

1 PLAINTIFF: Ms. Palmer

2 WITNESS:

3 COURT:

4 DEFENDANT: Ms. Barker

5

6 WARM UP

7

DIRECT EXAMINATION

8 THE COURT: Counsel, good morning.

9 MS. PALMER: Good morning.

10 MS. BARKER: Good morning, your Honor.

11 THE COURT: Back on the record in this matter.

12 All parties are present, including all counsel. The
13 petitioner / may call his next witness, please.

14 MS. BARKER: Your Honor, we call Brad Martin.

15 THE COURT: Let's proceed.

16 MS. PALMER: Before we get started on that, if I may
17 address the / court on a scheduling matter?

18 THE COURT: Certainly.

19 MS. PALMER: Counsel had said their client would be
20 their last witness, and I just wanted to make sure so I /
21 could have my witnesses ready.

22 MS. BARKER: We are calling our client, Mr. Martin.
23 But we still have the expert who isn't available until
24 next week. We / didn't want to lose the rest of the day
25 today, so we are putting on our client out of order.

26 MS. PALMER: Thank you. I just wanted / the

1 clarification.

2 THE COURT: Counsel can call their witnesses in any
3 order they wish. I'm not trying to tell you how to put
4 your case on, but / I certainly don't want to lose half a
5 day just because one witness isn't available. We might
6 as well use the time.

7 MS. PALMER: I have no / problem. I just want to
8 know when I should have someone ready for my case.

9 MS. BARKER: We won't be resting until next week.

10 THE COURT: Okay. Let's proceed. */

11 DIRECT EXAMINATION

12 Q. BY MS. BARKER: Good morning, Mr. Martin.

13 A. Good morning.

14 Q. Let's start by telling us a little bit about
15 your background.

16 A. I am originally from Carson, California. I was
17 / raised by two parents, my mother and father. I have
18 two sisters.

19 THE COURT: Mr. Martin, I need you to move a little
20 bit closer to the / microphone, please.

21 THE WITNESS: Okay.

22 Q. BY MS. BARKER: Does your family still live in
23 that area?

24 A. Yes, they do.

25 Q. And can you tell us what it was like growing up
26 / there in Carson.

1 A. I mean, it was like pretty much all the other
2 neighborhoods. It was gang-infested. I dropped out of
3 school in about the / 8th or 9th grade. Started hanging
4 out with gang members. I was just doing the things that
5 other young teenagers were doing at that time. /

6 **END OF WARM UP**

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 EXAM

2 Q. BY MS. BARKER: Mr. Martin, let's just cut to
3 the chase here. It is documented that you joined a
4 criminal street gang when you were younger; is that /
5 correct?

6 A. I suppose you can say I joined it. There wasn't
7 an initiation or anything. That's the neighborhood I
8 started claiming. That's correct.

9 Q. Why did / you join the gang?

10 A. Because it was something to do as a teenager. I
11 was young, and I wanted to hang around.

12 Q. And did you / pick up any criminal charges
13 during that time?

14 A. Never for the gang, but I did pick up some
15 criminal charges.

16 Q. Tell us about that, please. /

17 A. In '85, I picked up a possession for sale, which
18 was marijuana.

19 Q. Were there any other criminal charges?

20 A. Yeah. I picked up a case in / '91 for robbery.

21 Q. Did you do prison time for that?

22 A. Yes, I did.

23 Q. How many years?

24 A. I did five years eight months.

25 Q. Are you still / today involved with gangs?

26 A. Definitely not.

1 Q. Explain that, please.

2 A. Basically, I fell in love with something that
3 never loved me back. I mean, I banged / for many years,
4 but I just finally grew out of it.

5 Q. You were arrested on August 5, 1998, for this
6 robbery; is that right? */

7 A. Correct.

8 Q. And were you told what you were arrested for?

9 A. They said a robbery in Orange County.

10 Q. What was your reaction to that?

11 A. I couldn't / believe that, because I had never
12 been to Orange County except for Disneyland.

13 Q. Okay. Did you think there was another reason
14 that you were arrested? /

15 A. Yeah. I thought that they were trying to arrest
16 me on a violation for living in Las Vegas.

17 Q. How long had you been living in / Las Vegas?

18 A. I got out July 15 of '97, and I moved to Vegas
19 probably a month or two after I got out.

20 Q. So you / were living there about a year?

21 A. Well, actually a little longer than a year.

22 Q. So you were still living in Las Vegas at the
23 time / of this robbery?

24 A. Correct.

25 Q. Can you take me to that day and tell me what you
26 were doing on March 28, 1998.

1 MS. PALMER: Objection. Calls / for a narrative.

2 THE COURT: Sustained. Ask your next question.

3 Q. BY MS. BARKER: Were you in Orange County on the
4 day of the crime you were convicted of?

5 A. No. I / picked my son up from my parents'
6 house. We were driving home and --

7 MS. PALMER: Objection. Nonresponsive after the word
8 "no."

9 THE COURT: Overruled. You have answered the
10 question. / *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 START TYPING

