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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 46 HON. DAVID R. FIELDS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) SUPERIOR COURT  
 ) NO. BA418371  
 )  
 SAMUEL GARUNTS, )  
 )  
 )  
 DEFENDANT. )  
 )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(PRELIMINARY HEARING EXAMINATION)

FRIDAY, MARCH 28, 2014

APPEARANCES:

FOR THE PEOPLE: STEVE COOLEY, DISTRICT ATTORNEY  
BY: L. CHRISTMAS BROOKENS, DEPUTY

FOR DEFENDANT: MARK J. GERAGOS, ESQ.

COPY

HTA: APRIL 11, 2014 LAUREN B. JONES, CSR NO. 7007  
DEPT. 114 OFFICIAL REPORTER

1           A           THAT WAS A DAY OR TWO AFTER AS I RECALL.  
2 IT WAS VERY SOON AFTER THE INCIDENT.

3           Q           SO THIS IS WHEN SHE WAS IN THE HOSPITAL AS  
4 YOU TESTIFIED TO EARLIER?

5           A           CORRECT.

6           Q           WHEN WAS THE NEXT TIME YOU SPOKE TO HER?

7           A           THAT I BELIEVE WAS ABOUT A MONTH AGO -- A  
8 MONTH LATER AFTER THAT.

9           Q           AND --

10          THE COURT: A MONTH LATER OR A MONTH AGO?

11          A           I'M SORRY. A MONTH AFTER THIS INCIDENT.

12          THE COURT: OKAY. THE MORNING AFTER.

13          Q           BY MS. BROOKENS: SO SOMETIME IN JUNE?

14          A           SOMETIME IN JUNE.

15          Q           AND WHEN YOU SPOKE TO HER IN JUNE, WHAT DID  
16 SHE TELL YOU HAPPENED AT THAT TIME?

17          A           SO SHE SAID THAT SHE HAD BEEN OUT DRINKING  
18 WITH SOME OF HER FRIENDS. SHE HAD HAD SEVERAL DRINKS,  
19 WENT TO A COUPLE OF BARS, AND THEN THIS IS HER WALKING  
20 HOME.

21          Q           AND AS SHE WAS WALKING HOME, DID SHE  
22 INDICATE WHAT HAD HAPPENED?

23          A           YES. SHE SAID SHE WAS APPROACHED BY FOUR  
24 MALES WHO MADE SOME STATEMENT TO HER. "YOU FAG. TAKE  
25 THAT OFF. YOU LOOK STUPID." THOSE KINDS OF COMMENTS.

26          Q           AND WHEN SHE INDICATED SHE WAS WALKING  
27 HOME, DID SHE INDICATE IF SHE WAS WITH ANYONE?

28          MR. GERAGOS: THERE WOULD BE AN OBJECTION TO THE

1           A           I TAKE THAT BACK. HE SAID THREE AS I  
2 RECALL.

3           Q           ASK WHEN HE SAID THAT HE SAW THREE MALES  
4 KICKING WHAT APPEARED TO BE A FEMALE ON THE GROUND, DID  
5 HE INDICATE WHERE THEY WERE KICKING THIS INDIVIDUAL?

6           A           YES. HE SAID MOSTLY THE HEAD AND ALSO THE  
7 BODY AS WELL.

8           Q           AND WHILE THEY WERE KICKING THIS  
9 INDIVIDUAL, DID HE INDICATE IF THEY WERE SAYING  
10 ANYTHING?

11           THE COURT: THERE'S WHAT --

12           MS. BROOKENS: DID HE INDICATE IF THEY WERE SAYING  
13 ANYTHING.

14           THE COURT: OKAY.

15           THE WITNESS: AS I RECALL, IT WAS "FUCKING BITCH."

16           Q           BY MS. BROOKENS: AND DID MR. JARVIS  
17 INDICATE WHILE THIS FEMALE WAS BEING KICKED, WHAT, IF  
18 ANYTHING, WAS SHE DOING?

