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No. 331717

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JAN 09 2017

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

STATE OF WASHINGTON

Respondent,

vs.

MAHADI ALJAFFAR

Appellant.

SUPPLEMENTAL BRIEF OF APPELLANT

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December 30, 2015

I. IDENTITY OF THE APPELLANT

Mahadi Aljaffar is the Appellant in this cause.

II. ASSIGNMENT OF ERROR

A. At a reference hearing on the above cause as ordered by Division III, Court of Appeals, the trial court considered only a small partial translation of the trial court proceedings (a transcript prepared from a recording of only the trial testimony of Mr. Aljaffar) and made its conclusions only from the translated trial testimony of the appellant. There was no analysis of the quality of the translation of the remainder of the 6-trial witnesses, including the testimony of the accusers. From this reference hearing, no rational conclusions can be made from the record provided as to whether adequate translation/interpretation as guaranteed by R.C.W. 2.43.030, was provided.

**III. REBUTTAL TO STATE'S SUPPLEMENTAL
BRIEF**

In its supplemental brief, the state claims that Mr. Aljaffar was not harmed by not having the assistance of a state certified interpreter as provided and guaranteed by R.C.W. 2.43.030. In its brief, the state claimed essentially that Mr. Aljaffar's command of the English language was sufficient for his exercise of his 6th amendment right to confront witnesses and that the trial record only demonstrated insignificant differences in the translation of a court certified interpreter and the non-certified interpreter that was provided to Mr. Aljaffar.

The record does not bear either of these claims out. First, for example, the record of the court certified translation of Mr. Aljaffar's own trial testimony demonstrates the opposite. The transcript used at the reference hearing (Appendix "A", page 6, line 4) confirms that at trial, Mr. Aljaffar was asked why he chose the particular drinking establishment that the alleged sexual assault had occurred at, to which Mr. Aljaffar responded in English that it "was because I am interested in boys". When the question was restated to Mr. Aljaffar in Arabic, however, and translated from Arabic to english, Mr. Aljaffar responded that it was because he was interested in men (not boys as he stated in English). This is not a semantic difference as the state claims. It is but one example of a significant difference that, combined with the interpreter repeatedly and confusingly answering many questions in the third

person, likely confused both the jury and Mr. Aljaffar during his trial.

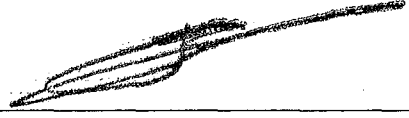
However, at the reference hearing, the trial court considered only the translated trial testimony of Mr. Aljaffar (See Appendix "A"). It did not consider any of the translations of the remaining 6-trial witnesses whose testimony the non-certified interpreter translated to Mr. Aljaffar from Arabic to English during trial. It was all of these faulty translations during trial that form the basis of Mr. Aljaffar's 6th amendment claims. Without such a record, there can be no basis for the court to make any conclusions whatsoever as it was directed to do by the Court of Appeals.

For these reasons, the Appellant requests the court to reverse his conviction.

IV. CONCLUSION

Mr. Aljaffar respectfully requests the Court to rule that the trial Court abused its discretion by not finding good cause to use a non-certified interpreter, and that the trial court improperly qualified the non-certified interpreter. Mr. Aljaffar is requesting that based on these errors, he was denied his right to due process and his 6th amendment right to confront his accusers and be present at his own trial, both under both the State and Federal

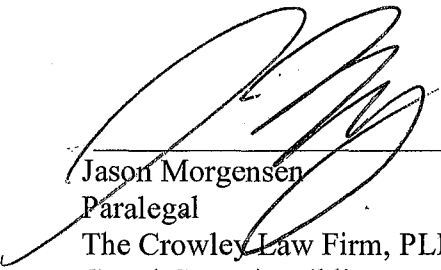
constitutions, and that he should be given a new trial because of that error.



John Rodney Crowley, WSBA No. 19868
Attorney for Appellant

CERTIFICATE OF SERVICE

I declare under penalty of perjury that on January 5, 2017, I placed a copy of this document in the United States Postal Service Mail, postage pre-paid addressed to the Court of Appeals Division III, 500 N Cedar St, Spokane, WA, 99201. I also placed a copy of this document in the United States Postal Service Mail, postage pre-paid, to Spokane County Prosecuting Attorney's Office at Public Safety Building, 1100 West Mallon, Spokane, WA 99260, and a copy was mailed to Mahadi Aljaffar, Washington Corrections Center, Shelton, WA.



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COVER PAGE FOR THE REVIEW OF TRIAL TRANSCRIPT OF MAHADI ALJAFFAR

REVIEW OF THE TRIAL TRANSCRIPT OF MAHADI ALJAFFAR

REVIEWING INTERPRETER: DIANA NOMAN WA STATE COURT CERTIFIED ARABIC
LANGUAGE INTERPRETER

PREPARED FOR REVIEW HEARING HELD ON NOVEMBER 30, 2016

ABBREVIATIONS USED: [UI] - UNINTELLIGIBLE
[PH] - PHONETIC

*Use of italic denotes words spoken in
English by the non-English speaking witness.*

REVIEWING INTERPRETER'S REMARKS ARE CONTAINED IN [SQUARE BRACKETS] IN BLUE AND BURGUNDY COLORED FONTS. SOME SECTIONS OF THE TEXT HAVE BEEN HIGHLIGHTED. EXPLANATION OF THE HIGHLIGHTED WORDS IS PROVIDED ON A SEPARATE ATTACHMENT. CHANGES TO THE TRANSCRIPT OF THE ENGLISH LANGUAGE SECTIONS HAVE BEEN MADE AND TRACKED. THEY APPEAR IN LIGHT TAN FONT.

TO PRESERVE THE PAGINATION AND LINE NUMBERING OF THE TRANSCRIPT THE FONT SIZE MAY VARY ON A SINGLE PAGE AS WELL AS FROM PAGE TO PAGE.

THIS REVIEW IS BASED ON LISTENING TO THE CASSETTE TAPE RECORDING OF THE PROCEEDINGS PROVIDED TO THE REVIEWING INTERPRETER AND IS SUBJECT TO ITS AUDIO QUALITY LIMITATIONS AS WELL AS THE LIMITATIONS OF THE LISTENING EQUIPMENT.

1 THE BAILIFF: All rise.

2 THE COURT: Thanks. Have a seat.

3 Mr. Rae, to you.

4 MR. RAE: Thank you. Your Honor, if I may approach
5 the well?

6 THE COURT: Yes.

7 (Opening statement presented to the jury by the defense.)

8 MR. RAE: With that, Your Honor, I call Mahadi
9 Aljaffar as my witness. Thank you.

10

11 MAHADI ALJAFFAR,

called as a witness at the request

12 of the Defendant herein, having

been first duly sworn on oath,

13 did testify, through the interpreter, as follows:

14

15 THE DEFENDANT: I do.

16 THE COURT: Have a seat.

17

18 DIRECT EXAMINATION

19 BY MR. RAE:

20 Q. Mr. Aljaffar, can you please state your name and spell
21 it for the record today. [AT THIS POINT THE INTERPRETER IN
ARABIC INSTRUCTS WITNESS TO STATE WITNESS'S NAME. [WITNESS RESPONSE:
'Alrubaie' [SPOKEN IN ARABIC]? (WHICH MEANS THE FULL NAME CONSISTING
OF 4 NAMES AS IS CUSTOMARY IN MANY ARABIC-SPEAKING COUNTRIES).

[INTERPRETATION: Alrubaie.] [INTERPRETER: What is your name?]

22 MR. BEIROUTY: Mahadi Aljaffar. You want it in
23 English?

24 MR. RAE: Yes, please. To the best of his abilities
25 between English --

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Spokane County Superior Court, Spokane, Washington 1

Mahadi Aljaffar/Direct

1 MR. BEIROUTY: The names are the same. They are not
2 translated. He can do that. [INTERPRETER SPEAKS FROM HIMSELF.]
[INTERPRETER THEN STATES TO WITNESS TO STATE WITNESS'S NAME IN ENGLISH
WHEN WITNESS WILL GIVE HIS ANSWER.]

3 MR. RAE: That would be fine.

4 A. Mahadi Aljaffar. [WITNESS RESPONSE: Mahadi Nassar Khalifa
Aljaffar [NAME MAY CONTAIN SPELLING ERRORS MADE BY REVIEWING
INTERPRETER].

5 Q. (By Mr. Rae) I understand are you speaking in a
6 foreign dialect. What is that? [ARABIC IS A LANGUAGE, NOT A
DIALECT]

7 MR. BEIROUTY: Yes.

8 A. Yes.

9 Q. (By Mr. Rae) What is that language?[WITNESS RESPONSE: Arabic]
Where are you from?

10 A. Saudi Arabia.

11 Q. How old are you?

12 A. Twenty-one.

13 Q. When did you turn 21?

14 A. Yesterday.

15 Q. I understand you're able to understand a lot of what
16 ~~was~~ I'm saying now?

17 A. Yes.

18 Q. If at any time you may not understand my question,
19 please remember that you have an interpreter there.

20 A. Okay.

21 Q. It may be easier for you to wait for me to finish my
22 question and let the translation occur so we make sure
23 there is no confusion of what I am asking and what you are
24 answering.

25 A. Okay.

Joe Wittstock, RPR - Official Court Reporter

Spokane County Superior Court, Spokane, Washington 2

Mahadi Aljaffar/Direct

1 Q. Are you nervous right now?

2 A. Yes.

3 Q. So basically you're from Saudi Arabia?

4 A. Yes.

5 Q. What brings you to the United States?

6 A. To study mechanical engineering.

7 Q. Okay. And how long --

8 A. Yes --

9 Q. Remember I'm -- I'm going to ask for you to wait for
10 the translation before you answer my questions.

11 A. Okay.

12 Q. How long have you been in the United States?

13 A. Sixteen months.

14 Q. Fifteen months...and... So when did you arrive?

15 A. Twelve August, 2013.

16 Q. So from August, the middle of August, 2013, to the end
17 of May of 2014, you'd been in the country approximately
18 eight or nine months; correct -- [INTERPRETER BEGINS TO TO
INTERPRET, BUT WITNESS RESPONDS MIDWAY THROUGH THE INTERPRETATION.]

19 A. Yes.

20 Q. -- is that accurate? Had you learned any English
21 before you came to the United States? [WITNESS RESPONSE: "No."]
22 Have the translator translate.

23 A. He translated right away. [INTERPRETER: "He wouldn't let me
translate. He would answer right away.]

24 Q. We need to make sure we do this correctly, okay?

25 A. Okay.

Joe Wittstock, RPR - Official Court Reporter

Spokane County Superior Court, Spokane, Washington 3

Mahadi Aljaffar/Direct

1 Q. Did you learn any English before you came into the
2 United States?

3 A. Like A, B, C, D; like, letters.

4 Q. So aside from basic characters of the English
5 language, when you arrived 15 months ago, you didn't
6 understand any English; correct?

