.

14          Q     As you were saying that, were you saying it in the  
15    normal way or were you shouting?

16          A     Well, I don't think so. I did it -- I don't think  
17    I did it softly, but I remember I said it.

18          Q     Words to the effect. "Hypocrite Christian. You're  
19    supposed to be a Christian," those type of words?

20          A     Right.

21          Q     When you got to your car, who else was there in the  
22    car?

23          A     A female police officer.

24          Q     I actually meant inside the car.

25          A     Oh, my baby in the car seat.

26          Q     So your baby -- you never took the baby out into  
27    bedroom of the car seat?

28          A     No.

1 Q Did any of the neighbors speak with you?

2 A No. I mean, when -- after? When I was in the car?

3 Q Yes, when were you in the car.

4 A Yes, when the police officer was there, I remember

5 a couple that were there.

6 Q And do you remember their names?

7 A No. I only know they belong to the church, but I

8 don't remember their names.

9 Q Do you remember making any reference to, "I just

10 want to not let the children go to Mexico with Miguel"?

11 A No.

12 Q You don't remember making that remark --

13 A No.

14 Q -- to anybody --

15 A No.

16 Q -- at that time when were you in the car?

17 A No, not at all.

18 Q Isn't it true that you have been opposed to my

19 taking the children to visit Mexico?

20 A Without addressing my concerns, like telling me

21 where they are going, like the Court says in the papers,

22 yes.

23 Q You object?

24 A Yes. You don't follow the Court orders. I object

25 to just taking the kids for nothing.

26 Q Isn't it true that I was just about to leave for

27 Mexico that week with the children?

28 A I remember you told me that you were not going to

1 Mexico because you didn't have money. So you say that you  
2 were not going to Mexico.

3 Q Isn't it true that I mentioned to you to get  
4 homework assignments for the children while we were in  
5 Mexico?

6 A No. Because I asked you, "Don't take the kids when  
7 they start school."

8 I was begging you not to take the kids the first  
9 days of school to lose that, to lose that event. I  
10 explained to you the concern that they were not babies,  
11 there were new teachers. They will be just introducing to  
12 them, so --

13 Q Those are the reasons why you objected to the  
14 children going to Mexico?

15 A So that -- I don't understand why you said that I  
16 was -- you were asking me for homework. I don't understand.

17 Q You don't remember a conversation when I suggested  
18 you take homework assignments for the children from the  
19 teachers while we were in Mexico, and then you told me a  
20 profanity and hang up on me?

21 A No. I remember the profanity, I don't remember  
22 what you said of the homework -- because of the homework.

23 Q Do you remember the context of the profanity, why  
24 you reacted like that?

25 A You say something about my English, as always,  
26 making remarks that I don't speak good English, and you were  
27 upset saying, "Don't speak English. Don't speak English.  
28 Speak Spanish with me."



1 I was just trying to speak English, and then you  
2 made me feel so bad, so that's why I say that bad word.

3 Q Are you -- are you denying that we were talking  
4 about the Mexico trip during those days?

5 A No. You have somebody who was making us to get in  
6 agreement for going to Mexico because -- with me. It was  
7 not an agreement that you can take the kids to Mexico since  
8 you didn't pay child support, so I was asking you, instead  
9 of going to Mexico, help me with the expenses of the kids.

10 So you -- you were asking me to go to Mexico, and I  
11 was just saying that -- you were saying that you have no  
12 money, but you have money for going to Mexico, so this  
13 person was trying to make arrangements for you and I to make  
14 an agreement, so the last thing that I heard from this  
15 person was you and I were not talking about that anymore.  
16 So I remember you saying that you were going to take the  
17 kids to Mexico, but that's way before you went to Palm  
18 Springs, so that -- there is a -- they were separated from  
19 the events that happened.

20 Q Do you remember being against my taking the  
21 children to Mexico?

22 A But that's entirely within the Court procedures,  
23 yes.

24 Q And you remember my mentioning that I was going to  
25 go to Mexico on that weekend?

26 A No. You said that you were not going to Mexico.  
27 You said it to some other person that told me you were not  
28 going to Mexico, and you told it to me in the morning, when

1       you took the kids in the morning, that you were not going to  
2       Mexico.

3           Q       Do you remember in the conversation when you said,  
4       quote, unquote, "I'm not going to cross my arms  
5       (demonstrating) -- I'm not going to fold arms and allow you  
6       to take the children to Mexico"?

7           A       No, Miguel. I didn't.

8           Q       You don't remember that?

9           A       No. I didn't say that.

10          Q       You don't remember saying, "I will do anything to  
11       keep you from taking the children to Mexico"?

12          A       Not at all.

13          Q       You are married to Mr. Gibson?

14          A       Yes.

15          Q       Isn't it true that Mr. Gibson has professed a  
16       profound hate towards me?

17               MS. DUPERON: Objection.

18               THE COURT: Sustained.

19          Q       BY MR. GARCIA: Have you, in any recent  
20       conversation with me, professed that you want to please your  
21       husband?

22               MS. DUPERON: Irrelevant.

23               THE COURT: Sustained.

24          Q       BY MR. GARCIA: What is your current profession?

25          A       Dental assistant.

26          Q       Are you involved in taking x-rays?

27          A       Yes.

28          Q       Do you have a license for x-rays, dental x-rays?

1           A     Yes.

2           Q     Do you have a license?

3           A     Yes.

4           Q     Have you been involved with an investigation from  
5 the Dental Board about a licensing --

6           A     You -- you brought that investigation to the Dental  
7 Board, so someone went to my work and I lose my job, thank  
8 you, to that investigation, but it was not anything about  
9 X-ray License, so -- because you made a complaint, so they  
10 want to follow-up.

11          Q     Have you ever been written up, have you been given  
12 a document that says pursuant to the investigation, you can  
13 no longer use the x-ray license?

14          A     Not at all, not that I know.

15          Q     Have you in any manner been told you have been in  
16 violation of the Dental Practice Act?

17          A     Not at all.

18          Q     Do you remember a person by the name of Chuck  
19 Villanti?

20          A     I remember an old man that went to the -- my work  
21 at that time, and I don't remember his name, but it was an  
22 old person. Yes, I do remember him.

23          Q     Did he give you any written document?

24          A     He gave me a piece of paper that you make the  
25 investigation and it was closed.

26          Q     But do you -- you don't remember any indication  
27 that you were written up, that you were --

28          A     No, not at all.

1 Q -- that you were found to be in any violation?

2 A No, no, he said only because -- I don't know how  
3 that happened, but you have been complaining that I was  
4 practicing dentistry as a dentist, and so he asked me those  
5 questions, and, of course, I'm not practicing dentistry in  
6 this country.

7 Q You have a daughter by the name of Emma; right?

8 A Correct.

9 Q Over at the Coastal -- where is she attending --  
10 where was she attending school in the last five -- let's say  
11 January through July of this year?

12 A In the Coastal Christian School.

13 Q Who pays for that?

14 A The government.

15 Q Government.

16 Did you at all make any connection -- by "the  
17 government," do you mean Welfare?

18 A Yeah. They have the Gain Program for single  
19 persons that have kids with no child support, and they help  
20 me with that.

21 Q Did you have to meet some requirements?

22 A No. They just provided for the kids.

23 Q Is being a victim of a spousal abuse for domestic  
24 violence --

25 A Oh, yeah, domestic violence.

26 Q So being a -- being involved in domestic violence  
27 makes you eligible for that program?

28 A Not that I know, not that I know.

1 Q The -- so they are the ones paying for the tuition?

2 A They did pay for the tuition.

3 Q And it has no connection with domestic violence, to  
4 your knowledge?

5 A Not the way you say it. It has to be a  
6 requirement.

7 Q Well, let me ask you, did you represent to them  
8 that you were a victim of domestic violence?

9 A Yes, because they said there is a piece of paper  
10 they ask you for those questions, so you answer those  
11 questions.

12 Q And you answered that you were a victim of domestic  
13 violence?

14 A Yes.

15 Q For the benefit of the tuition payments?

16 A No, no, not for the tuition payments. There was a  
17 simple question. The question was they were asking me if I  
18 had been physical abuse or domestic violence, and I put  
19 "Yes."

20 Q And the "Yes," that was making reference to Mr.  
21 Gibson or yourself?

22 A To yourself.

23 Q Have you been involved in domestic violence with  
24 Mr. Gibson?

25 A No.

26 Q At any time were you in a shelter in England?

27 A Yes.

28 Q And being in the shelter, did that have anything to

1 do with being separated from Mr. Gibson?

2 A It was personal problems, but it was not for  
3 domestic violence.

4 Q But were you separated from Mr. Gibson in England?

5 A Yes. I leave the house when they gave me -- they  
6 gave me a place to stay in England that I don't have my mom  
7 there, so that was only the place that I can go.

8 Q It is your -- how can I call it -- your habit to  
9 always tell the truth?

10 MS. DUPERON: Objection, argumentative.

11 THE COURT: Overruled.

12 THE WITNESS: It's my habit to say the truth? I  
13 don't know if it's a habit, but I try to say the truth most  
14 of the time.

15 Q BY MR. GARCIA: Especially in -- when you have to  
16 sign your name under penalty of perjury; correct?

17 A What do you mean?

18 Q Well, we all try to be honest all the time, I  
19 assume, but when you have to sign some documents that says  
20 "Under penalty of perjury," it makes you all more even aware  
21 to be more --

22 A Oh, yeah, with legal things.

23 Q Yes.

24 A Of course.

25 Q Do you own -- or at one time you owned a house in  
26 Gardena; correct?

27 A My husband did.

28 Q And any idea when he purchased that property?

1 MS. DUPERON: Objection, irrelevant.  
2 THE COURT: Overruled.  
3 THE WITNESS: Does it mean I have to answer?  
4 Oh. What was the question?  
5 Q BY MR. GARCIA: In approximately what year did he  
6 purchase that property?  
7 A When he buy the property? No. I was married with  
8 you when he buy that property.  
9 Q So prior to 1994?  
10 A Yes.  
11 Q May I approach?  
12 MS. DUPERON: I have not seen whatever it is he is  
13 approaching with.  
14 MR. GARCIA: For purposes of impeachment.  
15 THE COURT: You have provided copies to the People?  
16 MR. GARCIA: Your Honor, this is for the purpose of  
17 impeachment.  
18 THE COURT: So?  
19 MR. GARCIA: So there is the declaration of the --  
20 under penalty of perjury.  
21 THE COURT: Don't discuss it from counsel table.  
22 My question for stating so was rhetorical.  
23 The fact that it's for impeachment does not mean  
24 you should not have provided it to the counsel.  
25 MR. GARCIA: May I have a side bar?  
26 THE COURT: Actually, I take it, Mr. Garcia, that  
27 that you contemplate a good deal more by way of  
28 cross-examination?

