

1 PLANTIFF: Ms. Gibbs

2 WITNESS:

3 COURT:

4 DEFENDANT: Ms. Baker

5

6 WARM UP

7

DIRECT EXAMINATION

8 Q. BY MS. GIBBS: Good afternoon, Mr. Carlson.

9 A. Good afternoon.

10 Q. I want to talk to you about an event that took  
11 place back on May 20th, 2002. /

12 A. Okay.

13 Q. Do you remember that date?

14 A. Yes, I do.

15 Q. Do you remember something unusual happening on  
16 that date?

17 A. Yes.

18 Q. Now, you were out for a / walk on that date;  
19 is that correct?

20 A. Yes. That morning, yes.

21 Q. Do you remember where you were walking?

22 A. Yes. I was walking close to King / Park.

23 Q. Do you remember the street you were on?

24 A. It has been so long ago. I don't live in that  
25 area anymore, so I don't / remember the streets for  
26 sure.

1 Q. If you look over your right shoulder, there is  
2 a photograph there previously marked as People's 1.

3 A. I see that. /

4 Q. Does that happen to show the area that you  
5 were walking in?

6 A. Yeah. I don't see my residence there. I  
7 lived on Bradford Place and / it ran directly into the  
8 park. I was walking south of this area here.

9 Q. That's okay. Mr. Carlson, you were out for a  
10 walk that / morning, correct?

11 A. Yes.

12 Q. Do you happen to remember what time of day it  
13 was?

14 A. Yes. In the morning about 8:30, 9:00 o'clock.

15 Q. Now, you \*/ happened to meet up with somebody  
16 on that morning, correct?

17 A. Unfortunately.

18 Q. Did that individual also have a dog?

19 A. Yes, that's correct.

20 Q. The individual with the / dog, do you see that  
21 person in court today?

22 A. Yes. He is sitting there.

23 Q. Would you describe what he is wearing for the  
24 record.

25 A. He / is wearing a suit with a white shirt and  
26 a tie.

1 THE COURT: Could you tell us what color his suit  
2 is for the record.

3 THE WITNESS: It looks / black to me.

4 THE COURT: All right. Is he the gentleman to your  
5 immediate left, or the one that's closer to the jury  
6 box?

7 THE WITNESS: There is a / police officer and then  
8 it is him right there.

9 MS. GIBBS: Your Honor, could the record reflect  
10 the witness has identified the defendant?

11 MS. BAKER: Except I think you / need to clear up  
12 the police officer reference.

13 Q. BY MS. GIBBS: Well, sir, are you talking  
14 about --

15 A. Going from the wall towards me, there is a  
16 police officer / and then it is him and then his  
17 lawyer.

18 THE COURT: The person seated at the end of the  
19 table there, sir?

20 THE WITNESS: Yes.

21 THE COURT: The record may reflect / the witness  
22 has identified the defendant.

23 MS. GIBBS: Thank you.

24 MS. BAKER: Your Honor, we are willing to just  
25 stipulate to the identity of my client for the record.

26 \*\*END OF WARM UP\*\*

1 EXAM

2 Q. BY MS. GIBBS: Now, Mr. Carlson, do you recall  
3 the type of dog that attacked you that day?

4 A. Yes. It was a Rottweiler.

5 Q. Showing you what I will / mark as next in  
6 order for identification. Do you recognize what's  
7 depicted in that photograph?

8 A. I sure do.

9 Q. What is that?

10 A. That's the animal that / bit me.

11 Q. Is that the dog you saw on May 20th, 2002?

12 A. Yes. It looks just like him anyway. I am  
13 sure it / is him.

14 Q. Now, when you saw the defendant and the dog,  
15 were they walking the same direction as you or in the  
16 opposite direction?

17 A. Opposite / directions.

18 Q. Were you both occupying the same side of the  
19 sidewalk?

20 A. That's correct.

21 Q. At some point did you make contact with each  
22 other?

23 A. Yes. We / were in very close proximity  
24 because there was a wooden fence on the one side and  
25 there was a large tree on the other side. / We had to  
26 walk between them and we met right at that crosswalk.