19           A           HE SAID THAT SHE WAS CRYING.

20           Q           DID HE INDICATE IF THIS FEMALE EVER TRIED  
21 TO GET UP?

22           A           HE SAID SHE DID NOT.

23           Q           DID HE INDICATE IF THIS FEMALE EVER TRIED  
24 TO STOP THESE INDIVIDUALS FROM HITTING?

25           A           SHE DID NOT.

26           Q           DID SHE EVER TRY TO WHAT?

27           MS. BROOKENS: STOP THESE INDIVIDUALS FROM  
28 HITTING.

1 WAS TRANSGENDER OR CROSS-DRESSING OR ANYTHING; CORRECT?

2 A CORRECT.

3 Q HE SAID THAT THAT PERSON WAS ACTING CRAZY  
4 AND WAS FIGHTING WITH THE OTHER GENTLEMAN WHO WE SAW  
5 THAT WAS IN WHATEVER CAMERA ANGLE THAT WAS, THAT WAS IN  
6 THE ALCOVE; CORRECT?

7 A CORRECT.

8 Q THAT GENTLEMAN WHO WAS IN THE ALCOVE --  
9 BY THE TO WAY, WHEN WE STOPPED THAT FRAME  
10 OF THAT CAMERA AND WE SAW JUST KIND OF A SIDE VERSION OF  
11 HIM, HE WAS THROWING UP, WAS HE NOT?

12 A THAT'S CORRECT.

13 Q HE WAS VOMITING? SHE'S AT A .2, OR IT'S AT  
14 A .2 AT A1?

15 MS. BROOKENS: OBJECTION, YOUR HONOR.

16 THE WITNESS: OH, WOW.

17 MR. GERAGOS: WELL --

18 THE COURT: WHAT DID YOU SAY?

19 THE WITNESS: I SAID, "WOW."

20 THE COURT: WHAT?

21 MS. BROOKENS: I'M GOING TO OBJECT THAT HE  
22 REFERRED TO HIM AS "IT."

23 THE COURT: YOU DON'T NEED TO COMMENT.

24 YOU'RE SAYING -- LET'S JUST SAY --

25 MR. GERAGOS: WELL, THE LEGAL NAME IS "MR. DIEGO";  
26 SO SHOULD I CALL HIM "MR. DIEGO"?

27 THE COURT: LET'S JUST REFER TO IT AS --

28 I THINK FOR THE RECORD, YOU WERE REFERRING

1 MR. -- OFFICER MORRIS DESCRIBED IT AND HOW HE DESCRIBED  
2 RANDY JARVIS' TESTIMONY.

3 MS. BROOKENS: YEAH, AND THEY KICKING HER.

4 THE COURT: ON THE HEAD AND THE BODY.

5 MS. BROOKENS: AND CALLING HER A "BITCH" OR --

6 THE COURT: "FUCKING BITCH."

7 MS. BROOKENS: AND OFFICER MORRIS ALSO TESTIFIED  
8 THAT HE WAS -- HE TALKED TO MISS DIEGO, AND HE WAS  
9 PRESENT WHEN SHE TESTIFIED AT THE PRELIMINARY HEARING.

10 AND HER TESTIMONY WAS SHE SUFFERED A  
11 FRACTURED JAW, WHICH WAS CONSISTENT WITH WHAT MR. MORRIS  
12 SAID. THE AREAS IN WHICH IS HE SAID SHE WAS BEING  
13 KICKED. CLEARLY, THERE IS G.B.I. IN THIS CASE.

14 THE COURT: JUST FOR THE RECORD, GREAT BODILY  
15 INJURY.

16 MS. BROOKENS: GREAT BODILY INJURY.

17 THE COURT: AND WE ALL KNOW THIS, JUST SPENT  
18 REVIEWING THIS.

19 MS. BROOKENS: AND THE COMMENT THAT MR. JARVIS  
20 INDICATED HE HEARD, A "FUCKING BITCH" -- THAT DOESN'T  
21 LEND ITSELF TO SELF-DEFENSE OR, "SOMEBODY HELP US." AS  
22 COUNSEL INDICATED, THERE WERE OTHER PEOPLE ON THE  
23 STREET. MR. JARVIS CAME OUT. THESE INDIVIDUALS FLED  
24 THE SCENE.

