

1 PLAINTIFF: Ms. Howard

2 WITNESS:

3 COURT:

4 DEFENDANT: Ms. Hayes

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6 WARM UP

7 THE COURT: Good afternoon. The record should reflect
8 that we are all present.

9 Are the People ready to call their next witness?

10 MS. HOWARD: Yes.

11 Officer Alvarez.

12 THE COURT: Stand at / the end of the table and face
13 the clerk to be sworn.

14 Please state your full name and spell it for the
15 record.

16 THE WITNESS: Paul Alvarez. / P-A-U-L, A-L-V-A-R-E-Z.

17 THE COURT: Go ahead.

18 DIRECT EXAMINATION

19 Q. BY MS. HOWARD: Who are you employed by?

20 A. The City of Santa Ana Police Department. /

21 Q. What's your occupation?

22 A. I am currently a detective assigned to the gang
23 unit.

24 Q. How long have you been a sworn peace officer in
25 the State / of California?

26 A. About 17 years.

1 Q. Were you on duty the evening of July 14th, 2010,
2 at 9:10 p.m., and you responded / to 306 South Buckley?

3 A. Yes.

4 Q. How many times had you been to that location that
5 evening?

6 A. That was my second time.

7 Q. Prior to / 9:10, what time were you dispatched to
8 the location the first time?

9 A. It was around 8:30 p.m.

10 MS. HAYES: Your Honor, if I can / make an objection.

11 I could be wrong, but I believe that the People asked
12 if he was on duty July 14th.

13 MS. HOWARD: If I did, I */ meant January 14th.

14 THE COURT: I wrote down July, also. That's why I was
15 looking at the complaint again.

16 What is the correct date?

17 THE WITNESS: It would have / been January.

18 THE COURT: Thank you. Next question.

19 Q. BY MS. HOWARD: Were you in a marked police car?

20 A. Yes.

21 Q. And a marked uniform?

22 A. Yes.

23 Q. Can you describe what your uniform / looked like.
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1 A. Navy blue with patches that say Santa Ana on them.
2 I wear a badge on the left chest, a name plate on the /
3 right. Navy blue pants and black boots. Also, I have a
4 duty belt.

5 Q. Is that your regular uniform that you wear?

6 A. Yes, ma'am. That's it. /

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8 **END OF WARM UP**

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1 EXAM

2 Q. BY MS. HOWARD: Were you assigned to the call as a
3 follow officer?

4 A. Yes, ma'am.

5 Q. Is that a term that you are familiar with and
6 could explain?

7 A. Yes. /

8 Q. What is a follow officer?

9 A. It is the officer who assists the primary handling
10 officer.

11 Q. Did you arrive with Officer Palmer or after him?

12 A. Shortly / after.

13 Q. How much after?

14 A. From what I observed when I pulled up, I would
15 guess about a minute.

16 Q. Can you describe what you saw as / you drove up to
17 306 South Buckley.

18 A. As I was pulling up behind Officer Palmer's police
19 car, I saw him standing in front / of the residence. It
20 appeared he was speaking with a male who might have been
21 agitated.

22 Q. What makes you believe that?
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1 A. As I observed the / male, he appeared to be kind
2 of having his arms stretched out from his sides about
3 shoulder height and moving them kind of quickly, from /
4 what I can recall. So I parked my police vehicle behind
5 his and started to walk up towards where Officer Palmer
6 was.

7 Q. Now, other than / Officer Palmer and this male,
8 how many other people did you observe?

9 A. I saw about 50 people who were out in front of the
10 residence. */

11 Q. And the person you initially saw Officer Palmer
12 speaking with, do you see him in the courtroom right now?

13 A. I do.

14 Q. Can you describe what / he is wearing and where he
15 is seated.

16 A. He is the person sitting next to the attorney at
17 the table. He is wearing a black / sweater and dark pants.

18 MS. HOWARD: May the record reflect the witness has
19 identified the defendant?

20 THE COURT: All right. The record may so reflect.

21 MS. HOWARD: Thank you.

22 THE COURT: Next question, / please.

23 Q. BY MS. HOWARD: Now, as you drove up, where did
24 you park?

25 A. I parked behind Officer Palmer's police car.

26 Q. About how many feet?

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A. I would say probably / within three feet or so.

