

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - DOMESTIC VIOLENCE DIVISION

THE PEOPLE OF THE STATE)
OF ILLINOIS,)
) Plaintiff,)
) No. [REDACTED] [REDACTED]
-vs-)
) Br. [REDACTED]
D [REDACTED],)
) Defendant.)

BENCH TRIAL

REPORT OF PROCEEDINGS of the hearing had in
the above-entitled cause, before the Honorable Judge [REDACTED]
[REDACTED], Judge of said court, on the [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED], in [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] Chicago, Illinois.

PRESENT:

HON. KIMBERLY M. FOXX,
State's Attorney of Cook County, by:
ASA #1 [REDACTED] [REDACTED] and ASA #2 [REDACTED] [REDACTED],
Assistant State's Attorneys,
appeared on behalf of the People;

MR. D Atty [REDACTED],
appeared on behalf of the Defendant.

[REDACTED]

1 Chicago?

2 A Two years.

3 Q Sir, do you know a person by the name of

4 D [REDACTED] [REDACTED] [REDACTED] ?

5 A Yes.

6 Q How do you know him?

7 A We went out for about a year.

8 Q Do you see D [REDACTED] [REDACTED] [REDACTED] here in

9 court today?

10 A Yes.

11 Q Could you please point to him and describe an

12 article of clothing he's wearing.

13 A It's a blue shirt -- a blue jacket and a white

14 shirt and tie.

15 THE COURT: The record will reflect the in-court

16 identification of the Defendant.

17 BY ASA #2 [REDACTED]:

18 Q Sir, you said you went out with D [REDACTED] for

19 about a year, is that correct?

20 A (Through the Interpreter) Yes.

21 Q Did you mean romantically?

22 A Yes.

23 Q And, during the course of that year, did the

24 two of you ever live together?

1 A No.

2 Q When did the relationship approximately start
3 and when did it approximately end?

4 A It started around May of 2017.

5 Q And ended about when, sir?

6 A August, 2018.

7 Q And, during that time, did Michael ever meet
8 your family?

9 A Yes.

10 Q Did he ever meet your -- During that time, did
11 your mother ever stay with you?

12 A Yes.

13 Q Did D [REDACTED] meet your mother?

14 A Yes.

15 Q During that time, about how often were you
16 seeing each other every week?

17 A Almost everyday.

18 Q And, how often were you spending the night in
19 each other's houses, spending the night together?

20 A Almost every night.

21 Q Sir, turning your attention to -- I'm sorry.
22 You know a person by the name of [REDACTED]
23 State Wit [REDACTED], correct?

24 A Yes.

1 CROSS EXAMINATION

2 BY D Atty [REDACTED]:

3 Q Mr. Victim [REDACTED], I'm going to start by asking you
4 some clarifying questions with regards to what counsel
5 asked you.

6 Sir, you indicated to counsel that you began a
7 relationship with Mr. D [REDACTED] in May of 2017, is
8 that your testimony?

9 A (Through the Interpreter) Approximately.

10 Q So, now it's approximate?

11 A It's always been approximate.

12 Q Okay. And, that relationship continued until
13 August of 2018?

14 A Approximately.

15 Q I want to be clear, sir. 2018?

16 A Yes.

17 Q Okay. Sir, isn't it actually true that you
18 and Mr. D [REDACTED] engaged in a physical relationship
19 briefly for the period of 2 weeks in early 2017?

