

In The Superior Court of The State of California
 In and for the County of San Diego
 Department SB-7; Hon. Roderick W. Shelton, Judge

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The People,)	Certified Transcript
)	of Cross, Redirect,
Plaintiff,)	Recross, and Further
)	Redirect of:
vs.)	Fabiana Rudolph
)	
Alissa Ashley,)	
)	Case No. SCS293477
Defendant.)	
_____)	

Reporter's Transcript

Wednesday, January 31, 2018

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 Chula Vista, California 91910

Wednesday, January 31, 2018; Chula Vista, California

The People V. Alissa Ashley
Superior Court Case No. SCS293477

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Wednesday, January 31, 2018; San Diego, California

The People V. Alissa Ashley
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1 Wednesday, January 31, 2018; Chula Vista, California

2 10:10 AM

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4 (Direct examination reported; not transcribed)

5 MR. CHEN: Thank you. I have nothing further, Your
6 Honor.

7 THE COURT: Cross-examination.

8 MR. GRIFFIN: Just a moment to set up, Your Honor.

9 THE COURT: Yes, you may.

10
11 CROSS-EXAMINATION

12 BY MR. GRIFFIN:

13 Q. Good morning. You have given quite a few
14 statements in this case, have you not?

15 A. Yes.

16 Q. To be exact, you gave a statement on March 20,
17 when this incident took place, to Officer Rueda.

18 Do you recall that?

19 A. Yes.

20 Q. You gave a statement to Detective Perez on
21 March 21.

22 Do you recall that?

23 A. Yes.

24 Q. You gave a sworn declaration. You filed some
25 paperwork with the court under oath on March 21.

26 Do you recall that?

27 A. Yes.

28 Q. You gave -- you emailed back and forth with

1 Detective Perez on March 22.

2 Do you recall that?

3 A. Yes.

4 Q. You spoke with the district attorney in
5 preparation for a preliminary hearing on September 27.

6 Do you recall that?

7 A. Yes.

8 Q. You testified under oath in a pretrial hearing
9 in this courthouse on October 12th.

10 Do you recall that?

11 A. Yes.

12 Q. You spoke with Mr. Chen on January 26, 2018.

13 Do you recall that?

14 A. Yes.

15 Q. And you spoke with Mr. Chen again yesterday on
16 January 30, 2018.

17 Do you recall that?

18 A. Yes.

19 Q. Okay. Now, in this first statement with Officer
20 Rueda, that's right after the incident happened?

21 A. Yes.

22 Q. At no time did you tell Officer Rueda that your
23 hair was ever pulled; isn't that true?

24 A. Yes.

25 Q. And when you spoke with Detective Perez and you
26 described this incident, at no time did you ever tell him
27 that you had your hair pulled; is that correct?

28 A. Yes.

1 Q. You filed a court declaration under oath --
2 under penalty of perjury on March 21. In that declaration
3 you did not mention anything about getting your hair
4 pulled, did you?

5 A. No.

6 Q. On September -- or on -- when you emailed with
7 Detective Perez on March 22nd, you did not mention about
8 getting your hair pulled, did you?

9 A. No.

10 Q. When you spoke with the district attorney on
11 September 27, 2017, you did not mention getting your hair
12 pulled, did you?

13 A. No.

14 Q. When you had the pretrial hearing and you
15 testified under oath, you didn't make a single mention of
16 getting your hair pulled, did you?

17 A. No.

18 Q. When you spoke with Mr. Chen on January 26,
19 2018, you did not mention getting your hair pulled;
20 correct?

21 A. No.

22 Q. When you spoke with Mr. Chen again on
23 January 30, 2018, you did not mention getting your hair
24 pulled?

25 A. No.

26 Q. Now, isn't it true that the first time we ever
27 heard of your hair getting pulled is right now in front of
28 this jury today?

1 A. Yes.

2 Q. All right. You referred to Mr. Diggs as your
3 boyfriend?

4 A. Yes.

5 Q. Now, isn't it true on March 20 you referred to
6 him as your "friend"?

7 A. Yes. At that time we were not together.

8 Q. You were not together.

9 Are you aware -- and then when did you become
10 boyfriend and girlfriend?

11 A. Probably around -- I would say in October of
12 2017.

13 Q. Had you two had sexual relations --

14 MR. CHEN: Objection. Relevance.

15 THE COURT: Sustained.

16 BY MR. GRIFFIN:

17 Q. What was the nature of your relationship, just
18 purely friends on January -- March 20?

19 MR. CHEN: Objection. Relevance.

20 THE COURT: One second.

21 Overruled.

22 You may answer.

23 BY MR. GRIFFIN:

24 Q. Just purely friends on March 20, 2017.

25 Anything more?

26 A. What do you mean by "more"?

27 Q. Any sort of romantic relationship?

28 A. Sure. Yes.

1 Q. But officially became boyfriend and girlfriend
2 on -- in October?

3 A. Yes.

4 Q. Do you guys live together?

5 A. No.

6 Q. You talked to him about your testimony?

7 A. Before, yes.

8 Q. How many times have you guys spoken about your
9 testimony?

10 A. In the beginning, when it first happened.

11 Q. Since then have you had any discussions about
12 your testimony?

13 A. No.

14 Q. None at all?

15 A. No.

16 Q. So he is your boyfriend, you come to trial. You
17 haven't mentioned your testimony at all?

18 A. No, because they told me not to in the last few
19 days.

20 Q. And you and Mr. Randolph were married six months
21 after you met?

22 A. Yes.

23 Q. And did you get married in a quick manner
24 because you had become pregnant?

25 MR. CHEN: Objection. Relevance.

26 THE COURT: Sustained.

27 BY MR. GRIFFIN:

28 Q. When were you guys divorced?

1 A. That was finalized in December of 2016.

2 Q. All right.

3 THE COURT: Sorry.

4 THE WITNESS: 2016.

5 THE COURT: Thank you. You said "December"?

6 THE WITNESS: Yes.

7 THE COURT: Thank you.

8 BY MR. GRIFFIN:

9 Q. And you never met Ms. Ashley; correct?

10 A. Correct.

11 Q. You've heard about Ms. Ashley, I assume?

12 A. Yes.

13 Q. And you learned that she had become engaged to
14 Mr. Randolph?

15 A. Yes.

16 Q. So you then were aware that Ms. Ashley was going
17 to be Jayden's new stepmom?

18 A. Yes.

19 Q. She was going to be essentially the new woman in
20 his life?

21 A. Yes.

22 Q. And you two had to coparent together?

23 A. Yes.

24 Q. And they live in Washington; correct?

25 A. Yes.

26 Q. And you live in San Diego?

27 A. Yes.

28 Q. So you were aware that when they travel down

1 here together, that Ms. Ashley would be assuming a
2 stepmother role in this situation?

