

1 Deputy Bernal.

2 THE COURT: Can you spell that.

3 MR. MULDROW: B-E-R-N-A-L, I believe.

4 THE COURT: I'm sure he will spell it for us.

5 You may proceed.

6 DEPUTY BERNAL,

7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 **BY MR. MULDROW:**

10 Q. Can you introduce yourself for the ladies and
11 gentlemen of the jury?

12 A. I am Deputy Bernal Harris County Sheriff's Office.

13 Q. How do you spell your last name?

14 A. B-E-R-N-A-L.

15 Q. How long have you been with the sheriff's department?

16 A. About seven years.

17 Q. What position or what assignment do you have at the
18 sheriff's department currently?

19 A. I'm a patrol deputy.

20 Q. How long have you been with patrol?

21 A. Probably about 3 or 4 years.

22 Q. Okay. What are the duties of a patrol deputy?

23 A. Just to patrol the streets and make sure prevent
24 crimes from happening and respond to calls when people call us.

25 Q. Do you respond to calls in regards to robberies or

1 aggravated robberies often?

2 A. Yes, sir.

3 Q. What is your duties or what is your standard
4 operating practice when you respond to a call or aggravated
5 robbery?

6 A. To make sure to check on the complainant or look for
7 suspects, whatever is advised or somebody needs help with.

8 Q. Did you ever make an arrest and find a suspect
9 shortly after the robbery took place? Do you conduct at
10 showup?

11 A. I'm sorry.

12 Q. Do you conduct a showup? You show that person to the
13 complainant?

14 A. Yes, sir.

15 Q. Was that your policy in 2010?

16 A. Yes, sir.

17 Q. Is that still your policy today?

18 A. Yes, sir.

19 Q. Did you respond to an aggravated robbery call on
20 August 23rd, 2010?

21 A. Yes, sir.

22 Q. And was that at Black Rock?

23 A. Yes, sir.

24 Q. And is that a location in Harris County, Texas?

25 A. Yes, sir.

1 Q. If you take a look at the map that's on the
2 television screen, was that the location that you were
3 dispatched to?

4 A. Yes, sir.

5 Q. How did you approach that scene?

6 A. I was just advised to check inside the Walgreens; so
7 when I came through, I came through Black Rock down Wallisville
8 to the Walgreens there.

9 Q. Did you have a description of the suspect you were
10 looking for?

11 A. Black male, black clothing.

12 Q. Black shirt, black shorts?

13 A. Yes, sir.

14 Q. Did you locate somebody that matched that
15 description?

16 A. No, sir.

17 Q. Did you go directly to the Walgreens?

18 A. Yes, sir.

19 Q. What did you do when you got there?

20 A. I went back to Walgreens, just walked around the
21 store and make sure he wasn't in there; and I asked the
22 employees did they see somebody that matched the description,
23 and they stated no.

24 Q. What did you do after that?

25 A. I was advised to go check on the complainant's family

1 located off of, right there south of Black Rock. And just went
2 over and spoke with the wife and son and make sure they were
3 okay.

4 Q. Was the robbery supposed to have happened near their
5 resident?

6 A. Yes, sir.

7 MR. MULDROW: Your Honor, I published State's
8 Exhibit No. 1 to the jury. It's been previously admitted.

9 THE COURT: Yes.

10 Q. (BY MR. MULDROW) And is this an aerial view of the
11 location right next to the other picture we were looking at a
12 second ago?

13 THE WITNESS: Yes, sir.

14 Q. (BY MR. MULDROW) And is the complainant's house
15 located in that neighborhood there?

16 A. Yes, sir.

17 Q. Did you check on his family?

18 A. Yes, sir. I checked on the wife and the son. They
19 were both outside in the driveway.

20 Q. Okay. Were they okay?

21 A. Yes, sir.

22 Q. About how long did you talk to them?

23 A. May be a minute or two, not too long.

24 Q. Were they a witness to anything happened?

25 A. No, sir. They didn't see anything. They were asking

1 me what happened.

2 Q. After you talked to them for a minute or two, what
3 did you do next?

4 A. Dispatched, advised that somebody was following a
5 white Explorer; it was possibly a suspect's vehicle. So I
6 proceeded to the way the dispatch was giving direction. And
7 after I caught up with the vehicle at Uvalde and Holly Park, we
8 were at the light for awhile, a couple of deputies caught up
9 with us and when the light turned green, we conducted a felony
10 stop right there.