20 A So, are you saying it was just from that date?

21 Q No. What I'm saying is that you had a brief
22 physical relationship that lasted for a period of
23 2 weeks.

24 A No, it was more than that.

1 Q Okay. Well, was it until 2018?

2 A I would have to look at the dates on the
3 photos that I have. I don't remember exactly what the
4 dates were.

5 Q Okay. Well, you said you were together almost
6 everyday, correct?

7 A Yes.

8 Q And, you spoke everyday, correct?

9 A Of course.

10 Q And, you slept together almost every night,
11 correct?

12 A Yes, sir.

13 Q Are you aware that Mr. D [REDACTED] was actually
14 in a monogamous relationship?

15 MR. ASA #2: Objection as to foundation.

16 THE COURT: Could you just clarify what time, now
17 or when?

18 MR. D Atty: Sure.

19 Q Are you aware that Mr. D [REDACTED] is now in
20 a monogamous relationship?

21 MR. ASA #2: Objection, relevance.

22 THE COURT: Overruled.

23 THE WITNESS: (Through the Interpreter) Yes.

24

1 BY MR. **D Atty** :

2 Q And, are you aware that he's been in that
3 monogamous relationship since approximately October of
4 2017?

5 A No, I didn't know that.

6 Q Are you aware that the parties have lived
7 together since October of 2017?

8 A No.

9 Q When any of the various times in which you
10 were speaking to Mr. **D**, did he mention that he
11 was in a relationship?

12 A No.

13 Q When you stayed together almost every night,
14 did you stay at your place or his place?

15 A Mine.

16 Q Okay. And, did you ever go by his place?

17 A A couple times only during the day.

18 Q Did you ever notice that there was another
19 man's belongings there?

20 A No.

21 Q Did you ever notice there was another man
22 there?

23 A No, I never saw him.

24 Q Okay. I'd like to speak to you about **Witness**.

1 D [REDACTED] [REDACTED] [REDACTED] ?
2 A Yes, I do.
3 Q Do you see him in court?
4 A Yes.
5 Q Could you please point to him and describe an
6 article of clothing he's wearing?
7 A Black suit.
8 THE COURT: The record will reflect an in-court
9 identification of the Defendant.
10 BY MR. ASA #2 :
11 Q And, when did you meet D [REDACTED] [REDACTED] ?
12 A Before I moved here, I would visit Victim. Him
13 and Victim were in a relationship.
14 Q When you say, "a relationship," how do you
15 mean?
16 A Monogamous dating relationship.
17 Q When you say, "[REDACTED]," you mean Victim [REDACTED]
18 [REDACTED] ?
19 A Yes.
20 Q Okay. How long have you known Victim ?
21 A Since we were -- I think I was 20 when I met
22 him or 21. I'm not sure.
23 Q And, the two of you have been friends since
24 then?

1 A Yes.

2 Q Do you remember about when you met D ?

3 A I think 2 years ago for Victim's birthday, so

4 it must have February when I was visiting Victim --

5 , sorry.

6 Q Okay. When you say, "Victim," you mean ?

7 A Yeah, that's his family name.

8 Q And, do you know Victim's family?

9 A I do, yes.

10 Q And, how often would you visit Victim when you

11 lived in Miami?

12 A Around, like, twice a year, 3 times a year.

13 Q So, how many times did you meet D over

14 the course of the time that they were together?

15 A I would say around 3 times.

16 Q And, you said they were dating, right?

17 A Yes.

18 Q They acted like a couple?

19 A Yes.

20 Q Did you see Victim spend the night with D

21 or D spend the night with Victim?

22 A Yes.

23 Q You said you moved to Chicago from Miami.

24 A I did.

1 Q Now, sir, on the evening when you moved
2 to -- As of January 13th of 2019, to your knowledge,
3 were D [REDACTED] and Victim still dating?

4 A They were not exactly full together, but, they
5 were, from what I know, D [REDACTED] was trying to
6 continuing outreaching to Victim.

7 Q Okay. But, they were not exclusive anymore?

8 A They were not exclusive anymore.

9 Q All right. You went out to a couple of bars
10 that evening?

11 A Yes.

12 Q Or, I'm sorry, the morning of January 13th?

13 A Yes.

14 Q Okay. Do you remember which bars you went to?

15 A Sidetracks and then we walked over to Hydrate,
16 which is, like, right across the street.

17 Q Okay. And, where were you prior to -- About
18 what time did you leave to go out to the bar scene?

19 A It must have been around 1:00, midnight.

20 Q And, was it just you and Victim?

21 A Victim and I and two others.

22 Q And, before you went to Sidetracks, where were
23 you?

24 A At Victim's house.

1 THE COURT: All right. Now, the other attorney is
2 going to ask you some questions.

3 THE WITNESS: Sure.

4 CROSS EXAMINATION

5 BY

6 MR. D Atty :

7 Q Sir, you indicated, when counsel asked you
8 about Victim's relationship with D, that they had
9 dated before you moved to Chicago, is that correct?