25 MR. KHACHATRIAN DESCRIBED HIMSELF AS  
26 GUSHING LIKE A WATERFALL AND YET HE'S RUNNING FROM THE  
27 SCENE. NO MEDICAL RECORDS HAVE BEEN SUPPLIED. NO ONE  
28 CAME FORWARD. SELF-DEFENSE MUST EXIST AT THAT TIME THAT

1 HE WAS THE NIGHT STALKER. THEY FOUND THEM, THEY BEAT  
2 THE CRAP OUT OF HIM, AND THEY HELD HIM HERE.

3 THE COURT: HOLD ON.

4 MR. GERAGOS: THEY CALLED POLICE.

5 THE COURT: NO ONE CALLED THE POLICE HERE.

6 NO. WAIT. WAIT. WAIT, COUNSEL. NO ONE  
7 CALLED THE POLICE, COUNSEL. HE DIDN'T LIKE TAP, TAP  
8 HER, PUT HER THE GROUND. NOT HURT HER, JUST TAPPED HER  
9 ON THE GROUND AND, SAY, HEY' YOU JUST CUT OUR GUY.  
10 WE'RE CALLING THE COPS. THAT DIDN'T HAPPEN HERE.

11 MR. GERAGOS: WOULD YOU DO THAT? BECAUSE I  
12 WOULDN'T. I'M NOT GOING TO TOUCH THIS FREAK AS SHE'S  
13 RUNNING DOWN THE STREET AT A .28 WITH A BOX CUTTER.

14 THE COURT: LET'S NOT REFER TO SOMEONE AS A  
15 "FREAK," COUNSEL.

16 MR. GERAGOS: THIS IS A FREAK. WHY DO WE HAVE  
17 TO --

18 WHY DO WE HAVE TO ABANDON WHAT OUR COMMON  
19 SENSE SAYS? THIS IS SOMEBODY WHO'S WALKING DOWN THE  
20 STREET WHO IS A .28, WHO IS WALKING WITH SOMEBODY WHO'S  
21 PUKING THEIR GUTS OUT ON SIDEWALK, WHO TAKES A BOX  
22 CUTTER, TURNS AROUND AND HITS SOMEBODY, AND YOU'RE  
23 TELLING ME THAT I CAN'T CALL THAT PERSON A "FREAK"?

24 THE COURT: NO. NO. NO. MAYBE HER BEHAVIOR IS  
25 FREAKISH --

26 MR. GERAGOS: HER BEHAVIOR IS FREAKISH.

27 THE COURT: BUT I DON'T THINK WE SHOULD REFER TO  
28 HER AS A "FREAK."

1 MR. GERAGOS: I WILL ACCEPT THAT. BUT IT'S --  
2 THE COURT: BUR YOU'RE SAYING HER BEHAVIOR IS  
3 FREAKISH? I DIDN'T UNDERSTAND WHAT YOU'RE SAYING.

4 MR. GERAGOS: IF I'M WALKING DOWN THE STREET AND  
5 SOMEBODY'S ACTING "FREAKIN'" CRAZY AND THEN THEY CUT THE  
6 PERSON I'M WITH -- IF THEY HAVE CUT MY SON OR THEY CUT  
7 MY WIFE OR STABBED THEM, WHATEVER THEY DO, I'M GOING TO  
8 DO THE EXACT SAME THING, AND I'M GOING TO VOLUNTEER TO  
9 DEFEND ANYBODY FOR FREE WHO DOES THE EXACT SAME THING.

10 THIS IS SO LUDICROUS, I DON'T EVEN  
11 UNDERSTAND WHAT WE'RE TALKING ABOUT; HOW IS IT THAT THEY  
12 SAY CAN COME ALONG AND THEY CAN STAB SOMEBODY TWICE AND  
13 THEN THEY'RE GOING TO JUST SASHAY DOWN THE STREET AND  
14 YOU CAN'T KNOCK THEM IN THE HEAD? OF COURSE YOU CAN  
15 KNOCK THEM IN THE HEAD.

16 I DON'T UNDERSTAND WHAT WE'RE TALKING  
17 ABOUT. WHERE IS THE LAW THAT SAYS I CAN'T -- DEFENSE OF  
18 OTHERS? I'M SUPPOSED TO THAT PERSON GO DOWN THE STREET  
19 AND AFTER THEY FINISH STABBING THE GUY NEXT TO ME, LET  
20 HIM STAB SOMEBODY ELSE?