1 MR. GARCIA: I'm sorry?  
2 THE COURT: You contemplate a good deal more of  
3 cross-examination of this witness? It's fifteen minutes  
4 after twelve. We will recess for the luncheon period if  
5 your answer is you contemplate a good deal more --  
6 MR. GARCIA: Oh, oh --  
7 THE COURT: -- of cross-examination.  
8 MR. GARCIA: No more than three minutes. This is  
9 my last question.  
10 THE COURT: It's going to take longer than three  
11 minutes just to discuss this.  
12 MR. GARCIA: We shall return then.  
13 THE COURT: I'll see counsel at side bar.  
14 (The court adjourned at twelve  
15 noon until 1:30 p.m. of the same day.)  
16  
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1 CASE NUMBER: OWL02904  
2 CASE NAME: PEO. vs. GARCIA  
3 LOS ANGELES, CALIFORNIA TUES, 10-24-00  
4 DIV. 145 HON. KEITH L. GRONEMAN  
5 REPORTER: STELLA A. CORDOVA, CSR #7538  
6 TIME: 1:40 PM  
7

8 APPEARANCES: (Appearances as heretofore stated.)  
9

10 MR. GARCIA: No more questions.

11 THE COURT: Ms. Duperon?

12 MS. DUPERON: Thank you. We'll try to keep this  
13 brief.  
14

15 REDIRECT EXAMINATION  
16

17 Q BY MS. DUPERON: Where were your clothes? Is it  
18 your testimony that you had clothes on the bedroom floor in  
19 Mr. Garcia's apartment that night?

20 A My daughter is -- sometimes she wear my clothes, so  
21 they -- all the time when she takes clothes from my house,  
22 Mr. Garcia doesn't return them back.

23 Q Those are the clothes that you were referring to  
24 when you said, "So here is this underwear, here is that"?

25 A Right.

26 Q I see.

27 Please tell us how you fell twice. Tell us,  
28 explain that again, please.

1           A     Okay. I remember trying to get off Miguel's hand  
2     from my arm, and so that was inside, that that was between  
3     the bedroom to the hallway. So somehow, when I left, when I  
4     -- finally, my arm went like that, so like I was pulling,  
5     you know, so then I felled (sic), and then --

6           Q     Where did you fall?

7           A     In the living room in the little hall.

8           Q     Did you fall on the floor, up against the wall --  
9     where did you fall?

10          A     In the floor, in the floor, in the floor.

11          Q     So the first time that you fell it was because you  
12     were pulling away from him?

13          A     Yes. Then I remember really bad when he was --  
14     from that living room there, after I fell, he grabbed me  
15     from my hair.

16                 So then at that time he was in front of me and then  
17     somehow I went like that (demonstrating) and instead of  
18     going back, I remember I went to my knees and then I, yeah,  
19     I remember -- so my knees, they were first on the floor,  
20     then my elbow -- that's right.

21          Q     How could he pull your hair from the front of you  
22     -- from standing in front of you?

23          A     Oh, I think -- after he was forcing my arm, somehow  
24     he grabbed me right there, so by the time he was pulling me  
25     to the living room, then -- yeah, he was pulling me to the  
26     living room -- then he let it go, or I let it go somehow.  
27     Then it -- this was the first time I fell on -- in the back  
28     -- with the back.

1           Then somehow, I don't know, but somehow my knees --  
2 I remember I was in my knees, then my elbow in the back  
3 right here (indicating), so I started bleeding in my  
4 elbow --

5           Q     How could your elbow start bleeding? What did you  
6 hit that would cause your elbow to start bleeding?

7           A     I think in the carpet. I think it was the carpet.  
8 I don't think it's something that was there. I don't  
9 remember.

10          Q     You hit the carpet with such force that it caused  
11 your elbow to bleed?

12          A     Yes.

13          Q     A scraping or how?

14          A     Scraping. It was open.

15          Q     I'm sorry, Mrs. Gibson, but I have to ask you this  
16 again. Please tell us as best as you can recall how it is  
17 how you fell, whether you fell twice, once, or in two  
18 separate motions. You must explain how you fell.

19                You said that you entered the bedroom, you got  
20 upset because you didn't like where the beds were placed,  
21 and thereafter you were dragged from the bedroom by the  
22 defendant after that.

23                Explain to us how it is that you fell, please, and  
24 when he pulled your hair during that time.

25          A     Okay. He pulled my hair from -- from after he was  
26 wrestling with my arm. I remember he pulled my hair there.  
27 Then I fell in the living room -- in the living room. I  
28 fell with my knees then back, and so my right elbow was like

1       that, and my knees, they were in the floor.

2           Q     When you fell onto -- your knee's on the floor --

3           A     Right.

4           Q     Then thereafter is -- it's hurt.  Thereafter you  
5       fell to the right, and that's how you fell on your right  
6       elbow?

7           A     Well, I remember my two knees on the floor, and  
8       somehow I wanted to balance myself, and that was with my  
9       elbow, and it hurt.  I mean bleeding, my elbow.

10          Q     He pulled you by your hair.  Then what happened?

11          A     That was between that bedroom and the little hall.  
12       It's very small, the space there.  That was the arm forcing,  
13       and I remember saying that -- it was very offensive what I  
14       said to him, "Get your stinky hands off me.  How can I marry  
15       you.  You shouldn't be touching me."

16                So I remember then after that, some paces, from  
17       here to here probably, then it becomes the living room, so  
18       you are talking about very small space, so I remember then  
19       falling in my knees and then going back in my elbow.

20          Q     At what point was he touching your hair during this  
21       time?

22          A     During that time is in the period after my arm,  
23       after he wrestled me with my arm.

24          Q     Between the time that you fell to your knees and  
25       the time that he was wrestling with your arm?

26          A     No, no.  It was not -- when it was in my knees, he  
27       was not touching me.

28          Q     Before then?

1           A     Before.

2           Q     That's before then, it is when he had your hair?

3           A     Yes, yes.

4           Q     Approximately how long did that whole altercation,  
5 the physical altercation, take place?

6           A     It was very fast.

7           Q     You don't remember? A couple of seconds, a few  
8 seconds?

9           A     It was very -- voom -- like that. I remember I was  
10 just saying, "It cannot be happening. It cannot be  
11 happening -- again."

12                   I was in the period -- I didn't know that it was  
13 going to happen again, you know, so I wasn't -- like kind of  
14 in shock -- it's happening again. I'm not his wife, and it  
15 happened again.

16           Q     Where is your present husband?

17           A     In England.

18           Q     What do you mean by you being the whole provider  
19 for the three year old Emma?

20           A     Well, my husband --

21                   MR. GARCIA: Objection, relevancy.

22                   THE COURT: Overruled.

23                   THE WITNESS: My husband, since Mr. Centeno make a  
24 lawsuit from that house that we have in Gardena, my husband  
25 don't want to stay in America anymore, so he thought that  
26 there was no life here, all the time litigations, all the  
27 time going to court, all the time being harassed by Mr.  
28 Centeno.

1           So then we staying in England for awhile, one year  
2           and two months. Then the High Court asked me to return to  
3           America, and I didn't appeal to return so, in other words, I  
4           want to come back, too. I was very -- over there there is  
5           no work for me, and I like to work, so I told my husband I  
6           was coming here.

7           And he was not agreeing, he was very unhappy that I  
8           want to return, but I thought of the time that the kids need  
9           the father, whatever he has done to me. And so then I came  
10          here and I thought things were going to be better, you know,  
11          he was going to provide, like he promised in the High Court  
12          in London, that he will help me with the car, with an  
13          apartment, with a telephone bill, and whatever, so -- but  
14          nothing comes through that way.

15          So my husband is not happy because I am ending up  
16          making agreements with joint physical custody with my  
17          ex-husband, but I been advised by my church that, you know,  
18          he's the father of my kids, he deserves to be with the kids,  
19          and I can't leave my kids. So -- my kids is very young, so  
20          I rather to lose my husband than losing my kids. They need  
21          a mom, so that's why I'm here. That's why he doesn't  
22          provide anything for me.

23          Q       That's why Mr. Gibson doesn't provide?

24          A       No. He doesn't.

25          MS. DUPERON: Thank you. No further questions.

26          THE COURT: Mr. Garcia?

27          //

28          //

RECROSS-EXAMINATION

Q BY MR. GARCIA: You say that Mr. Gibson does not want to live in America because I harass him; is that correct?

A Yes.

Q Are you aware that Mr. Gibson engaged himself in a very violent course of events towards me?

A Miguel, you know this. Mark, my husband went to jail because he told not to hit the kids, and you went and make a restraining order because were you afraid. My husband never put a finger on you. He hasn't, and he knows that I don't want that happen for respect of my kids.

Q You say that he went to jail?

A He went to jail because he admitted the judge that he violated that court -- that restraining order telling you not hitting the kids is right.

Q Do you know how many misdemeanors he was convicted of?

MS. DUPERON: Objection.

THE WITNESS: I don't know anything about that.

THE COURT: Sustained.

Q BY MR. GARCIA: Do you know if he was convicted?

MS. DUPERON: Objection.

THE COURT: Sustained.

Q BY MR. GARCIA: Why did he go to jail?

MS. DUPERON: 352.

THE COURT: Sustained.

1 Q BY MR. GARCIA: After you came back from England,  
2 isn't it true that I provided to have \$200 for you to get  
3 from home to the airport in England?

4 MS. DUPERON: Objection. Irrelevant.

5 THE COURT: Sustained.

6 Q BY MR. GARCIA: When you came to California, isn't  
7 it true you went to Santa Monica Court requesting a  
8 restraining order against me on or around March '99?

9 A First of all, I went to Santa Monica Court because  
10 there was a hearing for child custody, and somehow the  
11 letters that you and your attorney sent to my mom were  
12 wrong. The dates --

13 MR. GARCIA: Your Honor, nonresponsive.

14 THE COURT: Sustained.

15 Q BY MR. GARCIA: Carmen, I'm sorry, the question is:  
16 When you came back from England, did you go to Santa Monica  
17 Court requesting a restraining order against me?

18 A Yes.

19 Q Thank you.

20 In that restraining order you were asking that I do  
21 not approach you within one hundred yards?

22 MS. DUPERON: Objection. Calls for hearsay.

23 THE COURT: Sustained.

24 Q BY MR. GARCIA: What did you request in your  
25 restraining order?

26 MS. DUPERON: Objection.

27 THE COURT: Sustained.

28 Q BY MR. GARCIA: Was that restraining order denied?



1 MS. DUPERON: Objection.  
2 THE COURT: Overruled.  
3 THE WITNESS: Yes.  
4 Q BY MR. GARCIA: It was denied.  
5 Since then, April 1999, since then, isn't it true  
6 that we went to the district attorney's office and you asked  
7 me to give you a ride home in my car, just you and I alone?  
8 MS. DUPERON: Objection, irrelevant.  
9 THE COURT: Sustained.  
10 MR. GARCIA: Your Honor, it goes towards --  
11 THE COURT: The objection is sustained.  
12 MR. GARCIA: Thank you.  
13 Q BY MR. GARCIA: Subsequent to the restraining order  
14 being denied in Santa Monica, did you invite me up to your  
15 apartment for coffee?  
16 MS. DUPERON: Objection, irrelevant.  
17 THE COURT: Sustained.  
18 MR. GARCIA: No further questions.  
19 THE COURT: Ms. Duperon?  
20 MS. DUPERON: I have no further questions.  
21 THE COURT: You may step down.  
22 Ladies and gentlemen, we're going to recess at this  
23 time, I'll ask you to return here for further proceedings in  
24 the case this afternoon. That will be at 2 o'clock. In the  
25 meantime, please recall my admonitions.  
26 We'll resume at 2 o'clock this afternoon.  
27 //  
28 //

1 (The following proceedings were held in  
2 open court outside the presence of the  
3 jury:)

4  
5 THE COURT: Your further witnesses?

6 MS. DUPERON: The two officers that came to the  
7 scene. They will be ready at 2 o'clock. Their testimony  
8 should not be long. I anticipate, including  
9 cross-examination, one hour at the most for the both of  
10 them.