10 A Correct.

11 Q Okay. And, you have lived in Chicago, you
12 indicated, for about a year, correct?

13 A Yes.

14 Q So, they had dated at some point at least a
15 year ago, correct?

16 A Yes.

17 Q Okay. And, you also indicated --

18 A No, no, sorry, not that they have dated a year
19 ago. I have been here for a year. Prior to me
20 moving here, I would always visit, and they were still
21 dating. They were still dating when I moved here.

22 I have only been here a year. Victim has been
23 here for, like, 2 or 3 years. I'm not sure.

24 Q Okay, I'm speaking about you.

1 A Yeah.

2 Q Your testimony was that they dated before you
3 moved to Chicago. Is that your testimony or was it
4 not your testimony?

5 A No, they were still dating when I moved here.

6 Q Okay, when did you move here?

7 A March, I think, 28th of last year.

8 Q Okay, March 28th of 2018?

9 A Correct.

10 Q But, you indicated that D has a
11 boyfriend.

12 A Now. At the time of the bar fight, he was
13 with his boyfriend, yeah.

14 Q Okay. How long has he been with that
15 boyfriend?

16 A I don't know. I don't know.

17 Q When did you learn that he had a boyfriend?

18 A Through social media.

19 Q When did you learn that?

20 A Because you can see people's pictures and
21 comments.

22 Q When did you learn that?

23 A When did I learn that? Probably a month
24 before the fight.

1 Q Okay. So, you've lived in Chicago for a year,
2 correct?

3 A Yes.

4 Q And, during that time, who did you live with?

5 A Victim , .

6 Q The whole time you have lived with Victim ?

7 A On and off, yeah.

8 Q Okay. Would you say that most nights D
9 stayed at Victim 's home?

10 A Yes, and visa versa. They would stay over
11 each other's houses or apartments.

12 Q Okay. So, I'm going to take a step back, sir,
13 because I'm a little confused.

14 So, you said you met DDDDDDD 3 times?

15 A Yes.

16 Q Okay. But, you've been in Chicago for a year?

17 A Correct.

18 Q During that time, you have lived with Victim ?

19 A Yes.

20 Q And, D would stay at Victim 's house every
21 night?

22 A Not every night but a lot of the nights, yeah,
23 a few times a month.

24 Q How can you reconcile with the fact you

1 only met D 3 times?

2 MR. ASA #2: Objection, misstates the testimony.

3 THE COURT: You can certainly redirect regarding
4 that.

5 BY MR. LYTLE:

6 Q That you've only met D 3 times and, yet,
7 he stays in the house where you stayed and --

8 A Because Victim would tell me D is coming
9 over and I would not stay over.

10 Q Okay. So, you don't know if he stayed there.
11 You only know that Victim told you he was coming?

12 A He definitely stayed there, because the two
13 times I met him in Chicago he was over Victim's house,
14 Victim's house.

15 It's a one bedroom, so he slept in the room
16 and I slept on the couch.

17 Q So, very quick. You only met him 3 times?

18 A Correct.

19 Q But, it's your testimony that he stayed at the
20 home where you lived the majority of the nights you
21 stayed there, and you know that based on Victim telling
22 you that he stayed there?

23 A Correct.

24 Q But, you, in fact, never encountered him there

1 except for those 3 times?

2 A Correct.

3 Q Okay. And, you learned recently that he had a
4 boyfriend?

5 A Yes.

6 THE COURT: Excuse me, when you say, "he"?

7 BY MR. **Def Atty**:

8 Q You learned, you said, **D** had a
9 boyfriend -- I apologize, your Honor.

10 THE COURT: That's okay.

11 THE WITNESS: I mean, it seems I'm presuming that
12 he has a boyfriend, yeah, from the pictures on his
13 field, yeah.

14 BY MR. **D Atty**:

15 Q Okay. And, you said that you learned that
16 **D** had a boyfriend approximately a month ago from
17 social media?

18 A Correct.

19 Q Okay. In that month time, did **D** stay at
20 your home during that month after you found out he had
21 a boyfriend from social media?