1 Q. All right. Now, as you met at that crosswalk,  
2 can you describe / for us what transpired?

3 A. Certainly. I was just walking along doing my  
4 morning walk. I was just looking down at the sidewalk  
5 and this animal \*/ jumps up and snaps right in front of  
6 my face.

7 Q. What did you do?

8 A. I believe I shouted something and moved back.  
9 This was the / second time this had happened. The  
10 previous time I didn't say a word, I just jumped back  
11 and continued going. This occasion I shouted, "Man. /  
12 That dog needs a shot."

13 Q. Okay.

14 A. I initially thought the dog was hyper and  
15 needed a shot to calm down.

16 Q. Did you say that the / dog needed a shot?

17 A. I certainly did.

18 Q. Did the defendant verbally respond to you?

19 A. He responded, "You want to shoot my dog?"  
20 I replied, "No. / He needs a shot. He is a hyper  
21 dog."

22 Q. What was the defendant's demeanor as he was  
23 there?

24 A. Well, are you asking about the first / time  
25 there?

26

1 Q. After you said, "Your dog needs a shot,"  
2 describe the defendant's demeanor when he responded to  
3 you.

4 A. He was just working himself into / a frenzy  
5 saying that I wanted to shoot his dog, but that's not  
6 what I said.

7 MS. BAKER: Objection. Move to strike that he was  
8 working himself / into a frenzy. It is nonresponsive.

9 THE COURT: All right. Sustained. The last answer  
10 is stricken, ladies and gentlemen. You can't consider  
11 it. Counsel, next question, please.\*/ (2 min)

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1 START TYPING

2 Q. BY MS. GIBBS: After the comment about a shot,  
3 what did the defendant say?

4 A. His first response was asking me if I really  
5 wanted to shoot his dog. /

6 Q. Did he say that in a calm manner?

7 A. Not in a totally calm manner.

8 Q. Did he appear to be angry?

9 A. Slightly angry, yes.

10 Q. All right. / So after he asked if you really  
11 wanted to shoot his dog, describe what happened next.

12 A. Then I told him that his dog just needed / to  
13 relax and not be aggressive.

14 Q. Now, as you are having this conversation with  
15 the defendant, do you both remain facing each other?

16 A. We were / standing there. I moved a step or  
17 two away, you know, to get away from the animal. I  
18 didn't know what to expect next.

19 MS. BAKER: Objection. /

20 THE WITNESS: After I stepped back --

21 MS. BAKER: Objection. Move to strike the second  
22 portion of the answer. It is totally nonresponsive.

23 THE COURT: All right. "I didn't know what to /  
24 expect next" is stricken. The rest of the answer  
25 remains.

26

1 Q. BY MS. GIBBS: Okay. The dog jumped up at  
2 you, correct?

3 A. That's correct.

4 Q. How close did the dog / get to you?

5 A. Probably no more than 12 inches away from my  
6 face.

7 Q. Now, after that, did you step away from the  
8 dog?

9 A. Yes, I \*/ did.

10 Q. All right. And were you still on the sidewalk  
11 at this point?

12 A. Yes.

13 Q. All right. Are you observing the dog do  
14 anything at this / point?

15 A. No. I am looking at the defendant.

16 Q. And is the dog on a leash?

17 A. Yes.

18 Q. So after this exchange with the defendant,  
19 tell us / what happened.

20 A. He repeated the same thing over and over  
21 again. By this time he is starting to get angry.

22 MS. BAKER: Objection. Move to strike the / last  
23 portion. Nonresponsive. No foundation.

24

25

26



1 THE COURT: Sustained. The part about getting  
2 angry is stricken. The jury is admonished not to  
3 consider that portion of the answer. /

4 Next question, Ms. Gibbs.

5 Q. BY MS. GIBBS: All right. Was the defendant  
6 raising his voice at you?

7 A. Yes, he was.

8 Q. Tell us what happened next.

9 A. Then I started / to walk away and get away  
10 from him.

11 Q. And did you continue walking in the same  
12 direction that you were originally going?

13 A. Yes.

14 Q. Okay. And / then what happens?

15 A. As I was walking away, and I had moved maybe  
16 ten steps, I heard a command given by him for the dog /  
17 to attack me.