7 A. Yeah. Almost like that.

8 Q. Where is your family?

9 A. In my country.

10 Q. Are you married? [NOT INTERPRETED]

11 A. No.

12 Q. Do you have any children? [NOT INTERPRETED]

13 A. No.

14 Q. So you said you are here to study to be a mechanical
15 engineer? [INTERPRETATION BEGINS, BUT WITNESS ANSWERS BEFORE IT
IT IS COMPLETED.]

16 A. Yes.

17 Q. So what do you have -- what is the process for that --
18 how did that take place for you to come here to study; what
19 is the process for that?

20 MR. BEIROUTY: He said, like, what? [INTERPRETER INTERPRETS IN
3RD PERSON].

21 Q. (By Mr. Rae) So what are the steps that you had to
22 take to become a student in the United States?

23 A. Like, dual visa, and dual, like -- [WITNESS RESPONSE: Like
uh... uh do a visa, and uh... do... like I-20... uh-huh...]

24 Q. Would it be easier for you to answer these questions
25 in Arabic? [INTERPRETER BEGINS TO TO INTERPRET, BUT WITNESS
RESPONDS MIDWAY THROUGH THE INTERPRETATION.]

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Mahadi Aljaffar/Direct

1 A. Yes.

2 Q. (By Mr. Rae) Then I will encourage you to do so,
3 please.

4 MR. BEIROUTY: He applied for a visa. [INTERPRETER INTERPRETS
IN 3RD PERSON].

5 MR. RAE: Okay.

6 MR. BEIROUTY: And he chose the university he ~~can~~ gonna go
7 to. And he communicated with them. And they accepted him
8 to -- [INTERPRETER INTERPRETS IN 3RD PERSON].

9 MR. RAE: Okay. Thank you.

10 Q. (By Mr. Rae) So I want you to focus your attention of
11 your activities on the night of May the 30th and then into
12 the morning of May the 31st.

13 MR. BEIROUTY: Okay.

14 Q. (By Mr. Rae) Why don't you take me through your day
15 on May the 30th?

16 MR. BEIROUTY: The day before the incident?

17 MR. RAE: Yes.

18 MR. BEIROUTY: I don't remember exactly.

19 Q. (By Mr. Rae) Okay. Do you remember what you were
20 doing the night that this incident was alleged to have
21 occurred? [INTERPRETATION: Do you remember the night on which
the... the incident happened?]

22 A. Yeah.

23 Q. Why don't you tell the jury what you were doing the
24 night in question?

25 A. I ~~had~~ ate my dinner. Uh... after that uh... I was [UI]-
after that I talked with my family. After that um...I

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Mahadi Aljaffar/Direct

1 called my friends to go to night club. [UI] And I went there.

2 Q. Okay. Where is "there?"

3 A. Irv's.

4 Q. And why did you choose that location -- or did you
5 choose that location? Is that a location that you chose?

6 A. Because I ~~was~~ am interested in boys--

7 Q. If you would repeat your answer, and maybe in Arabic,
8 for translation purposes?

9 MR. BEIROUTY: [NO ANSWER IS AUDIBLE FROM WITNESS]. Because he

was interested in men ~~and~~ [INTERPRETER INTERPRETS IN 3RD PERSON]

10 ~~boys~~. This is the only night -- night club in Spokane that
11 allowed it gay.

12 Q. (By Mr. Rae) So when you were at the club, how did
13 you get in?

14 MR. BEIROUTY: I paid more.

15 Q. (By Mr. Rae) What do you mean by that?

16 MR. BEIROUTY: He paid more because some people told
17 him that because you are from schools, you can pay more and
18 get in. [INTERPRETER INTERPRETS IN 3RD PERSON].

19 Q. (By Mr. Rae) So did you feel if you paid more, you
20 couldn't get in because you were 20 at the time?

21 A. Yes.

22 Q. So what did people who were 21 pay?

23 A. I think \$5.

24 Q. And what did you pay?

25 A. Twenty.

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Spokane County Superior Court, Spokane, Washington 6

Mahadi Aljaffar/Direct

1 MR. BEIROUTY: \$20.

2 Q. (By Mr. Rae) Was anybody else that you were with
3 under the age of 21?

4 A. Not my friends, but I know them from my school.

5 Q. (By Mr. Rae) So not the friend that you went to the
6 club with, but some people in the club that you were
7 meeting with, were there other friends in the club; is that
8 what you are referring to? [INTERPRETER BEGINS TO TO INTERPRET,
BUT WITNESS RESPONDS MIDWAY THROUGH THE INTERPRETATION.]

9 A. Yeah.

10 Q. (By Mr. Rae) What did you do once you paid your \$20
11 to get in?

12 A. I come in.

13 Q. (By Mr. Rae) And then what?

14 MR. BEIROUTY: He drank. [INTERPRETER INTERPRETS IN 3RD
PERSON].

15 Q. (By Mr. Rae) What did you drink?

16 MR. BEIROUTY: It was my first time drinking. I had
17 four drinks. [WITNESS RESPONSE: This was my first experience
drinking and I drank four.]

18 Q. (By Mr. Rae) What kind of drinks did you have?

19 MR. BEIROUTY: Vodka.

20 A. Vodka.

21 Q. (By Mr. Rae) Was it just vodka or was it vodka mixed
22 with other things?

23 A. Just vodka.

24 Q. And where were you consuming this alcohol?

25 MR. BEIROUTY: He didn't understand the meaning of the

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Mahadi Aljaffar/Direct

1 question. [INTERPRETER INTERPRETS IN 3RD PERSON].

2 MR. RAE: Okay.

3 Q. (By Mr. Rae) We have had testimony that there were
4 two sides of the club you were at. Which side of the club
5 were you consuming the vodka? [INTERPRETATION: In which club
were you drinking?]

6 MR. BEIROUTY: On the left side.'

7 Q. (By Mr. Rae) Okay. And what side is that?
[INTERPRETATION: Which side? What's its name?]

8 MR. BEIROUTY: Red Club.

9 Q. (By Mr. Rae) Club Red?

10 A. Yeah. I think the same night, ~~the same times on same night,~~
~~at the I don't know.~~

11 club.

12 Q. Okay. Thank you.

13 What did you do after you consumed the alcohol?

14 MR. BEIROUTY: He felt nauseated and dizzy. [INTERPRETER
INTERPRETS IN 3RD PERSON].

15 Q. (By Mr. Rae) Okay. And why was that?

16 MR. BEIROUTY: That was my first time drinking. [WITNESS
17 RESPONSE: That was my first experience drinking.] I think from
the drinks... ~~from the~~ alcohol.

18 Q. (By Mr. Rae) When you started feeling ill and dizzy,
19 what did you do next?

20 A. I went to the bathroom.

21 Q. Okay. For what purpose?

22 MR. BEIROUTY: To vomit.

23 Q. (By Mr. Rae) Okay. So there has been testimony from
24 one of the alleged victims in this case that you entered
25 the bathroom and you looked over and under the bathroom

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Mahadi Aljaffar/Direct

1 stalls.

2 What was your purpose of doing so? If you did so, how
3 do you respond to that, is what I'm asking?

4 MR. BEIROUTY: At first I entered, and I checked withif there is
5 somebody, because I was in a hurry.

6 Q. (By Mr. Rae) Okay. And what was your hurry?

7 MR. BEIROUTY: I had a strong feeling of vomiting.

8 Q. (By Mr. Rae) Okay. Did you notice any signs or
9 anything that -- that separated a woman's bathroom from a
10 men's bathroom that evening?

11 A. No.

12 Q. Why did you choose where you went when you were
13 feeling sick?

14 A. Because it has more privacy.

15 Q. And why do you say that?

16 A. Because it has door.

17 Q. Okay. And had you been in the other bathrooms in this
18 establishment?

19 A. No.

20 Q. When -- There has been testimony that you were in a
21 woman's bathroom when you went into -- when you were
22 feeling ill.

23 Did you know it was a woman's -- designated woman's
24 bathroom at that time? [INTERPRETATION: Did you know it was a
woman's bathroom?]

25 A. No.

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Mahadi Aljaffar/Direct

1 Q. When you chose that bathroom, why did you choose that
2 one instead of maybe one to the left? Did you even --

3 Excuse me, strike that.

4 Did you know there was a bathroom to the left of where
5 you entered at that time?

6 MR. BEIROUTY: He saw two bathroom. There is one
7 bathroom with more privacy than the other one. [INTERPRETER
INTERPRETS IN 3RD PERSON]. [WITNESS RESPONSE: There are two bathrooms.
There is a bathroom which has more privacy... I mean... and there is one
without privacy.]

8 Q. (By Mr. Rae) And that is why you choose it?

9 MR. BEIROUTY: Yes.

10 Q. (By Mr. Rae) So what happened once you got into the
11 bathroom?

12 MR. BEIROUTY: He, because there was some people
13 leaning on the wall, he was waiting until he can use the
14 bathroom. [INTERPRETER INTERPRETS IN 3RD PERSON]

15 Q. (By Mr. Rae) So at some point do you recall having
16 any contact with Amber Wicks -- excuse me -- and --

17 A. No.

18 Q. You heard her say that you came in and that you held
19 her breast with one hand and a door with another. What is
20 your response to those allegations at that time?

21 MR. BEIROUTY: I wasn't in a state -- I didn't have
22 that feeling for women to rape her. And I was in a
23 state -- very sick. [WITNESS RESPONSE: It's impossible that I
would do that, because I do not have the impulse to... I do not feel
attracted to girls so as to try and rape her... and [UI] because I was
in a such state... I didn't have the impulse [UI]]

24 Q. (By Mr. Rae) Okay. So, do you remember anyone
25 telling you to leave the bathroom or you weren't welcome

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Mahadi Aljaffar/Direct

1 there?

2 MR. BEIROUTY: Leslie came in and she started yelling
3 at him. And he didn't understand what she want. [INTERPRETER
INTERPRETS IN 3RD PERSON]

4 Q. (By Mr. Rae) Okay. Did you let people know you were
5 sick?

6 MR. BEIROUTY: Yes.

7 Q. (By Mr. Rae) And why was it that you didn't leave the
8 bathroom?

9 MR. BEIROUTY: Because I needed it.

10 Q. (By Mr. Rae) Okay. There was also some testimony
11 from Leslie Ellis that you held her and pressed her up
12 against a sink, and said that you wanted to have sex with
13 her.