3 A. I didn't really put that together. That was the
4 first time he had come to visit his son in over a year; so
5 I wasn't assuming that he would bring her along.

6 Q. So were you aware that March 18 was going to be
7 the first time that your son met his new stepmom?

8 A. Yes.

9 Q. Okay. And you knew that they had activities
10 planned?

11 A. Yes.

12 Q. So on March 20, do you remember that day well?

13 A. Yes.

14 Q. All right. And you just testified on direct
15 that you were in school. That's why you weren't there in
16 the morning?

17 A. Yes.

18 Q. And you remember giving testimony in the
19 preliminary hearing under oath on October 12th? Do you
20 remember giving that testimony?

21 A. October 12?

22 Yes.

23 Q. You were sitting in a chair just like you are
24 here?

25 A. Yes.

26 Q. And before you took that testimony, you raised
27 your right hand and you took an oath to swear the tell the
28 truth, did you not?

1 A. Yes.

2 Q. The exact same oath that you took here today?

3 A. Yes.

4 Q. And did you tell the truth then?

5 A. Yes.

6 Q. Okay. Now, isn't it true in that testimony,
7 when asked where you were, you said, "It was during my
8 spring break. That's all I remember."

9 So you were on spring break?

10 A. No. I was in school.

11 Q. But you testified on October 12 that you were on
12 spring break?

13 A. Yes.

14 Q. And the first time that they picked up Jayden on
15 March 18, Ms. Ashley did not get out of the vehicle, did
16 she?

17 A. No.

18 Q. She did not come out of the vehicle and threaten
19 you in any way?

20 A. No.

21 Q. She did not send you any threatening text
22 messages?

23 A. On that day, no.

24 Q. She did not send you any threatening text
25 messages on March 19?

26 A. No.

27 Q. She did not send you any threatening text
28 messages on March 20?

1 A. No.

2 Q. You guys had zero interaction whatsoever while
3 she was down here in San Diego; correct?

4 A. Yes.

5 Q. Showing you what has been premarked as -- may I
6 approach, Your Honor.

7 THE COURT: Yes, you may.

8 MR. GRIFFIN: I'm showing you what is premarked as
9 Defense Exhibit B.

10 (whereupon, Exhibit M, diagram: Floor
11 plan of the victim's residence, was
12 marked for identification)

13 BY MR. GRIFFIN:

14 Q. This purports to be a floor plan of your house.
15 Is that what it looks like to you?

16 A. Yes.

17 Q. Okay. All right. Does it look like -- of
18 course, it's not exactly to scale, but this is, like, a
19 fair and accurate representation of your house?

20 A. Yes.

21 MR. GRIFFIN: May I publish this on the screen, Your
22 Honor.

23 THE COURT: Any objection?

24 MR. CHEN: No, objection, Your Honor.

25 THE COURT: Granted.

26 BY MR. GRIFFIN:

27 Q. Now, you testified on direct -- if I can
28 approach again, Your Honor.

1 THE COURT: Yes, you may.

2 MR. GRIFFIN: You do not --

3 THE COURT: Either side may approach without asking
4 the court.

5 MR. GRIFFIN: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 BY MR. GRIFFIN:

8 Q. Now, you testified on direct that Mr. Diggs was
9 here in the dining room; is that true?

10 A. Yes.

11 Q. Do you remember testifying under oath here in
12 the preliminary hearing?

13 A. I'm sorry. What?

14 Q. Do you remember testifying under oath in a
15 preliminary hearing on October 12?

16 A. Yes.

17 Q. Do you recall in that preliminary hearing that
18 you were asked about the location of Mr. Diggs?

19 Do you recall that?

20 A. Yes.

21 Q. Now, isn't it true, when you were asked under
22 oath previously about this, you testified, when asked,
23 "Mr. Diggs was in the kitchen; correct?"

24 Your answer, "Yes."

25 "Okay" -- The question to you, "Okay. He was
26 not standing out witnessing you two?"

27 "No. He was in the kitchen."

28 So your testimony on October 12 was that he was

1 in the kitchen?

2 A. I called that whole area the kitchen area; so --

3 Q. Okay. And when -- you were given multiple
4 opportunities to review various statements in this case;
5 correct?

6 A. Yes.

7 Q. And, in fact, Detective Perez gave you an
8 opportunity to review your statement from March 20?

9 A. Yes.

10 Q. Mr. Chen on January 26 actually handed you your
11 transcript and the police reports and had you read them;
12 correct?

13 A. Yes.

14 Q. And asked you if you wanted to change anything?

15 A. Yes.

16 Q. And at no point did you tell him that the
17 kitchen and dining room, in your mind, are the same area,
18 did you?

19 A. No.

20 Q. And you gave testimony that Mr. Diggs seemed to
21 see the start of this.

22 Is that fair?

23 A. Yes.

24 Q. Now, isn't it true, when you testified
25 previously in this case, "He was not standing out
26 witnessing you two?"

27 "No. He was in the kitchen."

28 That was your answer; correct?

1 A. Yes. He was not by us or --

2 Q. So your testimony, if I have this correct, from
3 today, to keep this straight, was that, essentially,
4 Ms. Ashley got out of her vehicle -- were you aware
5 whether or not her one-month-old infant was in the car?

6 A. I do not know.

7 Q. -- got out of the vehicle, essentially walked up
8 to your house with your son, her new stepson sitting right
9 there, and then she, essentially, just started beating
10 your face.

11 That's your testimony?

12 A. Not right away, but, yes.

13 Q. She asked, "Why did you block my number?"

14 A. Yes.

15 Q. And then she started beating your face?

16 A. I told Licoray, "I don't want anything to do
17 with her."

18 Q. Now, Mr. Chen asked you on direct, did you say
19 anything in response?

20 And your answer to that question was no.

21 And you remember giving a statement right after
22 this incident took place on March 20 --

23 A. Yes.

24 Q. -- to Officer Rueda?

25 Isn't it true that you told him that you
26 responded, "I did not have business with her"?

27 A. Yes.

28 Q. So, therefore, wasn't your testimony on direct

1 false about you not responding?