Q. And then what did you do when you pulled up within three feet?

A. I got out of the vehicle and / I quickly made my way over to where Officer Palmer was speaking with this male.

Q. Now, at that point in time were the other people / coming towards your location, or not?

A. Yes. They were walking towards Officer Palmer and the male, which also would have been towards my direction.

Q. When / you say walking in your direction, do you mean they were casually walking towards you?

A. Not at all, ma'am. They were all moving very rapidly. */

1 START TYPING

2 Q. BY MS. HOWARD: Okay. What happened next?

3 A. As I approached them, I extended my hands and I
4 told everybody to step back immediately and to remain
5 calm. I / was standing between the crowd and Officer
6 Palmer and the man.

7 Q. When you testified you put your hands up, can you
8 describe what you did / with your hands.

9 A. I raised my hands up about chest high, palms
10 open, and extended my arms out towards the crowd. I told
11 them to / step back.

12 Q. Did the partygoers comply?

13 A. No.

14 Q. Now, were you hearing anything during this point
15 in time?

16 A. Several things.

17 Q. What were you hearing?

18 A. I could / hear the crowd yelling loudly. I also
19 heard an argument starting behind me between Officer
20 Palmer and the defendant. Everything was very loud, and I
21 / wasn't able to make out what was being said.

22 Q. Did you give any commands to the crowd?

23 A. Yes, I did.

24 Q. What did you do?
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1 A. I / told the crowd to step back and calm down
2 several times. They didn't comply with my commands and
3 kept advancing forward towards me.

4 Q. Did you / hear the defendant say anything during
5 that time?

6 A. Yes, I did. But, again, everything was so loud,
7 I couldn't discern what was really being said. */

8 MS. HAYES: Objection. Move to strike the answer as
9 speculation.

10 THE COURT: Overruled. The answer remains.

11 Q. MS. HOWARD: Now, you were facing the crowd; is
12 that right?

13 A. Yes.

14 Q. Did you know / what was going on behind you,
15 other than hearing an argument?

16 A. At one point I turned around and looked over my
17 shoulder to see what / was going on.

18 Q. And when you looked over your shoulder, what did
19 you see?

20 A. It appeared that Officer Palmer was struggling to
21 handcuff the defendant / and trying to put him in the back
22 of the police car.

23 Q. Was the defendant resisting being put in
24 handcuffs at that time?

25 A. Yes.

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1 Q. All / right. And did you then turn around and
2 look at the crowd after that?

3 A. Yes.

4 Q. What had you noticed, if anything, when you
5 looked back / at the crowd?

6 A. It appeared to me that the crowd had gotten
7 bigger and started to encircle the police car and us.

8 Q. Did you have / any way for egress or escape?

9 MS. HAYES: Objection. Speculation.

10 THE COURT: Overruled.

11 THE WITNESS: No, I did not.

12 Q. BY MS. HOWARD: Had anyone in the crowd made
13 physical contact with either you or / Officer Palmer at
14 that point?

15 A. Contact with me, yes.

16 Q. Describe what happened to you.

17 A. The crowd kept coming forward and did not comply
18 with my */ commands to get back. Several people began
19 pushing forward. I started to push back to try to create
20 some space between myself and the crowd / and to try to
21 keep people away from where Officer Palmer was with the
22 man.

23 Q. Were you just using your hands when you were
24 pushing / the crowd back?

25 A. I had my baton in both hands across my chest and
26 pushed out that way.

1 Q. Did anyone make contact with you?

2 A. Yes. / Several people were pushing against me
3 trying to get to the defendant.

4 MS. HAYES: Objection, your Honor.

5 THE COURT: Sustained. Everything after "pushing
6 against me" is stricken.

7 Q. BY MS. HOWARD: What happened / after you had
8 been pushed?

9 A. Well, at some point during this I had requested
10 backup on my police radio.

11 Q. Had any other officers arrived up / to that
12 point?

13 A. Not yet. At some point I remember seeing some
14 officers arrive on scene and start to form a line to move
15 the / crowd back away from us.

16 Q. In your opinion, did the situation escalate after
17 you were pushed?

18 A. I believe it did.

19 Q. Did you continue to give / command for the crowd
20 to step back?

21 A. I did, but it was not successful.

22 Q. How long was it before other officers arrived to
23 assist?

24 A. From */ when I first arrived, you mean?

25 Q. Yes. Only if you know or can estimate for us.

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1 A. The first officers were on scene in two minutes,
2 / and others continued to respond to the scene thereafter.