14 And that had you an erection -- [INTERPRETER DOESN'T HAVE A
CHANCE TO FINISH INTERPRETING THIS PART OF THE QUESTION]

15 MR. CRUZ: Objection. This is a compound question and
16 the witness hasn't answered it.

17 MR. RAE: I was waiting for the interpreter, Your
18 Honor.

19 THE COURT: All right. I will give you some leeway
20 because of that situation. Go ahead and finish the
21 question.

22 MR. RAE: Thank you.

23 Q. (By Mr. Rae) So the three accusations that Ms. Ellis
24 accused you of, how do you respond to them?

25 MR. BEIROUTY: The charge that he pushed her and that

[WITNESS RESPONSE: [UI] I did not push her nor did any of that.]

[INTERPRETER INTERPRETS IN 3RD PERSON]

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Mahadi Aljaffar/Direct

1 he held her, he didn't do anything.

2 Q. (By Mr. Rae) Okay. And what about her conversation
3 about you having been aroused, stimulated and pressed that
4 up against her groin? [INTERPRETATION: And what... what... what
about her statements that she is making that you were sexually
aroused?]

5 MR. BEIROUTY: I was very tired. How could I be
6 aroused in this state? [WITNESS RESPONSE: I was not feeling
well, so how could I have been sexually aroused in this state.]

7 Q. (By Mr. Rae) Okay. Were you attracted to either of
8 the women that accused you of sexual misconduct?
[INTERPRETATION: Were you attracted to these two girls who accuse you
of... of sex?]

9 MR. BEIROUTY: I'm not feeling interested in girls.
10 I'm not interested in girls.

11 MR. RAE: Okay. All right. I don't have any further
12 questions. Thank you.

13 THE COURT: Thank you. Mr. Cruz, do you have any
14 questions? You may proceed.

15 MR. CRUZ: Yes, Your Honor. Thank you.

16 Mr. Aljaffar -- I think the wire is disconnected.

17 MR. RAE: Your Honor, if I --

18 THE COURT: Yes.

19 MR. RAE: I don't know at what point it happened, but
20 it appeared when I moved the podium, I may have
21 disconnected the microphone. I will hand it to your
22 bailiff --

23 THE COURT: It connects into the bottom of the mic.

24 MR. RAE: Oh. Thank you.

25 THE COURT: Right there (indicating). That's it.

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1 MR. RAE: My apologies, Judge.

2 THE COURT: No problem.

3

4 CROSS-EXAMINATION

5 BY MR. CRUZ:

6 Q. Mr. Aljaffar, you indicated that you arrived in the
7 States August 12, 2013?

8 A. Yes.

9 Q. Had you ever gone to any other English-speaking
10 countries other than the United States prior to that time?

11 A. No.

12 Q. You indicated that you came to the States because you
13 were admitted into a university --

14 A. Yes.

15 Q. -- for -- you had indicated mechanical engineering?

16 A. Yes.

17 Q. What school were you admitted into to study mechanical
18 engineering?

19 A. Central Washington University.

20 Q. So if you were admitted into Central Washington
21 University, why were you attending school here in Spokane,
22 Washington?

23 A. I still study English.

24 Q. So you hadn't started attending Central Washington
25 University; correct? [INTERPRETER BEGINS TO TO INTERPRET, BUT
WITNESS RESPONDS MIDWAY THROUGH THE INTERPRETATION.]

Mahadi Aljaffar/Cross

1 A. Yes.

2 Q. And you were studying English?

3 A. Yes.

4 Q. And it is your testimony that you only studied very
5 little English prior to coming to the United States?

6 A. Yes.

7 Q. How did you make your way through the airport if you
8 had very limited English?

9 MR. BEIROUTY: There is a lot of interpreters there.

10 Q. (By Mr. Cruz) Okay. Are there designated bathroom
11 stalls in Saudi Arabia for men and women? [INTERPRETATION: In
Saudi Arabia are there designated bathrooms for men and women?]

12 MR. BEIROUTY: Yes.

13 Q. (By Mr. Cruz) And do they have symbols on the
14 bathrooms that kind of indicate what is for males, what is
15 for females?

16 A. Yes.

17 Q. And they are similar type of symbols when you came to
18 the United States and went into the airport, would you
19 agree?

20 A. Yes.

21 Q. And in fact those same universal symbols for male and
22 female are in a lot of the public restrooms in the
23 buildings in downtown Spokane; correct? [INTERPRETATION: And
these common symbols uh... are present in every establishment/place
in downtown Spokane.]

24 MR. BEIROUTY: Not in gay bar.

25 Q. (By Mr. Cruz) But would you agree when you go to

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Mahadi Aljaffar/Cross

1 public establishments, there is usually a designated male
2 bathroom and a designated female bathroom?

3 A. Yes.

4 Q. Okay. Now, when you went to Irv's bar on May 31st,
5 2014, that wasn't the first time you'd gone there; correct?

[INTERPRETATION: When you went to Irv's on that night, May 31st, it
was the first time you went there; correct?]

6 MR. BEIROUTY: That was the first time.

7 Q. (By Mr. Cruz) The very first time?

8 A. Uh-huh.

9 MR. BEIROUTY: Yes.

10 Q. (By Mr. Cruz) How did you learn about that bar?

11 MR. BEIROUTY: The Internet.

12 Q. (By Mr. Cruz) And only the Internet?

13 MR. BEIROUTY: While he was also walking the streets
14 also, he saw the bar. [INTERPRETER INTERPRETS IN 3RD PERSON]

15 Q. (By Mr. Cruz) So you had been in that area before;
16 correct?

17 MR. BEIROUTY: Yeah -- Yes. I know that area, but I
18 didn't go to bars.

19 Q. (By Mr. Cruz) How is it that you knew that if you
20 paid more money for the cover charge that you could get
21 into there even though you were under 21?

22 MR. BEIROUTY: My friend at school. [RESPONSE: My friends at
school...like... told me.]

23 Q. (By Mr. Cruz) So you knew about that place other than
24 the Internet?

25 MR. BEIROUTY: I research it on the Internet and from

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1 my friend.

2 Q. (By Mr. Cruz) So you researched it from the Internet,
3 then you talked to your friends about your interest in
4 going to that bar?

5 MR. BEIROUTY: Yes.

6 Q. (By Mr. Cruz) And did you tell your friends you were
7 interested in [REDACTED]?

8 A. No.

9 MR. BEIROUTY: No.

10 Q. (By Mr. Cruz) Because would you agree that from where
11 you're from that homosexuality is frowned upon?

12 A. Yes. For sure.

13 Q. Why would you talk to your friends, who are also Saudi
14 Arabian, about a gay bar that you are interested in going
15 to? [INTERPRETATION: So how is it that you talked to your
friends that you are going to a gay bar [UI]??]

16 MR. BEIROUTY: Some they go there to drink only.

17 Q. (By Mr. Cruz) Okay. But you had a different interest
18 than just going there to drink?

19 A. Uh-huh.

20 MR. BEIROUTY: To seek boys or men. [RESPONSE: To look for/at
boys.]

21 Q. (By Mr. Cruz) Now, as you walked past this
22 establishment on prior occasions, were you able to see
23 inside the bars?

24 A. Yes.

25 Q. And you also would be able to see the go-go dancers

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1 that were dancing within that establishment; correct?

2 MR. BEIROUTY: I wasn't interested in them. I was
3 interested in boys in that area.

4 Q. (By Mr. Cruz) The question, though, sir, is when you
5 passed that particular establishment, you were able to see
6 within the bar that they had female go-go dancers; correct?

7 MR. BEIROUTY: He knows that bar because it's for gay
8 people and lesbians. [INTERPRETER INTERPRETS IN 3RD PERSON]

9 Q. (By Mr. Cruz) The question, sir, is would you be able
10 to see from the street into the bar and observe that there
11 were female go-go dancers?

12 MR. BEIROUTY: Sometimes they go to the street and he
13 sees them. [INTERPRETER INTERPRETS IN 3RD PERSON]

14 Q. (By Mr. Cruz) So your answer is yes. So you knew
15 that women frequented that bar as well; correct?

16 A. Yes.

17 Q. Now in this particular case who did you go to the bar
18 with?

19 MR. BEIROUTY: He -- he get a ride with a friend.
20 When he get to the bar, he left him. [INTERPRETER INTERPRETS IN
21 3RD PERSON]

21 Q. (By Mr. Cruz) So you were dropped off at that bar?

22 A. Yes.

23 Q. So you weren't with other classmates of yours from the
24 school you attended in downtown Spokane?

25 MR. BEIROUTY: He knew some people from school, but he
[INTERPRETER INTERPRETS IN 3RD PERSON]

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1 didn't know them personally.

2 Q. (By Mr. Cruz) How long have you been interested in
3 men?

4 MR. BEIROUTY: When he was a teenager. [INTERPRETER INTERPRETS IN
5 3RD PERSON]

6 Q. (By Mr. Cruz) What identification did you use to get
7 inside the bar?

8 MR. BEIROUTY: He answered a different answer, and I
9 will try and rephrase that question again. [WITNESS RESPONSE: [UI]
10 they told me that I have to use identification so as to uh... the
11 customers [UI]] [INTERPRETER DOESN'T INTERPRET THE ANSWER AND OFFERS TO
12 REPHRASE THE QUESTION. INTERPRETER: The ID you used, what ID was it?]

13 A Saudi ID.

14 Q. (By Mr. Cruz) Did it have your date of birth listed
15 on it?

16 MR. BEIROUTY: Yes.

17 Q. (By Mr. Cruz) Did it have your correct date of birth
18 on it?

19 MR. BEIROUTY: Yes.

20 Q. (By Mr. Cruz) So if it had your correct date of birth
21 on it, they would have realized that you were too young to
22 have gotten into that club; would you agree?

23 MR. BEIROUTY: He said he knew from other people at
24 the school that if he did bribe, he could get in. [INTERPRETER
25 INTERPRETS IN 3RD PERSON]

26 Q. (By Mr. Cruz) And you bribed somebody, is that what
27 you're saying?

28 MR. BEIROUTY: Yes.

29 Q. (By Mr. Cruz) So if there were other people that were
30 there who were employed there who saw you at that

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1 establishment before, would they be mistaken?