2 A. Yes.

3 Q. Okay. Now, when you testified at the
4 preliminary hearing in this case, under oath again, isn't
5 it true that you testified that you didn't have a chance
6 to say anything. She just right away came in and started
7 hitting me.

8 Was that your testimony?

9 A. I don't remember.

10 Q. Would it refresh your recollection to review the
11 preliminary hearing transcript?

12 A. Yes.

13 MR. CHEN: For the record, Your Honor, what page are
14 we referring to?

15 MR. GRIFFIN: Yes. I was getting there. Court and
16 counsel's attention to page 11, lines 7, 8, and 9.

17 And I'll approach the witness.

18 THE COURT: Counsel, I don't have a copy of the
19 prelim transcript.

20 MR. GRIFFIN: Oh. I thought -- my mistake.

21 THE COURT: It's not in the -- let me just check to
22 make sure. One second.

23 MR. GRIFFIN: I'm happy to --

24 MR. CHEN: Actually, Your Honor, I can give you my
25 copy.

26 MR. GRIFFIN: I can email you one right now.

27 THE COURT: It's, actually, just fine. Go for it.

28 MR. GRIFFIN: This is just to refresh.

1 Q. Now, please read this to yourself. Don't read
2 it out loud. Read lines 7, 8, and 9 to yourself, and
3 then, please, look up at me when you are done.

4 Is your memory sufficiently refreshed as to what
5 you testified to under oath on October 12?

6 A. Yes.

7 Q. Isn't it true, under oath, you testified, "I
8 didn't even have a chance. She just right away came in
9 and started hitting me."

10 And that was your response to the question of,
11 "Did you say anything?"

12 Is that true?

13 A. Yes.

14 Q. And then again today, you testified that you did
15 not say anything on direct?

16 A. Yes.

17 Q. And on March 20, right after this incident, you
18 testified that you said you had no business with her?

19 A. Yes.

20 Q. Now, on direct, you were asked what part of the
21 house did this take place at?

22 A. The front door.

23 Q. "The front door."

24 And you remember filing a -- some court
25 paperwork under penalty of perjury; correct?

26 A. Which ones?

27 Q. The ones where you filed to try to keep
28 Ms. Ashley away from Jayden.

1 A. From me and Jayden, yes.

2 Q. And Jayden?

3 A. Well, yes, me and Jayden.

4 Q. Now, isn't it true that you stated that she
5 entered your house and then began punching you?

6 A. I don't know what I said.

7 Q. Would it refresh your recollection to review
8 your declaration?

9 A. Yes.

10 MR. GRIFFIN: Court's and counsel's attention, page
11 1, lines 12 through 13.

12 Q. Please read that to yourself.

13 Is your memory sufficiently refreshed as to what
14 you testified to under oath in a sworn declaration?

15 A. Yes.

16 Q. Now, isn't it true in that declaration you
17 stated that she entered into the house and then began
18 punching you?

19 A. Yes.

20 Q. And you testified on direct that she punched you
21 ten times?

22 A. Approximately.

23 Q. Now, isn't it true that in this sworn
24 declaration, a day after the incident, you testified that
25 she punched you six times?

26 A. It's an approximate number.

27 Q. Answer my question.

28 A. Yes.

1 Q. So did you testify -- did you put in your
2 declaration that she punched you six times?

3 A. Yes.

4 Q. And this was one day after the incident is when
5 you filed this?

6 A. Yes.

7 THE COURT: Counsel, at this time we will take our
8 morning recess at this time.

9 Ladies and Gentlemen, we will take our morning
10 recess and ask you come back in 15 minutes. Remember my
11 admonitions about not talking about the case still
12 applies. There may be a slight -- we may do some other
13 work in the meantime, just let me speak with the
14 attorneys, but I need you to come back in 15 minutes. If
15 we need more time, my bailiff will let you know.

16 Please come back in 15 minutes. Thank you.

17 (Recess taken from 10:30 through 10:48 AM)

18 THE COURT: We are back on the record in the case of
19 People V. Alissa Ashley. Both counsel are present.
20 Ms. Ashley is also present. All 12 jurors are present.
21 The two alternates are also present.

22 And we are in the testimony of Ms. Randolph, and
23 we were in cross-examination.

24 Mr. Griffin, please proceed.

25 MR. GRIFFIN: Thank you, Your Honor.

26 THE COURT: You're welcome.

27 One clarification I forgot. Ladies and
28 gentlemen, the exhibits from the defense -- I thought

1 Defense B, as in "boy," is actually M, as in "Mary" is the
2 diagram. The floor plan of Ms. Randolph's house is
3 Exhibit M, as in "Mary."

4 Thank you, Mr. Griffin. Please proceed.

5 MR. GRIFFIN: For court and counsel, I have put up
6 Defense M -- right? -- as in "Mary --"

7 THE COURT: Yes.

8 MR. GRIFFIN: -- on the screen.

9 Q. On March 20, you said you were in class?

10 A. Yes.

11 Q. Isn't it true on that day your dad was out of
12 town?

13 A. Yes.

14 Q. And your mom was out of town?

15 A. Yes.

16 Q. So who was there in the morning to send Jayden
17 off?

18 A. My sister probably. I have a sister and a
19 brother.

20 Q. You don't know for certain?

21 A. No.

22 Q. And on March 20, as far as where everyone was
23 located -- and you testified on direct that Mr. Randolph
24 was going back and forth to the car with items?

25 A. Yes.

26 Q. And you also testified on direct that when they
27 first got there, both Ms. Ashley and Mr. Randolph were
28 there knocking on the door --

1 A. Yes.

2 Q. -- correct?

3 And then Mr. Randolph was going back and forth to
4 get items?

5 A. Yes.

6 Q. So during that time, were you and Ms. Ashley
7 just staring at each other?

8 A. No. I was not standing by. Like, I was helping
9 Jayden take his shoes off and grabbing the stuff that
10 Licoray was giving to me and putting it in the house.

