

Moos vs. Martin

**Recording Name:
20A001983-A and 20A001983-B**

Transcript Prepared By:



**T R A N S C R I P T I O N
O U T S O U R C I N G , L L C**

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1 (Part 1 of 1)

2 Judge: Moos versus Martin. Mrs. Moos, over here.

3 Clerk: Plaintiff on this side. Parties please raise your
4 right hand. Mr. Martin, you're on Movie (ph). Please
5 raise your right hand as well.

6 Martin: Yes. Yes, it's up.

7 Clerk: Do you solemnly swear the testimony you shall give
8 today will be the truth, the whole truth, and nothing
9 but the truth so help you God?

10 R. Moos: I do.

11 B. Moos: I do.

12 Martin: Yes, I do.

13 Clerk: Thank you. Sir, your name for the Court.

14 R. Moos: Robert Moos, R-O-B-E-R-T, M-O-O-S.

15 Clerk: Thank you. May I have your name?

16 B. Moos: Barbara Moos, M-O-O-S, B-A-R --

17 Clerk: Thank you.

18 B. Moos: -- B-A-R-A.

19 Clerk: Um, Officer Villanueva?

20 Villanueva: Yes. Sorry, Your Honor.

21 Clerk: Okay. All right. You're going to be a witness to the
22 case, sir?

23 Villanueva: Yes.

24 Clerk: Okay. I don't know --

25 Villanueva: Yeah.

1 Clerk: -- if you rose your right hand to be sworn in.
2 Villanueva: Uh, no. I can do it now.
3 Clerk: Okay. Thank you. Raise your right hand please. Do
4 you swear the testimony you're about to give today
5 will be the truth, the whole truth, and nothing but
6 the truth so help you God?
7 Villanueva: Yes, I do.
8 Clerk: And your full name for the Court, sir.
9 Villanueva: Uh, Gabriel Villanueva.
10 Clerk: Gabriel. Okay. Thank you so much. And, um,
11 Defendant, your full name for the Court? Mr. Martin?
12 Martin: Yeah, I'm here. Yeah, I'm here.
13 Clerk: Your full name for the Court.
14 Martin: Russell Martin, Russell Masley (ph) Martin.
15 Clerk: Thank you.
16 Judge: All right. Mr. Martin, uh, you've been asked here
17 today on a claim that you owe \$10,000 for assault and
18 battery upon Mr. Moos. Did you hit him with anything?
19 Martin: No.
20 Judge: All right. I think maybe the best witness to talk to
21 next would be the officer. Officer, could you please
22 tell us what you, uh, found?
23 Villanueva: Yes. Um, I have my report here, uh, to, to
24 reference, um, since it's a length of time between the
25 cases. Um, on September 19th I was dispatched to the

1 LVC (ph) on (inaudible - 00:02:34) 215, um, in
2 reference to a battery call, um, and that's where I
3 contacted, uh, Mr. Robert Moos and, uh, Mr. Russell
4 Martin there on LVC near the racquetball courts. Um,
5 I made contact with Robert, um, who stated that he was
6 on the side of the racquetball courts at LVC. Uh, he
7 spoke to Mr. Russell. Um, basically they had an
8 argument, uh, in reference to who was in line or who
9 was next in line to play on the court. Um, during
10 this, uh, argument I was told by witnesses, um, that
11 Robert had pushed -- sorry, give me one second here --
12 um, that, uh, that Robert had his face pushed up
13 against the wall. Um, I believe he was wearing a
14 baseball cap. It was the front part of his face that
15 was pushed. Um, when he got -- Robert got pushed, um,
16 he had a reaction with his arm. Basically his arm
17 swung and he had a racquetball, uh, racquet in his
18 hand. Um, the altercation ensued. Uh, Russell then
19 swung his, uh, tennis racquet striking Robert on the
20 top of his head. Uh, there was a cut that Robert had
21 to go to the hospital to, uh, get treated, um, and
22 pictures were taking -- were taken by our crime scene
23 analyst as well of that. Um, I then conducted my
24 interview with Russell. Um, he was, he was advised of
25 Miranda Rights, um, before asked any questions. Um,

1 Russell stated that he was waiting for the racquetball
2 courts. He actually, um, claimed that he wrote his
3 name on the (inaudible - 00:04:19), uh, stating he was
4 next in line. Uh, same thing, argument ensued. Um,
5 um, basically my interview with Russell showed that --
6 he stated that Robert got too close to him while they
7 were arguing. Um, he had put his arm out to push
8 Robert away, um, to give him space 'cause it was an
9 argument. Um, with this, uh, he pushed his baseball
10 cap down. Um, when he pushed Robert away this caused
11 a reaction from Russell -- I'm sorry -- um, when
12 Russell pushed Robert, Robert then had his racquet and
13 swung. It did, uh, cause some, uh, injuries to
14 Russell as well. Um, and when Robert -- sorry --
15 Russell pushed Robert he actually pushed him into the
16 glass door that was the opening for the racquetball
17 court was unlocked. That caused him to fall to the
18 floor, um, and that's actually with a couple witnesses
19 as well.