11 THE COURT: We'll resume at 2 o'clock this  
12 afternoon.

13 (The Court adjourned at 12:37 p.m.  
14 until 2:00 p.m. of the same day.)  
15  
16  
17  
18  
19  
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21  
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27  
28

1 CASE NUMBER: OWL02904  
2 CASE NAME: PEO. vs. GARCIA  
3 LOS ANGELES, CALIFORNIA TUES, 10-24-00  
4 DIV. 145 HON. KEITH L. GRONEMAN  
5 REPORTER: STELLA A. CORDOVA, CSR #7538  
6 TIME: 2:10 PM  
7 APPEARANCES: (Appearances as heretofore stated.)  
8

9 MS. DUPERON: Thank you. People call Off.  
10 Luledzhyan.  
11

12 ROSANNA LULEDZHYAN  
13

14 called as a witness for the People, was duly sworn and  
15 testified as follows:

16 THE CLERK: You do solemnly swear that the  
17 testimony that you shall give in the cause now pending  
18 before this Court shall be the truth, the whole truth and  
19 nothing but the truth, so help you God?

20 THE WITNESS: Yes.

21 THE CLERK: Please state your full name, spelling  
22 that for us.

23 THE WITNESS: Rosanna Luledzhyan, R-o-s-a-n-n-a,  
24 L-u-l-e-d-z-h-y-a-n.  
25

26 DIRECT EXAMINATION  
27

28 Q BY MS. DUPERON: Please state for whom you work.

1           A     Los Angeles Police Department, Pacific Division.  
2           Q     How long have you been an LAPD officer?  
3           A     Two years.  
4           Q     And close to midnight on August 21st of the year  
5     2000 were you on duty?  
6           A     Yes, ma'am.  
7           Q     Did you go to 3535 South Sepulveda Boulevard?  
8           A     Yes.  
9           Q     Why did you go there?  
10          A     We received a call of a screaming woman in the rear  
11     alley.  
12          Q     What did you do when you got there?  
13          A     We were met by the victim. She was parked in the  
14     alley. She had three of her children in the car. She was  
15     standing outside of the car with two of the neighbors.  
16          Q     Who were those two neighbors, do you know?  
17          A     No, I don't. I know that they live in the  
18     building, but I don't know who they are.  
19          Q     Did you speak to them at all?  
20          A     Yes.  
21          Q     Did you determine why they were there?  
22          A     Yes. They heard someone screaming, and they came  
23     out and they met the victim out in the alley and the victim  
24     asked them to call the police.  
25          Q     Describe the victim as you saw -- it's a lady?  
26          A     A female.  
27          Q     Describe her, please, for the jury.  
28          A     Male -- female, I believe, Hispanic. She's about

1 5'5", approximately 130 pounds. She was crying and,  
2 actually, she wanted to leave the location.

3 Q No one else was there but the three of them?

4 A Correct.

5 Q How long did you stay at this location?

6 A Our total investigation time was approximately ten  
7 to fifteen minutes.

8 Q During that time, where did you go?

9 A I stayed with the victim at all times.

10 Q Did you ask her any questions?

11 A Yes. We asked what the problem was, why she was  
12 crying, and she told us that she was in a confrontation with  
13 her ex-husband over the kids.

14 Q Anything else?

15 A Yes. She said she came over to pick up her kids  
16 from the father's house and the father refused to give the  
17 kids back to her because they were asleep. He didn't want  
18 to wake them up.

19 She said that she walked in the house to wake the  
20 kids up, and her ex-husband got angry and grabbed her hair  
21 from behind, pulled her down onto the ground, and we asked  
22 her which apartment number her husband lived. She told us  
23 the apartment number.

24 My partner went to the apartment, door-knocked the  
25 defendant, the defendant answered the phone -- I mean,  
26 answered the door. That's where he was putting the -- put  
27 into custody.

28 Q When you say "the defendant," do you recognize the

1       defendant sitting to my left?

2           A     Yes.

3           Q     To your right?

4           A     Yes.

5           Q     Will you state who you recognize him to be.

6           A     The ex-husband of the victim.

7           Q     Did you go up to the door?

8           A     No.

9           Q     You stayed the whole time downstairs?

10          A     Yes.

11          Q     What -- what, if anything, did you see on the

12          victim?

13          A     I observed the victim's right elbow was scraped and

14          I asked her how she sustained that, and she said when she

15          fell on the ground, she must have hit maybe the wall or --

16          she really didn't know, but she said she sustained it while

17          she was falling -- probably from the fall.

18          Q     Now, when you say "on the ground," you understood

19          her to tell you that she had fallen in the apartment, that

20          this altercation happened in the apartment?

21          A     In the apartment, correct, while she was attempting

22          to wake the kids up.

23          Q     Did you have a long conversation with her?

24          A     No, not that long.

25          Q     Did you question the other two persons that were

26          there?

27                Besides the fact that they heard someone screaming,

28          did they tell you they heard her screaming?

1           A     I asked them if they had seen what happened, if  
2     they had actually seen the whole thing, and they said, no.  
3     What they had initially heard was someone screaming, so they  
4     came out of their house and recognized her. They knew who  
5     she was. And when she asked them to call the police, they  
6     called the police for her.

7           Q     Is it your partner who brought the defendant over  
8     to where you were standing?

9           A     Correct.

10          Q     After that, what did you see? What, if anything,  
11     did you do?

12          A     Well, my partner had interviewed the defendant,  
13     then we -- me and my partner agreed that the defendant was a  
14     primary aggressor. We placed him under arrest for spousal  
15     abuse and transferred him to the station.

16          Q     At any time you were at that scene did you see any  
17     other people besides the two persons that were standing  
18     there with the victim, the defendant, and the children in  
19     the car? Did you see any other people at any time?

20          A     No.

21          Q     When you left, where was the victim?

22          A     The victim left also with the children in her own  
23     vehicle.

24          Q     Now, once you were in your vehicle transporting the  
25     defendant -- before I get to that, you saw -- when your  
26     partner brought him down to where you were standing, that's  
27     the first time you saw the defendant; isn't it true?

28          A     Correct.

1 Q Well, did you notice anything unusual about his  
2 demeanor?

3 A No.

4 Q When you were in the car transporting him, what, if  
5 anything, did he say to you?

6 A He didn't understand exactly why he was being under  
7 arrest, so me and my partner were trying to explain to him  
8 the laws of domestic violence and that he is not allowed to  
9 put his hands on his wife -- or ex-wife -- whoever she was.

10 He at that time said, "The reason why I put my hand  
11 on her was to get her out of the house."

12 We were trying to explain to him, "If you need her  
13 out of your house, you should call the police and have us  
14 escort her out of the house."

15 MS. DUPERON: Thank you. I have no further  
16 questions.

17  
18 CROSS-EXAMINATION  
19

20 Q BY MR. GARCIA: Did you type a report stating the  
21 reasons that you just went through?

22 A Yes.

23 Q And you signed it?

24 A Correct.

25 Q And you read it and approved of it and its  
26 contents?

27 A My watch commander approved it.

28 Q In order to be approved it needs to meet some



1 criteria?

2 A I don't understand the question, sir.

3 Q In order to be approved it needs to meet certain  
4 criteria for booking?

5 A Well, yeah, if our story -- what we have told the  
6 watch commander matches exactly what's on the report, if  
7 that's what you mean.

8 Q I think the answer was a yes or no answer.

9 Was there a criteria for approving a booking for a  
10 suspect?

11 A I'm not understanding what you're saying, sir.

12 Q I'll come back to that.

13 In the writing it says it was a nurse; did you  
14 write that?

15 A Yes.

16 Q Did she tell you she was a nurse?

17 A Yes.

18 Q In the report it says that, quote, unquote, that I  
19 refused to turn the children back to her. She told you  
20 that?

21 A Correct.

22 Q In the report it also says that "Defendant Garcia  
23 became angry and pulled victim from her hair in an  
24 attempt to get victim out of his residence." That's  
25 what she said?

26 MS. DUPERON: Objection, hearsay point.

27 THE COURT: Overruled.

28 THE WITNESS: I have to look at my report. I have

1 a copy of it. May I?

2 THE COURT: Will that refresh your recollectio.

3 officer?

4 THE WITNESS: Yes.

5 MR. GARCIA: Page 2, paragraph that starts with,

6 "Victim Gibson -- "

7 A Yes. That's what she told me.

8 Q " -- in an attempt -- "

9 A " -- to get her out of the house."

10 Q And she also said that she fell?

11 A Correct.

12 Q And you saw the elbow?

13 A Yes.

14 Q The scraped elbow?

15 A Yes. I did.

16 Q In your opinion, did you recommend medical

17 treatment?

18 A Yes. I did. She refused medical treatment.

19 Q The injury, in your estimation, did it require

20 medical treatment?

21 A No, not an emergency medical treatment.

22 Q But the bottom of the same page, it says the -- the

23 last paragraph, "Both children were sitting in victim's

24 vehicle calm, but fearful, along with victim's

25 three-year-old son."

26 A Correct.

27 Q How did you know it was a son?

28 A That's what I saw -- what I seen in the car.

1 Q You saw a child?

2 A Right.

3 Q You didn't ascertain whether it was a boy or a  
4 girl?

5 A In my opinion I thought it was a boy.

6 Q It's a girl.

7 MS. DUPERON: Objection.

8 THE COURT: Sustained. Mr. Garcia.

9 Q BY MR. GARCIA: Page three, under "booking," it  
10 says that it was -- that the booking was approved by Sgt.  
11 Rheinhold (ph).

12 A Correct.

13 Q That's what I was referring to. In order to be  
14 approved, it has to met certain criteria.

15 A Well, their criteria is whatever I have gathered from  
16 my investigation from the scene. That's what I put on my  
17 report and that's what I tell my watch commander before I do  
18 my report.

19 Q Does your watch commander get to read or she gets a  
20 oral report from before approving the booking?

21 A No. She reads page by page of the whole report.

22 Q So it is very important what is written on the  
23 report so they can make an evaluation to approve it or  
24 disapprove it; isn't that correct?

25 A Yes.

26 Q At the bottom of the same page, page three, and  
27 there's -- contains a statement. You mentioned that -- you  
28 mention there and, quote, unquote, that I had said, "The

1           reason why I put my hand on her was to get her out of my  
2           house."

3           A     Correct.

4           Q     That's what you wrote?

5           A     That's what I heard.

6           Q     Do you remember any conversation about drawing to  
7           your attention the time of day, which was near midnight, was  
8           it -- do you recall any conversation about that?

9           A     Yes. I do.

10          Q     Do you also or don't you remember a conversation  
11          about a forceful entry by pushing the door on my face?

12          A     No. I don't.

13          Q     Do you remember a discussion or my conversation  
14          with you that she was pulling from me clothing that didn't  
15          belong to her?

16          A     No. I don't.

17          Q     If you had been told all of those, would you have  
18          written it on the report?

19          A     Yes.

20          Q     And you don't remember that conversation?

21          A     No, sir.

22          Q     How did you know that your partner knocked on my  
23          door?

24          A     Because I can see him at your door where I was  
25          standing. I could see -- visually, I can see him in front  
26          of your door.

27          Q     So --

28          A     When I was in the alley.

1 Q And the victim, alleged victim, told you that she  
2 fell on the ground while attempting -- while attempting to  
3 wake up the children?

4 A The victim told me that you pulled her hair from  
5 behind, which made her fall down to the ground.

6 Q While she was attempting to wake up the children?

7 A Correct.

8 Q Thank you.

9 The report was that there was a woman screaming in  
10 the alley. Did you ever ascertain what kind of words were  
11 being uttered by the victim, alleged victim?