11 Q. And Ms. Ashley was just standing -- standing
12 there doing nothing?

13 A. Yes.

14 Q. I want to talk about the nature of this attack
15 as you call it.

16 And, again, I want to understand that Jayden is
17 just a few feet away; correct?

18 A. Yes.

19 Q. And your testimony is that 30 to 40 seconds is
20 how long this took?

21 A. Approximately.

22 Q. And you've actually had numerous, numerous
23 opportunities to revise that timeline, have you not?

24 A. Yes.

25 Q. Didn't pretty much every one of these statements
26 you get a chance -- didn't somebody ask you you can
27 correct this, fix anything; is that true?

28 A. I don't remember.

1 Q. And now isn't it true, specifically on
2 January 26, that Mr. Chen said read your transcript. Read
3 these police reports. Tell me if anything will be
4 changed?

5 A. Yes.

6 Q. Isn't it true that you specifically told him on
7 that day that, yes, this was 30 to 40 seconds?

8 A. Approximately.

9 Q. You said the words 30 to 40 seconds to Mr. Chen
10 on January 26, did you not?

11 A. Yes.

12 Q. So your testimony, again, is Ms. Ashley -- 30
13 seconds of punch, after punch, after punch, and you stood
14 there and just tried to defend yourself by putting your
15 hands up?

16 A. Yes.

17 Q. And you are certain about you putting your arms
18 up; correct?

19 A. Like I said, it was a blur. I was trying to get
20 her off of me. My hands were directly in front of my face
21 the whole time.

22 Q. Now, do you recall speaking with Officer Rueda
23 on March 20?

24 A. Barely. Yes.

25 Q. I want to paint a picture for the jury about
26 this interview on March 20. So it's a pretty chaotic
27 scene at your house; correct?

28 A. Yes.

1 Q. We have ambulances. We have police cars.
2 People coming and going out of your house. You said
3 you've never been in a fight prior to this?

4 A. Right.

5 Q. All of this is happening; correct?

6 A. Yes.

7 Q. And then you get a chance to speak with Officer
8 Rueda?

9 A. Yes.

10 Q. He is the investigating officer --

11 A. Okay.

12 Q. -- right?

13 A. Yes.

14 Q. And when you were speaking with him, isn't it
15 true that you told him that you immediately covered your
16 face?

17 Those were your words?

18 A. Yes.

19 Q. "Yes."

20 Then when you were asked in the preliminary
21 hearing under oath on October 12th, you were asked
22 specifically, "You had your arms up?"

23 And your response was, "Yes."

24 A. Yes.

25 Q. Okay. But you had no injuries whatsoever, did
26 you, on your arms?

27 A. No.

28 Q. You had no injuries on your hands?

1 A. No.

2 Q. You had no injuries on your neck?

3 A. No.

4 Q. You had no injuries on your fingers?

5 A. No.

6 Q. Now, do you have those -- some people are like
7 this.

8 Are you just one of these people that just
9 doesn't bruise?

10 A. I do easily.

11 Q. You do bruise easily?

12 A. Yes.

13 Q. But yet -- let me get this straight.

14 You bruise easily. And you withstood 30 to 40
15 seconds of punches, but not a mark was to be shown.

16 Is that fair?

17 A. Like I said, my hands were not, the whole 30, 40
18 seconds, in front of my face or my chest; so she was
19 hitting my face, not my arms.

20 Q. So every single punch she threw landed on your
21 face?

22 A. Not every single one, but they did not hit my
23 body. They hit my face, some of them, and then some of
24 them just didn't land on me.

25 Q. So you testified on direct that you got punched
26 ten times?

27 A. Yes, approximately.

28 Q. And you testified one day after this incident

1 under oath, in a sworn declaration, you got punched six
2 times?

3 A. Yes.

4 Q. Okay. So you were punched?

5 A. Yes.

6 Q. All right. Now, your testimony here today is
7 that every one of those punches, when you say you got
8 punched, landed on your face?

9 A. No.

10 Q. So where did they land?

11 A. I don't know. Like I said, everything is a
12 blur. Everything is happening so fast. My eyes are,
13 like, half open, half closed. I don't know what is
14 happening. So if -- I like -- I don't know -- I don't --
15 yeah.

16 Q. Was it a fight or were you attacked?

17 A. She is fighting me. Like, I'm trying to defend
18 myself and take her off of me. I don't understand.

19 Q. Now, isn't it true you have a bit of an axe to
20 grind with her?

21 A. What do you mean?

22 Q. She is the new woman in your son's life?

23 A. I don't care for that.

24 Q. What do you mean you don't care for that?

25 A. That's not an issue that would -- you know, want
26 to fight with her.

27 Q. So you have no animosity at all about her being
28 the new stepmom?

1 A. No. It's -- it's going to happen regardless.

2 Q. But you have taken specific steps to stop that
3 from happening, haven't you?

4 A. No.

5 Q. No?

6 Isn't it true that you filed a restraining order
7 specifically asking the court -- the court to step in and
8 keep Ms. Ashley from her new stepson?

9 A. It was to keep him away from me and Jayden
10 because, after an attack like that, I don't know what kind
11 of violence is going to happen after. If she can do that
12 in front of my child with me, then how do I know it's not
13 going to happen again?

14 Q. Have you heard of any instance of her -- any
15 sort of threat to Jayden?

16 A. No.

17 Q. Now, isn't it true in your sworn declaration to
18 a judge, you stated, "I fear that if my son is not
19 protected, Respondent may physically harm him in the
20 future"?

21 You wrote those words, didn't you?

22 A. Yes.

23 Q. And you wrote those words with the specific
24 intent to keep her away from Jayden?

25 A. At that moment, yes.

26 Q. A day after this happened?

27 A. Yes.

28 Q. Right. And you specifically stated you feared

1 that she was going to physically harm a three year old?

2 A. I don't know what she is capable of.

3 Q. You just testified earlier that you have no
4 indication that she would ever threaten or hurt --

5 A. Exactly. But I can't hold that -- you know, say
6 that she's never going to do that. I don't know.

7 Q. You don't know, but you knew enough to put this
8 in a sworn declaration?

9 A. Yes. To protect myself and my son.

10 Q. To protect?

11 A. Myself and my son.

12 Q. Your son?

13 A. Yes.

14 Q. Do you have any evidence whatsoever that she
15 would ever be physically violent to your son?

16 A. No.

17 Q. But yet you put it in a sworn declaration --

18 A. Yes.

19 Q. -- under oath?

20 A. Yes.

21 Q. Isn't it true you abandoned this restraining
22 order?

23 A. I did not abandon it. They did not know how to
24 find her so they couldn't serve her so it fell through.

25 Q. Tell us what steps you took to serve her.

26 A. When they left that day, I don't know where
27 their address was. I don't know where they were staying
28 so I couldn't have the police or any other person find

1 them.

