

1 recess.

2 THE COURT: We will ask Mr. Ahnger to escort the  
3 jury to the jury room. I may want to take up any  
4 questions that you might have on the instructions too  
5 while we're in recess.

6 (At 3:17 p.m., court recessed)

7 (At 3:35 p.m., court reconvened)

8 THE COURT: The defense having rested, Mr.  
9 Duggan, any rebuttal?

10 MR. DUGGAN: Yes, Your Honor, we would recall  
11 Paul Cowley.

12 THE COURT: We will consider that you are still  
13 under oath. Just be seated on the witness stand.

14 PAUL COWLEY,

15 Being recalled at 3:36 p.m., testified on his  
16 oath as follows:

17 DIRECT EXAMINATION

18 BY MR. DUGGAN:

19 Q Agent Cowley, you testified last week regarding the  
20 incident that occurred on East Genesee on March 25,  
21 1998.

22 Do you have that in mind?

23 A Yes.

24 Q That's where you just happened to be in the area with  
25 fellow officers in an unmarked van?

1 A That's correct.

2 Q And you had the opportunity to see the assault as I  
3 recall at the -- or the contact that might have led  
4 later to an assault at the door of Anthony Thomas'  
5 vehicle?

6 A That's correct.

7 Q By the way, was that vehicle the same one that was  
8 shot up and broke up in Rob Mason's driveway?

9 A Yes.

10 Q You arrested one person and took him with you at the  
11 scene, is that correct?

12 A That's correct.

13 Q And who was that?

14 A That was Duane Little Rab Jilks.

15 Q And did you have an opportunity to see who the person  
16 was at the door of Anthony Thomas', the vehicle,  
17 interacting with Mr. Thomas while Thomas sat in the  
18 driver's seat?

19 A Yes.

20 Q Was that Duane Jilks?

21 A ~~No.~~

22 Q How do you know that?

23 A That individual that I saw striking Mr. Thomas, when  
24 we pulled up, moved away, and then fled with another  
25 individual that I subsequently identified later. And

1 those two people were not Mr. Jilks, who is positioned  
2 at a different spot around the vehicle and was quickly  
3 apprehended as soon as we exited the vehicle by  
4 Sergeant VanHorn.

5 Q Any doubt in your mind about that based on your own  
6 personal observations?

7 A No.

8 Q And what vehicle was he in a different position  
9 around?

10 A Well, they were around Mr. Thomas' vehicle.

11 Q And who was the other person you identified -- well,  
12 you said two people fled, one of which you later were  
13 able to somehow have contact with.

14 A Yes. That would be Calvin KT Taylor.

15 Q Did you have a sufficient opportunity to see the face  
16 of the person at the door having contact with Anthony  
17 Thomas, the door of the car, such that you could  
18 identify him later, the face of the person?

19 A Of the person striking Mr. Thomas?

20 Q Right.

21 A No. Because the angle that I was at just gave me kind  
22 of a profile shot.

23 Q Was it a black male?

24 A It was a black male.

25 Q Was he within the basic physical description of the

1           defendant in this case, or not?

2   A       Yes. In fact, I did see his face, but it was rather  
3           dark, and I couldn't quite make out the features of  
4           the face. And plus, after I looked, I went to pick up  
5           the radio to call out for the rest of the task force  
6           to help us intercede.

7   Q       Did you see where the person who was at the door  
8           having contact with Anthony Thomas ran to?

9   A       Well, eventually what transpired was after we pulled  
10          up and Sergeant VanHorn wrestled with Jilks, the other  
11          individual that was at the car door fled to the west  
12          along the side of the building.

13   Q       The building called Play Styles Studio?

14   A       That's correct. Then the other individual,  
15          Mr. Taylor, kind of hooked around the front of the car  
16          and then stopped and looked at me and then turned and  
17          fled in the same direction. And then I pursued them  
18          probably to the corner of the building, the back  
19          corner, and then stopped and came back.

20   Q       On foot?

21   A       Yes.

22   Q       Were they together or apart?

23   A       I lost sight of them after they left the proximity of  
24          the building.

25   Q       Did they leave the proximity in the same direction?

1 A Yes.

2 Q And --

3 A At just like different times. Mr. Taylor hesitated.

4 I didn't know if he was going to try come around the

5 vehicle and flee down Genesee until he seen me. He

6 stopped, hesitated, we looked at each other, and then

7 he turned and went back to the west around the

8 building as did the other individual that was

9 attacking Mr. Thomas.

10 Q Did you have sufficient opportunity when he made that

11 turn around and faced you to get a facial appearance

12 that you can identify later in some other

13 investigation?