21 THE COURT: WHEN YOU SAY "DEFENSE OF," YOU'RE  
22 TALKING ABOUT THE RIGHT TO SELF-DEFENSE OR THE RIGHT --

23 MR. GERAGOS: WELL, YOU HAVE THAT. YOU HAVE GOT  
24 FLEEING FELON. YOU HAVE THE ABILITY --

25 I KNOW YOU KEEP SHAKING YOUR HEAD ON THAT.

26 THE COURT: I DON'T THINK IT'S FLEEING FELON  
27 BECAUSE THEY DIDN'T DO ANYTHING --

28 MR. GERAGOS: THEY DON'T HAVE TO. THEY DON'T HAVE

1 TOO.

2 THE COURT: YOU'RE SAYING, OKAY.

3 GO AHEAD. RESUME IF YOU LIKE.

4 MR. GERAGOS: YOU DO NOT HAVE TO --

5 IN ORDER TO USE DEADLY FORCE, YOU HAVE THE  
6 ABILITY UNDER THE LAW TO CHASE SOMEONE DOWN, WHO HAS  
7 JUST STABBED SOMEONE WHO'S NEXT TO YOU. THERE IS  
8 NOTHING IN THE LAW AT THAT PRECLUDES THAT. THAT IS AN  
9 ARGUMENT THAT GOES TO NICOL.

10 THE COURT: BUT ISN'T IT THAT YOU'RE SUPPOSED TO  
11 USE NO MORE FORCE THAN IS REASONABLY NECESSARY TO DEFEND  
12 AGAINST THAT DANGER? AND IN THIS CASE, YOU HAVE A  
13 STAB -- A STAB ON THE ELBOW --

14 MR. GERAGOS: AND A SIDE.

15 THE COURT: AND A SIDE. SHE'S KICKED MULTIPLE  
16 TIMES IN HEAD, AND THEN THEY RUN AWAY.

17 MR. GERAGOS: NOT BY MY CLIENT. THE BEST THING  
18 YOU CAN SAY IS THAT MAYBE WHEN HE HOPPED OVER HER, THAT  
19 WAS A KICK.

20 THE COURT: MR. JARVIS IS SAYING THAT HE SAW THREE  
21 PEOPLE. CLEARLY, THE THREE PEOPLE WOULD HAVE BEEN YOUR  
22 CLIENT BECAUSE WE KNOW THE GENTLEMAN WHO HAS STABBED  
23 COMES LAST. KICKING HER ON THE GROUND. KICKING HER ON  
24 THE HEAD AND IN THE BODY.

25 MR. GERAGOS: YOU SAW THE VIDEO. THAT WASN'T ON  
26 THE VIDEO. SO NOW WE ARE GOING TO RELY ON JARVIS? WHAT  
27 JARVIS SAW? JARVIS DIDN'T SEE WHAT WAS ON THE VIDEO.

28 THE COURT: ALL RIGHT. WELL, THIS IS THE WAY I



1 SEE IT: I SEE IT DIFFERENTLY, MR. GERAGOS. WHAT I SEE  
2 IN THIS CASE IS CERTAINLY, THERE IS I WAVING OF THE ARM,  
3 AND IT APPEARED -- AND LET ME GET NAME RIGHT, SARKIS WAS  
4 CUT. OKAY?

5 BUT, AT THAT POINT, SHE STARTS WALKING DOWN  
6 THE STREET. SHE IS NOT RETURNING TO THEM. SHE'S NOT  
7 RETURNING TO THEM. SHE'S NOT ENGAGING THEM IN ANY KIND  
8 OF FIGHT, AND I DON'T BELIEVE THAT AT THAT POINT --

9 IF YOU LOOK AT THE VIDEO, SHE EVEN CROSSES  
10 THE STREET, ACROSS THE INTERSECTION. THEY'RE ON THE  
11 OTHER SIDE. THERE'S NO DANGER, AT THAT POINT, OF HER  
12 RETURNING TO THEM. SHE'S NOT EVEN TURNING AROUND TO  
13 MAYBE YELL THINGS AT THEM. SHE'S GOING ON HER WAY.  
14 OKAY?

15 SHE'S CROSSED THE STREET. SHE IS -- SHE'S  
16 NOT SEEKING ANYBODY OUT AT THAT POINT. SHE SEPARATED  
17 HERSELF FROM THEM, AND I DON'T FIND THAT AT THAT POINT,  
18 YOUR CLIENT HAD REASON TO BELIEVE THAT HE OR ANYBODY  
19 ELSE WAS IN IMMINENT DANGER OF SUFFERING BODILY INJURY  
20 AT THAT POINT OR THAT HE BELIEVED THAT THE MEDIA -- OR  
21 THAT HE REASONABLY BELIEVED IMMEDIATE USE FORCE WAS  
22 NECESSARY TO DEFENSE AGAINST THAT DANGER. TO ME, THE  
23 DANGER HAS PASSED HAD AT THAT POINT.