20 Judge: Thank you, Officer. Um, Mr. Moos, do you have any
21 questions for the officer?

22 R. Moos: Uh, yes. Officer, do you, uh, have any reason to
23 believe that I lied to you about the incident?

24 Villanueva: Uh, no.

25 R. Moos: Do you have any reason to believe that the two witness

1 statements that you, uh, obtained at the club that,
2 uh, they were lying?

3 Villanueva: Uh, no.

4 R. Moos: Uh, okay. Thank you. Uh, Your Honor, I have a couple
5 corrections to make on the officer's --

6 Judge: We'll get to that.

7 R. Moos: Okay.

8 Judge: Mr. Martin, do you have any questions of the officer?

9 Martin: I'm thinking. I never knew that he was going to show,
10 uh, show up. Um, you stated everything quite -- you
11 stated the actions correctly, but there are elements
12 of the actions that he doesn't understand.

13 Judge: Sir, I'm asking you do you have any --

14 Martin: It wasn't --

15 Judge: Do you --

16 (Crosstalk)

17 Martin: -- (inaudible - 00:06:39) --

18 Judge: Mr. Martin.

19 Martin: Yeah.

20 Judge: Do you have any --

21 Martin: It's fine.

22 Judge: Do you have any questions?

23 Martin: No, I have no questions.

24 Judge: All right.

25 Martin: No.

1 Judge: Officer, that's all we need you for today.

2 Martin: (Inaudible - 00:06:45).

3 Judge: Thank you for coming.

4 Villanueva: Thank you, sir.

5 Judge: All right, Mr. Moos. Uh, why don't you tell me your
6 version of events and make the clarifications you
7 wanted to make?

8 R. Moos: Thank you, Officer. To start with, the incident
9 happened on September the 9th. I believe the officer
10 said September the 19th. He also indicated that, uh,
11 the weapon used was a tennis racket when in fact they
12 were racquetball racquets. Uh, also on September the
13 9th, um, around 3:30, 3:50 I signed up on the
14 racquetball challenge court board. Challenge court
15 starts at 4:00. Uh, I was the first one to sign up on
16 the board, uh, so my name was the only one so we could
17 start challenge court 4:00. Uh, two ma- -- two other
18 members came in, uh, two members named Chris and Paul
19 came in and they signed up on the board, so there was
20 three of us on the board. And while I was -- while we
21 were waiting for a fourth player to show up I told,
22 uh, Chris and Paul to go ahead and play a warmup game
23 until we get a fourth player. During their warmup
24 game, a fourth player by the name of -- another member
25 by the name of Kent came in. He signed up on the

1 board. So we had enough to play doubles, and we were
2 just waiting for Chris and Paul to finish their, their
3 warmup game. During that time, uh, near the end of
4 Chris and Paul's warmup game Russell showed up and he
5 erased the names of Chris and Paul. He rewrote my
6 name first, Kent's name second, and his name third. I
7 told, uh, Russell that we have four for the first game
8 of, uh, doubles. He told me that well they can't play
9 'cause they're playing now. So he went down to sit
10 down near the end of the bench, and I went back up and
11 I rewrote the names in the order that they should be.
12 My name first, Chris and Paul's name, and then Kent's
13 name. I went into the court after Chris and Paul
14 ended their warmup game, and I started to -- uh, well
15 I warmed up for maybe five minutes. I started to come
16 out of the court and Russell started to come into the
17 court and I -- he came right up to me nose-to-nose,
18 and I, I told him that we have the first four to start
19 challenge court. And he started yelling at me nose-
20 to-nose that -- indicating that they can't play 'cause
21 they just finished. Well they just finished their
22 singles game, so we were getting ready to start the
23 doubles game and we already had our four players to,
24 uh, start the doubles game. Russell was nose-to-nose
25 to me. He took his hand, his -- I believe it was his,

1 uh, his right hand and he swung up to my face. And
2 I'm not sure whether he had a closed fist or not or
3 whether it was up, but he, he hit me in the face in my
4 eye, hit my eye and knocked my baseball cap off. I
5 swung to protect myself with my -- I swung with my
6 right. I hit him in the shoulder in the fleshy part
7 of his, uh, uh, right shoulder. Uh, after that he, he
8 continued hitting me, and it happened so quick that
9 last thing I remember was I was knocked down into the
10 court on the floor and I was bleeding from the back of
11 my head.