12 A No. Our radio call just -- this would -- all they  
13 stated was "screaming woman in the rear alley."

14 Q Is it still your testimony that you don't remember  
15 my telling you about the forced entry of the door hitting me  
16 on the face?

17 A No, sir, I don't remember that.

18 MR. GARCIA: No further questions.

19  
20 REDIRECT EXAMINATION

21  
22 Q BY MS. DUPERON: The wound that you saw, the  
23 scraping on her elbow, could you determine if it was fresh  
24 or not?

25 A It was fresh, yes. I could determine that because  
26 it had fresh blood on the elbow on the scraping.

27 MS. DUPERON: Thank you.

28 MR. GARCIA: It's --

1 MS. DUPERON: No further questions.

2 THE COURT: Yes.

3

4 RE CROSS-EXAMINATION

5

6 Q BY MR. GARCIA: Is it your understanding that if  
7 there is a prior arrest, that you can list that as a history  
8 of domestic abuse?

9 A Well, any prior arrest of the -- we have to --  
10 that's by our watch commander, we have to put it on the  
11 report.

12 Q It gets listed or you would feel comfortable if you  
13 did -- you would feel comfortable listing prior domestic  
14 abuse?

15 A If you have prior -- well, yes, we have to list  
16 them.

17 Q Well, will it also show evidence of prior  
18 allegations of spousal abuse?

19 A I believe it's only prior convictions that you had.

20 Q I guess what I'm trying to get at, if someone  
21 reports you of such, does that make you guilty of such?

22 A No. You're not proven guilty unless you're proven  
23 guilty in court. Just the reporting doesn't mean you're  
24 guilty.

25 Q So if I were to go to your supervisor and report  
26 that you didn't write a good report, would that be believed  
27 that you are not writing good reports?

28 MS. DUPERON: Objection, calls for speculation.

1 THE COURT: Sustained.

2 Q BY MR. GARCIA: Could you also say that a spousal  
3 -- I'm sorry, a domestic abuse report is just history of  
4 making allegations?

5 MS. DUPERON: Objection. It's confusing.

6 MR. GARCIA: Well, Your Honor --

7 THE COURT: The objection will be sustained.

8 Do you care to rephrase?

9 MR. GARCIA: I'll rephrase.

10 Q BY MR. GARCIA: Let me agree that making a report  
11 of spousal abuse may constitute history of domestic abuse,  
12 while at the same time it's a history of reporting abuse.  
13 Would you agree?

14 A Yes.

15 MR. GARCIA: Thank you, no further questions.

16 THE COURT: Ms. Duperon?

17

18 FURTHER REDIRECT EXAMINATION

19

20 Q BY MS. DUPERON: In your report did you note there  
21 was a prior arrest of this defendant for spousal abuse?

22 A Yes.

23 MS. DUPERON: Thank you.

24

25 FURTHER RECROSS-EXAMINATION

26

27 Q BY MR. GARCIA: Is an arrest indication of guilt?

28 A If you're convicted in court --

1 Q Excuse me, just the arrest.

2 MS. DUPERON: Objection. Calls for a legal  
3 conclusion.

4 MR. GARCIA: I believe she can answer.

5 THE COURT: Mr. Garcia, what you believe she can  
6 believe about whether she can answer is what you believe.  
7 The determination as to what she can answer is for me.

8 The question again?

9 Q BY MR. GARCIA: Is an arrest, by itself, an  
10 indication of guilt?

11 THE WITNESS: Do I answer?

12 THE COURT: Yes.

13 THE WITNESS: No.

14 MR. GARCIA: Thank you. No further questions.

15 MS. DUPERON: People call Off. Harden.  
16

17 BRIAN HARDEN  
18

19 called as a witness for the People, was duly sworn and  
20 testified as follows:

21 THE CLERK: You do solemnly swear that the  
22 testimony that you shall give in the cause now pending  
23 before this Court shall be the truth, the whole truth and  
24 nothing but the truth, so help you God?

25 THE WITNESS: Yes, ma'am.

26 THE CLERK: Please be seated.

27 State your full name and spell your last name.

28 THE WITNESS: First name is Brian Harden;



1 B-r-i-a-n, last name H-a-r-d-e-n.  
2

3 DIRECT EXAMINATION  
4

5 Q BY MS. DUPERON: Good afternoon.

6 A How are you?

7 Q Fine. For whom are you employed?

8 A Employed with the Los Angeles Police Department.

9 Q How long have you been so employed?

10 A Approximately two years.

11 Q And close to midnight on August 21, 2000, did you  
12 go to 3535 South Sepulveda Boulevard?

13 A Yes. I did.

14 Q And why did you go there?

15 A We received a radio call of a screaming woman down  
16 in the rear alley.

17 Q And what did you see when you got there?

18 A Upon the arrival, we entered the rear alley, exited  
19 our police vehicle, and I observed a female standing next to  
20 a vehicle crying, and two other people standing next to her  
21 next to the vehicle along with the woman who was crying.

22 Q Did you see any other adults in the area close --  
23 you know, any other adults that looked like they knew what  
24 was going on at all?

25 A No, ma'am.

26 Q Did you see any other adults in the area at all?

27 A During the time when I was approaching the woman  
28 that was crying along with the two people standing next to

1 her?

2 Q Yes.

3 A No. That's all I saw, was just those -- just the  
4 people in the alley at that time.

5 Q Did you say anything to those three adults?

6 A I don't believe I did. I can't recall at this  
7 time.

8 Q What was your -- what was your plan? How did you  
9 and your -- were you with a partner?

10 A Yes.

11 Q How did you and your partner proceed?

12 A At that time me and my partner approached the woman  
13 who was crying and determined that she was the woman who was  
14 screaming in the alley, and the people that were standing  
15 next to her were the actual people that phoned the police,  
16 had called 911, were standing by with her to comfort her  
17 until the police arrived.

18 She then advised -- the screaming woman, being the  
19 victim, then advised me and my partner she had a dispute  
20 with, I believe, her ex-husband. At that time we determined  
21 this is possibly a domestic violence incident.

22 So then at that time -- another unit was backing on  
23 this call because it's a high priority call. You usually  
24 get other units to respond with you just in case you have  
25 officers that need other assistance.

26 The other unit arrived. Me and that unit  
27 determined that we will go and approach the location while  
28 my partner stayed with the victim.

1           Q     Did you examine the victim at any time frame within  
2 this time that you're talking about?

3           A     No, ma'am.

4           Q     Where did you and the backup go?

5           A     We then -- me and two other officers proceeded to  
6 door-knock the address that was given to us by the victim.  
7 At that time, we knocked on the door, and the gentleman  
8 sitting down to your left in the white shirt opened the  
9 door.

10          Q     Indicating the defendant.

11                Yes. So then what happened?

12          A     From that time, we then entered the location, and I  
13 then stood with the defendant as the other two officers  
14 secured the location, the -- checked the house to make sure  
15 there is nothing that would -- I mean, nobody else was hurt  
16 just to secure the location.

17                Once the other officers secured the location, we  
18 then brought the defendant outside and began to talk to him  
19 to find out actually what happened that night and what took  
20 place.

21          Q     When you knocked on the door, you didn't tell him  
22 anything, you just walked into his house?

23          A     When we knocked on the door, we identified  
24 ourselves as police officers.

25          Q     Did you say why you were there?

26          A     We explained to him there was a woman in the alley  
27 and she -- and somebody called 911. The woman directed us  
28 to his apartment and explained to us that we would find the

1 defendant in the apartment.

2 Q And he let you in or did you tell him you had to  
3 come in?

4 A I can't remember word for word, but for policy and  
5 procedure, when we have a high priority call like that, we  
6 need to go inside the location to make sure there is nobody  
7 else down or injured, and that's part of our policy, to go  
8 inside the apartment just to make sure. Just because there  
9 is one victim doesn't mean there might not be a second  
10 victim.

11 Q Did he say anything to you at that time when you  
12 knocked on the door and told him why you were there and why  
13 you had to come in and you came in? Did he say anything to  
14 you throughout this time that you were all in his apartment?

15 A I don't recall him saying anything out of the  
16 ordinary.

17 Q When you got him, what did you do after that? Did  
18 you tell him he was under arrest or did you ask him to step  
19 outside?

20 A No. We asked him to come outside so we could talk  
21 and find out why he and the woman had an altercation as far  
22 as what the problem was, why she was -- why the police were  
23 responding to a screaming woman down in the alley, and  
24 that's when we began to talk with the defendant.

25 Q Do you remember what you asked him?

26 A Well, I asked the defendant what his relationship  
27 was to the victim. He advised he was the ex-husband. I  
28 asked him why -- I asked him pretty much to explain to me

1 why she is here, and why, you know, why would we be called  
2 out for a screaming woman.

3 He explained she is an ex-wife, they have two  
4 children in common and that he was baby-sitting two  
5 children, and that she -- she had already made arrangements  
6 for her to come back and pick up the kids, and he explained  
7 that the kids, they were asleep at that time, and him and  
8 the victim got into an argument about the children being  
9 asleep. He didn't want the children to be awakened, didn't  
10 want the victim to take the children because they were  
11 sleeping. He preferred the children to sleep there. That's  
12 what the argument was about. That's the story he had given  
13 me, and then at that time my partner -- me and her got  
14 together, and we then discussed both partners' stories. I  
15 gave her the story I received from the defendant, and she  
16 gave me the story she received from the victim.

17 Q What did you determine?

18 A At that time we determined we had a domestic  
19 violence incident, and that at that point the defendant was  
20 a primary aggressor, and he was placed under arrest for  
21 273.5 which is spousal abuse.

22 Q Did you ever examine the victim?

23 A I don't believe I did so. I don't believe -- I  
24 know my partner did now.

25 Q Once you placed him under arrest, what did you do?

26 A We then locked and secured his residence for him  
27 and transported him back to Pacific Station where he was  
28 booked.

1           Q     In transporting him, what -- did he ever say  
2 anything to you in the car?

3           A     During the time in the car he had spontaneously  
4 stated that the reason why he put his hands on the victim  
5 was to get her out of the house.

6           Q     Did you tell him anything --

7           A     No, not --

8           Q     -- when you said that?

9           A     No. We continued to proceed to the station.

10          Q     When you left, where was the victim?

11          A     When we left, the victim was still in the alley,  
12 but she had the children inside the vehicle with her, and  
13 soon as we left -- I believe she was just waiting for us to  
14 pull out because we had parked behind her vehicle.

15                 So there was -- I believe there was another exit  
16 for her to go the same way that we pulled in, so I believe  
17 soon after we left, she pulled off.

18                 MS. DUPERON: Thank you.

19  
20                         CROSS-EXAMINATION

21  
22          Q     BY MR. GARCIA: Officer Harden, you -- once you get  
23 to Pacific Division, you do have to type a report; isn't  
24 that true?

25          A     Yes, sir.

26          Q     That report has to meet certain criteria to be  
27 approved for booking; isn't that so?

28          A     Yes, sir.

1           Q     When you came to this call, did anybody tell you  
2 what kind of words were being uttered by the screaming woman  
3 in the alley?

4           A     No, sir.

5           Q     And you -- is your testimony that you came to my  
6 door knocking?

7           A     Yes, sir.

8           Q     You don't recall meeting me outside of the  
9 apartment, do you?

10          A     No, not at all.

11          Q     Do you remember holding in your hand a flashlight?

12          A     Yes.

13          Q     Do you remember at all using it on my face?

14          A     During the time of the incident, at that hour I  
15 always carry my flashlight, and I always use my flashlight  
16 to identify what I need to see at night. So as far as being  
17 in your face, I don't recall if I put it in your face or  
18 not, but I always have my flashlight and I use to it see at  
19 night.