2 MR. BEIROUTY: I think.

3 Q. (By Mr. Cruz) When did you start drinking?

4 MR. BEIROUTY: You want the time or the -- [WITNESS RESPONSE:
The time or the date?]

5 MR. CRUZ: The time.

6 MR. BEIROUTY: 12:30.

7 Q. (By Mr. Cruz) Is that when you had your first drink?

8 A. Yes.

9 Q. Was that a shot?

10 A. Yes.

11 Q. When did you have your second shot?

12 MR. BEIROUTY: There were four drinks, and he drank
13 them within half an hour. [INTERPRETER INTERPRETS IN 3RD PERSON]

14 Q. (By Mr. Cruz) So you drank four drinks between 12:30
15 and one o'clock?

16 MR. BEIROUTY: Yes.

17 A. Yes.

18 Q. (By Mr. Cruz) And you had no more drinks after that;
19 correct?

20 A. Yes.

21 Q. And you had eaten dinner, is that correct?

22 A. Yes.

23 Q. What do you remember having for dinner?

24 MR. BEIROUTY: Chicken pasta.

25 Q. (By Mr. Cruz) And when did you have dinner?

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1 MR. BEIROUTY: Nine o'clock; between 9:00 and 10:00.

2 Q. (By Mr. Cruz) You had a pretty big meal between 9:00
3 and 10:00 p.m.; correct?

4 A. Yes.

5 Q. Then you indicated you started drinking at 12:30 a.m.;
6 correct? [INTERPRETATION: You said that you started drinking at
12:30.]

7 A. Yes.

8 Q. So you had a full stomach, would you agree?

9 A. Yes.

10 Q. Then you stopped drinking at ~~11~~1:00 p.m. (sic).

11 A. Yes.

12 MR. BEIROUTY: One p.m.?

13 MR. CRUZ: Excuse me. One a.m.; correct?

14 MR. BEIROUTY: Yes.

15 Q. (By Mr. Cruz) Then you started dancing; correct?

16 MR. RAE: Your Honor, outside of the scope of direct.

17 MR. CRUZ: It was part and parcel of what he did that
18 evening.

19 THE COURT: From the questions as to what occurred
20 that evening. So I will let you continue as to what
21 happened from that perspective.

22 MR. BEIROUTY: Can you repeat that question, please?

23 Q. (By Mr. Cruz) Were you dancing that evening?

24 A. Yes.

25 Q. When did you start dancing?

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1 MR. BEIROUTY: After one o'clock.

2 Q. (By Mr. Cruz) When you were dancing, you weren't
3 dancing with [REDACTED]; that is not who you were interested in
4 dancing with, would you agree?

5 MR. BEIROUTY: It was -- He was dancing by himself. [INTERPRETER
INTERPRETS IN 3RD PERSON]

6 Q. (By Mr. Cruz) Now, you were aware of where the
7 bathrooms were; correct?

8 A. No. Not actually.

9 MR. BEIROUTY: Not really.

10 Q. (By Mr. Cruz) Where did you buy your drinks from,
11 which side of the bar?

12 MR. BEIROUTY: The left side.

13 Q. (By Mr. Cruz) The Club Red side; correct?

14 MR. BEIROUTY: Club Red.

15 A. Yeah.

16 Q. (By Mr. Cruz) When did you first approach the
17 bathroom?

18 MR. BEIROUTY: About two o'clock.

19 Q. (By Mr. Cruz) And you were aware that there were two
20 different bathroom entrances at that time; correct?

21 MR. BEIROUTY: Yes.

22 A. (By Mr. Cruz) You knew one side was for the men;
23 correct?

24 MR. BEIROUTY: I thought anybody could go; it's not
25 the question. [RESPONSE: I thought... like... like anybody can
go into any of them [UI].]

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1 Q. (By Mr. Cruz) You knew one side -- one of those two
2 bathrooms, one side was for men; correct?

3 MR. RAE: Asked and answered, Your Honor.

4 MR. CRUZ: He hasn't answered it.

5 MR. RAE: He said he thought anyone could go. That is
6 his answer.

7 THE COURT: That is what he responded.

8 Q. (By Mr. Cruz) Okay. So then you knew the other side
9 was for women; correct?

10 MR. BEIROUTY: Can I explain? [WITNESS RESPONSE: Tell him,
tell him, can I explain?]

11 MR. CRUZ: The question, sir, just requires a
12 yes-or-no answer.

13 MR. BEIROUTY: I did not know they were specified or
14 not.

15 Q. (By Mr. Cruz) From the dance floor could you see
16 where the bathrooms are?

17 MR. BEIROUTY: I think -- He said all sides they have
18 the same bathroom. [WITNESS RESPONSE: I think--that side [UI]]
[INTERPRETER INTERPRETS IN 3RD PERSON WHEN CLARIFYING RESPONSE]

19 Q. (By Mr. Cruz) The question, sir, is, from the dance
20 floor could you see where the bathrooms were located?

21 MR. BEIROUTY: The dance floor was big~~That is - From one part~~
~~you can see, the other part you can't~~~~One side you can see, other~~

22 ~~side you can't.~~ [WITNESS RESPONSE: The dance floor is big, so there
is a part from where you can see and another part where you cannot see.]

23 Q. (By Mr. Cruz) So you were at one part of the dance
24 floor where you could see the bathrooms?

25 MR. BEIROUTY: Sometimes no.

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1 Q. (By Mr. Cruz) Okay. But sometimes yes?

2 A. Yes.

3 Q. Okay. And if you were interested in men, you would
4 have been watching the men as they were going into the
5 bathroom; correct?

6 MR. RAE: Objection. Calls for speculation, Your
7 Honor.

8 MR. CRUZ: This would be his personal observation.

9 THE COURT: Understood.

10 MR. RAE: It's assuming he's sitting there staring at
11 ~~the~~ bathrooms, looking for people in ~~the~~ bathrooms. And that
12 is an inappropriate line of questioning.

13 THE COURT: There may be a foundational question. If
14 you want to back up and hit it, if you would.

15 Q. (By Mr. Cruz) I mean, the basis for you going to this
16 specific club ~~is~~ was because you believed there were gay men at
17 this club; correct?

18 A. Yes.

19 Q. And your focus would be on the men ~~that~~ who were also at
20 ~~the~~ this club; correct?

21 A. Yes.

22 Q. Not the women, correct, is what you are saying today?

23 A. Yes.

24 Q. So you would be watching the [REDACTED] as they were moving
25 around the establishment; correct?

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1 MR. BEIROUTY: Yes.

2 Q. (By Mr. Cruz) So you would see what bathroom they
3 were going into; correct?

4 MR. BEIROUTY: Some men were using the bathroom on the
5 left and some men were using the bathroom on the right. [WITNESS
RESPONSE: Some of the guys were [UI]... the same... um... the bathroom that
was on the right side and others [UI] the bathroom that was on the left, so
I mean, it wasn't [UI].]

6 Q. (By Mr. Cruz) So you are saying men were also using
7 the women's bathroom?

8 A. Yes.

9 Q. In this case you were the only [REDACTED] spotted going into
10 the women's restroom the night in question.

11 MR. BEIROUTY: He observed two -- two men dressing
12 like women go into that bathroom. [INTERPRETER INTERPRETS IN
3RD PERSON]

13 Q. (By Mr. Cruz) But they were -- they were portraying
14 themselves, at least the outwardly appearance, of being
15 female. Would you agree?

16 MR. BEIROUTY: No. They were men.

17 Q. (By Mr. Cruz) But they were dressed like women;
18 correct?

19 A. Yes.

20 Q. Okay. But you saw the [REDACTED] who were dressed like [REDACTED]
21 strictly going into the [REDACTED]'s bathroom (indicating)?

22 MR. BEIROUTY: Yes.

23 Q. (By Mr. Cruz) And in fact you had gone into the [REDACTED]'s
24 bathroom; correct?

25 MR. BEIROUTY: ~~I did not~~ [WITNESS RESPONSE: I don't know] -- I
thought they were

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1 unspecified; the same.

2 Q. (By Mr. Cruz) Okay. Regardless of whether or not
3 they were specified men versus women's bathrooms, did you
4 go in both bathrooms? [INTERPRETATION: Did you go to both
bathrooms? [UI]]

5 MR. BEIROUTY: I looked in the one bathroom. There is
6 no privacy, so I went the next one. [WITNESS RESPONSE: I went into
the first bathroom and there was no privacy. I went to the other bathroom
for privacy.]

7 Q. (By Mr. Cruz) So you went into both bathrooms?

8 MR. BEIROUTY: Yes.

9 Q. (By Mr. Cruz) And you knew that in the one bathroom
10 that you went into that you said didn't have privacy, did
11 you see urinals? [INTERPRETATION: When you went to the bathroom
that has privacy, you saw in it places for... the urinals. Did you see?]

12 MR. BEIROUTY: He said yes. [INTERPRETER INTERPRETS IN 3RD
PERSON]

13 Q. (By Mr. Cruz) So you saw the urinals; correct?

14 MR. RAE: Asked and answered; same question twice.

15 Q. (By Mr. Cruz) You know that urinals are designated
16 for [REDACTED]; correct?

17 Can you speak up, sir? I can't hear your answer.

18 MR. BEIROUTY: Yes.

19 Q. (By Mr. Cruz) And you knew there was a private stall
20 in there as well; correct?

21 MR. BEIROUTY: There wasn't privacy. In the other
22 bathroom there was more privacy.

23 Q. (By Mr. Cruz) The question was, there was a bathroom
24 stall in the men's bathroom?

25 MR. BEIROUTY: Yes, there was one. But there is no

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1 privacy. [WITNESS RESPONSE: Yes, there was... I mean, but basically
there wasn't any privacy.]

2 Q. (By Mr. Cruz) Why did you need privacy to throw up?

3 MR. BEIROUTY: This is -- this question, I need

4 privacy to throw up. [WITNESS RESPONSE: This question is [UI]...
I mean... [UI] need privacy in this bar.]

5 Q. (By Mr. Cruz) You said there was an urgency for you
6 to throw up, to vomit.

7 MR. BEIROUTY: I had that feeling.

8 Q. (By Mr. Cruz) So privacy was not your main concern
9 when the urgency is to vomit?

10 MR. BEIROUTY: I feel more comfortable in a place
11 where privacy is more. [WITNESS RESPONSE: ...or nobody... uh...
nobody needs privacy...]

12 He stumble over the words. [INTERPRETER'S COMMENTARY]

13 MR. CRUZ: I didn't hear that. [NO INTERPRETATION RENDERED]

14 MR. BEIROUTY: He's thinking of saying more stuff.

[INTERPRETER'S COMMENTARY]

15 Q. (By Mr. Cruz) So you had that urgency to vomit? But
16 you're concerned about your privacy?

17 MR. BEIROUTY: Yes.

18 MR. CRUZ: But in fact the [REDACTED]'s bathroom that you
19 knew was a [REDACTED]'s bathroom --

20 MR. RAE: Objection to the question. That's been very
21 clear on numerous lines of questioning that the defendant
22 has stated he thought the bathrooms were unisex, that there
23 was no designation -- [INTERPRETER BEGINS TO INTERPRET BUT
STOPS AND NO FULL INTERPRETATION IS RENDERED OF THE OBJECTION]

24 MR. CRUZ: The state gets to challenge his testimony
25 here through cross-examination.

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1 THE COURT: Understood. He has testified what he
2 THROUGH the bathrooms were. Your line of questioning was
3 that he knew the males were going in there to use it; that
4 is what was established. So wherever that leads us.