22 A I don't know. I don't know.

23 Q But, you've indicated already to this Court
24 that he stayed at that home the majority of the time.

1 A Prior to dating or whatever is going on with
2 his boyfriend, yeah, he would stay over a few times.

3 Q Well, when did he cease -- When did D
4 cease staying in your home most nights?

5 A I'm not sure because I have my own apartment
6 and I live with Victim, as well, so it's ...

7 Q Okay. So, do you live with Victim or you got
8 your own apartment?

9 A So, I rent out my apartment. That's the case.

10 Q So, you're really saying --

11 A My mail goes to Victim's house.

12 Q So, would it be fair to say at this point you
13 really don't know if D ever stayed there?

14 A He definitely did stay there.

15 Q But, you never see him?

16 A No. I have a job.

17 Q So, let's talk about the actual night in
18 question. Prior to going out at 1:00 o'clock in the
19 morning, you didn't have anything to drink, correct?

20 A No.

21 Q And, as far as you know, Victim had nothing to
22 drink, correct?

23 A Correct.

24 Q Okay. And, you went to Hydrate with a party

1 THE COURT: If you'd like to use the Interpreter,
2 if you would just stay in Spanish then, okay?

3 THE WITNESS: (Through the Interpreter) Yeah.

4 THE COURT: You can put your hand down. We're
5 just waiting for the State's Attorney to come back and
6 then we'll start.

7 MR. ASA #2: Thank you, Judge.

8 THE COURT: I took the liberty of swearing the
9 witness in.

10 MR. ASA #2: Thank you.

11 THE COURT: You may proceed with this witness,
12 D Witness. All right, go ahead.

13 MR. D Atty: Thank you.

14 D Witness D Witness,

15 called as a witness herein by the Defense, having
16 first been duly sworn, was examined and testified
17 through the Spanish Interpreter as follows:

18 DIRECT EXAMINATION

19 BY D:

20 Q D, can you just restate your name
21 and spell it for the Court, please.

22 A (Through the Interpreter) D Witness.

23 Q And, Mr. D Witness, do you know the Defendant,
24 D?

1 A Yes.

2 Q Do you see [REDACTED] [REDACTED] in court here
3 today?

4 A No.

5 Q Do you see [REDACTED] [REDACTED] in court today?

6 MR. ASA #2: Objection, asked and answered.

7 THE COURT: Overruled.

8 THE WITNESS: (Through the Interpreter) Yes.

9 BY MR. D Atty:

10 Q Okay. Can you point to Mr. [REDACTED] and
11 identify an article of clothing he's wearing?

12 A Yes. He has a blue jacket on. He has a blue
13 shirt and some brown shoes.

14 THE COURT: The record will reflect in-court
15 identification of the Defendant.

16 MR. D Atty: Thank you, your Honor.

17 Q Mr. D Witness how do you know Mr. [REDACTED]?

18 A (Through the Interpreter) I got to know him
19 on December 4, 2017, on a trip that I took to Miami.

20 Q What is your relationship with Mr. [REDACTED]?

21 A He's my boyfriend.

22 Q When did you begin dating Mr. [REDACTED]?

23 A In November.

24 Q November of what year, sir?

1 A 2017.

2 Q Do you live with Mr. D [REDACTED]?

3 A Yes, currently yes.

4 Q When did you two begin cohabitating?

5 A On June 5th of 2018.

6 Q And, during that time, do you recall whether

7 or not -- Strike that.

8 Does Mr. D [REDACTED] sleep at home most nights?

9 A Yes.

10 Q Okay. Do you recall a time when Mr. D [REDACTED]

11 did not come home at night?

12 A No.

13 Q Do you recall a time where you were not aware

14 of his whereabouts at night?

15 A No.

16 Q When Mr. D [REDACTED] sleeps at home, is he in

17 the company of Victim [REDACTED]?

18 A No.

19 Q Do you recall the morning of January 13, 2019?

20 A In the morning?

21 Q Yes, sir. Do you recall that morning?

22 A Yes.

23 Q Do you recall the morning when the incident

24 which gave rise to this trial occurred?