24 SHE MAY HAVE CUT HIM. IN FACT,  
25 THIS SARKIS ACTUALLY CROUCHES DOWN, LOOKS AT HIS ELBOW,  
26 IS HOLDING IT. SHE'S NOT RUNNING BACK.

27 SHE IS NOT RUNNING BACK TO HIT ANYBODY.  
28 SHE'S NOT RUNNING BACK TO ENGAGE WITH ANYBODY. NOT YOUR

1 CLIENT. SHE'S GONE ON HER WAY.

2 MR. GERAGOS: TO STAB SOMEBODY ELSE ON STREET.

3 THE COURT: BUT THERE'S NO EVIDENCE OF THAT,  
4 COUNSEL.

5 MR. GERAGOS: WELL, BECAUSE SHE GOT KNOCKED OUT,  
6 THANK GOD. THANK GOD SOMEBODY HAD THE WHEREWITHAL TO  
7 HIT HER IN THE HEAD AND THEN KICK HER.

8 THE COURT: IF YOU LOOK AT THE VIDEO, COUNSEL, SHE  
9 SEEMS TO WALKING DOWN THE STREET UNDER HER OWN POWER.  
10 SHE DOESN'T APPEAR TO BE WAVING HER ARM ANYMORE. SHE  
11 DOESN'T APPEAR TO BE GOING TO STAB ANYBODY. IN FACT --

12 OKAY. SO. I DON'T FIND THAT WHAT YOUR  
13 CLIENT DID IS IN DEFENSE OF ANOTHER OR SELF-DEFENSE  
14 LEGALLY UNDER THE LAW, AND I DON'T FIND FLEEING FELON  
15 EITHER BECAUSE IT WASN'T AS IF THEY WENT AND AT TACKLED  
16 HER -- RAN AFTER HER, TACKLED HER ON THE GROUND AND  
17 CALLED THE POLICE TO APPREHEND, TO MAKE SURE THAT SHE  
18 WAS APPREHENDED IN THE LAW. INSTEAD, WHAT THEY DO IS  
19 THERE ARE A NUMBER OF KICKS OF HER. I DO SEE THAT THERE  
20 WAS SWINGING OF LEGS BY YOUR CLIENT, AND THEN HE RUNS  
21 AWAY FROM THE SCENE.

22 MR. JARVIS ALSO TESTIFIES THREE MALES ARE  
23 KICKING HER IN THE HEAD AND IN THE BODY. THE EVIDENCE  
24 BEARS THAT OUT WHEN YOU LOOK AT HER. SO I DON'T --

25 I FIND THAT SHOULD BE HELD TO ANSWER BASED  
26 ON THE EVIDENCE PRESENTED. THERE'S PROBABLE CAUSE TO  
27 BELIEVE THAT THE OFFENSES AS CHARGED IN COUNT 1, BATTERY  
28 WITH SERIOUS BODILY, AS WELL AS COUNT 2, ASSAULT BY

1 MEANS LIKELY TO PRODUCE GREAT BODILY INJURY. COUNT 1,  
2 PENAL CODE SECTION, 243(D), AND 2, 245(A)(4).

3 I FIND THAT HE CAN BE HELD -- THAT THOSE  
4 HAVE OCCURRED. HE'S HELD TO ANSWER ON THOSE CHARGES.

5 MS. BROOKENS: CAN YOU FIND THE ALLEGATION TRUE,  
6 YOUR HONOR?

7 THE COURT: AS TO?

8 MS. BROOKENS: COUNT 2, THE 12022.7(A).

9 THE COURT: YES. YES, THAT THE PERSON THAT -- THE  
10 DEFENDANT, GARUNTS, PERSONALLY INFLECTED GREAT BODILY  
11 INJURY WITHIN THE MEANING 12022.7(A). I DO FIND THAT AS  
12 WELL. I JUST DON'T FIND SELF DEFENSE HERE BECAUSE IF  
13 SHE HAD RETURNED TO THEM AND ENGAGED THEM IN A FIGHT OR  
14 SOMETHING LIKE THAT, THEN MAYBE ALL BETS ARE OFF AT THAT  
15 POINT, AND WHO KNOWS WHAT COULD HAVE HAPPENED. BUT SHE  
16 HAS CROSSED THE, AND THEY ARE NOW PURSUING HER.