5 If you could go back to the question that you were asking
6 and ask the question again. [INTERPRETATION OF ONLY THE LAST SECTION OF
"GOING BACK TO THE QUESTION" IS RENDERED]

7 Pardon me.

8 Q. (By Mr. Cruz) The other bathroom, would you agree,
9 had no urinals ~~evident~~?

10 A. Yes.

11 Q. So these bathrooms, then -- fixtures that were in the
12 bathrooms are something that you see multiple times in
13 other similar setups, would you agree? [INTERPRETATION: The bathroom that
you saw... the bathrooms that you saw in other places, it's the same... the
same principle/standard as in other places [UI].] [WITNESS RESPONSE: How's
that? I didn't understand what he means.] [INTERPRETER CONTINUES: Uh...
women's bathrooms... if you go to other women's bathrooms, you see the same
thing... the same... the same arrangement.] [WITNESS RESPONSE: uh... yeah...
but [UI] this arrangement was different. I saw that the arrangement was
different.]

14 MR. BEIROUTY: I'm going to try to explain the
15 question for him. [INTERPRETER PREFORMS THE TASK OF EXPLAINING A
QUESTION, WHICH IS OUTSIDE THE SCOPE OF THE INTERPRETER'S DUTIES].

16 Yes. [WITNESS GIVES A LONGER [UI] RESPONSE]

17 Q. (By Mr. Cruz) Now, when you were on the dance floor,
18 you actually approached Ms. Danielle Weiler; correct?

19 MR. BEIROUTY: I was dancing. I was dancing by
20 myself. I never get close to other people.

21 Q. (By Mr. Cruz) You never got close to Ms. Weiler?

22 MR. BEIROUTY: I didn't touch her. I didn't.

23 Q. (By Mr. Cruz) So you're saying you never went up and
24 started grinding behind her on the dance floor?

25 MR. BEIROUTY: Absolutely I didn't do it.

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1 Q. (By Mr. Cruz) You never reached around and groped her

2 breasts while on the dance floor? [INTERPRETATION: You didn't reach your arms
and held her while you were dancing.]

3 MR. BEIROUTY: Absolutely I didn't do that. And I

4 don't have the motive. [WITNESS RESPONSE: I never did that... I didn't have
the intention...]

5 Q. (By Mr. Cruz) Then you weren't grinding on the front
6 side of Ms. Weiler's person as well?

7 MR. BEIROUTY: Absolutely not.

8 Q. (By Mr. Cruz) And you didn't follow her into the
9 women's restroom?

10 MR. BEIROUTY: No.

11 Q. (By Mr. Cruz) And that is just one woman.

12 Would you agree she's a woman? [INTERPRETER REPEATS THESE PHRASES SEVERAL
TIMES.]

13 MR. BEIROUTY: Yes.

14 Q. (By Mr. Cruz) And then you had gone into the women's

15 restroom and you were peering over and underneath the

16 bathroom stall where Ms. Wicks was. . . in; correct? [INTERPRETATION: You
went to the bathroom and... you were looking over the bathroom and under the
bathroom at Wicks.]

17 MR. BEIROUTY: When I felt the urge of vomit, I went

18 to the bathroom, I went to check if, there was somebody in the

19 bathroom. I was ~~told~~ tall-- [WITNESS RESPONSE: When I felt that this is the
time... like, when I will need the bathroom, I went to the bathroom and I saw... I
checked... like whether there was somebody there...] [WITNESS SPEAKS AT THIS POINT
HALF IN ENGLISH HALF IN ARABIC CLARIFYING A POINT]

20 It's ~~is~~ very easy for me to ~~open~~ over the door, but underneath I

21 didn't look really. [WITNESS RESPONSE: It's not the *bathroom* underneath. I
mean, I was tall, so it's easy for to determine whether somebody is there or not.]

22 Q. (By Mr. Cruz) So when you were at the same stall that

23 Ms. Wicks was occupying, you agree that you looked over and

24 into the stall that she was occupying?

25 MR. BEIROUTY: For ~~sure~~ I know there was somebody there. [WITNESS RESPONSE:
No... I did not look... *I didn't look*...but uh... I mean... for sure...
afterward... because somebody uh... was there behind the bathroom, I mean...]

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1 Q. (By Mr. Cruz) So you knew that that bathroom was
2 occupied?

3 MR. BEIROUTY: Yes.

4 Q. (By Mr. Cruz) And how did you know it was occupied?

5 MR. BEIROUTY: I pushed on the door; they were closed. [WITNESS RESPONSE: I
6 pushed on the two doors and saw that they were closed.]

7 Q. (By Mr. Cruz) So why did you wait in the female's
8 restroom?

9 MR. BEIROUTY: I felt dizzy. And I ~~needed to get some~~ leaned
10 water against the wall. [WITNESS RESPONSE: Because I felt dizzy and I leaned
11 for support against the wall.]

12 Q. (By Mr. Cruz) Why didn't you go to the other stall? [INTERPRETATION:
13 Why didn't you go to the other bathroom... the other bathroom stall?]

14 MR. BEIROUTY: He didn't feel comfortable. [INTERPRETER INTERPRETS IN 3RD
15 PERSON]

16 Q. (By Mr. Cruz) You didn't feel comfortable about going
17 to the unoccupied stall? [INTERPRETATION: You didn't feel comfortable about
18 the other bathroom? You didn't feel comfortable [UI]??]

19 MR. BEIROUTY: [WITNESS RESPONSE: Tell him, he returned back to the same
20 topic. This bathroom has more privacy.] He is -- The way he answering,
21 he's confusing the men's bathroom ~~from~~ and the ladies' bathroom.
22 I am trying...uh... I'm going to explain to him what you mean. [INTERPRETER
23 PREFORMS THE TASK OF EXPLAINING A QUESTION, WHICH IS OUTSIDE THE SCOPE OF THE
24 INTERPRETER'S DUTIES]. [INTERPRETER'S EXPLANATION: The women's bathroom has two
25 stalls, one was empty, the other was [UI] [NOISE INTERFERENCE].]

26 (Discussion held off the record.)

27 MR. BEIROUTY: It was closed. He ~~thought~~ saw it it was
28 closed. [INTERPRETER INTERPRETS IN 3RD PERSON]

29 Q. (By Mr. Cruz) How did you know it was closed?

30 MR. BEIROUTY: He pushed on the two doors. He noticed
31 ~~door was they were~~ closed. [INTERPRETER INTERPRETS IN 3RD PERSON] [WITNESS
32 RESPONSE: I pushed [UI] I pushed the two doors and saw that they were
33 closed/latched.]

34 Q. (By Mr. Cruz) So why didn't you leave the women's
35 restroom, knowing that the two -- the two stalls were being
36 occupied?

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1 MR. BEIROUTY: I thought somebody would leave soon.

2 And I wasn't able to move. [WITNESS RESPONSE: I thought that
someone would finish quickly and I wasn't able to move.]

3 Q. (By Mr. Cruz) You weren't able to move?

4 MR. BEIROUTY: I was feeling dizzy. I need to just relax

5 ... calm down. [WITNESS RESPONSE: I was feeling dizzy, so [UI].]

6 Q. (By Mr. Cruz) So you decided the best way is to relax

7 and calm down was to remain in the women's bathroom?

[INTERPRETATION: So you decided that the best thing to do to relax...
in the women's bathroom.]

8 MR. BEIROUTY: The whole thing was under two minutes.

9 Q. (By Mr. Cruz) Now at some point in time you realized

10 that Ms. Wicks was starting to exit the bathroom stall;

11 correct? [INTERPRETATION: So, at some point this Ms. Wicks
started to exit... to exit from the bathroom. Correct?]

12 MR. BEIROUTY: Yes.

13 Can I explain something? He answered yes, then he

14 tries to explain the yes. [INTERPRETER INTERPRETS IN 3RD
PERSON] Do I need to go on to explain

15 the yes or should I wait for next question?

16 MR. CRUZ: Sir, if Mr. Rae wants to follow up with you
17 on other issues, that would be your opportunity.

18 MR. RAE: Your Honor, I prefer for the Court to answer
19 that question.

20 THE COURT: Well, if he's giving additional
21 information, I think it is incumbent upon the interpreter
22 to tell us what it is. If it is objectionable, that is
23 another question.

24 So if you will go ahead, sir, and tell us what he

25 said. [NO INTERPRETATION IS RENDERED OF THE EXCHANGE ABOVE]

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1 MR. BEIROUTY: Okay. [INTERPRETER ADDRESSING WITNESS: Go ahead and finish
the question. The last question, you said [UI].] [WITNESS: [UI] I will wait
for the question. [UI] question.]

2 (Discussion held off the record.)

3 MR. BEIROUTY: He's going to go to the next question.

4 MR. CRUZ: Well --

5 MR. BEIROUTY: Can he wait until next question?

6 MR. CRUZ: Can you indicate on the record, though,
7 what you just communicated to Mr. Aljaffar so we could have
8 that as part of the record?

9 MR. BEIROUTY: I was telling him about the question,
10 Ms. Wicks was in the stall, he was starting to leave, did
11 he observe her or not. He said, yes. And he start -- he
12 start -- I stopped him. [INTERPRETER ENGAGES IN 1ST PERSON DIALOGUE (FROM
HIMSELF) WITH THE INTERLOCUTOR, WHICH IS OUTSIDE THE SCOPE OF THE INTERPRETER'S
DUTIES] .

13 MR. CRUZ: Thank you.

14 Q. (By Mr. Cruz) So when you realized that Ms. Wicks
15 started to exit out of the bathroom stall, you didn't let
16 her get out? [INTERPRETATION: When you saw that this Ms. Wicks exited the
bathroom, you did not let her exit.]

17 MR. BEIROUTY: Absolutely didn't happen. [WITNESS RESPONSE: That did
not happen at all.]

18 Q. (By Mr. Cruz) You did not go into that bathroom stall
19 with Ms. Wicks? [INTERPRETATION: You did not go to that bathroom with
her... Wicks?]

20 MR. BEIROUTY: He said, how? [INTERPRETER INTERPRETS IN 3RD PERSON]

21 Q. (By Mr. Cruz) When she started to open up the door to
22 leave that stall, you prevented her from leaving that
23 bathroom stall. [INTERPRETATION: Uh... you... she... that when she was at
the bathroom [UI], you prevented her from leaving the bathroom.]