20          Q     You don't recall a conversation with me where I  
21 said that the door had hit me on my lower lip and you lifted  
22 your flashlight off my face to see the face?

23          A     No. I do not recall that conversation.

24          Q     You don't recall the conversation when I was  
25 telling you that it was a forceful entry close to midnight  
26 by the victim?

27          A     No, sir.

28          Q     And you don't recall the conversation when I said

1 that she was struggling to take up some possessions that  
2 were not hers from the apartment?

3 A Yes, I recall that -- I recall that statement.  
4 That sounds familiar.

5 Q And do you recall a conversation where you are  
6 saying, "Well, do you want to press charges against her?"

7 A No, sir.

8 Q You don't remember a conversation when you said,  
9 "If you do so, we would call the County for protective  
10 services and your children would be taken away by the  
11 County"?

12 A No, sir.

13 Q You don't remember that conversation?

14 A No, sir.

15 Q If the conversation occurred, you would be  
16 obligated to put it in the report, would you not?

17 A No, sir. Not at all.

18 Q So you do recall at least the one conversation  
19 about the victim's attempt to take belongings from the house  
20 that were not hers?

21 A Right.

22 Q In which page of the report is that?

23 A That's not in the report, sir. I don't believe so.  
24 I don't believe the report in front of me, but -- from my  
25 recollection, I don't believe that's in the report.

26 Q Thank you. Do you have a copy that is called  
27 "disclosure statement" in your report?

28 A Yes, disclosures go with all reports.



1           Q     If I read it to you -- read it back to you, would  
2 you recognize it as being part of the report?

3           A     The disclosure statement?

4           Q     Just one item from the report.

5           A     If I can have the report in front of me so I could  
6 identify what you're reading, that would help me out.

7           Q     Let me read one part and let's see if you can  
8 remember.

9                     Number seven says, "Any known fact which may  
10 indicate innocence of this crime or which might be  
11 substantial material evidence favorable to any  
12 suspect or which might damage the credibility of a  
13 prosecution witness or result in a lesser court  
14 sentence is mentioned in reference report."

15           It is saying that -- do you recognize the  
16 paragraph?

17           A     The disclosure statement is something that I don't  
18 memorize and it's a sheet of paper that we always use for  
19 reports. I do not recall that word for word. If that's  
20 what it says, then that's what it says as an official  
21 document.

22           Q     Do you remember signing it?

23           A     Yes.

24           Q     And you considered the taking of liberty a very  
25 serious --

26           A     I'm sorry --

27           Q     Do you consider the taking of liberty of a person  
28 very serious?

1 A Taking the liberty of a person very serious?

2 Q Even if temporary.

3 A Yes.

4 Q Is it still your testimony that you don't remember  
5 the pushing by the victim of the door on my face and  
6 forceful entry into the apartment?

7 A No, sir.

8 MR. GARCIA: No further questions.

9 THE COURT: Ms. Duperon?

10

11 REDIRECT EXAMINATION

12

13 Q BY MS. DUPERON: Who wrote the police report?

14 A Officer Luledzhyan.

15 Q In your training, are you taught to put every  
16 single thing that happens at a location in the police  
17 report?

18 A Not every single thing. You need to put the  
19 elements of the crime inside the report in order to proceed  
20 with a booking approval by your watch commander. If you  
21 don't have the elements of the crime, therefore, you don't  
22 have the crime.

23 Q What was the defendant's demeanor when you came  
24 into his apartment that night telling him you were there  
25 because of the woman crying outside, screaming -- a report  
26 that a woman was screaming?

27 A He seemed to be okay. I wouldn't say he was upset.  
28 From my experience, from witnessing people after having an

1 argument, he seemed to be okay and somewhat cooperative.

2 MS. DUPERON: Thank you. No further questions.

3 THE COURT: Yes?

4  
5 RECROSS-EXAMINATION

6  
7 Q BY MR. GARCIA: The People just asked you now  
8 whether everything had to be put on the report, and you  
9 mentioned that only the elements of the crime.

10 If you were to remember the conversation about the  
11 forceful entry at midnight and the taking of possessions  
12 that did not belong to her, would that have made a  
13 difference to the police report as to the approval of the  
14 booking?

15 MS. DUPERON: Objection, compound.

16 THE COURT: Overruled.

17 THE WITNESS: When we write reports, we put in what  
18 we feel is important. In order to put in the report -- in  
19 order for the elements to meet the criteria for a crime --  
20 we were there for a domestic violence incident, which is  
21 what we got out of that, as far as my recollection. As far  
22 as the conversation, if I felt that conversation was  
23 important enough, then it would go down as statements.

24 But, however, you have to also remember that if  
25 you're not Mirandized, if you're not read your rights, then  
26 anything that you say will not be written in the report  
27 unless it's under "Defendant's Statements."

28 Q BY MR. GARCIA: Miranda rights notwithstanding, if

1 the suspect tells you those three things that I mentioned to  
2 you just now, the information that the person came to my  
3 bedroom at midnight waking us all up, trying to take stuff  
4 that didn't belong to her, would you feel compelled to write  
5 all that in the report?

6 MS. DUPERON: Objection. Calls for speculation.

7 THE COURT: Overruled.

8 THE WITNESS: You can put that in the report under  
9 "Defendant's Statements." That's just how it goes, but  
10 there is no guidelines as far as "You Shall put That in  
11 There." You can if you feel that information is -- needs to  
12 be put in there.

13 Q BY MR. GARCIA: So it's your option?

14 A Yes. It's optional.

15 Q You are the one that decides what to put in the  
16 report and what not to put in the report?

17 MS. DUPERON: Objection. Argumentative.

18 THE COURT: Overruled.

19 THE WITNESS: Me and my partner.

20 MR. GARCIA: No further questions.

21 THE COURT: Ms. Duperon?

22 MS. DUPERON: No, I have nothing else.

23 THE COURT: Ms. Duperon?

24 MS. DUPERON: People rest, subject to rebuttal.

25 MR. GARCIA: I have a few witnesses. May we come  
26 back with the other witnesses tomorrow?

27 THE COURT: Yes.

28 //

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(Unrelated proceedings held in  
open court but not transcribed within.)

(The Court adjourned at 4:35 p.m.  
Until the following day, Wednesday,  
10-25-00 at 9:00 a.m.)

1 CASE NUMBER: OWL02904  
2 CASE NAME: PEO. vs. GARCIA  
3 LOS ANGELES, CALIFORNIA WED, 10-25-00  
4 DIV. 145 HON. KEITH L. GRONEMAN  
5 REPORTER: STELLA A. CORDOVA, CSR #7538  
6 TIME: 9:20 AM  
7 APPEARANCES: (Appearances as heretofore stated.)  
8  
9 THE COURT: Good morning, ladies and gentlemen.  
10 Mr. Garcia?  
11 MR. GARCIA: Yes, I call my son, Miguel Alexander  
12 Centeno, to the stand.  
13  
14 MIGUEL ALEX CENTENO  
15  
16 called as a witness for the People, was duly sworn and  
17 testified as follows:  
18 THE CLERK: You do solemnly swear that the  
19 testimony that you shall give in the cause now pending  
20 before this court shall be the truth, the whole truth and  
21 nothing but the truth, so help you God?  
22 THE WITNESS: Yeah.  
23 THE CLERK: Please be seated. State your full name  
24 and spell your last name.  
25 THE WITNESS: Can I give my middle name, too?  
26 THE CLERK: Okay.  
27 THE WITNESS: Miguel Alex Centeno; M-i-g-u-e-l.  
28 {And my last name is C-e-n-t-e-n-o.

1 THE COURT: Before we begin, your father, Mr.  
2 Garcia, will address as you as Alex, so I will do the same.

3 It will be necessary for you to speak clearly into  
4 the microphone so that the jury can hear everything you have  
5 to say.

6 THE WITNESS: Okay.

7  
8 DIRECT EXAMINATION

9  
10 Q BY MR. GARCIA: Are you nervous?

11 A Yeah.

12 Q Me, too.

13 What is your position at your school?

14 A Student body president.

15 Q Remember that -- on Monday, when your mother and I  
16 had an incident that night, remember that morning why I had  
17 to pick you all -- you, Linda and Emma from your home?

18 A Yeah.

19 Q Wasn't it that the child care center was closed?

20 A Was it closed?

21 Q Well, the question is -- let me rephrase the  
22 question.

23 On that Monday when I picked you up, why were you  
24 not at the child care center?

25 A Oh, because we were with you.

26 Q I'm sorry?

27 A We were with you.

28 Q I picked you up around, between 9:00 and 10:00;

1       isn't that correct?

2           A     Yes.

3           Q     And you do have another sister by the name of Emma

4       Gibson; correct?

5           A     Yeah.

6           Q     How old is she?

7           A     She's just turned three.

8           Q     And when I picked you up, I also picked up Linda;

9       is that correct?

10          A     Yes.

11          Q     So I picked up Emma, Linda, and yourself?

12          A     Yeah.

13          Q     Before 10 o'clock?

14          A     Yeah.

15          Q     From there, where did we go, if you remember?

16          A     We went to -- we went to McDonald's.

17          Q     And we had breakfast there?

18          A     Yes.

19          Q     Where did we go after that?

20          A     We went to my sister's child care center.

21          Q     Located in what city?

22          A     Redondo Beach.

23          Q     Before we dropped Emma at the child care center,

24       did we have to purchase anything for her?

25          A     Yeah. We bought her lunch.

26          Q     As we usually do; correct?

27          A     Yes.

28          Q     So this was not the first time that I dropped Emma



1 at the child care center; correct?

2 A No.

3 Q In fact, I've done it several times?

4 A Yeah.

5 Q And she's not my daughter?

6 A No.

7 Q And I believe your mother trusts me to take care of

8 Emma for those mornings?

9 A Yeah.

10 Q In fact, I have also picked up Emma from the child

11 care center several times; correct?

12 A Yeah.

13 Q In fact, I am authorized off -- are you familiar

14 with the emergency card at the school?

15 A Uh-huh.

16 MS. DUPERON: Objection. Irrelevant.

17 THE COURT: Sustained.

18 Q BY MR. GARCIA: Okay. To your understanding, I'm

19 authorized to pick up Emma?

20 A Yes.

21 MS. DUPERON: Objection. Irrelevant.

22 THE COURT: Sustained.

23 Q BY MR. GARCIA: I've picked up Emma from the child

24 care center?

25 MS. DUPERON: Irrelevant.

26 THE COURT: Sustained.

27 Q BY MR. GARCIA: Okay.

28 After the child care center, we went home; correct?

1           A     Yes.

2           Q     At the end of the day, do you remember, sometime  
3 around 7:00 -- or somewhere around 7:00 to 9:00, our  
4 discussion for me that you shouldn't go to sleep because I  
5 was going to take you to your mother's?

6           A     Yeah.

7           Q     And around 10 o'clock or so when you and Linda  
8 started feeling sleepy and I said, "It's okay, go to sleep";  
9 is that correct?

10          A     Yes.

11          Q     And after you went to sleep around 10 o'clock on  
12 that day, what do you remember next?

13          A     When I woke up?

14          Q     Yes.

15          A     I remember my mom grabbing clothes from the floor,  
16 and I think I had my board shorts on.

17          Q     Do you -- are these the ones that you were wearing  
18 (indicating)?

19          A     Yeah.

20          Q     Okay, go ahead.

21          A     And you wanted the board -- you gave me a pair of  
22 pants to change, and once I came out of the bathroom, I  
23 handed you the board shorts, and then my mother put it under  
24 her armpit, I think, and then you were tugging it and it was  
25 practically a game of tug-of-war.