2 Q. This is a traumatic event for you; right?

3 A. Yes.

4 Q. And, essentially, you had a woman, who you've
5 never met, show up at your home; correct?

6 A. Uh-huh.

7 Q. And once she showed up at your home, she
8 proceeded to punch you in the face unprovoked; correct?

9 A. Yes.

10 Q. But yet you waited an hour to call 9-1-1?

11 A. Yes. I was extremely, like, shocked, and I
12 didn't know what was happening. I was trying to clean
13 myself up and get everything ready, like -- you know, have
14 Jayden calm down and maybe him go to sleep or something.
15 I'm not -- it's hard for -- to have the police and
16 everything -- all of these happening for a three-year old
17 to understand, seeing his mom get beat up, you know, is
18 not an easy thing. And I did called the police, and they
19 didn't show up to an hour later.

20 Q. You called the police an hour later, didn't you?

21 A. Yes.

22 Q. Not before?

23 A. No.

24 Q. Now, once you are on the phone with 9-1-1, you
25 lied to them about how long ago this took place, didn't
26 you?

27 A. No.

28 Q. Isn't it true in the 9-1-1 call you stated this

1 happened 20 minutes ago?

2 A. I don't know what I stated.

3 Q. Would it refresh your recollection to review a
4 transcript from the 9-1-1 call?

5 A. Yes.

6 MR. GRIFFIN: May I approach, Your Honor. I have a
7 copy of the transcript.

8 THE COURT: Yes.

9 BY MR. GRIFFIN:

10 Q. I'm showing you a transcript of the 9-1-1 call.
11 Bring court's and counsel's attention -- sorry. This is
12 to refresh. I apologize, Your Honor.

13 THE COURT: You're welcome. Just to refresh, you can
14 give your transcript back. If you will play the 9-1-1
15 tape, then you can give it to me.

16 MR. GRIFFIN: Okay.

17 Q. Can you please read on page 3, lines 22 through
18 23 to yourself and look up.

19 Is your memory sufficiently refreshed as to what
20 you told the 9-1-1 operator?

21 A. Yes.

22 Q. Isn't it true you told the 9-1-1 operator 20
23 minutes ago is when this took place?

24 A. Yes.

25 Q. And that was not true, was it?

26 A. I don't know.

27 Q. You don't know?

28 A. No. This happened over a year ago. I don't

1 remember time -- like, specific timing.

2 Q. Well, would you have remembered how long --
3 rephrase that.

4 So the 9-1-1 operator also asked you why you
5 didn't call 9-1-1 earlier.

6 Do you recall that?

7 A. Yes.

8 Q. Do you recall that your answer was, "This, like,
9 literally just happened"?

10 A. Yes.

11 Q. So that also was not true?

12 A. It just was happening. How soon -- like, it
13 wasn't, like, two minutes ago, but it just happened
14 recently.

15 Q. But it happened an hour ago; correct?

16 A. That's recent.

17 Q. Okay. Did it happen an hour ago, "yes" or "no"?

18 A. I don't know. I can't tell you.

19 Q. Okay. This incident took place on March 20 and,
20 according to the police reports, at 8:30; correct?

21 A. Okay. Yes.

22 Q. Now, would it refresh your recollection to look
23 at the time stamp on the 9-1-1 call to see when the 9-1-1
24 call was placed?

25 A. Yes.

26 Q. The time on it says 9:27 here; correct?

27 A. Yes.

28 Q. That is an hour after the incident?

1 A. Yes.

2 Q. But you told the 9-1-1 operator it was just 20
3 minutes?

4 A. Yes.

5 MR. GRIFFIN: If I could have a moment, Your Honor.

6 THE COURT: Yes, you may.

7 BY MR. GRIFFIN:

8 Q. Now, are you aware why -- when this incident
9 took place -- again, you testified on direct that this
10 took place in the -- kind of the threshold of the door.

11 For the record, I'm describing the bottom right
12 corner of the exhibit premarked as M.

13 In the bottom right corner, that's where you say
14 this took place, right here in this entrance?

15 A. Yes.

16 Q. Okay. And do you recall speaking with Mr. Chen
17 just a few days ago on January 26?

18 A. Yes.

19 Q. And isn't it true when you talked to Mr. Chen,
20 you stated that the fight took place in the living room,
21 not in the door?

22 A. No.

23 Q. No?

24 A. No.

25 Q. So are you stating that in a report drafted by
26 the district attorney's office is inaccurate?

27 A. No. I didn't say whether or not it definitely
28 happened in the doorway.

1 Q. Okay. So you are stating this is just false?

2 A. No. I don't remember saying that.

3 Q. Okay. Something else very interesting here, and
4 I notice that these statements -- okay. So you had all of
5 these different opportunities to explain yourself to
6 somebody -- okay.

7 Now, at any point on March 20, did you explain
8 anything about any threatening text messages that you
9 received?

10 A. No.

11 Q. And you did not explain anything about any
12 threatening text messages you received on March 21?

13 A. No. Because I thought I was just -- about that
14 incident --

15 Q. My question is did you explain to anybody on
16 March 21, when you were talking to Detective Perez, about
17 any threatening text messages?

18 A. No.

19 Q. In the court declaration that you filed on your
20 own, and all of the time in the world to write this out,
21 you didn't mention anything about any threatening text
22 messages in that declaration, did you?

23 A. No.

24 Q. When you emailed with Detective Perez back and
25 forth -- you actually sent him documents -- nowhere in
26 that did you mention anything about any threatening text
27 messages, did you?

28 A. No.

1 Q. When you spoke with the district attorney on
2 September 27 in preparation for your hearing -- for your
3 hearing, you didn't mention anything about any threatening
4 text messages, did you?

5 A. No.

6 Q. And on October 12th in the preliminary hearing,
7 under oath, you never mentioned anything about any
8 threatening text messages, did you?