3 Q. How long before there was, as you described it, a
4 line of officers?

5 A. I would estimate / four to five minutes.

6 Q. Do you know whether or not those officers were
7 organized into teams of some sort?

8 A. Eventually they were.

9 Q. And do you / know if there were any arrests made
10 that evening?

11 A. Yes. There were several.

12 Q. Did you personally place anyone under arrest?

13 A. No, I did not.

14 MS. HOWARD: Nothing / further.

15 THE COURT: Cross.

16 CROSS-EXAMINATION

17 Q. BY MS. HAYES: So you did not arrive at the same
18 time as Officer Palmer, right?

19 A. Correct.

20 Q. And you are basing it on the fact that / he was
21 already out of his vehicle when you arrived?

22 A. Yes.

23 Q. And you saw Officer Palmer speaking to an
24 individual. You didn't know who it / was at that time,
25 right?

26 A. Correct.

1 Q. I thought I heard something earlier -- and
2 correct me if I am wrong. Did you say this was your /
3 second time out there?

4 A. Yes.

5 Q. Okay. So you had been out there by yourself or
6 with another officer previously?

7 A. With another officer.

8 Q. And that was */ Officer Nelson?

9 A. Correct.

10 Q. When you went out there the first time, do you
11 recall approximately what time it was?

12 A. Not exactly, but I believe it / was around 8:30
13 p.m.

14 Q. Did you speak with anybody on that first visit
15 that you made to the scene?

16 A. No.

17 Q. Did you even / get out of your vehicle?

18 A. No.

19 Q. So you just accompanied Officer Nelson and
20 watched him get out of his vehicle and do something?

21 A. No.

22 Q. What / did you do?

23 A. By the time I arrived, Officer Nelson had already
24 handled the call and he was getting back into his police
25 car to / leave.

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1 Q. Now, you showed up the second time and you see
2 Officer Palmer speaking to another male, right?

3 A. Yes.

4 Q. And it appears to you that / it was a heated
5 exchange; is that right?

6 A. It looked like it was a tense situation.

7 Q. Did you go to assist your fellow officer in / his
8 dealings with this person?

9 A. I immediately went and positioned myself between
10 them and the advancing crowd.

11 Q. Okay. So then you walked past Officer Palmer, /
12 right?

13 A. Yes.

14 Q. What was Officer Palmer doing with the defendant
15 as you walked by him?

16 A. It looked like he was trying to speak to him. */

17 Q. Did the defendant have handcuffs on at that time?

18 A. No.

19 Q. Okay. When you first observed the two men
20 speaking to each other, where were they / in relationship
21 to the police car?

22 A. I would say they were close to the left front
23 bumper.

24 Q. So then as you get out of your / vehicle and
25 approach, you observe the two gentlemen walk to the rear
26 of the police car, right?

1 A. That's correct.

2 Q. Does it appear to you that / my client is
3 complying with the officer's directions by walking towards
4 the rear of the vehicle?

5 MS. HOWARD: Objection. Calls for speculation.

6 THE COURT: Sustained.

7 Q. BY MS. HAYES: Did you detect any / actions by my
8 client that would indicate to you he was intentionally not
9 complying with the officer by walking to the rear of the
10 vehicle? /

11 MS. HOWARD: Objection. Calls for speculation.

12 THE COURT: Overruled. You may answer.

13 THE WITNESS: No, I did not.

14 Q. BY MS. HAYES: So Officer Palmer and my client
15 are now near the rear door or / near the rear quarter
16 panel, right?

17 A. Yes.

18 Q. Are the doors to the vehicle open or closed?

19 A. They are all closed at that time.

20 Q. And there / is a crowd in front of you, correct?

21 A. Yes.

22 Q. Do you recall a pregnant female being there in
23 front of you?

24 A. I do.

25 Q. And do */ you recall that pregnant female asking
26 you what was happening?

1 A. Yes.

2 MS. HOWARD: Objection. Relevance.

3 THE COURT: Overruled. Next question, please.

4 Q. BY MS. HAYES: Next to that pregnant female was a
5 man / named Sam Lucas, right?

6 A. I don't know if he was next to her at that time.

7 Q. Let me rephrase it.

8 Sam Lucas is standing close / to the female, at least
9 within a few people from her, right?

10 MS. HOWARD: Objection. Relevance.

11 THE COURT: Overruled.

12 THE WITNESS: I don't know where Mr. Lucas was
13 standing at that / time.

14 Q. BY MS. HAYES: How many people were directly in
15 front of you as you were attempting to move the crowd
16 back?

17 A. Well, there were over 50 people / at the party.

18 Q. I am asking about people that were immediately in
19 front of you at that time.

20 A. I would say five to seven.

21 Q. Of / those five to seven people that are directly
22 in front of you, did you recognize any of them from any
23 previous contacts you possibly had / with them?