12 Judge: All right. Thank you. Let's, let's stop there.

13 R. Moos: Okay.

14 Judge: Um, Mr. Martin.

15 Martin: Yeah.

16 Judge: Did you get convicted of a crime related to this?

17 Martin: Yeah.

18 Judge: What was your conviction for?

19 Martin: (Inaudible - 00:10:56) it was assault and battery, um,
20 felony charges.

21 Judge: Have you been convicted of a felony?

22 Martin: No, it's not the (inaudible - 00:11:03).

23 Judge: Okay.

24 Martin: That's why I was trying last year to make sure that we
25 finished that up before we came to this. Do you

1 follow me?

2 Judge: Yes.

3 Martin: Okay. But with COVID-19, everything's been messed up.

4 Judge: All right. So what is your, uh, version of events?

5 Martin: All right. I'm going to start off with (inaudible -
6 00:11:25).

7 Judge: Okay. Let's, let's keep it --
8 (Crosstalk)

9 Judge: Sir, stop, stop.
10 (Crosstalk)

11 Judge: Stop, stop. Stop talking right now. Let's --

12 Martin: All right.

13 Judge: -- let's keep it civil.

14 Martin: Okay.

15 Judge: Tell me your version of events please.

16 Martin: All right. Let me -- or let me just -- like you know
17 how many people play in the courtroom.

18 Judge: Sir, I need you to offer testimony.

19 Martin: Okay. I came in -- all right. I came into the
20 courtroom. I then put my name up -- I rearranged the
21 board to put Robert's name first, Kent's, then my
22 name, and Robert is making a claim that it was a
23 warmup game that was being played. This is not true.
24 It was a full-on game between Paul -- between Chris
25 and Paul. Paul had asked me to come in early at 4:30

1 to be able to play with him but that's not the point.
2 That's just a simple point. The main thing is that
3 when I first (inaudible - 00:12:24) changed the names
4 he said to me you're not playing. The four of us are
5 going to play the game. I let it alone. I remember I
6 didn't react to it. I went over and sat down. This
7 is only about five feet between the bench and going
8 into the racquetball courts. The game finished. Paul
9 came out and Chris came and sat next to me. Chris was
10 talking to me saying that he didn't want to play
11 anymore. This case (inaudible - 00:12:58) the game
12 playing list and it needs only four which means I'm
13 the next one up to play. So I said to Chris, Chris
14 you still can. If you want to continue playing and
15 you guys want to play, I'm all good for it, and I'll
16 sit and wait for the other game. He goes no. I don't
17 want to. And I watched the game. He was getting his
18 butt kicked. So I got up, and as I got up and my head
19 was down and I was just walking into the courts 'cause
20 it's the normal thing to do. Rob -- Bob gave the
21 testimony that he was already in the courtroom, so why
22 did he come out of that courtroom and step in front of
23 me? It was because he wanted to impress his power
24 upon me again, and the first thing out of his mouth
25 was you're not playing. And I said to Bob, Chris

1 doesn't want to play. He says it again to me as he
2 comes in closer. You're not playing. Everybody
3 behind me including Chris yells at Bob. Russ is the
4 next guy up to play. I'm thinking that Bob can't hear
5 'cause he's, he's an old guy. I said to him again.
6 Bob, get out of my face, get out of my face. He comes
7 in closer to me again for the third time telling me
8 you're not playing. His, his hat -- the brim of his
9 hat hits my glasses, comes over the top. He's saying
10 that I came up with my right arm and hit him in the
11 face. This is not true. In my right arm is my
12 racquet. I don't want to use my racquet, so I'm right
13 handed. So the only option that I had is get him away
14 from me and then go to the management downstairs is to
15 come up with my left hand and put it over the top of
16 his forehead 'cause he's saying you're not playing in
17 my face and I started to push him back. He came
18 around and he cracked me between the eyes with his
19 racquet with the edge. That policeman gave testimony
20 that I was, I was bleeding. He didn't say I was
21 bleeding. He said that I had damages to my head. At
22 this point I was blacked out. Everything was black
23 and all of a sudden I'm thinking to myself I'm in the
24 middle of a fight. At that point I came around with
25 my right hand and my left hand was already up there,