1 A Yes.

2 Q Were you with Mr. [REDACTED] that morning?

3 A Yes.

4 Q And, where were you and Mr. [REDACTED] at about
5 3:00 o'clock in the morning on that date?

6 A We were in a bar that's called Hydrate.

7 Q And, did you have an opportunity to observe
8 Mr. [REDACTED]' face prior to entering into that bar?

9 A He was with me, yes.

10 Q And, you saw his face, sir?

11 A Yes.

12 Q And, did you have an opportunity to observe
13 Mr. [REDACTED]' face after you left the bar?

14 A Yes.

15 MR. [REDACTED]: I am showing counsel what is marked as
16 Defense 1 and Defense 2. May I approach, your Honor?

17 THE COURT: Yes.

18 BY MR. [REDACTED]:

19 Q Mr. [REDACTED], do you recognize this photograph?

20 A (Through the Interpreter) Yes.

21 Q And, who do you recognize this to be a
22 photograph of?

23 MR. [REDACTED]: I have an objection, Judge. I would
24 ask he indicate which number he's referring to.

1 there, the other attorney is going to ask you some
2 questions.

3 CROSS EXAMINATION

4 BY MR. ASA #2:

5 Q So, you were at Hydrate at 3:00 o'clock on the
6 morning, is that right?

7 A (Through the Interpreter) Yes.

8 Q Do you see Victim at Hydrate that night?

9 A Yes.

10 Q Did you see State Witness at Hydrate that morning?

11 A I don't know who State Witness is. I know he
12 accompanied him, but I don't know his name.

13 Q Okay. Is he the tall guy standing out in the
14 hall?

15 A (In English) Yes.

16 THE COURT: I know it's really, really hard when
17 you speak two languages, but to make a clear record,
18 I'm just going to ask that you stick with Spanish so
19 that we just have one language on the record.

20 That's okay.

21 BY MR. ASA #2:

22 Q How do you know Victim?

23 MR. LYTLE: Objection, your Honor.

24 THE COURT: Overruled.

1 THE WITNESS: (Through the Interpreter) I know
2 him through some text messages that he was sending me
3 constantly, but I never had any relationship with him
4 and I never spoke to him.

5 BY MR. ASA #2:

6 Q So, you never saw Victim before that night?

7 A I had never seen him before that night. That
8 was the first time that I had seen Victim in person.

9 Q So, how did you learn his name? How did you
10 learn Victim's name?

11 A As I said before, he was sending me some
12 various text messages through some other individuals.

13 Q Was he sending you text messages, sir, or
14 other people text messages?

15 A It was precisely to me.

16 Q Okay. But, you had never seen him in person
17 before?

18 A No.

19 Q So, the 13th, that was a Sunday, right?

20 A Yes.

21 Q The night before was a Saturday night, right?

22 A Yes.

23 Q So, 3:00 o'clock in the morning after a
24 Saturday night, Victim walks in and you immediately

1 recognize him?

2 A It wasn't that I recognized him. D saw
3 him and he recognized him and he told me who he was.

4 Q Sir, D was arrested that night, right?

5 A Yes.

6 Q Did you go -- So, you spent at least one night
7 without D, right?

8 MR. D Atty: Your Honor, I'm going to object. I
9 believe counsel is trying to impeach. The question
10 was he didn't know his whereabouts.

11 THE COURT: Okay. Well, I think he also testified
12 that he sleeps at home, so he can answer that
13 question.

14 THE WITNESS: (Through the Interpreter) When
15 you're saying at night, but it was early in the
16 morning on Saturday.

17 BY MR. ASA #2:

18 Q So, did D get arrested?

19 A I didn't see when he was arrested, but I saw
20 when he was already detained in the car.

21 Q Did you try to tell the police what happened?

22 A I couldn't tell him anything because I didn't
23 see what happened. I was just trying to ask them to
24 tell me what happened.

1 don't discuss your testimony with anyone until we're
2 done with the trial.

3 (Witness excused.)

4 MR. **D Atty**: Your Honor, with that, Defense rests.

5 THE COURT: Okay. Does the State have anything in
6 rebuttal.

7 MR. **ASA #2**: No, Judge. Waive opening, reserve
8 rebuttal.

9 THE COURT: They're waiving opening, counsel.

10 MR. **D Atty**: So, your Honor, obviously, in any
11 criminal charge, the State bears the ultimate burden
12 of proving the Defendant guilty beyond a reasonable
13 doubt. The State carries that burden with each and
14 every element of the charge beyond a reasonable doubt.