18 MS. BAKER: Objection. Saying it was a command is  
19 speculation. Conclusion.

20 THE COURT: All right. Sustained. The answer is  
21 stricken. Next question.

22 Q. BY MS. GIBBS: As you got ten \*/ feet away,  
23 did you hear something being said?

24 A. I overheard him yelling the word "attack" two  
25 times.

26

1 Q. At that moment were you looking at the /  
2 defendant?

3 A. No. I was walking away.

4 Q. Okay. So after you hear the words you heard,  
5 what transpired next, Mr. Carlson?

6 A. I looked over my shoulder / and saw the animal  
7 running toward me.

8 Q. And was the defendant still holding the leash  
9 at this point?

10 A. No.

11 Q. Then did the dog actually attack / you?

12 A. Yes, he did.

13 MS. BAKER: Objection. That calls for a  
14 conclusion.

15 THE COURT: Overruled.

16 Q. BY MS. GIBBS: Can you describe where you were  
17 attacked?

18 A. He bit me on the upper thigh / of my left leg.

19 Q. Now, at this point did the defendant attempt  
20 to assist you at all?

21 A. No.

22 Q. Were you saying anything during this attack? /

23 A. Yes. I was yelling to get the dog away from  
24 me.

25 Q. Did the defendant make any attempt to come  
26 over to you to help you? /

1 A. No.

2 Q. At any time did you overhear the defendant  
3 yelling at the dog to leave you alone?

4 A. No. Because I was screaming the whole time, /  
5 so I didn't hear anything.

6 MS. BAKER: Move to strike everything after  
7 "because."

8 THE COURT: Everything except "no" is stricken.  
9 Next question, please.

10 Q. BY MS. GIBBS: All right. So about how long  
11 \*/ did this attack last?

12 A. It was only the single bite, and perhaps --  
13 well, I don't remember. Only the one bite.

14 Q. All right. Did the defendant / say anything  
15 to you after the attack?

16 A. Nothing. I immediately took off walking.  
17 Apparently, so did he. I didn't look back.

18 Q. Now, after this happened / did you telephone  
19 the police?

20 A. Not right away. I did later.

21 Q. When did you call the police?

22 A. I think it was the next afternoon when / I saw  
23 him again. I was out for my walk the next morning and  
24 I saw him across from the park. I went back to / my  
25 condo and that's when I called the police.

26

1 Q. Did you make contact with people from Animal  
2 Control?

3 MS. BAKER: Objection. Irrelevant.

4 THE WITNESS: No.

5 THE COURT: I am sorry, what / are the grounds for  
6 the objection?

7 MS. BAKER: Irrelevant.

8 THE COURT: Do you want to be heard on that  
9 sidebar?

10 MS. GIBBS: No, your Honor.

11 THE COURT: All right. Sustained.

12 Q. BY MS. GIBBS: Did you have / your wound  
13 treated?

14 A. Yes, the same day. I already had an  
15 appointment that day with my doctor. They cleaned the  
16 wound. I was very concerned / because I am a liver  
17 transplant patient.

18 MS. BAKER: Objection. Move to strike. It is not  
19 responsive.

20 THE COURT: All right. Sustained. The last answer  
21 is stricken.

22 Q. BY MS. GIBBS: All right. \*/ So you went to  
23 the doctor that same afternoon, correct?

24 A. I certainly did.

25 Q. And did you actually look at the wound  
26 yourself?

1           A.    Yes.  I arrived / home and I undressed.  There  
2 was a hole in my upper thigh.  I attempted to clean it  
3 up and get ready to go to the / doctor.