17 MR. GERAGOS: RIGHT, AND SO THAT DOESN'T GO STAB  
18 SOMEBODY DOWN THE STREET.

19 THE COURT: THEN, IF THAT WERE THE CASE --

20 MR. GERAGOS: RIGHT.

21 THE COURT: THEN, I DON'T FIND THAT'S THE REASON  
22 WHY -- BASED --

23 I DON'T FIND THAT'S THE REASON THEY WERE --

24 IT DOESN'T MATTER WHAT THE REASON WAS --

25 MR. GERAGOS: I UNDERSTAND.

26 THE COURT: -- BUT I JUST DON'T FIND, MR. GERAGOS,  
27 THAT THEY WERE DOING THE COMMUNITY A FAVOR HERE BY  
28 KICKING HER AND SUSTAINING THE INJURIES.

1 MR. GERAGOS: IT IS OKAY BECAUSE THE GREAT THING  
2 ABOUT OUR SYSTEM IS THAT THE COMMUNITY WILL BE 12 PEOPLE  
3 IN A JURY BOX, AND AFTER THE COMMUNITY ISSUES THEIR  
4 VERDICT IN THIS CASE, I WILL BE BACK DOWN HERE, AND  
5 YOU'LL HAVE A CHAT ABOUT IT AND SEE WHAT THE COMMUNITY  
6 THINKS ABOUT WHO -- THE D.A.'S OFFICE SHOULD BE  
7 PROTECTING IN THIS CASE.

8 THE COURT: WELL, COUNSEL, MR. GERAGOS, WITH ALL  
9 DUE RESPECT, I UNDERSTAND WHAT YOU'RE SAYING. WHAT I'M  
10 TRYING TO SAY HERE -- AND I USE THAT PHRASE. I'M JUST  
11 SAYING YOU'RE TRYING TO SAY THAT THEY WERE DOING IT TO  
12 MAKE SURE SHE DIDN'T RUN AFTER AND STAB OTHER PEOPLE.  
13 OKAY?

14 I DON'T HAVE ANY EVIDENCE THAT SHE WAS  
15 GOING TO DO THAT. THE EVIDENCE I HAVE DOESN'T SHOW  
16 SELF-DEFENSE. THE EVIDENCE I HAVE SHOWS PROBABLE CAUSE  
17 FOR COUNTS --

18 MR. GERAGOS: DOESN'T IT SHOW SOMEBODY JUST  
19 COMPLETELY OUT OF CONTROL? I MEAN, WHO IS IT THAT GOES  
20 AROUND -- YOU CAN'T JUSTIFY HER BEHAVIOR ON MERE WORDS.  
21 CLEAR? AND THAT'S BASIC --

22 THE COURT: BUT HERE'S WHERE I COME DOWN,  
23 MR. GERAGOS. WHERE I COME DOWN IS IF SHE SWINGS WILDLY  
24 AND CUTS SARKIS AND THEN SHE COMES BACK AND SHE ENGAGES  
25 THEM IN A FIGHT, THAT'S ONE THING, BUT I TAKE WHAT  
26 MS. BROOKENS SAID. AS SHE SAID, SHE HAD SEPARATED --

27 AS MS. MS. BROOKENS SAID, SHE SEPARATED  
28 HERSELF FROM INDIVIDUALS. SHE WAS WALKING AWAY. SHE

1   CROSSED THE STREET.  OKAY?  AND TO ME, IT'S NOT  
2   SELF-DEFENSE AT THAT POINT.  THERE'S NO IMMINENT DANGER  
3   AT THAT POINT FOR SELF-DEFENSE THAT  --

4                   I DO NOT FIND THE DEFENDANT HERE HAD REASON  
5   TO BELIEVE THAT AN IMMEDIATE USE OF FORCE WAS NECESSARY  
6   TO DEFEND AGAINST THE DANGER.  THERE WAS NO IMMEDIATE  
7   USE OF FORCE NECESSARY.  SHE HAD WALKED AWAY.  SHE WAS  
8   GOING ABOUT HER BUSINESS.  WHETHER OR NOT SHE WAS GOING  
9   TO GO STAB SOMEBODY ELSE, I DON'T KNOW, AND, FRANKLY,  
10  YOU DON'T KNOW EITHER.  OKAY?