15 What we heard today is we heard the testimony
16 of two individuals who are, to some extent, inherently
17 biased. They are individuals who indicated that they
18 knew each other in some way, and they gave testimony
19 that was fairly consistent on some key elements in
20 terms of the location of the parties during the course
21 of the evening and what transpired, but a lot of
22 testimony was curiously inconsistent.

23 What you heard was a great deal of testimony
24 that contradicted itself with regards to how was it

1 that he knew State Witness, when he met State Witness, what the
2 timing of his relationship was with State Witness, what the
3 timing of his relationship was with regards to
4 Mr. D. You also heard conflicting evidence at
5 times from State Witness himself as to what the nature of
6 that relationship was between Victim and D.

7 Mr. State Witness seemed very eager, in fact, to
8 establish that there had been a relationship,
9 testifying certainly that he, first of all, testifying
10 inconsistently as to when he met D, when the
11 relationship began, how he knew D, how many
12 times he had met him, and then testifying certainly
13 that he only met D on 3 occasions but he
14 believed that the parties were staying together at his
15 residence; that they were staying together at his
16 residence on nearly every evening, and then indicating
17 well, that maybe it wasn't really his residence. It
18 was some other residence.

19 So, from the standpoint of credibility of
20 witnesses, I believe that neither of those witnesses
21 are credible, and I believe that, based on the
22 incredulity of their testimony, that nothing that they
23 say can be believed or can be believed beyond a
24 reasonable doubt.

1 That being said, even presuming that they
2 testimony was credible, we're still left with a
3 situation in which neither individual identified that
4 Mr. D [REDACTED] initially struck Victim. Victim indicated
5 that he was struck by someone; that he turned and then
6 he saw that Mr. D [REDACTED] was in his vicinity.

7 He didn't, at that point, seek any assistance.
8 The crowd that was around him that time didn't seek
9 assistance, didn't seek to apprehend Mr. D [REDACTED].
10 They didn't react in any way to the fact that he was
11 allegedly struck by Mr. D [REDACTED], and so they were
12 left with this second alleged incident which, frankly,
13 would sure be consistent if the two parties had
14 believed that there had been an altercation earlier
15 and that there was a second confrontation about this
16 alleged altercation, where State Witness himself indicates he
17 doesn't know who started that second altercation.

18 The parties both seemed rather agitated. The
19 parties were moving closer and closer together, and
20 then we hear that State Witness approached the two as a
21 peacemaker and very calmly, by his testimony, tried to
22 diffuse the situation; that being despite the fact
23 that State Witness indicated that it was quite loud in that
24 bar at the time.

1 State Witness then testifies that D, who is
2 maybe the same height, maybe a little shorter, somehow
3 reached around State Witness and was able to strike Victim in
4 the face. Both parties deny that they struck D
5 in any way, despite the fact it's very clear from the
6 evidence that D was, in fact, struck in the
7 face.

8 I believe that all those things taken together
9 there would certainly be reasonable doubt to believe
10 that either it was mutual combat or that D did
11 not strike Victim in the first place. That, added to
12 the testimony of Mr. D Witness, I think certainly leads
13 to reasonable doubt and in particular on the issue of
14 whether or not there was, in fact, a domestic
15 relationship between these two people.

16 Mr. D Witness testified very credibly that he has
17 been in a long, monogamous relationship with D;
18 that he cohabitates with D; that he sees D
19 nearly every night; that there are not nights where he
20 doesn't know where his whereabouts are; that Victim is
21 not staying at his house also on those nights, and
22 that he testified credibly that Mr. D did not
23 have an injury when he entered the bar; that he did
24 have one when he left.

1 Counsel gave Mr. **D Witness** every opportunity to
2 lie. Mr. **D Witness** very clearly could have said, Hey, I
3 saw this confrontation; I saw what happened, right;
4 and **D** didn't do any of this. In fact, **D**
5 was the victim here. He didn't do that. He was
6 incredibly credible. He was un-impeached as opposed
7 to the other two complaining witnesses who were, in
8 fact, impeached.