14 A Yes, that's exactly what happened.

15 Q And did that opportunity arise with a man who was

16 striking Anthony Thomas, where he turned around and

17 faced you?

18 A No.

19 Q Did Anthony Thomas get arrested that night?

20 A No.

21 Q Was he taken away from the scene in police hands?

22 A We secured Mr. Thomas in our vehicle.

23 MR. GUST: Your Honor, I am -- the question --

24 may we approach the bench?

25 THE COURT: Okay.

1 (bench conference)

2 BY MR. DUGGAN:

3 Q Agent Cowley, these are some yes or no questions.

4 Did you arrest, place under arrest Anthony Thomas  
5 for anything that night?

6 A No.

7 Q Yes or no, did he go to jail?

8 A No.

9 Q Yes or no, was he interviewed about his knowledge of  
10 the circumstances?

11 A Yes.

12 Q And these facts are reflected in your written reports?

13 A Yes.

14 MR. DUGGAN: Thank you. Nothing further.

15 C R O S S - E X A M I N A T I O N

16 BY MR. GUST:

17 Q Did you take Anthony Thomas away with you in a patrol  
18 car, or in a police vehicle, is that correct?

19 A In our unmarked vehicle, yes.

20 Q Where were you riding in the van that you were in that  
21 night?

22 A I was riding in the passenger's front seat.

23 Q Now, you have indicated that the person by the door,  
24 you said the physical, general physical description  
25 was of Mr. Wicker?

1 A Yes.

2 Q And it just appears to me, is that about an average  
3 size person you saw there?

4 A The person that I saw was -- I think I mentioned the  
5 last time I testified, was about five foot ten to six  
6 foot, heavy build, was dressed all in black. And I  
7 think the reason I said it fits Mr. Wicker's general  
8 description is because Mr. Jilks is somewhat similar  
9 in build.

10 Q Five ten to six foot?

11 A Yeah, at the time that's what I remember.

12 Q Was this a situation where you guys are driving down  
13 the street, you see something, pull in, it all happens  
14 just like that?

15 A Yes.

16 MR. DUGGAN: May we approach the bench, Your  
17 Honor?

18 THE COURT: Yes.

19 (bench conference)

20 BY MR. GUST:

21 Q From the time you first saw this incident occurring  
22 until the van -- when you first saw it until the van  
23 stopped and you guys are piling out, this is just  
24 seconds, is it not?

25 A The time it took to look through the driver's side

1 window, to see what appeared to be an assault, to tell  
2 Sergeant VanHorn that that individual is being  
3 assaulted, as he continues to turn into the --  
4 approximate --

5 Q Just seconds passed?

6 A Essentially, yeah. It was a continuous time frame.

7 MR. GUST: Nothing further, Your Honor.

8 R E D I R E C T E X A M I N A T I O N

9 BY MR. DUGGAN:

10 Q Did you see the person doing the assaulting of Anthony  
11 Thomas at his door ever standing straight up?

12 A No.

13 MR. DUGGAN: No further questions.

14 MR. GUST: Nothing further.

15 THE COURT: Any questions from the jury? Mr.  
16 Ahnger.

17 (bench conference)

18 THE COURT: The question is what time of the day  
19 was the assault on Mr. Thomas, and I guess the  
20 clarification we need is was it on March the 25th?

21 JUROR NO. 10: The assault at the studio.

22 THE COURT: March 25th then. Can you answer  
23 that?

24 A Yes, we witnessed the assault occur right around 8:00,  
25 8:00 p.m.



1           **THE COURT:** Follow-up questions?  
2           **MR. GUST:** None, Your Honor.  
3           **MR. DUGGAN:** None, Your Honor.  
4           **THE COURT:** Any others? If there are no further  
5 questions, you may be excused.  
6           (At 3:47 p.m., witness excused)  
7           **THE COURT:** As I understand it, Mr. Duggan, you  
8 don't have further witnesses at the moment?  
9           **MR. DUGGAN:** We rest again on our rebuttal.  
10          **THE COURT:** Well, there is a matter that I need  
11 to take up, and I would like to just see both Counsel  
12 for a few minutes on the instructions. Then you will  
13 be receiving the case, at least closing arguments,  
14 shortly. So I will ask Mr. Ahnger to escort the jury  
15 to the jury room. And I would like to see Counsel as  
16 soon as we can.  
17          (At 3:48 p.m., court recessed)  
18          (At 4:23 p.m., court reconvened)  
19          **THE COURT:** Please be seated.  
20          **MR. DUGGAN:** May we approach the bench?  
21          (bench conference)  
22          **THE COURT:** Okay. We are ready for final  
23 arguments, but there won't be time enough to have them  
24 today, and besides, then I have to give you the  
25 instructions, so we're going to ask that you return