9 A. No.

10 Q. And then on March -- then on January 26, when
11 you speak with Mr. Chen, it's the first time now you
12 mentioned something about a threatening text message; is
13 that correct?

14 A. Yes.

15 Q. And you don't have a copy of any of this?

16 A. No.

17 Q. You couldn't show him a copy of any threatening
18 text messages?

19 A. I showed him messages that I had, but he chose
20 not to use to them.

21 Q. But specifically the threatening ones, you
22 didn't have those; right?

23 A. No.

24 Q. So you saved text messages that were not
25 threatening?

26 A. No. Because the threatening messages happened
27 way before, and so I don't keep all of the messages on my
28 phone.

1 Q. Isn't it true that some of the text messages you
2 showed Mr. Chen were from 2015 and 2016?

3 A. I don't know the dates, but I did show him some.

4 Q. They were around 2016 at least; correct?

5 A. 2016?

6 Possibly.

7 Q. And you had saved those messages?

8 A. Yes.

9 Q. But you did not save these other threatening
10 text messages?

11 A. No.

12 MR. GRIFFIN: Nothing further, Your Honor.

13 THE COURT: Redirect, Mr. Chen?

14 MR. CHEN: Yes, Your Honor.

15 THE COURT: Redirect?

16 MR. CHEN: Yes, Your Honor. Thank you.

17

18 REDIRECT EXAMINATION

19 BY MR. CHEN:

20 Q. What was the threatening text message?

21 A. I'm sorry.

22 Q. What was the threatening text message?

23 A. When I first message exchanged, she said she
24 wanted to beat my ass.

25 Q. And when did you receive this?

26 A. I don't know the exact date, but it was, like,
27 when I probably first -- our first interaction we ever had
28 over, like, messages.

1 Q. Approximately when -- I mean, this incident
2 happened in March 2017; right?

3 A. Right.

4 Q. This message, was this in 2017?

5 A. 2016.

6 Q. Early 2016? Middle 2016? When?

7 A. Early.

8 Q. You didn't keep the message, though, did you?

9 A. No.

10 Q. Now, at that point in time, did you actually
11 think that the defendant was going to come and fight you?

12 A. No.

13 Q. Okay. And during this time did the defendant
14 send you other messages as well?

15 A. I had, like, ongoing messages since then. Yeah.

16 Q. There were messages?

17 A. Yes.

18 Q. Did you save all of them?

19 A. No.

20 Q. So you did delete other ones; correct?

21 A. Yes.

22 Q. Not just the one about I'm going to come beat
23 your ass?

24 A. Correct.

25 Q. And is there any reason why you deleted those
26 other ones as well?

27 A. I just never felt like I would need them. I
28 just don't keep messages like that.

1 Q. Now, earlier the defense brought up a
2 conversation we had back on January 26; correct?

3 And, Your Honor, the court's permission if I may
4 approach.

5 THE COURT: Yes, you may.

6 BY MR. CHEN:

7 Q. Would it refresh your recollection as to what
8 exactly you said on that date if I showed you a report
9 from that day?

10 A. Yes.

11 Q. After you've read that, can you look up and tell
12 me when your memory has been refreshed as to exactly what
13 you said.

14 A. Right here?

15 Q. No. This portion right here.

16 Do you see that?

17 A. Yes.

18 Q. Okay. Just look up at me when your memory has
19 been refreshed.

20 A. All right.

21 Q. Now, the report says that you indicated that she
22 had come into your living room to attack you; correct?

23 A. Yes.

24 Q. Do you stand by that statement?

25 A. No.

26 Q. Okay. Is there something -- what is it about
27 that that is incorrect, or what did you mean when you said
28 that?

1 A. It's not, like, the living room. It's the --
2 you know, doorway/entrance area.

3 Q. Okay. But she came into the house; correct?

4 A. Yes.

5 Q. And so I believe earlier on direct you had
6 testified at some point she was inside the house with you?

7 MR. GRIFFIN: Objection. Leading.

8 THE WITNESS: Yes.

9 THE COURT: Overruled.

10 BY MR. CHEN:

11 Q. Was she inside the house with you during the
12 attack?

13 A. Yes.

14 Q. So just to be clear, she started out at the
15 outside?

16 A. Yes.

17 Q. Is that "yes"?

18 A. "Yes."

19 Q. And then she throws the first punch. And when
20 she throws that first punch -- we have discussed this
21 earlier -- where is she? Is she outside? Inside?

22 A. She is, like, leaning forward to come into the
23 house.

24 Q. All right. Is part of her body already inside
25 when she is throwing this punch?

26 A. Yes.

27 Q. After she throws this first punch, now is she
28 inside of your house?

1 A. Yes.

2 Q. Is that the area that we just described where
3 the table is next to the door?

4 A. Yes.

5 Q. And that's where the subsequent punches come
6 from?

7 A. Yes.

8 Q. Now, with regards to the time estimation -- and
9 you previously testified approximately 30 seconds -- when
10 you made that call to 9-1-1, what was your mindset? What
11 were you feeling at that time?

12 A. I was, like, shocked, confused. I didn't know
13 what -- I didn't know what to make of everything.

14 Q. And so when you -- I mean, when you were asked
15 by the 9-1-1 operator approximately how long ago, you told
16 them 20 minutes; right?

17 MR. GRIFFIN: Objection. Leading.

18 THE COURT: Sustained.

19 BY MR. CHEN:

20 Q. What did you tell them if you remember now?

21 A. I told them that --

22 Q. What did you -- do you remember -- now that
23 you've reviewed the 9-1-1 transcript, what do you remember
24 telling them at that time?

25 A. That it was 20 minutes.

26 Q. Why did you tell them it was 20 minutes?

27 A. Because probably just confused and didn't know
28 what was happening. I wasn't keeping track of time.

1 Q. Were you counting the minutes between when the
2 attack happened and when you made the phone call?

3 A. No.

4 Q. Were you looking at the clock or counting
5 somehow between when the incident occurred and when you
6 made the 9-1-1 phone call?

7 A. No.

8 Q. What were you doing during this time?

9 A. I was cleaning up and trying to get Jayden ready
10 for bed, and I had made a phone call to my dad and told
11 him what had happened. I was just trying to get myself,
12 like, okay before I made a phone call to the police.