24 MR. BEIROUTY: He still said it didn't happen. [INTERPRETER INTERPRETS
IN 3RD PERSON]

25 Q. (By Mr. Cruz) You did not go into the bathroom stall

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1 that she was still in? [INTERPRETATION: You did not go into the bathroom
that she was in?]

2 MR. BEIROUTY: He said he understood this question.

3 There was a misunderstanding between me and him, yeah. [INTERPRETER
INTERPRETS IN 3RD PERSON] [WITNESS RESPONSE: I understood the question. Tell
him that there is a *misunderstanding* going on between me and *the interpreter*.]

4 MR. CRUZ: So could you repeat my question to

5 Mr. Aljaffar, please.

6 MR. RAE: Could we find out what the question was for
7 the record, what it is we're examining, where the confusion
8 lies?

9 THE COURT: It is my understanding the question is,
10 did he go into the bathroom stall. [INTERPRETATION: The question: Did you
to Wicks... did you go to the bathroom stall in which she was, did you go with
her?]

11 MR. BEIROUTY: When she left, he opened the door he went to go

12 in her space place.

13 Q. (By Mr. Cruz) Did you allow her to completely get out
14 of the bathroom stall before you decided to go into the
15 bathroom stall?

16 MR. BEIROUTY: When I tried -- when I tried this, she
17 thought he was going to rape her. And that is what she was
18 thinking. [INTERPRETER INTERPRETS IN 3RD PERSON]

19 She start shouting, and he started to calm her down. [INTERPRETER
INTERPRETS IN 3RD PERSON] [INTERPRETATION: She stated shouting, and I tried to
calm her down.]

20 Q. (By Mr. Cruz) You went into the bathroom stall even
21 though she was still in that particular physical space?

22 MR. BEIROUTY: No. [WITNESS RESPONSE: Not the stall. No.]

23 Q. (By Mr. Cruz) So you were never in the bathroom stall
24 with Ms. Wicks also inside the bathroom stall?

25 MR. BEIROUTY: It didn't happen. When she left, she

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1 saw him and she start screaming. [INTERPRETER INTERPRETS IN 3RD
PERSON]

2 Q. (By Mr. Cruz) She started screaming because you
3 started to place your free hand on her breasts; isn't that
4 correct?

5 MR. BEIROUTY: Impossible. Didn't happen.

6 Q. (By Mr. Cruz) And you were ~~trying~~ attempting to also try to close
the

7 ~~bathroom~~ stall with you and her inside the bathroom stall?

8 MR. BEIROUTY: Impossible. Didn't happen.

9 Q. (By Mr. Cruz) Then why didn't you just let her go?

10 MR. BEIROUTY: I let her go, normal and she start screaming.

11 From the ~~The other~~ time she came -- There is no time. Right

12 away the security came. [WITNESS RESPONSE: I let her go... in a
regular way. She screamed, but at the same time, when she yelled, I mean,
there was no time, the security person came right away.]

13 Q. (By Mr. Cruz) So you're saying you were never in the
14 bathroom stall alone with Ms. Wicks?

15 MR. BEIROUTY: Yes.

16 Q. (By Mr. Cruz) You had never gone in there and put
17 your hand -- one of your hands on her breast?

18 MR. BEIROUTY: No. It didn't happen.

19 Q. (By Mr. Cruz) And you're saying that you never also
20 attempted to shut that door with you and her inside the
21 bathroom stall?

22 MR. BEIROUTY: Didn't happen.

23 Q. (By Mr. Cruz) But she's just all of a sudden out of
24 the blue starts screaming that she believes she is going to
25 get raped by you? [INTERPRETATION: So without any reason she started
to yell.]

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1 MR. BEIROUTY: She was drunk and she was not in normal
2 state.

3 Q. (By Mr. Cruz) You had no idea how much she had been
4 drinking, isn't that correct?

5 MR. BEIROUTY: She was -- She drank a lot. Proof of
6 that, he didn't do anything to her. [WITNESS RESPONSE: She had drank a
lot and the proof is like... I did not do anything to her and [UI]]

7 When she saw him in the bathroom she thought he was
8 going to rape her. [WITNESS RESPONSE: I mean when she saw me in the
bathroom, she thought that I am coming to rape her or something like that.]

9 Q. (By Mr. Cruz) And you indicated in some ~~part of~~ point during
10 your answer that you tried to calm her down?

11 MR. BEIROUTY: Yes.

12 Q. (By Mr. Cruz) How did you try and calm her down?

13 MR. BEIROUTY: I... I thought told her I just would need to use
14 the bathroom. [WITNESS RESPONSE: I told her that all I want is to
just use the bathroom.]

15 Q. (By Mr. Cruz) You were just -- you just needed to
16 tell her to use the bathroom, that is how you were calming
17 her down?

18 MR. BEIROUTY: I didn't -- English -- and I wasn't in
19 a good state to -- [WITNESS RESPONSE: I didn't have enough language
skills and I wasn't in a state to...]

20 Q. (By Mr. Cruz) Did you place your hands on her?

21 MR. BEIROUTY: No.

22 Q. (By Mr. Cruz) And then she was able to -- you said --
23 it was at that point in time that then security came into
24 the bathroom? [INTERPRETATION: At this time the security guards came
to the bathroom.]

25 MR. BEIROUTY: Yes.

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1 Q. (By Mr. Cruz) But isn't it true that security wasn't
2 aware that that had taken place yet? [INTERPRETATION: The security knew
that this was happening.] [WITNESS RESPONSE: What?] [INTERPRETER: The
security had an idea that this stuff was happening.] [WITNESS RESPONSE: What
does that mean? I don't understand.]

3 MR. BEIROUTY: He didn't understand the question. [INTERPRETER INTERPRETS
IN 3RD PERSON]

4 Q. (By Mr. Cruz) Security wasn't aware of the
5 altercation that was happening inside the bathroom stall
6 when it was just you and Ms. Wicks -- [INTERPRETATION: The security
guards did not know what happened in the bathroom.] [WITNESS RESPONSE: Hum.]
[INTERPRETATION CONTINUED: Is that possible?] [WITNESS RESPONSE: Hum.]

7 MR. BEIROUTY: They thought he was trying to rape her
8 -- [WITNESS RESPONSE: [UI] trying to rape her, because I was present.]

9 THE REPORTER: Hang on. Thank you. Go ahead.

10 MR. BEIROUTY: They thought he was trying to rape her.
11 She acted like -- that he was going to rape her, and he
12 wasn't -- doing it.

13 Q. (By Mr. Cruz) The question, sir, is, did security
14 contact you inside the women's bathroom when you were in
15 there with Ms. Wicks?

16 MR. BEIROUTY: They came and they took him, and they
17 call the police. [INTERPRETER INTERPRETS IN 3RD PERSON]

18 Q. (By Mr. Cruz) Was that inside the women's restroom?

19 MR. BEIROUTY: Yes.

20 Q. (By Mr. Cruz) Now, after Ms. Wicks had left the
21 restroom, there was Ms. Ellis, who came into the restroom.
22 Do you remember that?

23 MR. BEIROUTY: Ms. Ellis, she came before, came before

24 Amber... Ms. Wicks. [WITNESS RESPONSE: As I recall Wellis [PH] came
before uh... uh... Amber.]

25 THE COURT: Do you have a ways to go, Mr. Cruz?

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1 MR. CRUZ: Just a little bit.

2 MR. BEIROUTY: Another ten minutes. If we could
3 break, that is fine.

4 THE COURT: Yes. Let's go ahead and do that. Let's
5 go ahead and take our lunch hour now. There is no reason
6 not to do that.

7 So, folks -- stay there -- we'll be in recess. You
8 can flip your note pads over. Mr. Stewart, you can lead our
9 crew out.

10 THE BAILIFF: All rise.

11 (The following was held out of the presence of the jury:)

12 THE COURT: All right. We're in recess.

13

14 (Court recessed at noon.)

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1 AFTERNOON SESSION

2 (December 3, 2014; 1:35 p.m.)

3 (The following was held in the presence of the jury:)

4

5 THE BAILIFF: All rise.

6 THE COURT: All right. Have a seat. Thanks.

7 Mr. Cruz.

8 MR. CRUZ: Thank you, Your Honor.

9

10 CROSS-EXAMINATION (continuing)

11 BY MR. CRUZ:

12 Q. Now, Mr. Aljaffar, prior to the sexual assault
13 accusations made by Ms. Wicks and Ms. Ellis, isn't it true
14 that you were contacted by Kippi Batteade? [INTERPRETATION AND
WITNESS VOICE ARE POORLY AUDIBLE, BUT A LENGTHY BACK AND FORTH
EXCHANGE TAKES PLACE. The word 'bouncer' is audible.]

15 MR. BEIROUTY: No. He took ~~them~~ him right away, he said.
16 But -- he think the incident -- at the time of the
17 incident. [INTERPRETER INTERPRETS IN 3RD PERSON][WITNESS
RESPONSE: No, he took me right away and...]

18 Q. (By Mr. Cruz) You can't recall being contacted by
19 staff prior to these accusations being made that you
20 weren't supposed to go into the female's bathroom?

21 MR. BEIROUTY: No.

22 Q. (By Mr. Cruz) Were you aware that that complaint had
23 been made that you as a male had been going into the
24 female's bathroom? [INTERPRETATION: Did you know that there was
a complaint made about you going to the women's bathroom?]

25 MR. BEIROUTY: No.

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1 Q. (By Mr. Cruz) Do you remember going into the other
2 bar that was across the street?

3 MR. BEIROUTY: No.

4 Q. (By Mr. Cruz) You don't remember being contacted by
5 Mr. Mays, and he ejected you from that bar that was across
6 the street?

7 MR. BEIROUTY: No.

8 Q. (By Mr. Cruz) And isn't it true that after you were
9 ejected from that bar, that is when you went over to the
10 Irv's bar?

11 MR. BEIROUTY: Irv's -- I was walking there, trying to
12 get in, but I couldn't get in.

13 Q. (By Mr. Cruz) So you did attempt to get into the club
14 that was across the street from Irv's?

15 MR. BEIROUTY: Yes, I tried, but I didn't have any ~~ID~~ idea.

[WITNESS RESPONSE: Yes, I tried... I mean, the idea didn't cross my
mind.]

16 Q. (By Mr. Cruz) You didn't have any ID at all that
17 evening? [INTERPRETATION: You weren't carrying identification?]

18 MR. BEIROUTY: Yes.

19 Q. (By Mr. Cruz) So he was -- Mr. Mays was mistaken that
20 he ejected you from inside the bar across the street?

[INTERPRETATION: That uh... Mays uh... was wrong that he kicked you out
of the bar that was across [UI].]