2 Q. BY MS. BARKER: Approximately what time did you
3 arrive to your parents' address?

4 A. I got there around 2:00 or 3:00 in the morning.

5 Q. Then what happened, Mr. Martin? /

6 A. My son was ready to go. I said hello to my
7 parents and then we left to travel back to Vegas.

8 Q. So you drove back / to Las Vegas.

9 Approximately what time did you arrive there?

10 A. We probably got there between 7:00 and 8:00
11 o'clock.

12 Q. Mr. Martin, what did you do / that afternoon?

13 A. I went to sleep as soon as we got back. I was
14 exhausted. I went immediately to bed.

15 Q. Now, when you were prosecuted / for this
16 robbery, were there other defendants involved?

17 A. Yes.

18 Q. Who else was tried with you?

19 A. Bobby Johnson.

20 Q. Now, was Bobby Johnson someone you knew before /
21 you were arrested?

22 A. I met him a couple times. We weren't really
23 friends or anything like that. We didn't associate.

24 Q. During the time of the / trial, did you talk to
25 him about the charges?

26 A. Definitely. Every day we went to court.

1 Q. And did he tell you he was involved with / the
2 robbery?

3 A. No. I asked him several times if he was
4 involved, and he always said he wasn't. I thought he was
5 accused by mistake */ just like me.

6 Q. Was there a later time where you came to believe
7 he was involved?

8 A. We went to trial and got found guilty. After /
9 we went to prison, I discovered he was definitely,
10 positively involved.

11 Q. How did you find that out?

12 MS. PALMER: Calls for hearsay, your Honor.

13 THE COURT: Overruled.

14 Q. BY MS. BARKER: You can / answer the question.

15 A. Another inmate told me that was the word in the
16 neighborhood.

17 THE COURT: Excuse me. That is hearsay. The prior
18 objection is sustained.

19 MS. BARKER: Thank / you, your Honor.

20 THE COURT: Next question, please.

21 Q. BY MS. BARKER: What did you do to follow up on
22 that information?

23 A. I sent a note with somebody who was housed /
24 with Johnson. I told him I found out not only did he
25 have something to do with it, but he set up the robbery.

26 Q. Okay. / Did you find out anyone else was

1 involved in the crime?

2 A. I also found out about Alex Walker.

3 MS. PALMER: Objection, your Honor. Hearsay if
4 offered for / the truth.

5 THE COURT: Sustained.

6 Q. BY MS. BARKER: At some later date did you find
7 out Alex Walker was involved in the case?

8 A. Yes.

9 Q. Did you follow up on that / information?

10 A. I definitely did.

11 MS. PALMER: Objection. Hearsay. That calls for
12 hearsay if offered for the truth.

13 THE COURT: Pardon me?

14 MS. PALMER: If it is offered for the truth, your */
15 Honor, it's hearsay.

16 MS. BARKER: It is just being offered that he had the
17 information, your Honor.

18 THE COURT: I don't think it is very specific, Ms.
19 Palmer. He / had some information. It is based on
20 hearsay. The trier of fact doesn't know what the hearsay
21 is. It is overruled.

22 MS. BARKER: Thank you, your Honor. /

23 THE COURT: Let's proceed.

24 Q. BY MS. BARKER: Now, let me back up a little
25 bit. Did you know Alex Walker personally?

26 A. No. Never met him before a day in my / life.

1 Q. At some point did you discover yet another
2 person was involved in this crime of robbery?

3 A. Yeah. That was many, many years later, though./

4 Q. Did you follow up on that information?

5 A. I definitely did. I wanted to set up a meeting
6 with him so I could discuss it with / him and find out
7 more about this robbery case.

8 Q. Okay.

9 A. I found out the other person was also doing time
10 at the same prison.

11 MS. PALMER: Objection. / Hearsay.

12 THE COURT: All right. Sustained.

13 This is really nonresponsive at this point in time.
14 Let's have another question, please.

15 Q. BY MS. BARKER: Let me back you up a little /
16 bit.

17 When you were incarcerated, you learned that there
18 was a third party involved in this robbery?

19 A. Yes.

20 Q. Who did you learn that from?

21 A. Another */ inmate on my yard.

22 Q. You subsequently had a meeting with that
23 additional party?

24 A. I definitely did.

25 Q. Okay. Who was that?

26 A. Brian Scott.

1 Q. At that point / did you discover that he was
2 involved in this robbery?

3 A. I did.

4 MS. PALMER: Objection. Calls for hearsay.

5 THE COURT: Sustained.

6 Q. BY MS. BARKER: What did you do with the
7 information you / gathered on this case?

8 A. I telephoned my parents and told them about it.

9 Q. Since the time you were locked up, how did you
10 attempt to / get help with your case?

11 A. I mean, I have approached so many different
12 people. I even wrote the district attorney to tell him
13 there was / more evidence on my case and that I was
14 innocent. I wrote the judge to tell him there was a big
15 mistake and I should / not be in prison anymore.