13 Q. So when you called the police and said 20
14 minutes, did you actually know if 20 minutes had passed?

15 A. No.

16 Q. Was that an estimation?

17 A. Yeah, an approximation.

18 Q. And so that brings me to when you testified and
19 in earlier statements had said the attack lasted 30 to 40
20 seconds.

21 Do you recall that part?

22 A. Yes.

23 Q. Are you actually counting the minutes or the
24 seconds as they pass by when this is occurring?

25 A. No.

26 Q. What is going through your mind when -- when you
27 are being punched?

28 A. I mean, all I hear is Jayden crying and

1 screaming so I'm worried about him because -- no.

2 MR. GRIFFIN: Objection. Asked and answered. That's
3 the exact question.

4 THE COURT: This is on redirect, though, but
5 overruled at this time.

6 You may answer.

7 THE WITNESS: I was just, you know, worried about
8 him, and I didn't know what was happening. Like, I'm
9 getting, you know, beat so I'm not -- I don't know what is
10 happening. I'm confused and trying to just get out of
11 that situation.

12 BY MR. CHEN:

13 Q. And now moving to when this first all started --
14 or when you saw Ms. Ashley for the first time, so I asked
15 you on direct what, if anything, she said; is that right?

16 A. Yes.

17 Q. Do you remember that?

18 A. Yes.

19 Q. All right. And you testified something along
20 the lines that she asked you about blocking her?

21 A. Yes.

22 Q. Okay. Did you understand what she meant when
23 she made that comment about blocking her?

24 A. Yes.

25 Q. Okay. Can you explain to us what you understood
26 that comment to mean.

27 MR. GRIFFIN: Objection. Calls for speculation.

28 THE COURT: Overruled.

1 THE WITNESS: I was just blocking her number because
2 I didn't want to get continually harassed from her because
3 she was always interjecting to, like, me and Licoray's
4 parenting.

5 BY MR. CHEN:

6 Q. So is this her phone number that you were
7 blocking?

8 A. Yes.

9 Q. And so these were text messages that you were
10 blocking off; is that correct?

11 A. Yes.

12 Q. And earlier, when we first started, I asked you
13 what happened next, and you said she punched you.

14 Do you remember that?

15 A. Yes.

16 Q. And then later on defense asked you if you had
17 said anything actually in response to her, and you -- what
18 did you say?

19 A. I said nothing because I didn't, but I just
20 didn't remember --

21 Q. But you did say -- so you weren't saying
22 anything to --

23 A. I didn't directly --

24 MR. GRIFFIN: Objection. Leading.

25 THE COURT: I'm sorry.

26 Hold on one second.

27 Overruled.

28 THE WITNESS: I didn't directly look at her and say

1 that. I looked at Licoray, like, I don't have anything to
2 do with her so that's why I said that.

3 BY MR. CHEN:

4 Q. Is that why -- well, can you explain to me why,
5 then, when I asked you if you said anything, you said,
6 "No"?

7 A. I just didn't remember.

8 Q. But is this, your statement, "Had nothing to do
9 with you," is that something you said to the officers back
10 on March 20 when they investigated?

11 A. Yes.

12 Q. When you said -- when you testified here about
13 being at school that morning, so you were at school at
14 this time, yes?

15 A. Yes, class.

16 Q. At the preliminary hearing, do you recall you
17 testified, though, that you were on spring break?

18 A. Yes.

19 Q. Is there a reason why there is confusion here?

20 A. Yeah. It's the same time as my spring break so
21 I probably just thought -- I don't, like, remember exactly
22 when my spring breaks are, but I believe it was that week
23 so probably just confused on days.

24 Q. Now, prior to testifying before the preliminary
25 hearing, I mean, you spoke with an attorney from our
26 office; correct?

27 A. Yes.

28 MR. GRIFFIN: Objection. Leading.

1 THE COURT: Overruled.

2 BY MR. CHEN:

3 Q. Now, in speaking with an attorney from our
4 office, did you get a chance at that time to review your
5 earlier statements from March?

6 A. I don't remember what time you are speaking of.

7 Q. Well, how about in regards to the preliminary
8 hearing?

9 Before you testified in the preliminary hearing,
10 did you get a chance to review police reports in regards
11 to this case?

12 A. When I was testifying at that moment, yes, I
13 was.

14 Q. But right before you testified?

15 A. No, I wasn't.

16 Q. So the incident -- do you remember -- it
17 happened in March?

18 A. Yes.

19 Q. And the preliminary hearing, do you remember it
20 happening in October?

21 A. Yes.

22 Q. So between March and October, outside of the TRO
23 you filed the day later and outside of the initial
24 reports, did you get a chance to review any materials
25 related to this case between March and October when you
26 testified at the preliminary hearing?

27 A. No.

28 Q. Between October and today's date, outside of

1 January 26 when we talked, did you review anything in
2 regards to this particular case or what you had previously
3 testified to?

4 A. No.

5 Q. Now, defense also pointed out that you had not
6 previously described the hair pulling.

7 Do you remember that?

8 A. Yes.

9 Q. But you testified here today that she did pull
10 your hair?

11 A. Yes.

12 Q. Were you previously asked if she pulled your
13 hair?

14 A. No.

15 MR. GRIFFIN: Objection. Hearsay. Relevance.

16 THE COURT: Overruled.

17 BY MR. CHEN:

18 Q. But you would agree with me it's an important
19 detail in the case?

20 A. Yeah. It's part of the fight.

21 Q. Is there any particular reason you had
22 previously neglected to mention the hair pulling?

23 A. No reason.

24 MR. CHEN: Thank you. Nothing further, Your Honor.

25 THE COURT: Before you go to recross, let me see
26 counsel sidebar with the court reporter. Thank you.

27 (Sidebar reported but not transcribed)

28

REXCROSS EXAMINATION

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BY MR. GRIFFIN:

Q. Ms. Randolph, you just didn't forget to mention the hair pulling once, did you?

A. No.

Q. You neglected to mention it 1, 2, 3, 4, 5, 6, 7 -- 8 times; correct?

A. Yes.

Q. With these harassing text messages -- when you spoke with Officer Rueda on March 20, 2017, you didn't mention anything about harassing text messages, did you?

A. No.

Q. When you spoke with Detective Perez on March 21, you did not mention anything about any harassing text messages, did you?