26          Q     Correct. And as a result of that tugging, did you  
27 see your mother fall?

28          A     I didn't see her fall. I was in the hallway.

1 Q Did you eventually see her on the ground?

2 A Yeah.

3 Q How many steps did you have to take from the time

4 -- from the place where were you standing to see her on the

5 ground?

6 A About two.

7 Q And after you seen her on the floor, did I ever

8 have any contact, physical contact with her?

9 A No. Not that I remember.

10 Q After you seen her on the floor, if you remember,

11 what did I do next?

12 A You told me and my sister Linda to get out of the

13 house.

14 Q And I opened the door?

15 A Yeah.

16 Q And then after that you went to the car; correct?

17 A Yeah.

18 Q And your mom was following you behind?

19 A Yes.

20 Q How many times did your mom fall?

21 A Once.

22 Q Do you remember how long ago we had purchased

23 these?

24 A No, but in the summer.

25 Q Yeah.

26 Did -- wasn't it for the trip to Palm Springs?

27 A Yeah, Palm Springs and Mexico.

28 Q Exactly.

1           After Palm Springs we were going to Mexico;  
2 correct?

3           A     Yeah.

4           Q     And we had gone to Ralph's to pay for this, to  
5 purchase this?

6           A     Yes.

7           Q     When you lived in England, were you ever in  
8 a shelter --

9           MS. DUPERON:  Objection.

10          THE COURT:  Sustained.

11          Q     BY MR. GARCIA:  -- in a shelter room?

12          No further questions.

13          THE COURT:  Ms. Duperon?

14          MR. GARCIA:  May I get one more question?

15          THE COURT:  Yes.

16          Q     BY MR. GARCIA:  Alex, would you be willing to lie  
17 for me, being my son?

18          A     No.

19          MR. GARCIA:  Thank you.

20  
21                           CROSS-EXAMINATION

22  
23          Q     BY MS. DUPERON:  Did you call your mom in the last  
24 couple of days and ask her not to testify against your dad?

25          MR. GARCIA:  Objection.  Relevancy.

26          THE COURT:  Overruled.

27          THE WITNESS:  What was the question?

28          Q     BY MS. DUPERON:  Did you call your mom in the last

1 couple of days and ask her not to testify against your dad?

2 A No.

3 Q Did you call her and ask her not to come to court?

4 A No. I didn't know about the court situation.

5 Q When did you first know about the court situation?

6 A About two -- wait, about yesterday, I think.

7 Q That was the first time that you knew you were

8 coming?

9 A Yeah.

10 Q What woke you up the night your father was

11 questioning you about -- what woke you up? Do you know?

12 A I can't -- I don't recall, but I think it was the

13 argument.

14 Q You heard voices?

15 A Yeah. I don't know which one.

16 Q When you woke up and you saw your mom picking up

17 clothes, did you hear your dad tell her to leave?

18 A I was sort of sleepwalking.

19 Q You were sleepy, so you don't remember what was

20 said?

21 A I don't exactly remember what was said.

22 Q And that's fine. The only reason you're here is we

23 want to find out what you saw and what you heard; okay?

24 A Okay.

25 Q All right. When you got up and you say that you

26 were walking, did you have any direction that you recall you

27 were going in? Were you going to the bathroom --

28 A Oh, I was given a pair of pants to change into in

1 the bathroom.

2 Q By whom?

3 A By my father.

4 Q And were you told why?

5 A I don't think so.

6 Q When you went to sleep that night, where did you

7 sleep?

8 A I slept on the -- I think it was the bottom bunk of

9 -- me and my sister share a bunk. I think I was on the

10 bottom bunk.

11 Q Where was Linda?

12 A Top bunk.

13 Q The two of you went to sleep. Your dad didn't go

14 to sleep, too?

15 A I think he did.

16 Q But did you see him do it?

17 A No.

18 Q You don't know where he slept that night or --

19 where he went to sleep?

20 A He usually sleeps across the room, so . . .

21 Q But you don't know that night?

22 A No.

23 Q You were in the hall and you didn't see how it was

24 your mother fell?

25 A No. I just heard a thunk.

26 Q Then you came out of the hallway to see?

27 A Yeah, when she was on the floor.

28 Q When you saw her on the floor?

1           A     Yes.

2           Q     Was she crying?

3           A     She was screaming. I'm not too sure if she was

4 crying.

5           Q     Did that scare you a little?

6           A     Yeah. I was frightened and confused.

7           Q     Did you know how your mother ended up on the floor

8 at that time?

9           MR. GARCIA: Asked and answered.

10          THE COURT: Overruled.

11          THE WITNESS: No.

12          Q     BY MS. DUPERON: You don't know what they were

13 arguing about? The whole time before you heard the thunk

14 and saw her on the floor, you don't know what they were

15 arguing about?

16          A     No. I just remember that they were -- my dad was

17 trying to get the shorts out of my mom's arm.

18          Q     Who are you living with this week?

19          A     This week I am with my father.

20          Q     And who are you living with next week?

21          A     Next week as in weekend or weekday?

22          Q     Weekday.

23          A     My mother.

24          Q     Most of the school days during the month who do you

25 live with?

26          A     My mom.

27          Q     When you were outside in the car -- I mean, when

28 you went outside, did you see the police outside?

1           A     Yes.

2           Q     Did you see your mom talking to the police at any  
3     time?

4           A     Yeah.

5           Q     Could you see her face when she was talking to the  
6     police?

7           A     I could see the side of her face.

8           Q     Do you know if she was crying when she was outside?

9           A     No.

10          Q     You don't know?

11          A     I think she was.

12          Q     You think she was?

13          A     Yes.

14          Q     When you woke up, do you recall, were your parents  
15     arguing from the time you woke up until you saw your mother  
16     on the floor?

17          A     Yeah.

18          Q     At any time during that time did you hear your dad  
19     tell your mom, "Get out"?

20          A     I just -- I don't -- no. I just heard, like, oh --  
21     I didn't really hear a conversation.

22          Q     After your mom was on the floor, you say your dad  
23     told you and Linda to get out of the house?

24          A     Yeah.

25          Q     You heard that?

26          A     Yeah.

27          Q     How many beds are there in that bedroom you're  
28     sleeping in?



1           A     Three.

2           Q     Two bunk beds, and describe the other bed.

3           A     A single bed.

4           Q     When you woke up, where was Linda?

5           A     I think she was already awake and to the left of

6           me, I think.

7           Q     She was on the bunk bed with you, sitting on the

8           bunk bed with you?

9           A     No. She was standing up and I was standing up,

10          when I got up.

11          Q     She was already standing up --

12          A     I think. I'm pretty sure.

13          Q     -- when you woke up?

14          A     Yes. I think so.

15          Q     Did you see her face?

16          A     Yeah.

17          Q     How did she look to you? Did she look calm or did

18          she look --

19          A     She looked confused and sort of frightened.

20               MR. GARCIA: Clarification as to who "she" means.

21          Is it Linda or Mrs. Gibson?

22          Q     BY MS. DUPERON: Is it Linda that you were

23          referring to when you say "she looked confused and a little

24          frightened"?

25          A     Oh, Linda.

26          Q     Do you remember what was on the floor when you got

27          up and were still in the bedroom?

28          A     No. Maybe some clothes.

1 Q Some clothes?

2 A Maybe.

3 Q Do you remember when your parents were still  
4 married?

5 A Yeah.

6 Q Do you ever remember your father pushing your  
7 mother when they were still married?

8 A I remember there was a lot of arguing and there was  
9 a lot of physical contact between both of them, I think --  
10 not a lot, but there was some.

11 Q Do you ever remember seeing your father pushing  
12 your mother?

13 A No.

14 Q In that physical contact, what is it that you  
15 recall, please?

16 A Well, I recall some -- well, just some parts of  
17 fights and arguments.

18 I remember my mother having a wooden stick or a bat  
19 or something like that, and then swinging it at my father  
20 but missing.

21 Q Uh-huh.

22 A And that -- oh, this's the most -- this's the most  
23 -- that's what I recall.

24 Q Okay. Do -- does what you remember -- do you  
25 remember being frightened at all at that time when they were  
26 fighting?

27 A Yeah, they -- I was behind my mother.

28 Q Were you about four or five years old?

1           A     I was about four.

2           Q     Didn't you tell your mom that you didn't want to  
3 come to court because you didn't want to get involved?

4           A     Yeah. I told her that months ago.

5           MS. DUPERON: Thank you very much for coming. I  
6 have no further questions.

7           THE COURT: Mr. Garcia?

8           MR. GARCIA: No further questions.

9           THE COURT: You may step down. You may leave from  
10 there.

11          Mr. Garcia?

12          MR. GARCIA: I call myself to the stand, Your  
13 Honor.

14          THE COURT: I'll see you at side bar.

15

16          (Bench conference held off the record.)

17

18          (The following proceedings resumed in  
19 open court in the presence of the jury:)

20

21                               MIGUEL GARCIA

22

23          the defendant, called as a witness on his own behalf, was  
24 duly sworn and testified as follows:

25               THE CLERK: You do solemnly swear that the  
26 testimony that you shall give in the cause now pending  
27 before this court shall be the truth, the whole truth and  
28 nothing but the truth, so help you God?

1 THE DEFENDANT: I do.

2 THE CLERK: State your full name and spell your  
3 last name.

4 THE WITNESS: Miguel Centeno-Garcia.

5 THE COURT: Now, when you're testifying, it's not  
6 going to make any sense to ask yourself questions, then  
7 answer the questions, so under these circumstances, we will  
8 permit essentially a narrative form of the testimony, as I  
9 say, subject to any appropriate -- any objections, for that  
10 matter, by the prosecution.

11 THE DEFENDANT: Yes, thank you.

12 THE COURT: You may proceed.

13

14 DIRECT EXAMINATION

15

16 THE DEFENDANT: A few weeks before the August 21  
17 incident, we -- Carmen Gibson and myself -- had been trying  
18 to work out an agreement so I could take my children to  
19 Mexico to visit my parents since they haven't seen them for  
20 the last four years, and it was very clear that Mrs. Gibson  
21 gave me her strong objections to taking that trip.

22 And just a few days before the August 21 date we  
23 had a conversation where she threatened that she was going  
24 to not be, as she mentioned it, "I'm not going to be folding  
25 my arms and stay without any action and allow you to take  
26 them to Mexico."

27 Subsequent to that threat is when we arrived to the  
28 August 21st date. On that day, I got a call from Linda

1 saying that the child care center had been closed. It was  
2 the end of the summer for the child care center.

3 She asked me if I could pick them up. That kind of  
4 communication was common --

5 MS. DUPERON: Objection. Hearsay. Motion to  
6 strike. Linda's statements.

7 THE COURT: Sustained.

8 The motion is granted. The jury will disregard  
9 that testimony.

10 THE DEFENDANT: I got a call from my children to  
11 pick them up. I proceeded to come and pick them up from  
12 home around between 9:00 and 10:00, and after that, we went  
13 to McDonald's and we had breakfast, and I allowed the  
14 children to play for an hour or so before taking Emma --  
15 little Emma to the child care center where she stays.

16 After that -- then we did purchase lunch, as we  
17 always do for little Emma, and after that we went home and  
18 stayed together, Linda, Alex and myself, and they were  
19 reading books.

20 I also -- well, to come to the end of the day,  
21 about 7:00 p.m. or so I got a call from Carmen demanding  
22 that I take the children to a location, and she was  
23 demanding that I take an address and a phone number and to  
24 proceed to take them right away.