11                  MR. GERAGOS:  WELL, I KNOW THAT SHE -- THAT SHE --

12                  THE COURT:  AND -- AND -- AND BASED UPON WHAT SHE  
13  SAID IN HER SECOND INTERVIEW --

14                   BASED UPON WHAT SHE SAID IN HER SECOND  
15  INTERVIEW, SHE'S CLAIMING THAT THEY WERE YELLING AT HER  
16  AND PRIOR TO HER SWINGING OUT AT THEM, AND SO IT MAY  
17  WELL BE THE CASE THAT THE REASON SHE WAS SWINGING OUT AT  
18  THEM WAS BECAUSE THEY WERE YELLING AT HER, YELLING THOSE  
19  THINGS ABOUT HER BEING A FAG AND THINGS LIKE THAT,  
20  AND --

21                   BUT FOR THAT, SHE MAY NOT BE SWINGING HER  
22  ARMS AND, THEREFORE, MR. GERAGOS, UNLESS SOMEONE ELSE IS  
23  IS GOING TO BE, AS SHE WALKS DOWN THE STREET, CALLING  
24  HER THOSE NAMES AND THINGS LIKE THAT, I DOUBT -- AND I  
25  DON'T THINK YOU KNOW OR I KNOW WHETHER SHE'S GOING TO BE  
26  STABBING ANYBODY ELSE BECAUSE, SIR, AT THAT POINT, SHE'S  
27  AWAY FROM MR. DIAZ.  NO ONE IS CALLING HER NAME.

28                   SO ALL I HAVE WHAT YOU HAVE.  WHAT I HAVE,

1 MOST IMPORTANTLY, IS WHAT I HAVE IN FRONT OF ME, AND I  
2 DON'T SEE ANY SELF-DEFENSE HERE WITH THIS CASE. OKAY?  
3 ALL RIGHT? SO I KNOW YOU CAN --

4 YOU CAN BEG TO DIFFER. I UNDERSTAND THAT,  
5 COUNSEL.

6 MS. BROOKENS: AND YOUR HONOR, THERE IS ALSO A  
7 PROCEDURE THING. I HAVE A VICTIM HERE. SHE WAS  
8 SUBPOENAED BY THE DEFENSE. SHE HAS BEEN HERE SINCE 8:30  
9 THIS MORNING. I WILL BE SUBMITTED A GREEN FORM LATER  
10 BECAUSE A -- CONFUSED AS TO WHY SHE WAS SUBPOENAED. SHE  
11 HAS BEEN SITTING HERE ALL DAY.

12 MR. GERAGOS: SHE WAS HERE BECAUSE DEPENDING ON  
13 WHAT THE OFFICER TESTIFIED --

14 THE COURT: I MEAN, I WASN'T --

15 OBVIOUSLY, I KNOW YOU CAN PUT ON A WITNESS  
16 TO ASSERT AN AFFIRMATIVE DEFENSE, AND YOU CHOSE NOT TO  
17 DO SO BECAUSE YOU -- YOU GUYS PREVIOUSLY INFORMED ME  
18 BEFOREHAND.

19 MS. BROOKENS: AND WHILE I UNDERSTAND THAT, BASED  
20 ON THE STATEMENTS THAT WAS ELICITED, THERE WAS NOTHING  
21 IN HER STATEMENTS THAT WOULD -- UNLESS THERE'S ANY  
22 STATEMENT THAT I DON'T KNOW ABOUT THAT WOULD HAVE SHOWN  
23 A STATEMENT THAT WOULD HAVE SUPPORTED HIS AFFIRMATIVE  
24 DEFENSE OR A STATEMENT THAT WOULD HAVE NEGATED AN  
25 ELEMENT OF THE CHARGE.

26 THE COURT: SO WHAT --

27 MS. BROOKENS: I WAS JUST INFORMING THE COURT THAT  
28 I INTEND TO ISSUE A GREEN FORM BECAUSE YOU HAVEN'T SEEN