11 Q. Were you the one who actually stopped that white SUV?

12 A. Yes, sir.

13 Q. Who was in the car when you stopped?

14 A. A white male, last name Cooper. I can't remember his
15 name.

16 Q. You said it was over on Uvalde and Holly Park; is
17 that correct?

18 A. Yes, sir.

19 Q. About how far away from the location you were
20 originally dispatched to from that location?

21 A. Probably, I would give maybe 5 miles or so.

22 Q. After you stopped Mr. Cooper or Mr. Cooper's car, did
23 you take Mr. Cooper back to the scene?

24 A. Yes, sir.

25 Q. Were you present when he was shown to the

1 complainant?

2 A. Yes, sir.

3 Q. How did that happen?

4 A. I just went over there when I got back to the
5 Walgreens just told them that I had him over there and somebody
6 just took him over there and they said that was him.

7 Q. Was Mr. Cooper in the back of your car?

8 A. Yes, sir.

9 Q. Was he handcuffed?

10 A. Yes, sir.

11 Q. Who brought the complainant over to your car?

12 A. I don't recall.

13 Q. Okay. What did they say to the complainant when they
14 brought him over?

15 A. What did they say?

16 Q. Yes, sir?

17 A. I don't recall, sir.

18 Q. What did the complainant say when you saw Mr. Cooper,
19 if you remember?

20 A. I don't remember.

21 Q. What happened after that?

22 A. After that, I took him to our substation right there
23 off of Wallisville and they just investigated him there. I was
24 done with that.

25 Q. Then you turned him over to the investigating

1 officer?

2 A. Yes, sir.

3 Q. Once you turned him over to the investigator, did you
4 have anymore involvement?

5 A. No, sir. That was it.

6 MR. MULDROW: No further questions.

7 THE COURT: Your witness.

8 **CROSS-EXAMINATION**

9 **BY MR. TRENT:**

10 Q. Deputy Bernal, good afternoon. My name is Mike Trent
11 and I'm representing Brandon Robinson in this case. I just
12 have a few questions for you. You were the one who arrested
13 Steven Cooper, correct?

14 A. Yes, sir.

15 Q. And you had been kind of via dispatched briefed on
16 all that was going on, right?

17 A. Yes, sir.

18 Q. Who was the deputy who was, I want to say, in charge
19 on the scene in organizing things?

20 A. It was Ellington.

21 Q. Deputy Ellington, right?

22 A. Yes.

23 Q. And was -- you said you don't recall, was it
24 Ellington who brought Cooper over, brought the complainant over
25 to see Cooper after you got to the scene?

1 A. I don't remember, sir. There were several deputies
2 there.

3 Q. You mentioned at the very beginning of your testimony
4 that showups are still currently the policy of the Harris
5 County Sheriff's Department, right?

6 A. Yes, sir.

7 Q. But there has been some changes in the law and
8 they're not really an approved form of identification under
9 Texas law anymore, are they?

10 MR. MULDRROW: Objection. Calls for a legal
11 opinion.

12 THE COURT: Objection to that question.

13 Q. (BY MR. TRENT) So are you aware of some changes in
14 the law with respect to identifications?

15 A. No, sir.

16 Q. No?

17 A. No, sir.

18 Q. Haven't been told anything about Article 3820 about
19 the Codes of Criminal Procedure?

20 A. No, sir, I haven't.

21 Q. I think that you testified that you don't know
22 whether -- are you saying that you don't know whether
23 Mr. Victor identified Cooper or do you?

24 A. Yes, sir, he identified him.

25 Q. Okay.

1 BY MR. TRENT:

2 Q. You just talked about something that Deputy Ellington
3 said over the radio, right?

4 A. Yes, sir.

5 Q. Where is Deputy Ellington?

6 A. Where is he at now?

7 MR. MULDRROW: Objection. Relevance.

8 THE COURT: Overruled.

9 Q. (BY MR. TRENT) You can answer.

10 A. He is in the penitentiary, federal penitentiary.

11 Q. What for?

12 A. I'm not sure.

13 Q. He is in prison right now?

14 A. Yes, sir.

15 Q. And I assume he is not going to be testifying in this
16 trial, is he, as far as you know?

17 A. As far as I know.

18 MR. TRENT: Pass the witness.

19 MR. MULDRROW: Nothing further from the State.

20 THE COURT: Thank you very much, Deputy. You
21 may step down. You may be excused.

22 MR. MULDRROW: No objection.

23 MR. TRENT: No objection.

24 THE COURT: Sir. You may go about your
25 business. You are excused from this matter. Call your next