25 I managed to voice an objection, and I said, "Look,  
26 I have a client -- " I'm a paralegal. I said, "I got a  
27 client that is coming to visit me," and mentioned that I had  
28 to sit and wait for that person because that person was

1 going to bring money, and I mentioned I needed that money  
2 for my trip to Mexico. As soon as I mentioned that trip to  
3 Mexico, she started with profanities and hung up the phone.

4 Later on I got another call from another person who  
5 was asking me how could we work out the delivery of the  
6 children, and I suggested as soon as they get home from the  
7 location where she was calling me, that I would bring the  
8 children to her, that conversation, and I assume that it was  
9 going to take an hour or so for the meeting, but by -- close  
10 to ten o'clock there was no call forthcoming, and the  
11 children were falling asleep, so I kind of gave them  
12 permission to go to bed, and Linda put on her pajama and  
13 Alex put on his swim trunks and -- that we had just  
14 purchased for the upcoming trip to Palm Springs on that  
15 weekend -- and so they went to sleep.

16 And later on I got a call from the same person who  
17 was trying to mediate between us. Both of us are from the  
18 same church, and this person was also from the church.

19 I explained that the children were asleep, that I  
20 had also fallen asleep, and that my car had a muffler  
21 problem, that late at night it was very noisy on the  
22 streets, and that I would also fear of being stopped after  
23 10:00 p.m. and that it was my custom not to drive after  
24 10:00 p.m. because of that problem.

25 At the same time I said, "If she insists, I'll  
26 bring the children back to her." I said, "I'll call you.  
27 Let me call her back." That call never came back either  
28 from Mrs. Gibson or this person. I fell asleep again.

1           Close to midnight, I hear this banging on the door  
2           very loud. I managed to get -- come out, and I opened the  
3           door just a couple of inches, two inches or so to see who it  
4           was because I had expected the other person also to make  
5           that trip since she offered to provide transportation, but  
6           to my surprise, it was neither the other person nor somebody  
7           else, it was Carmen Gibson who was there at the door. She  
8           said, "I want my children," and I said, "Well, the children  
9           are asleep," not meaning you cannot take them, but meaning,  
10          would you reconsider.

11           As soon as I -- or maybe even before I finish my  
12          sentence, I feel the banging of the door on my face and  
13          just, you know, saw stars to some extent. I feel this  
14          pushing of the door on my face and I back off and -- or was  
15          forced to back off. Then, in the semi-darkness I saw her  
16          going to -- straight to the bedroom. She was familiar with  
17          the outlay of my apartment, as she had been there visiting a  
18          few months ago.

19           She proceeds to go to the bedroom, and there I am.  
20          I stay in the living room what seemed to be a minute or two,  
21          just trying to make sense of the situation or ask myself  
22          what's going on.

23           So she goes to the bedroom and she wakes up Linda  
24          and she starts picking up clothes from the floor, stating,  
25          "Oh, here's what I have been looking for, there is this,  
26          there is that."

27           She starts piling those up under her right arm and  
28          engages Linda in waking-her-up efforts, talking to me and

1 asking her, you know, "Where are your clothes? Where are  
2 your clothes?"

3 Linda is just saying, "Mommy, I don't even know  
4 what is going on right now." I'm looking at that.

5 At the same time I see Alex waking up. I know he's  
6 got the swim trunks that we did -- both of us went to  
7 Ralph's to purchase for the trip to Palm Springs and the  
8 trip to Mexico.

9 So I hand Alex a pair of trunks, a pair of pants  
10 that I -- that belong to me or are mine. I motion to him to  
11 go to the bathroom. I follow him -- or take him to the  
12 bathroom. I just told him, "Change, change." I told him,  
13 "Just take your trunks off and change."

14 So I wait outside of the bathroom until Alex comes  
15 out. In the meantime, Mrs. Gibson and Linda are just coming  
16 out of the bedroom, and the bedroom and the bathroom are  
17 almost -- close in proximity.

18 As soon as Alex, my son, comes out of the bathroom,  
19 he hands me -- the swim trunks to me because I had asked him  
20 to do so. As soon as he hands it to me, then Mrs. Gibson  
21 sees them on my hand, pulls them from my hand, and proceeds  
22 to put it together with the other bunch of clothes that she  
23 had under her arms.

24 As we are in that corridor, I move about two steps  
25 into the entrance of the living room, and there is then that  
26 -- I proceeded to try to recoup the swim trunks or recover  
27 them, and I pulled them from her, from under her arm, and  
28 she makes the resisting motion (demonstrating) more like a



1 twist.

2 And right behind her there is a bamboo chair. She  
3 falls down to the ground. She screams for help. I get  
4 shocked or surprised about her screaming. Linda is behind  
5 me, Alex is behind me when I turn around.

6 I go to the door, I open the door, I tell the  
7 children, "Leave." Carmen leaves right behind them. She  
8 manages to stop at the -- in between the two buildings there  
9 is something that can be called an alley. She manages to  
10 start screaming from there, "Hypocrata, hypocrata," and  
11 making allegations that I'm not a true Christian, and that  
12 -- she started making those screams from the alley in a very  
13 loud manner that woke up many neighbors.

14 After that, I closed the door and just tried to --  
15 just started thinking for the next few minutes. Next time I  
16 hear the sirens and I see the lights of the police.

17 I opened my door. I come out and I wait right by  
18 the door. When the officer heard them -- the black male  
19 that was here yesterday -- I can't remember his last name --  
20 came out. I was already two steps outside of my door, and  
21 that's when I tell him the story he want to know, and I tell  
22 him, "Look, this is what happened close to midnight -- " and  
23 on and on.

24 I just went through the forceful entry, that I had  
25 no -- I didn't give her permission to go enter, that she  
26 forcefully entered, that she hit the door on my face, that  
27 she was trying to take possession of stuff that we had  
28 purchased.

1           And after that, he -- after that, he took out his  
2 flashlight and he was observing my face because my lip was  
3 tingling. I felt tingling on my lip. He used the  
4 flashlight to point on my face to see if there was any --  
5 anyway, he pointed out, and then he started asking about the  
6 dynamics, "When were you supposed to deliver the children?  
7 When were you supposed to have them ready?"

8           Every time I came back to this story, "I got this  
9 call."

10          Then he just said, "No, I'm taking you in."

11          He arrested me. I spent four nights in County Jail  
12 -- I can't remember. That's the end of it.

13          THE COURT: Ms. Duperon?

14  
15                                   CROSS-EXAMINATION  
16

17          Q     BY MS. DUPERON: And you and Carmen had a lot of  
18 arguments about the children's clothes?

19          A     Yes.

20          Q     She would accuse you of not returning their clothes  
21 and you would accuse her of not returning their clothes?

22          A     Yes.

23          Q     And clothes cost a lot of money, don't they, to buy  
24 children's clothes?

25          A     Not mine.

26          Q     But you two argued about the fact that she sent  
27 them over to your house with certain clothes, the clothes  
28 did not come back, that was upsetting to her; true?

1           A     The argument part, but, yes, we had those  
2     conversations.

3           Q     And you were determined that she wasn't going to  
4     take those trunks home with her so -- because they might not  
5     be returned; isn't that true?

6           A     That is true.

7           Q     Because you bought them, so you were determined to  
8     keep them at your house?

9           A     That is true.

10          Q     But it's not about the money?

11          A     No. It was just --

12          Q     Okay, thank you.

13                 Now, on August 21 you told Julie DeSante (phonetic)  
14     she could pick up the kids from the apartment and take them  
15     to Carmen's?

16          A     Correct. She offered.

17          Q     And she's a mutual friend of yours and Carmen's;  
18     correct?

19          A     Correct.

20          Q     So isn't it true that you said Julie could pick  
21     them up because you were not taking them to Mexico the next  
22     day?

23          A     What was the question?

24          Q     Isn't it true that you said Julie could pick them  
25     up because you were not taking them to Mexico that next day?

26          A     Correct. We were leaving that weekend.

27          Q     You were angry with Carmen for coming to pick up  
28     the kids at that late hour?

1           A     Not at all. It actually helped.

2           Q     It actually helped you -- that's what you said?

3           A     Transportation-wise.

4           Q     So it's your testimony that you believed that

5 Carmen had the right to pick up the children? You weren't

6 denying that she had the right to pick up the children, were

7 you?

8           A     It's just the wisdom of picking that time of the

9 day that I'm objecting to.

10          Q     But it was just the wisdom. You weren't angry?

11          A     Not at all.

12          Q     So is it your testimony that you had every

13 intention of letting her into your apartment when she

14 knocked on the door, and you opened -- you opened the door a

15 couple of inches and you saw her?

16                 If she hadn't knocked on the door and you changed

17 your thought process, or whatever it was, it was your

18 intention of letting her in?

19          A     Certainly not. Given the choice of --

20          Q     Thank you.

21                 You said when she went straight to the bedroom, you

22 sat in the living room.

23                 How long did you sit in the living room?

24          A     I never sat in the living room.

25          Q     That's what you just testified to.

26          A     I stood.

27          Q     You stood in the living room, trying to determine

28 -- oh, okay.

1           Then you must have followed her in to see her  
2       picking up the clothes off the floor?

3           A     Correct.

4           Q     It made you angry that she was -- that she was  
5       angry about the clothes; is that it?

6           A     Not at all.

7           Q     So when you saw her picking up the clothes and  
8       Linda standing there, you were still calm, you were not  
9       upset at all?

10          A     No.

11          Q     Isn't it true that you found it very aggravating  
12       that she would come to your house and try to wake you up and  
13       try to take the children out after they had gone to sleep?

14          A     I questioned her wisdom.

15          Q     But it didn't make you angry?

16          A     Not necessarily, no.

17          Q     Isn't it true that you really didn't want Carmen to  
18       come and pick Alex and Linda up at that time?

19          A     Again, I questioned the wisdom of picking them up,  
20       waking them up that close to midnight.

21          Q     And you read the police report, didn't you?

22          A     I did.

23          Q     And your split lip -- was it split or bruised?

24          A     I saw it myself. I just felt it was tingling and  
25       oversized.

26          Q     From that, you saw stars? From that impact, you  
27       saw stars?

28          A     From the impact on my forehead, I felt I saw some

1       -- I didn't remember, but it was an impact on my face.

2           Q     And was there any redness to your forehead as a  
3       result of that impact?

4           A     I didn't see it myself. The police would have --  
5       he used the flashlight to see my face.

6           Q     That impact didn't make you angry?

7           A     No.

8           Q     So it's your testimony that your ex-wife pushes the  
9       door, hits it into your face, and causes you to see stars  
10      and your lip has some swelling, and that did not make you  
11      angry? Is that your testimony?

12          A     Yes. That's my testimony.

13          Q     You had told the police it had hit your head and  
14      hit your lip?

15          A     Yes.

16          Q     That's not mentioned in the police report, is it?

17          A     I wonder why.

18          Q     Hmmm . . .

19                Did you see the page in the police report that  
20      shows that head and body outlines of the victim and the  
21      suspect?