16 THE COURT: I need to interject something here.

17 I personally don't remember receiving any letters
18 from the defendant.

19 THE WITNESS: I sent them, your / Honor.

20 THE COURT: Hang on, Mr. Martin. I am just saying if
21 there are letters, they will be in the file for review.

22 MS. BARKER: That's fine, your Honor. / Thank you.

23 THE COURT: Counsel, next question.

24 Q. BY MS. BARKER: Mr. Martin, did you rob the
25 Chase bank?

26 A. No. Definitely not.

1 Q. Did you have any involvement in the robbery of
2 */ the Chase bank?

3 A. I did not.

4 Q. Were you involved in planning the robbery?

5 A. No.

6 Q. Were you involved in assisting anyone who was
7 involved in that / robbery?

8 A. No.

9 MS. BARKER: May I just have a moment, your Honor?

10 THE COURT: Yes.

11 MS. BARKER: Thank you. No more questions at this
12 time.

13 THE COURT: Ms. Palmer, your turn. Please proceed. /

14 CROSS-EXAMINATION

15 Q. BY MS. PALMER: Good morning, sir.

16 A. Good morning, ma'am.

17 Q. How many felony convictions do you have?

18 A. I think four or five.

19 Q. You mentioned you have the conviction for /
20 possessing marijuana?

21 A. Right.

22 Q. Do you remember another conviction for drug
23 possession?

24 A. It is possible, yes.

25 Q. There was also a case where you were at least /
26 arrested for attempted murder, robbery, and assault with

1 a deadly weapon. Do you remember that one?

2 A. Yes, I do.

3 Q. On that one you actually pled / guilty, right?

4 A. No. I didn't plead guilty to it. I got found
5 guilty.

6 Q. I am sorry. You are right. You were found
7 guilty of a / second degree robbery and shooting at a
8 car; is that correct?

9 A. That's correct.

10 Q. You were also found guilty of assault with a
11 deadly weapon; is / that correct?

12 A. Yes.

13 Q. And in that case you were innocent, too,
14 correct?

15 A. What do you mean?

16 Q. You testified you are innocent of the charges
17 that */ sent you to prison on this case, correct?

18 A. Yes. I did not rob the bank.

19 Q. Just like you were innocent of the charges in
20 the / previous case, correct?

21 A. No. I was guilty of the other one, but not this
22 one.

23 Q. Do you remember talking to Investigator
24 Michaels?

25 A. I sure do. /

26 Q. Do you remember telling Investigator Michaels

1 that you were innocent of that case?

2 A. I told Michaels I was innocent of the offenses
3 that they charged / me with, but not the crime itself.

4 Q. Didn't you say that you took a fall for your
5 homeboys in that case?

6 A. That's exactly right.

7 Q. And / that you had nothing to do with it?

8 A. No.

9 Q. Is that the conviction that sent you to
10 Jamestown prison?

11 A. That's right.

12 Q. Is that the occasion / where you became
13 acquainted with your friend, Mr. Johnson?

14 A. That's right.

15 Q. That's who you say is responsible for this
16 robbery we are talking about today, / right?

17 A. It was the three of them. I wasn't involved.

18 Q. You say you were falsely accused of this
19 robbery, right?

20 A. Yes. The witnesses are mistaken. /

21 Q. How long were you in prison with Mr. Johnson?

22 A. Approximately two months.

23 Q. You knew he was a fellow gang member, didn't
24 you?

25 A. Definitely.

26 Q. And he */ also was from the same gang you

1 claimed?

2 A. Yes.

3 Q. And as long as we are talking about your gang
4 affiliation, you say you weren't initiated, / correct?

5 A. Right.

6 Q. Did you offer that up like you weren't really a
7 gang member?

8 A. Not necessarily. I am saying I was a gang
9 member.

10 Q. Well, / when you say you weren't initiated, do
11 you mean you weren't jumped in?

12 A. Right.

13 Q. How did you become a gang member?

14 A. Well, I just lived / in the neighborhood.

15 There is a lot of people in my neighborhood who
16 claimed the neighborhood, but they are not really full-
17 fledged gang members, you / know.