9 As a result, your Honor, I believe that there
10 is sufficient reasonable doubt, particularly with the
11 issue of whether or not there was ever a domestic
12 relationship between these parties. But, I believe
13 there is reasonable doubt as to whether or not a
14 battery occurred within the meaning of the statute
15 that was not, in fact, as a result of some mutual
16 combat between the parties.

17 We ask you find **D** not guilty.

18 THE COURT: Okay. State?

19 MR. **ASA #2**: Judge, the complaining witness and
20 **State Witness** wholly corroborate each other. Again, this
21 isn't words alone situation. This is a situation
22 where **State Witness** doesn't say he had the first hit. There
23 are concessions on both sides. I agree with counsel.
24 Mr. **D Witness** adds absolutely nothing to the case because

1 he didn't see anything. There's no evidentiary value
2 to what he saw on the morning of January 13th of 2019.

3 As to the complaining witness' relationship
4 with the Defendant, the testimony was not that **State Witness**
5 had only met **D** 3 times. It was that he had met
6 **D** 3 times before he moved to the City of
7 Chicago. There was the testimony, and that he saw him
8 every time he visited when he would visit his good
9 friend **Victim**.

10 The two stories are wholly corroborated,
11 Judge. They're corroborated by the injuries. They're
12 corroborated by the bar rags. They're corroborated by
13 the photographs. There's no evidence, other than
14 Mr. **D Witness**' testimony, as to the injuries.

15 Photographs were never exhibited or were never entered
16 into evidence, and, thus, should not be considered by
17 the Court.

18 **State Witness**'s approach to the Defendant at the time
19 was wholly reasonable. **State Witness** was under the
20 impression that the Defendant was high on cocaine, was
21 drunk, and had just punched his friend. It is totally
22 reasonable at that point to take away that
23 perspective; to try to calm things down; to try to sum
24 things up. The idea that they did not react

1 immediately, the testimony was wholly consistent that
2 security was on him, was on the Defendant, like flies
3 on honey; that they were immediately separated and
4 police were called. The testimony between **Victim** and
5 **State Witness** is wholly consistent, Judge.

6 The People would ask that this Court find the
7 Defendant guilty of domestic battery.

8 THE COURT: All right, thank you. So, I have had
9 the opportunity to hear from 3 witnesses today, two
10 from the State, one from the Defense. I would say at
11 the offset, as far as this first incident by the bar
12 where the complaining witness said he was hit on the
13 back of the head and says that the Defendant is
14 nearby, but he didn't see him strike him. I'm not
15 considering that. I'm only addressing the second
16 alleged incident in the bar where **State Witness** says the
17 complaining witness and the Defendant were engaged in
18 a verbal altercation.

19 The complaining witness and the other State's
20 witness **State Witness** said that the Defendant and the
21 complaining witness were close to each other and
22 having a verbal altercation and that the Defendant
23 reached over **State Witness** and struck the complaining
24 witness. In corroboration of that, the State

1 presented pictures of a bar rag with blood on it and a
2 picture of the complaining witness with two little red
3 marks under his nose.

4 Now, the Defense alleges this is mutual
5 combat, but there's nothing to corroborate their
6 version. There's no exhibits admitted into evidence.
7 There was no testimony regarding, had those exhibits
8 been admitted, how the Defendant even got that injury
9 because the one Defense witness did not see any part
10 of this altercation.

11 I find that the State has met its burden that
12 the Defendant struck the complaining witness. As to
13 the domestic relationship between them, I found
14 **State Witness**'s comments very odd about being there; that
15 someone is going to leave every single time your
16 roommate wants to have someone over; that you're going
17 to leave.

18 This Court does not find that the State has
19 proved the domestic relationship. This may have been
20 two people hooking up, for lack of a more elegant
21 term. I do not find that they have proved there was a
22 dating relationship. Therefore, there will be a
23 finding of guilty on the charge of battery.

24 Do the parties wish to proceed to sentencing

1 today, or would you like a date?

2 MR. **D Atty**: We do, your Honor.

3 THE COURT: Okay. Do the parties want to approach
4 to?

5 MR. **ASA #2**: Is he ready?

6 THE COURT: I'm finding him guilty of battery.

7 MR. **ASA #2**: I didn't know if he wanted a date
8 or...

9 MR. **D Atty**: We can proceed today.

10 THE COURT: That's what I thought you said.

11 You want to step up, please?

12 MR. **ASA #2**: Judge, I'd like to bring up one
13 other issue. There is a petition for an order of
14 protection pending.