21 MR. BEIROUTY: I think.

22 Q. (By Mr. Cruz) So before you went into the Irv's bar,
23 did you -- were you asked for ID?

24 MR. BEIROUTY: Some -- some of his friends at school,
25 they told him just to give the ID with money, and don't say

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1 anything. [INTERPRETER INTERPRETS IN 3RD PERSON]

2 Q. (By Mr. Cruz) So you had an ID?

3 MR. BEIROUTY: Yes.

4 Q. (By Mr. Cruz) Okay. So it wasn't correct, then, when
5 you said that you didn't have ID when you attempted to get
6 into the club across from the -- the street from Irv's?

7 MR. BEIROUTY: I didn't go into that bar.

8 Q. (By Mr. Cruz) Now, you had indicated that you also
9 had contact with Ms. Ellis inside the female's bathroom ~~and~~ at
10 Club Red; correct?

11 MR. BEIROUTY: No. Absolutely not.

12 Q. (By Mr. Cruz) You didn't have any contact whatsoever
13 with Ms. Ellis, the go-go dancer that worked at Club Red?

14 A. No.

15 MR. BEIROUTY: No.

16 Q. (By Mr. Cruz) So she was mistaken when she said she
17 encountered you inside the female's bathroom?

18 MR. BEIROUTY: She saw me and after that she went to
19 the security and told.

20 At this time Amber, she got out and she start
21 screaming same time.

22 Q. (By Mr. Cruz) So for clarification, you had already
23 been in the female's bathroom; correct? [INTERPRETATION: For
clarification, you were in the women's bathroom.] [WITNESS RESPONSE:
What?] [INTERPRETER: He says it's just for clarification, you were in
the women's bathroom.]

24 MR. BEIROUTY: I -- I wasn't -- I didn't think it was
25 for women bathroom. [WITNESS RESPONSE: I did not believe that
this is a bathroom for women. Because [UI].]

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1 Q. (By Mr. Cruz) You know now that it's now a women's
2 bathroom, so you were inside the women's bathroom; correct?

3 MR. BEIROUTY: Not an intent to be there. [WITNESS RESPONSE: It
was not intentional.]

4 Q. (By Mr. Cruz) Okay. But you had also indicated that
5 you specifically went into that women's bathroom because
6 you wanted more privacy.

7 MR. BEIROUTY: Yes. Because other restroom didn't
8 have a door.

9 I -- I saw other men dressing like women go into the
10 bathroom.

11 And he saw other women go into the men's bathroom.

[INTERPRETER INTERPRETS IN 3RD PERSON]

12 Q. (By Mr. Cruz) Were you dressed in women's clothing
13 that evening so you thought it would be okay for you to go
14 into there?

15 MR. BEIROUTY: Not -- No.

16 Q. (By Mr. Cruz) But you -- you intentionally went into
17 that specific restroom, then?

18 MR. BEIROUTY: He stated many times what his motive
19 was. [WITNESS RESPONSE: Tell him how many times [UI]]

20 Q. (By Mr. Cruz) So you did encounter Ms. Ellis inside
21 that bathroom as well; correct?

22 MR. RAE: Asked and answered, Your Honor. This is how
23 the state opened their line of questioning.

24 THE COURT: Seems like we have gone down this path a
25 little bit, Mr. Cruz.

[INTERPRETER DOES NOT RENDER AUDIBLE INTERPRETATION OF OBJECTION AND
COURT'S COMMENTARY.]

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1 MR. CRUZ: But he was evasive in his answer.

2 THE COURT: Okay. I will let him answer this
3 question. But I think we plowed this ground pretty
4 thoroughly as to what occurred. Go ahead.

5 MR. BEIROUTY: The question?

6 THE COURT: Did you encounter Ms. Ellis inside the
7 bathroom?

8 MR. BEIROUTY: Yes. She said something, and he didn't
9 understand. And she left. [INTERPRETER INTERPRETS IN 3RD PERSON]

10 Q. (By Mr. Cruz) So at no time did you pin her up
11 against one of the sinks inside the bathroom?

12 MR. BEIROUTY: I have no interest in the girls. How
13 could I do something like this?

14 I didn't have the -- energy to do. The last thing I
15 was thinking about was sex.

16 Q. (By Mr. Cruz) And you're saying that you never
17 restrained her inside the bathroom by grabbing both of her
18 hands and --

19 MR. BEIROUTY: He didn't -- he didn't grab her hands.

20 And she didn't have any ~~clothes~~ clues that he [UI] her there--

21 Police didn't take any picture of that. [INTERPRETER INTERPRETS
IN 3RD PERSON][WITNESS RESPONSE: I did not grab her hands... and she
was... when she was [UI] marks on her body... the police [UI] took
pictures]

22 Q. (By Mr. Cruz) And you're saying you never pressed her
23 body [INTERPRETER: He says you never pulled your body on her...]
[WITNESS RESPONSE AT THIS JUNCTION AS INTERPRETATION IS BEING RENDERED:
No.] to also prevent her from leaving that bathroom? [INTERPRETER: ...as
she exited the bathroom.]

24 MR. BEIROUTY: There was -- there was a big distance
25 between us. She went in the bathroom. She said a couple

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1 words and she left. [WITNESS RESPONSE: There was a big distance between
her and me [UI] and I noticed that she entered the bathroom and she said a
couple of words... and it wasn't clear to me what she meant... and [UI].]

2 Q. (By Mr. Cruz) And if you never got close to her, how
3 was she able to feel you pressing your erect penis against
4 her pelvic area?

5 MR. BEIROUTY: That question you ask her. I don't
6 know why she said this.

7 Q. (By Mr. Cruz) It was shortly after Ms. Ellis left
8 that you were then detained by security; correct?

9 MR. BEIROUTY: He was -- he was confused between the
10 names. [INTERPRETER INTERPRETS IN 3RD PERSON] [INTERPRETER: What names?]
11 He is confused between the family names for Ms. Ellis
12 and Wicks. [INTERPRETER INTERPRETS IN 3RD PERSON] [WITNESS RESPONSE: The
names... Wellis [PH] [UI] it's just that the names... the last name [UI]...
maybe I am mistaken [UI].] [INTERPRETER: [UI] [IN RESPONSE TO WITNESS]].

13 Q. (By Mr. Cruz) So who are you talking about, then, now
14 that you're not confused about who we're talking about? [INTERPRETER:
Whom are you talking about now that there is no mayhem?]

15 MR. BEIROUTY: Can you repeat the questions?

16 Q. (By Mr. Cruz) You said you were confused between
17 Ms. Wicks and Ms. Ellis? [INTERPRETER: You said you were getting confused
between Wicks and Ellis.]

18 MR. BEIROUTY: Now he understood. [INTERPRETER INTERPRETS IN 3RD PERSON]
19 I'm confused -- confused myself. [WITNESS RESPONSE: I mean from [UI]
from the beginning... from the beginning when [UI]]

20 Q. (By Mr. Cruz) Ms. Ellis -- Go ahead.

21 MR. BEIROUTY: Not from the beginning of the
22 questioning. What he was saying -- he wasn't confused from
23 the beginning of questioning, he was confused a couple
24 minutes ago [UI]. Now he's not. [INTERPRETER INTERPRETS IN 3RD PERSON]
[INTERPRETER PERFORMS THE TASK OF EXPLAINING, OUTSIDE OF SCOPE OF INTERPRETER'S
DUTIES.]

25 Q. (By Mr. Cruz) So who did you think I was talking

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1 about, Ms. Ellis, the short go-go dancer, or Ms. Amber

2 Wicks (indicating)? [INTERPRETATION: She... when he... when he was
talking about... about the short one, the go-go dancer or about... about...
about Wicks?]

3 MR. BEIROUTY: He said, repeat your question; he'll

4 answer. [INTERPRETER INTERPRETS IN 3RD PERSON] [WITNESS RESPONSE: Tell
him, repeat the question and I will answer.]

5 Q. (By Mr. Cruz) When you were in the women's bathroom,
6 you were -- you contacted Ms. Ellis; correct?

7 MR. BEIROUTY: She said a couple words and she left.

8 He didn't understand what she said. [INTERPRETER INTERPRETS IN 3RD PERSON]
[WITNESS RESPONSE: She said a couple words and left. I didn't understand what
she said.]

9 Q. (By Mr. Cruz) That is the go-go dancer we're talking
10 about; right?

11 MR. BEIROUTY: Yes.

12 Q. (By Mr. Cruz) So you're saying you never pinned her
13 up against the sink in the bathroom?

14 MR. BEIROUTY: Yes.

15 Q. (By Mr. Cruz) You never grabbed her arms and held her
16 in that bathroom against her will?

17 MR. BEIROUTY: Yes.

18 Q. (By Mr. Cruz) You never pressed your body up against
19 her person; correct?

20 MR. BEIROUTY: Yes.

21 Q. (By Mr. Cruz) Okay. So how was she able to feel your
22 erect penis up against her pelvic area?

23 MR. BEIROUTY: Like he said in the past, he -- he

24 didn't have the urge to feel her, and he wasn't in the

25 strength to do this stuff. [INTERPRETER INTERPRETS IN 3RD PERSON]

[WITNESS RESPONSE: As I said from the beginning... I did not have any [UI] and
the other thing is that I did not have the energy, because I was not feeling
well... [INTERPRETER ASKS A [UI] QUESTION OF THE WITNESS.] WITNESS CONTINUES:
Exactly.]

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1 Q. (By Mr. Cruz) We know you're saying now that you have
2 no interest in women, and we know you're saying now that
3 you were tired.

4 But the question is, how was she able to feel your
5 erect penis pressing up and grinding against her pelvic
6 area?

7 MR. BEIROUTY: In short, the story may be it's
8 fabricated.

9 I don't know what reason.

10 Q. (By Mr. Cruz) And it was shortly after that
11 accusation that Ms. Ellis made against you that you were
12 detained by security; correct?

13 MR. BEIROUTY: Yes.

14 Q. (By Mr. Cruz) Okay. So the contact that you had with
15 Ms. Ellis occurred after the contact you had with Ms. Amber
16 Wicks, isn't that true? [INTERPRETATION: You contacted/called Ellis
after you had uh... after you met [UI].]

17 MR. BEIROUTY: No. I was -- Ellis, she was first,
18 then Amber, she got out after. [WITNESS RESPONSE: [UI] No, Ellis
came out at the same time that [UI] came.]

19 Q. (By Mr. Cruz) So who was first -- and I don't want
20 you to get confused -- who are you saying you encountered
21 first? [INTERPRETATION: He says who was the first whom you encountered
in the bathroom?]

22 MR. BEIROUTY: Ellis.

23 Q. (By Mr. Cruz) Ms. Ellis? [INTERPRETATION: Ms. Ellis, correct?
[UI]?]

24 MR. BEIROUTY: Yeah.

25 Q. (By Mr. Cruz) The go-go dancer. [WITNESS RESPONSE: Yeah,
[UI].] That is who you are

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1 saying you encountered first? [INTERPRETATION: This is who you are saying you
first encountered in the bathroom?]