1 and I'm pushing him back away from me to create that
2 space that's necessary. I'm pushing back. There was
3 no more physical hits or anything, but I presume when
4 I saw the damages to the back of his head that I
5 couldn't do -- my racquet never touched him. I denied
6 it because there was a pool of blood on the floor that
7 I hit him with my racquet. But six, seven months
8 later when I finally got pictures and when I looked at
9 the pictures the gash was on the back of his head.
10 That means he bashed his head going through the doors
11 and pulling up and/or (inaudible - 00:16:05) on the
12 floor. You should have pictures there. Okay. Then
13 at that point I start to come back around because I've
14 been hit right on the top of my forehead and I have my
15 own daughter here to testify that I have a scab and
16 red mark between my -- on my forehead at my hairline.
17 I started to come around. I walked into the courtroom
18 over the top of Bob and I said to Bob you ought to
19 learn some manners. You see the point is even if
20 there was a warmup game, when Chris told me he didn't
21 want to play I was the only one left to play and
22 that's why everybody is yelling at Bob I'm the next
23 one to play. There were other events for two years
24 I've been putting up with Bob. One time Bob did this
25 one.

1 Judge: Okay. We're not going to go into the other events.
2 We're focused on this one. All right. Have you said
3 all you'd like to say about what happened here?

4 Martin: Let me think for a minute. When I walked up -- I
5 walked back out of the courtroom a gentleman asked me
6 to come in and play with him and Paul started
7 (inaudible - 00:17:25) to make sure that I wasn't
8 continuing with him. He wrestled around with me, and
9 here's where he was (inaudible - 00:17:34). I started
10 pushing away and he says no, wait, Russ. Stop. Calm
11 down. And I said Bob -- or no, I said Paul and he
12 said to me Russ, come and sit down. And I said of
13 course. We sat down. He says what's going on, and I
14 said I don't know, man. I just got up to go in and
15 play this game. You see what Bob -- he was being
16 polite and really concerned about this. There's a
17 sign on the wall in Las Vegas Athletic Club. It says
18 be polite and courteous to your fellow players. I've
19 always conducted myself in that manner. Bob should
20 have gone down to management. That's what I'd do. He
21 never gave me that opportunity to do that because he
22 cracked me right over the head. I never -- once we
23 got to that part my attorney and I realized when we
24 looked at the pictures we're going well Russ where did
25 you hit him? (Inaudible - 00:18:35). He's claiming

1 that I hit him with my right hand. My racquetball was
2 in my right hand. If he's that close to my face, my
3 right hand is not going to come up and hit him because
4 you can't come in there. He's that close to me. And
5 this is the part to understand. All racquetball
6 players go into the courtroom in the court where
7 there's room. In there is where it's decided.
8 Somebody extra comes in. Everybody talks about it and
9 they go oh you're out. And if I'm out, I always walk
10 out. But everybody was screaming at Bob. I never hit
11 him, Your Honor. But I didn't know because at that
12 moment with that officer I couldn't say that. I was
13 still kind of blacked out and dazed worrying about did
14 I do something wrong, but while I was in jail for a
15 day and a half, two days I could think about the
16 events. Bob was gunning for a confrontation with me.
17 Otherwise, he would have gone to management --

18 Part 2 of 2)

19 Martin: There's four players in a room. Why can't I go in?
20 Because Bob came out of the court and got into my face
21 because he wanted to tell me you're not playing, and
22 he's the one that struck me first. I have a right to
23 be able to get somebody off of my face when they come
24 into it.

25 Judge: All right. Thank you, sir. The Court is going to

1 admit into evidence, um, well there's a whole 38-page
2 packet that the Plaintiff has offered. Although that
3 will all be attached and is part of the file, the
4 Court specifically admits, uh, the medical records and
5 that is it. The Court's going to take the matter
6 under advisement and you'll get a decision via email.
7 Thank you, gentlemen.

8 R. Moos: Uh, Your Honor, can I bring up one more issue? Okay.
9 Thank you.

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TRANSCRIBER'S CERTIFICATE

I, Michelle Eaves, do hereby certify that I have listened to the recording of the foregoing; further that the foregoing transcript, Pages 1 through 15, was reduced to typewritten form from the digital recording; and that the foregoing is an accurate record of the recording as above transcribed in this matter.

DATED this 8th day of November, 2021.

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