24 A. No, I did not.

25 Q. Directly in front of you there was a man who's
26 later identified to you as Sam Lucas; is that / correct?

1 MS. HOWARD: Objection. Lacks foundation.

2 THE COURT: Overruled.

3 THE WITNESS: I don't believe it was at that time.

4 Q. BY MS. HAYES: At some point do you see him there
5 directly in front of */ you?

6 A. At some point.

7 Q. Okay. That was the point when he came up to
8 inquire what was happening and then you kicked your leg up
9 / at him, correct?

10 MS. HOWARD: Objection. Lacks foundation.

11 THE COURT: Overruled.

12 THE WITNESS: I don't recall kicking my leg out at
13 him, no.

14 Q. BY MS. HAYES: Do you recall kicking your leg out
15 at / anyone while you were positioned between the police
16 vehicle and the residence?

17 A. No, ma'am.

18 Q. Do you recall placing your baton on the stomach
19 of the / woman who was pregnant?

20 A. Let me be clear. I know I did not do that.

21 Q. Do you know for sure?

22 MS. HOWARD: Objection. Argumentative, your Honor.

23 THE COURT: Sustained. /

24 Q. BY MS. HAYES: You were giving commands to the
25 crowd; is that correct?

26 A. Definitely.

1 Q. During that time you were doing that, did you
2 ever hear anyone else also / addressing the crowd?

3 A. All the officers were directing the crowd to get
4 back to the residence and go inside.

5 Q. Did you hear any of the / people directly in
6 front of you tell the crowd to get in the house?

7 A. You mean people from the crowd?

8 Q. Yes. Were any of them / assisting you in trying
9 to manage the other people?

10 A. Absolutely not. There was a distinct line, and
11 it was the police on one side and */ the partygoers on the
12 other.

13 Q. Your testimony is at no time did Sam Lucas
14 address the crowd and direct them back to the house?

15 A. That / is my testimony, yes.

16 Q. Are you saying it did not happen or you didn't
17 hear it?

18 MS. HOWARD: Objection. The witness has answered the
19 question. It is / asked and answered, your Honor.

20 THE COURT: Sustained. Let's move on.

21 Q. BY MS. HAYES: Are you aware that there was a
22 video made of the events of that evening?

23 A. That's / what I have been told.

24 Q. In looking at this still picture from the video,
25 do you recognize yourself in that photo?

26

1 A. The photo quality is / not the best, but I
2 believe this is me here by the driveway.

3 MS. HAYES: Nothing further.

4 THE COURT: Redirect.

5 MS. HOWARD: Yes, your Honor.

6 THE COURT: Proceed.

7 REDIRECT EXAMINATION

8 Q. BY MS. HOWARD: You testified a few minutes / ago
9 that at some point you realized that you had been
10 encircled by a crowd. Do you recall that testimony?

11 A. Yes.

12 Q. Had you personally been / pushed before or after
13 that happened?

14 A. The pushing was both before and after that.

15 Q. Could you estimate the number of times that you
16 were pushed? /

17 A. I'm not sure of the exact number.

18 Q. I know there was a lot going on. Just as an
19 estimate, could you --

20 MS. HAYES: Your Honor, I object. */ Counsel is
21 testifying and giving her opinion instead of just asking a
22 question.

23 THE COURT: Let's just ask the next question, please.

24 Q. BY MS. HOWARD: Could you estimate the number /
25 of times you were personally pushed during this incident
26 before any arrests were made?

1 A. I know it was three times from one man alone.

2 And / then the pushing that came from the whole crowd
3 moving forward.

4 Q. Were you ever knocked off your feet, or did you
5 ever lose your balance? /

6 A. The three from the one man were forceful, but I
7 was able to maintain my position.

8 Q. Did you ever see Officer Palmer lose his footing
9 / and fall down?

10 A. No, I didn't. I don't believe we had any police
11 officers down on that call.

12 Q. From the time you initially arrived on / scene to
13 the time you realized you were encircled, how much time
14 elapsed?

15 A. I would say maybe about --

16 Q. Let me interrupt you.

17 If you don't / know, that is the answer. It is
18 perfectly okay to say you don't remember. We don't want
19 you to guess.

20 A. There was a lot going / on in a very short time,
21 and I really can't give an estimate.

22 MS. HOWARD: Nothing further.

23 THE COURT: Recross.

24 MS. HAYES: No questions.

25 THE COURT: I am going to excuse this officer.*/
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******EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE
SLIGHTLY DIFFERENT******

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