2 MR. BEIROUTY: Yes.

3 Q. (By Mr. Cruz) Then it was only after your encounter

4 with the go-go dancer you encountered Amber Wicks? [INTERPRETATION: After you
encountered Ellis, uh...you encountered Wicks?]

5 A. Yes.

6 MR. BEIROUTY: Yes.

7 Q. (By Mr. Cruz) Now, if that is the sequence of how the

8 events took place, you would have been already detained by

9 security after Ms. Ellis, the go-go dancer, reported that

10 you sexually assaulted her in the bathroom? [INTERPRETATION: This is the
sequence of the events which took place... uh... you were detained by the security
guards before you saw Amber.]

11 MR. BEIROUTY: Amber, when she left, the security came

12 in and they detain me. [WITNESS RESPONSE: No that didn't happen. That's not
how it happened. When... uh... when [UI] Amber, when she left uh... the security
came and detained me.]

13 Q. (By Mr. Cruz) You weren't detained outside of the

14 restroom?

15 MR. BEIROUTY: They took him out to the street and

16 they called the police. [INTERPRETER INTERPRETS IN 3RD PERSON]

17 Q. (By Mr. Cruz) Okay. But isn't it true that you were

18 detained outside of the women's bathroom? [INTERPRETATION: They detained you
outside of the women's bathroom.]

19 MR. BEIROUTY: They took him outside. [INTERPRETER INTERPRETS IN 3RD PERSON]

[WITNESS RESPONSE: [UI] no. They took me outside.]

20 Q. (By Mr. Cruz) The question, sir, is, you were

21 detained outside of the women's restroom; correct? INTERPRETATION: They
detained you outside of the women's bathroom.]

22 MR. BEIROUTY: He said outside. He answered many

23 times. [INTERPRETER INTERPRETS IN 3RD PERSON] [WITNESS RESPONSE: Didn't
[UI]. They took me outside. How many times have I already answered.]

24 Q. (By Mr. Cruz) So for clarification --

25 MR. RAE: Your Honor, asked and answered. [OBJECTION NOT AUDIBLY INTERPRETED]

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1 Q. (By Mr. Cruz) -- you were detained by your vehicle --
2 getting into a vehicle, weren't you?

3 THE COURT: When we're saying outside -- I'm sorry, I
4 don't mean to interject -- but the question is, are you
5 asking him outside but inside the building, or outside of
6 the building? We're just going in a circle here.

[INTERPRETATION OF ABOVE EXCHANGE NOT RENDERED AUDIBLY]

7 MR. CRUZ: I guess the confusion the state is having
8 -- and that's why we're repeating the question -- is
9 because I thought Mr. Aljaffar indicated he was detained
10 inside the women's restroom.

11 THE COURT: Okay.

12 MR. CRUZ: That's where the confusion is that I'm
13 having.

14 THE COURT: I don't know if it's confusion or you
15 don't agree with him. You have asked the question about
16 eight times, and you are getting the same answer. I'm
17 inclined to say we're kind of done with the question. You
18 know, if you want to clarify the question, you keep using
19 the same question over and over. We're not going anywhere.

20 I'm sorry to interrupt. I'm a little frustrated. I
21 don't know where we're going with all this. [INTERPRETATION OF
22 ABOVE EXCHANGE NOT RENDERED AUDIBLY]

22 MR. CRUZ: And I apologize.

23 Q. (By Mr. Cruz) When you were detained by security,
[INTERPRETATION: When the security guards detained you...]
24 were you still inside the bar or were you detained outside
25 the bar? [INTERPRETATION: When the security were you inside the bar
or outside the bar?]

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1 MR. BEIROUTY: Outside.

2 Q. (By Mr. Cruz) So you were on -- in the process of
3 leaving the bar?

4 MR. BEIROUTY: No. They took him by force outside the
5 bar, and they detained him until the police came. [INTERPRETER
INTERPRETS IN 3RD PERSON] [INTERPRETATION: No. They were the ones who took
me by force and took me out of the bar and detained me until the police
arrived.]

6 Q. (By Mr. Cruz) You weren't detained --

7 MR. RAE: Objection, Your Honor, for the Court's same
8 frustration.

9 THE COURT: I'm going to sustain it. We have covered
10 it.

11 MR. CRUZ: No further questions. [NO INTERPRETATION RENDERED]

12 THE COURT: Any redirect? [NO INTERPRETATION RENDERED]

13 MR. RAE: Yes, Judge. Thank you. I'll be brief. [NO
14 INTERPRETATION RENDERED]

15 REDIRECT EXAMINATION

16 BY MR. RAE:

17 Q. Mr. Aljaffar, you say you didn't have any energy to
18 hold Ms. Ellis, the go-go dancer, the short one.

19 What did you mean by that, no energy?

20 MR. BEIROUTY: I was in a state of dizziness.

21 Q. (By MR. RAE) Okay. It wasn't because you were tired,
22 it was because you were intoxicated?

23 MR. BEIROUTY: The alcohol, they make me tired. [WITNESS
RESPONSE: The drinking made me not feel well and not even...]

24 Q. (By MR. RAE) Okay. So a combination of -- of things.
25 I understand. Thank you. [INTERPRETATION: Like...]

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1 You also stated that the last thing you were thinking
2 about was sex. What did you mean by that?

3 MR. BEIROUTY: The first thing, I was very tired. The
4 second thing, I wasn't interested in ~~first girls~~. And I went to
5 the bar to go for my interest in men. [WITNESS RESPONSE: Because I simply was
not feeling well and secondly, I am not interested in girls. That's why this bar
is like... for boys. That's... [UI]]

6 Q. (By MR. RAE) Okay. So finally my question has to do
7 with all of this confusion about the bathroom. And I know
8 we have talked about it a lot. [INTERPRETATION: The question about the...
the... the confusion about the bathrooms. Like... the mixing of the bathrooms.]
9 You remember very early in the prosecutor's
10 questioning he asked you if you -- if you knew the
11 difference between the men's bathroom and a woman's
12 bathroom; correct? [INTERPRETATION: The prosecutor told you... asked you a
question which is do you know the difference between a women's bathroom and a [REDACTED]'s
bathroom.]

13 Yes or no. Go ahead and answer.

14 MR. BEIROUTY: Go ahead.

15 Q. (By MR. RAE) Do you remember the prosecutor asking
16 you if you remembered -- excuse me -- if you knew the
17 difference between the men's and women's bathroom? [RESPONSE FROM UNCLEAR
SOURCE: Yes.] [PRESUMABLY COURT REPORTER: Was there an answer?] [RESPONSE FROM
MULTIPLE PARTIES: "He said yes." "Yes."] [PRESUMABLY COURT REPORTER: Who said
yes?]

18 MR. BEIROUTY: Yes.

19 Q. (By MR. RAE) In Saudi Arabia are bathrooms different
20 than in the United States?

21 A. Yes.

22 Q. How?

23 MR. BEIROUTY: The bathrooms are the same. There is
24 no urinal for the men.

25 Q. (By MR. RAE) So how do [REDACTED] use the bathroom in Saudi

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1 Arabia?

2 MR. BEIROUTY: The same as women. [WITNESS RESPONSE: The same way
that girls do.]

3 Q. (By MR. RAE) And how is that?

4 MR. BEIROUTY: They ~~went~~ want to urinate, they use the
5 bathroom just like ~~you~~ girls. [WITNESS RESPONSE: I mean... like if they
want to urinate, they use the toilet/latrine just like girls do.]

6 Q. (By MR. RAE) You mean you sit down?

7 A. Uh-huh.

8 MR. BEIROUTY: Yes.

9 Q. (By MR. RAE) So do ████ stand to urinate at all in
10 Saudi Arabia?

11 MR. BEIROUTY: No.

12 Q. (By MR. RAE) Okay. So to -- so -- when you use the
13 restroom, do you use the restroom like a Saudi Arabian or
14 like an American?

15 MR. BEIROUTY: Like Saudi.

16 MR. RAE: Thank you. I have no further questions.

17 THE COURT: Mr. Cruz?

18

19 RE-CROSS-EXAMINATION

20 BY MR. CRUZ:

21 Q. By the time of this incident you had been in the
22 United States for nine months; correct?

23 MR. BEIROUTY: Less than.

24 Q. (By Mr. Cruz) You arrived August 12th, 2013?

25 MR. BEIROUTY: Yes.

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1 Q. (By Mr. Cruz) Okay. So approximately eight months?

2 MR. BEIROUTY: Yes.

3 Q. (By Mr. Cruz) And so you got to know the difference
4 between men's bathrooms here in the United States versus
5 female's bathrooms?

6 MR. BEIROUTY: Yes, I know. But everything is
7 different in gay bar. [WITNESS RESPONSE: I know, but everything is
different in a gay bar. Because I described [UI] I mean...]

8 Q. (By Mr. Cruz) But you would agree there is a distinct
9 difference between men's bathrooms in the United States
10 versus women's bathrooms? [INTERPRETATION: There is a specific
difference between women's bathrooms and men's bathrooms... There is a specific
difference.]

11 MR. BEIROUTY: What do you mean, there is a
12 difference? [WITNESS RESPONSE: And what does he mean by 'difference'?

13 Q. (By Mr. Cruz) You know that there is urinals in the
14 men's bathrooms in the United States? [INTERPRETATION: You know that
men's bathrooms has that... that urinal... that...?]

15 A. Yes.

16 MR. BEIROUTY: Yes.

17 Q. (By Mr. Cruz) Even in the school you go to, are there
18 also women that attend that school?

19 A. Yep.

20 MR. BEIROUTY: Yes.

21 Q. (By Mr. Cruz) And there is men's bathrooms in that
22 school as well; correct? And you know that the men's
23 bathrooms in your school have urinals?

24 A. Uh-huh.

25 MR. BEIROUTY: Yes.

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1 Q. (By Mr. Cruz) And you know that the bathroom that you
2 were in at Irv's did not have any urinals?

3 MR. BEIROUTY: Yes.

4 Q. (By Mr. Cruz) But you knew that the other bathroom
5 across the way did have urinals?

6 MR. BEIROUTY: Yes. But there is no door for. . .

7 MR. CRUZ: Thank you.

8 THE COURT: All right. Gentlemen, you may step down.
9 Other witnesses?

10 MR. RAE: No, Your Honor. The defense rests.

11 MR. CRUZ: Can I just check with the advocate real
12 quick?

13 THE COURT: Yes.

14 (Pause in Proceedings.)

15 MR. CRUZ: No rebuttal.

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