18 Q. Full-fledged gang members do things like
19 claiming the gang; is that correct?

20 A. Definitely.

21 Q. They go out and commit crimes; is that correct?

22 A. Sure.

23 Q. They / also get tattoos, correct?

24 A. Yes.

25 Q. You have tattoos, don't you?

26 A. Yes.

1 Q. What kind of tattoos do you have?
2 A. I have plenty of tattoos.
3 Q. Well, let's / discuss your tattoos.
4 A. Okay. I have my mother's name and my father's
5 name. I have pictures of my children.
6 MS. BARKER: I object to the relevance of / my
7 client's tattoos.
8 THE COURT: Overruled.
9 Q. BY MS. PALMER: When did you get the images of
10 your family on your body?
11 A. I got them while I was in prison on */ this
12 robbery conviction.
13 Q. Let's focus specifically on your gang tattoos.
14 A. Okay.
15 Q. Let's talk about the first gang tattoo that you
16 received. When did that happen? /
17 A. The first one I got was probably about 1984.
18 Q. Where do you have that, and what is it?
19 MS. BARKER: Objection. Compound.
20 THE COURT: All right. Let's just / have the answer
21 and move forward.
22 Q. BY MS. PALMER: You can answer my question.
23 A. I have the name of the gang on my -- right here
24 on my stomach. /
25 Q. Probably pretty big letters, correct?
26 A. It is about this size.

1 Q. How tall are the letters on your stomach?

2 A. It is about four inches.

3 MS. BARKER: I renew / my objection. He has admitted
4 he is a gang member. He admitted he has tattoos. I am
5 not really seeing the relevance of the size / of these
6 tattoos.

7 THE COURT: I think I know where Ms. Palmer is going
8 with this. Overruled.

9 Q. BY MS. PALMER: Mr. Martin, how many tattoos do
10 you have that are / related to your gang?

11 A. I already said I have a lot of tattoos.

12 Q. How many do you have, sir? Do you have more
13 than ten? /

14 A. Yes.

15 Q. According to your prison record, it states you
16 have 28. Does that sound about right?

17 A. Probably pretty close.

18 Q. When you have tattoos like that, */ that means
19 you are pretty down for the gang in order to mark
20 yourself up for life; is that correct?

21 A. Yes.

22 Q. You testified you are / not a gang member now,
23 but you previously were; is that correct?

24 A. Yes.

25 Q. Let's talk about Jamestown. You met with Mr.
26 Johnson in prison at / least a few times, correct?

1 A. Yes.

2 Q. You found out he was from your neighborhood,
3 correct?

4 A. Yes.

5 Q. So at the time of this robbery we are /
6 discussing today, you obviously knew Mr. Johnson?

7 A. Correct.

8 Q. You knew Mr. Johnson from the neighborhood as
9 well, didn't you?

10 A. No.

11 Q. Did Mr. Johnson ever come / visit you in the
12 neighborhood?

13 A. Sometimes.

14 Q. Now, you indicated that at the time of this
15 robbery you were living in Las Vegas?

16 A. That's correct.

17 Q. And / that was a violation of your parole,
18 correct?

19 A. That's correct.

20 Q. That's something that you never told your parole
21 agent, correct?

22 A. Yes.

23 Q. Where did you tell / your parole agent you
24 lived?

25 MS. BARKER: Objection. Relevance.

26 THE COURT: Overruled.

1 Q. BY MS. PALMER: What city did you tell your
2 parole agent you were living in when you were released
3 from / prison?

4 A. Carson.

5 Q. Were you lying to your parole agent?

6 A. Yes, I was.

7 Q. How many times did you lie?

8 A. Just the first time he asked me. */ He never
9 asked me my address again.

10 Q. Now, even though you were living in Las Vegas,
11 you came back to the neighborhood, didn't you?

12 A. Yes. /

13 Q. To see your friends and hang out, correct?

14 A. Yeah, but not too often.

15 Q. You testified that while you were in prison, you
16 discovered the real / person who committed this robbery;
17 is that correct?

18 A. Yes. I uncovered the new evidence.

19 Q. In Jamestown prison you arranged a meeting to
20 talk to the / person you believe really committed the
21 robbery?

22 A. Yes, I did.

23 Q. Did you two discuss the statute of limitations
24 for the crime of robbery?

25 A. I don't / believe so.

26 Q. Did the statute of limitations ever mean

1 anything to you in relation to this robbery?

2 A. To be truthful, I hadn't even thought about /
3 the statute of limitations right then.

4 Q. When did you think about it?

5 A. People started talking about it.

6 Q. When were people discussing this with you?

7 A. That / was probably in 2009.

8 Q. So at some point you believed that people could
9 come forward and say that they were involved in the /
10 crime and not get in trouble for it?

11 A. That's my understanding.

12 Q. You wanted someone to do that, right?

13 A. I wanted people to tell the truth. /*

14 -o0o-

15

16

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

19

20

21

22

23

24

25

26