15 THE COURT: That is, respectfully, denied.

16 All right, we'll start with the State. Is
17 there any background?

18 MR. **ASA #2**: Judge, there is no background. The
19 People would be requesting alcohol/drug evaluation,
20 any recommended treatment. We'd also be requesting
21 domestic violence classes or, at least, anger
22 management.

23 THE COURT: Counsel?

24 MR. **D Atty**: Your Honor, Mr. **DDDDDDDD** has a degree

1 in Economics from [REDACTED] [REDACTED] [REDACTED].

2 He moved to Chicago in 2016. As the State indicated,
3 he does not have any background. He is in a long
4 term, monogamous relationship with the witness you
5 met.

6 He, otherwise, is an, I think un-impeachable
7 citizen. In fact, one of the things I think I should
8 bring to this Court's attention, which I think is most
9 admirable about him, is work that he does with [REDACTED]
10 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. He currently
11 participates in birthday visits, where Mr. D [REDACTED]
12 provides party supplies, cupcakes, other gifts. He
13 does food bag deliveries, and he looks forward to
14 further volunteering in this program.

15 I think what is an appropriate sentence in
16 this case, given the Defendant's background, given his
17 work in the community, and given the facts of this
18 case, would be a sentence of court supervision for a
19 short period of time, somewhere in the vicinity of 6
20 to 12 months.

21 THE COURT: So, having considered the information
22 in aggravation and mitigation, as well as what I heard
23 in the trial, he does not have any background, so I
24 will place him on 6 months of supervision. He will

1 need to do a drug and alcohol evaluation and comply
2 with any recommended treatment. I do not think
3 that -- I believe addressing any issues regarding
4 substance abuse will take care of any of the issues.
5 I don't think it's necessarily an anger management
6 issue, but one of an abuse of drugs and alcohol which
7 certainly can cause people to behave inappropriately.

8 So, it will be 6 months sup.; ADAS, fines and
9 costs. The protective order will be terminated.
10 We'll just need to do the paperwork.

11 MR. ASA #2: Yes, your Honor.

12 THE COURT: Sir, you have a right to appeal,
13 Mr. D. If you want to appeal the judgment,
14 that is the finding of guilty on the battery charge,
15 you must file a notice of appeal within 30 days of
16 today's date.

17 If you wish to challenge the sentence, which
18 is the putting you on supervision, you must first file
19 a motion to reconsider the sentence or sentencing
20 hearing. You must file that notice of motion within
21 30 days of today's date and must be in writing and
22 list all issues or claims of error about the sentence
23 or sentencing hearing. Anything you fail to put in
24 that motion to reconsider would be waived or given up

1 for the purposes of appeal.

2 If I granted that motion, then I would have a
3 new sentencing hearing. If you were to file the
4 motion to reconsider your sentence and I denied it,
5 you would have 30 days from that date to file a
6 written notice of appeal.

7 If you couldn't afford an attorney or a
8 transcript of what happened in court today, those
9 things would be provided to you for free to help you
10 with your appeal.

11 Do you understand your appeal rights?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. We just need to prepare
14 the paperwork.

15 MR. **D Atty**: Thank you, your Honor.

16

17 (Which were all the proceedings had in
18 the above-entitled case on this date.)

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1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
2 COUNTY DEPARTMENT - DOMESTIC VIOLENCE DIVISION
3
4
5

6 I, [REDACTED] [REDACTED], Official Court
7 Reporter for the Circuit Court of Cook County, County
8 Department - Domestic Violence Division, do hereby
9 certify that I reported in shorthand the proceedings
10 had in the above-entitled cause; that I thereafter
11 caused the foregoing to be transcribed into
12 typewriting, which I certify to be a true and accurate
13 transcript of the Report of Proceedings had before the
14 Honorable [REDACTED] [REDACTED], Judge of said court.

15

16

17

18

19

[REDACTED]

Official Court Reporter

20

21

22

Dated this [REDACTED] [REDACTED] [REDACTED] [REDACTED]

23

License No. [REDACTED]

24