A. No.

Q. Now, when -- you didn't email Detective Perez any threatening text messages on March 22, did you?

A. No.

Q. When you spoke with the district attorney on September 27, you didn't mention anything about harassing text messages, did you?

A. No.

Q. The pretrial hearing on October 12, you did not make any mention of any threatening text messages, did you?

A. No.

Q. When you spoke with Mr. Chen on the 26th, that's

1 the first time; correct?

2 A. Yes.

3 Q. And as far as the discussion between you two,
4 isn't it true that in December you had exchanged Facebook
5 messages about toys for Jayden?

6 A. I'm sorry. For?

7 Q. You had exchanged messages with Ms. Ashley about
8 buying some Christmas gifts for Jayden?

9 A. Probably. Maybe.

10 Q. Probably? Refresh your recollection to look at
11 those text messages?

12 A. Yeah.

13 Q. Please look at these screenshots and take your
14 time and note the date on some of them.

15 Do you recall this conversation?

16 A. Yes.

17 Q. Okay. Is your memory sufficiently refreshed?

18 A. Yes.

19 Q. So isn't it true in December you had cordial
20 discussions about toys for Jayden?

21 A. Yes.

22 Q. And then it was -- what? -- immediately after
23 that that you blocked her?

24 A. I don't know. I don't remember.

25 Q. Do you know when you blocked her?

26 A. No.

27 Q. You have no idea when you blocked her?

28 A. It was somewhere -- I don't remember. No, I

1 don't remember.

2 Q. You have no idea?

3 A. No.

4 Q. You can't even ballpark it?

5 A. No.

6 Q. Do you think it's productive to block the person
7 you will coparent with?

8 MR. CHEN: Objection. Argumentative.

9 THE COURT: Sustained.

10 BY MR. GRIFFIN:

11 Q. So you have no idea when you blocked her?

12 A. No.

13 Q. But you do remember getting this text message,
14 as you testified under oath, about mid-2016, that she will
15 "beat your ass"?

16 A. Yes.

17 Q. You filed a declaration sworn under oath;
18 correct?

19 Now, isn't it true in that sworn declaration to
20 keep Ms. Ashley from your child, you wrote on January 14,
21 2017, you received this "beat your ass" text.

22 Did you write that?

23 A. Yes.

24 Q. And you just testified under oath this was
25 mid-2016?

26 A. I don't remember dates. I'm confused on -- I
27 don't know what you are saying right now.

28 Q. Okay. Did you file a restraining order in this

1 case?

2 A. Yes.

3 Q. Was the purpose of that restraining order to
4 keep Ms. Ashley away from your child?

5 A. From me and my child, yes.

6 Q. Right. And in that, isn't it true that you put
7 on January 14, 2017, Ms. Ashley texted you that she will
8 beat your ass?

9 A. Yeah. They told me to estimate a day so I did.

10 Q. And you estimated a date six months prior?

11 A. Yes.

12 Q. Okay. Isn't it true when you spoke with
13 Detective Perez that you told him that you got hit with a
14 right fist?

15 A. Yes.

16 Q. And that it was her ring that cut your eye?

17 A. Yes.

18 Q. Now, isn't it true her ring is on her left hand?

19 A. She could have switched her ring.

20 Q. So your testimony is that right before she went
21 to the house, she switched her ring from her engagement
22 hand to her right hand?

23 A. Probably. That's -- there is no way I could
24 have got cut from a knuckle -- a bare knuckle.

25 MR. GRIFFIN: I couldn't agree more.

26 No further questions, Your Honor.

27 THE COURT: Any objection to the witness be excused?

28 MR. CHEN: If I may, Your Honor.

1 THE COURT: Yes, you may, briefly. This will be
2 re-redirect.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MR. CHEN:

6 Q. Ms. Randolph, do you actually know if you were
7 cut by the ring?

8 A. I felt something hard, and it just cut me open.
9 So I didn't see, you know, the ring go directly into my
10 eye, no, but I definitely felt something.

11 Q. Isn't it possible it might not have been the
12 ring?

13 A. It's possible.

14 MR. CHEN: Thank you. Nothing further.

15 THE COURT: Any questions based upon the questions
16 that he just asked?

17 MR. GRIFFIN: No, Your Honor.

18 THE COURT: Any objection, Counsel, to the witness
19 being excused?

20 MR. CHEN: Subject to recall, Your Honor.

21 THE COURT: All right. Thank you, ma'am,
22 Ms. Randolph, you may step down. What that means, though,
23 is you are still subject to come back to court from the DA
24 or the defense.

25 (This concludes the requested testimony)

26 (proceedings Concluded)

27 -o0o-

28

Reporter's Certificate

1
2
3 State of California)
4) SS:
5 County of San Diego)
6

7 I, Steven Lee Kosmata, Certified Shorthand Reporter,
8 NO. 7253, An Official Court Reporter of the Superior Court of
9 the County of San Diego, State of California, do hereby certify:

10 That I reported in machine shorthand the proceedings held
11 in the foregoing case;

12 That my notes were transcribed under my direction; and the
13 foregoing pages contain a correct transcription of the
14 proceedings.
15

16 Dated this 22nd day of May 2018.
17

18 
19

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	38/16 40/1	1/4 4/3	15/22	22nd [2]
BY MR.	40/26	49/27	17/17 20/9	6/7 50/16
CHEN: [10]	41/23	1	20/22	23 [1]
34/18 36/5	42/27	10:10 [1]	22/23	29/18
37/9 38/18	44/14	4/2	22/26 29/1	26 [9]
40/11 41/4	48/24	10:30 [1]	29/22	5/12 6/18
42/2 43/1	49/16	19/17	30/19 31/2	14/10 22/2
44/16 49/4	THE COURT:	10:48 [1]	32/7 38/16	22/10
BY MR.	[41] 4/6	19/17	38/25	31/17
GRIFFIN:	4/8 7/14	19/17	38/26	33/10 36/2
[12] 4/11	7/19 8/25	11 [1]	39/13	44/1
7/15 7/22	9/2 9/4	16/16	39/14	269-2131
8/26 9/7	9/6 12/6	12 [8]	42/10	[1] 1/25
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45/1 47/9	13/5 16/17	13/28 17/5	2016 [10]	6/11 33/2
MR. CHEN:	16/20	18/11	9/1 9/4	45/21
[14] 4/4	16/26 19/6	19/20	34/2 34/4	3
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