4           Q.    Okay.  Was there any blood?

5           A.    Yes, there definitely was blood.

6           Q.    You testified earlier some of your flesh was  
7 torn loose; is that correct?

8           A.    Yes.  / I saved that in the freezer.

9           Q.    Why did you preserve that?

10          A.    For evidence, if needed.

11          Q.    Approximately, how long did it take to heal,  
12 if you / remember?

13          A.    Basically, normal time.  About a week.

14          Q.    Did it leave a scar?

15          A.    There is actually a little scar remaining,  
16 yes.

17          Q.    Describe the scar, Mr. Carlson. /

18          A.    It is very faint now, but it's approximately  
19 an inch long.

20          Q.    Now, during this encounter with the defendant  
21 and his dog, were you afraid?

22          A.    Honestly, / I was extremely afraid.

23          Q.    Mr. Carlson, did it take some time for you to  
24 calm down after this?

25          A.    Yes.  I was walking fast.  I was / scared.

26

1 Q. So about how far away from your home were you  
2 when this happened?

3 A. Roughly two to three blocks.

4 Q. About how long do you think \*/ it took you to  
5 continue home after this attack?

6 A. I actually walked down about a block, then  
7 quickly turned around to make sure that he / was  
8 leaving. I turned around and immediately headed right  
9 back home.

10 MS. BAKER: Objection. That's not responsive to  
11 the question.

12 THE COURT: All right. Sustained.

13 MS. BAKER: Move to strike.

14 THE COURT: Last / answer is stricken.

15 Q. BY MS. GIBBS: Okay. In terms of minutes from  
16 the time of the attack until the time you arrived home,  
17 about how long was it? /

18 A. I would estimate close to ten minutes.

19 Q. During that ten minutes that it took for you  
20 to get home, describe for us what you were / feeling.

21 A. I was shaking and scared.

22 Q. Still upsetting for you to talk about it  
23 today?

24 A. Yes. It still upsets me very much every day,  
25 yes. /

26

1 Q. Now, you spoke to an investigator regarding  
2 what happened; is that correct?

3 A. Yes.

4 Q. Now, you spoke to the investigator on February  
5 10th, 2003. / Does that sound about right?

6 A. Yes.

7 Q. Were you honest with this investigator when  
8 you spoke to him?

9 A. Yes. I told him just what I have / said here.

10 Q. Would you say the events were fresher in your  
11 mind in February of 2003 than they are today?

12 A. Not really. It \*/ is still very fresh in my  
13 mind. It is like it happened this morning.

14 Q. All right. Well, do you recall that when the  
15 dog attacked / you, the defendant asked you if you  
16 wanted more?

17 MS. BAKER: Objection. That's leading and  
18 suggestive.

19 THE COURT: Sustained.

20 Q. BY MS. GIBBS: Now, back in 2003, did you give  
21 the / police specific details about the conversation,  
22 the words between you and the defendant?

23 A. Yes, I did.

24 Q. And were you honest about that with the  
25 police? /

26 A. Yes.

1 Q. As you sit here now, do you recall the  
2 defendant saying anything to you during the attack?

3 A. Yes. You just refreshed my memory by / what  
4 you said just a little bit ago. I had forgotten that.  
5 I will admit --

6 MS. BAKER: Well, I will object and move to strike.  
7 That's nonresponsive. / It is a product of a leading  
8 question.

9 THE COURT: All right. Everything after "yes" is  
10 stricken.

11 Q. BY MS. GIBBS: All right. What do you recall  
12 being said by the / defendant during the attack?

13 MS. BAKER: Objection. Asked and answered. And it  
14 is also the product of a leading question.

15 THE COURT: Overruled. You may answer.

16 THE WITNESS: I now recall / that during the attack  
17 the defendant asked me if I wanted more after the first  
18 bite. I, of course, didn't want more.

19 Q. BY MS. GIBBS: After you said \*/ you didn't  
20 want more, at that point what happened?

21 A. As I remember, that's when he pulled the dog  
22 back and they continued on their way. /

23 MS. GIBBS: I have nothing further.

24 THE COURT: Cross-examination.  
25  
26



1 CROSS-EXAMINATION

2 Q. BY MS. BAKER: Mr. Carlson, if I understand  
3 it, you testified you had a previous encounter with  
4 this dog and my client; is / that right?