22          A     Yes.

23          Q     Did you see where the officer marked the victim's  
24      elbow as injured and --

25          A     I saw it.

26          Q     Did you notice no area was marked injured on the  
27      head or face of the suspect?

28          A     Being Mrs. Gibson?

1 Q The suspect, you.  
2 A I wonder why.  
3 Q You notice it wasn't marked?  
4 A It bothered me.  
5 Q You heard Off. Harden testify that you were  
6 cooperative?  
7 A Yes.  
8 Q Do you believe that Off. Harden had some prejudice  
9 against you?  
10 A Not necessarily; just not writing a report as it  
11 happened.  
12 Q Is your defense to this action some kind of  
13 self-defense?  
14 A No, not at all.  
15 Q Did you ever take a photograph of your split lip --  
16 A No.  
17 Q -- or your swollen lip?  
18 A No.  
19 Q Did you ever see any redness to your forehead?  
20 A No. I spent five days in jail and there were no  
21 mirrors.  
22 Q It's your testimony in grabbing these shorts out  
23 from under her arm, she was holding her arm so tightly that  
24 when she twisted away, she fell?  
25 A And the fact that the chair was behind her.  
26 Q Uh-huh.  
27 And did you see her fall?  
28 A I did see her fall.

1 Q Were you facing her when she fell?  
2 A I was facing her when she fell.  
3 Q And did you see what area of her body hit the floor  
4 first?  
5 A Her whole body, I would say.  
6 Q Did you see her elbow that was scraped and a little  
7 bloody?  
8 A No.  
9 Q So you have no way of knowing how that happened;  
10 true?  
11 A True.  
12 Q Is it your testimony that she fell over a chair?  
13 A Because of the chair being behind her.  
14 Q So it's your testimony this is all a  
15 misunderstanding and that you did not grab your wife by her  
16 arm because she was arguing with you about the clothes being  
17 on the floor, about where Linda was sleeping -- you did not  
18 do that? That's your testimony?  
19 A It's a compound question, I believe. Can you break  
20 it down, please.  
21 Q Is it your testimony -- you heard Carmen Gibson's  
22 testimony yesterday that you grabbed her by her arm,  
23 dragging her out of the bedroom because she was arguing with  
24 you or telling you about her clothes being on the floor, and  
25 she was upset because of where Linda was sleeping and where  
26 she thought you were sleeping.  
27 Is it your testimony that none of that is true?  
28 A My testimony is that she intended to stop me from



1 going to Mexico.

2 Q But you were not going to Mexico the next day, so  
3 is it your testimony that she did not argue with you or  
4 confront you as to where you were sleeping that night?

5 A Can you repeat that?

6 Q Is it your testimony that she did not confront you  
7 as to where you were sleeping that night?

8 A Oh, not at all, that there was never a  
9 confrontation.

10 Q Is it your testimony that she never said anything  
11 about where you were sleeping when she entered that bedroom?

12 A She said nothing about that.

13 Q Did she say anything -- is it your testimony she  
14 did not say anything about where Linda was sleeping when she  
15 entered that bedroom?

16 A She said nothing about that.

17 Q But she talked about her clothes being on the  
18 floor?

19 A Correct.

20 Q And it was her underwear, specifically, wasn't it?

21 A Worn by Linda, yes.

22 Q And so it is your testimony then that she was upset  
23 that her underwear was on the floor in the bedroom and she  
24 confronted you about that?

25 A Carmen was upset from the time that she entered the  
26 room. I don't know specifically what was it, but from the  
27 first time she pushed the door, she was upset all the time.

28 Q She was talking, wasn't she?

1           A     To Linda, arguing, you know, "Where are your  
2     clothes? Where are your clothes? Come on, get up, let's  
3     go. Where is your pants? Where is your blouse?" that kind  
4     of shouting and talking to her.

5           Q     Did that shouting upset you?

6           A     She does it all the time.

7           Q     That does not make you angry?

8           A     No. She was being herself.

9           Q     Was she upsetting your children when she was doing  
10    this?

11          A     You would have to ask them.

12          Q     Well, could you see if your children looked  
13    distressed when she was doing this?

14          A     Linda seemed dazed, and she was responding,  
15    "Mother, I don't even know what's going on right now."  
16    That's what Linda said.

17                For Alex, he didn't say anything.

18          Q     So is it your opinion that this was not an  
19    upsetting situation?

20          A     Not unusual from Carmen.

21          Q     So it's your opinion that your children are used to  
22    it, too?

23          A     Correct.

24          Q     If your children are used to it, why did you tell  
25    them to get out after she hit the floor?

26          A     The idea was they were going to leave, so I just  
27    needed to open the door and tell them to get out because she  
28    was making that scene in front of them.

1           Q     If they're used to it, why did you tell them to get  
2     out?

3           A     Well, I'm not sure that they're used to her falling  
4     down and screaming.

5           Q     Uh-huh.

6                 Where did you expect them to go?

7           A     The car was outside.

8           Q     You didn't know if it was locked or unlocked, did  
9     you?

10          A     I didn't.

11          Q     Now, the -- on your way to the police station, you  
12     told the police officer "The reason why I put my hands on  
13     her was to get her out of my house"?

14          A     I never did say that to the police officer, and  
15     that's why I was objecting.

16          Q     So it's never -- it was never your intention to  
17     make her leave your house?

18          A     No. The idea was to make all of them leave the  
19     house so they could go.

20          Q     Why would you have to make them leave to go?

21          A     I suppose I chose the wrong words, but the idea was  
22     to allow them to go.

23          Q     You told them to get out of the house. So why --  
24     why would you tell the children to get out of the house and  
25     yet you say that you didn't -- it was never your intention  
26     to make Carmen get out of the house?

27          A     By force -- I don't know what you mean. They came.  
28     Eventually they were going to leave sometime.

1           Q     You never told Carmen to get out of the house, did  
2     you?

3           A     The idea was I allow her to pick up the clothes. I  
4     allow her to pick up the children. At any given time they  
5     were going to leave, so I just find out. This is the best  
6     time to say, "Go, go, guys, go." It was not necessarily in  
7     the form of an order. It was, "Go, guys, go. This is  
8     getting crazy."

9           Q     Okay.

10                When you were pulling and having this tug-of-war  
11     over these swim trunks, is it your testimony that you were  
12     not angry at that time?

13           A     There was no reason to be angry.

14           Q     Were you just fighting over those swim trunks?

15           A     I just wanted the swim trunks.

16           Q     How long approximately -- what was the approximate  
17     time period from the time you opened the door and the time  
18     they left your apartment?

19           A     I suppose like seven minutes.

20           Q     When did she start screaming?

21           A     That's when she fell, I suppose.

22           Q     After she fell?

23           A     As soon as she fell.

24           Q     As she was falling, do you think?

25           A     Or when she fell.

26           Q     When she fell.

27                Where was Linda at this time?

28           A     Right behind me.

1 Q Behind you?

2 A Yes.

3 Q Where was Alex at this time?

4 A Two steps away.

5 Q Two steps away to your left or to your right?

6 A To my right.

7 Q Could you see his face is really what I'm after.

8 A No. He was behind me.

9 Q When she hit the floor, they were both behind you?

10 A Linda immediately, and Alex two steps away.

11 Q When the pulling of the shorts was going on, where

12 were they?

13 A Same location. Same situation.

14 Q Same location, Linda behind you and Alex two steps

15 away and behind you?

16 A Correct.

17 Q When she pulled away from you as you were pulling

18 at the shorts and she fell over this chair, where were they?

19 Where was Linda and where was Alex?

20 A Same location.

21 Q Once she hit the floor and started screaming, you

22 looked at your two children and said, "Get out of the

23 house"?

24 A I said, "Go, guys, go."

25 Q Alex said -- you said -- Alex said you said, "Get

26 out of the house," or did you say, "Go. Go, guys, go"?

27 A I remember saying, "Go, guys, go."

28 Q I see.

1                   If Alex was -- how far behind you to your --  
2           A     Two steps.  
3           Q     Two steps?  
4           A     Two steps.  
5           Q     You mean like two feet approximately?  
6           A     Two steps. It would have been five feet.  
7           Q     Five feet? Where was he?  
8           A     In --  
9           Q     If he's five feet away -- sorry, what's your -- can  
10        you tell us about anything in this courtroom that is your  
11        idea of what five feet is?  
12        A     I would say two-thirds of your desk.  
13        Q     Two-thirds of my desk is five feet?  
14        A     Approximately, yes.  
15        Q     So that's about the distance he was from  
16        you --  
17        A     Yes.  
18        Q     -- and behind you. So where were you standing?  
19        A     In the -- right at the corner, at the end of the  
20        corridor where the living room starts.  
21        Q     So you were not in the living room at that time?  
22        A     It's already at the -- in the area of the living  
23        room. It's at the corridor end, then the living room  
24        starts. I was already at the edge of the -- or on the side  
25        of the living room.  
26        Q     Can you draw it for us?  
27        A     Sure.  
28               MS. DUPERON: My the witness step down?

1 THE COURT: To draw on what?

2 MS. DUPERON: May he draw -- well, actually, we do  
3 have this paper.

4 Could I clip the chart paper up for the -- or could  
5 the bailiff clip the chart paper up so he could draw where  
6 they were all standing?

7 THE COURT: Yes, counsel.

8 MS. DUPERON: Thank you, Your Honor.

9 Q BY MS. DUPERON: Would you step down and please  
10 take the marker and draw where the living room and the  
11 hallway is that you speak of, please.

12 A Yes.

13 (Witness does as requested.)

14 Here would be the bathroom door (indicating); this  
15 is the hallway (indicating); this is the bedroom door  
16 (indicating); and here is the dining room (indicating); and  
17 this is what I call the line that separates the corridor  
18 from the living room (indicating).

19 I was going here; and Linda was right here  
20 (indicating); and Alex was about right here (indicating);  
21 Mrs. Gibson was right there (indicating); the chair was  
22 right here (indicating); and the TV is right there  
23 (indicating).

24 Q Where was Linda?

25 A Right next to me.

26 Q Would you make her in red.

27 A (Witness does as requested.)

28 Q Would you make Mrs. Gibson in red.

1           A     (Witness does as requested.)  
2           Q     So it is Linda who would have seen if -- who would  
3     have seen how her mother fell?  
4           A     Yes.  
5           Q     I see.  
6                 Thank you.  
7           A     She's too young.  
8           Q     How old is Linda?  
9           A     She's nine.  
10          Q     Isn't it true that Linda is ten?  
11          A     You're correct, sorry.  
12          Q     But Alex didn't see how his mother fell, you heard  
13     him testify to that?  
14          A     Correct.  
15          Q     But you were there so you know that Linda did see  
16     how his mother fell?  
17          A     She could have seen it.  
18          Q     But you didn't bring her?  
19          A     She couldn't.  
20                 MS. DUPERON: Thank you, sir, no further questions.  
21                 (End of requested proceedings.)  
22  
23  
24  
25  
26  
27  
28



1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 LOS ANGELES, LX DIV. 145 HON. KEITH L. GRONEMAN, JUDGE

4 THE PEOPLE OF THE STATE OF CALIFORNIA, )

5 Plaintiff, )

6 ) No. OWL02904

7 vs. ) REPORTER'S

8 ) CERTIFICATE

9 MIGUEL GARCIA, )

10 )

11 )

12 Defendant/s. )

13 -----)

14 STATE OF CALIFORNIA )

15 COUNTY OF LOS ANGELES )

16 I, STELLA A. CORDOVA, Official Court  
17 Reporter of the Superior Court of the State of California,  
18 for the County of Los Angeles, do hereby certify that the  
19 foregoing pages 1 through 103, inclusive, comprise a full,  
20 true and correct transcript of the proceedings held in the  
21 above-entitled matter on Tuesday, 10-24-00 and Wednesday,  
22 10-25-00.

23 This transcript complies with 237(a)(2) of the  
24 Code of Civil Procedure.

25 Dated this 3rd day of April, 2002.

26 

27 CSR #7538

28 Official Reporter