5 A. That's absolutely true.

6 Q. They were walking past you and the dog was on  
7 a leash?

8 A. That's correct.

9 Q. And as you get closer, he almost / bites you  
10 in the face?

11 A. Yes.

12 Q. Basically, my client prevented that from  
13 happening?

14 A. I am guessing he did since I wasn't bitten  
15 that time. /

16 Q. The dog is restrained on a leash. He lunges  
17 up toward you. My client pulls him away from you,  
18 correct?

19 A. He held the leash pulled / very taut, let's  
20 put it that way.

21 Q. Okay. The animal seemed to get excited when  
22 he saw you, correct?

23 A. I don't know. I was walking, / minding my own  
24 business, looking at the sidewalk. I didn't say  
25 anything. I didn't do anything.

26

1 Q. So the dog lunges toward you. He is pulled /  
2 away by my client; is that correct?

3 A. Yes.

4 Q. Mr. Carlson, you believe if he hadn't  
5 restrained the dog, the dog would have bitten you,  
6 right? \*/

7 A. I don't know. I would assume so.

8 MS. GIBBS: Objection. Speculation.

9 THE COURT: Overruled.

10 Q. BY MS. BAKER: Now, on May 20th, 2002, the  
11 same encounter is repeated, correct?

12 A. Yes. Very / same thing happened, except this  
13 time he attacked me.

14 Q. Was the dog barking when they were walking by?

15 A. There was no barking ever.

16 Q. You are / walking in the park. My client is  
17 walking his dog. It jumps up again. Then my client  
18 restrains him again so you don't get bit, / right?

19 A. Correct.

20 Q. All right. You were very shaken by that; is  
21 that correct?

22 A. That's correct, yes.

23 Q. And then you walked a few feet away; is / that  
24 right?

25 A. Yes. I just slowly kept walking, yes.

26

1 Q. You also testified that eventually you heard a  
2 command to attack?

3 A. That's correct. After our conversation, /  
4 yes. I got about ten feet away. I heard that command  
5 to attack.

6 Q. When the dog bit you, you believed that my  
7 client still had / ahold of the leash, right?

8 A. No.

9 Q. Now, Mr. Carlson, did you testify previously  
10 that you can't say what happened right before you were  
11 bit because / you were looking the opposite direction?

12 A. I was walking away from them, yes.

13 Q. From the time you walked away to the time that  
14 you got \*/ bit, was that a short period of time?

15 A. Very short, yes.

16 Q. Perhaps a couple of seconds?

17 A. No more than maybe five seconds.

18 Q. All right. So / from the moment you walked  
19 away to the instant you were bitten, that was about  
20 five seconds, correct?

21 A. Roughly.

22 Q. You heard the command to attack? /

23 A. I definitely heard that.

24 Q. You didn't hear him command the dog to stop or  
25 anything like that?

26 A. He didn't ever say anything like that.

1 Q. Now, / you got bitten only once. As soon as  
2 that happened, did the dog bite you again?

3 A. No.

4 Q. Where was my client?

5 A. I don't know. I / know he wasn't with the dog  
6 because when I looked over my shoulder, it was only his  
7 animal coming toward me very quickly.

8 Q. Just before / the dog bit you, did you  
9 describe that event to the police as my client actually  
10 loosened his grip on the leash?

11 A. Well, he obviously / let go of the leash. The  
12 dog was running free.

13 Q. Did you tell the police officer that he  
14 loosened his grip?

15 A. What time do you / mean?

16 Q. Mr. Carlson, you know the difference between  
17 letting a dog go and loosening your grip, correct?

18 A. Yes.

19 Q. There is a difference, correct?

20 A. That's correct. \*/

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22  
23 -o0o-

24  
25 **\*\*\*EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE**  
26 **SLIGHTLY DIFFERENT\*\*\***