

1 thefts.

2 Q. Were you employed with the department
3 back in January of 2014?

4 A. Yes, sir.

5 Q. Specifically were you on duty January
6 24th?

7 A. Yes, sir.

8 Q. What were your job responsibilities that
9 day?

10 A. Patrolling the area, responding to calls
11 for service such as 9-1-1 calls.

12 Q. And specifically on that day, did you
13 have occasion to come to 4606 Langley?

14 A. Yes, sir.

15 Q. For what reason?

16 A. I got a call as a complainant tracking a
17 vehicle.

18 Q. Describe for the jury what you
19 understood responding to that call.

20 A. As I understood the details that were
21 being given in the call slip and by the dispatcher,
22 the complainant was following or tracking a stolen
23 vehicle and had located it at the location on
24 Langley.

25 Q. What was the vehicle? What type of

1 vehicle?

2 A. It was a semi-tractor truck pulling a
3 trailer.

4 Q. So where did you have to come from to
5 get there, if you recall?

6 A. Just the general area where I was
7 patrolling in my district and beat.

8 Q. And do you remember what you saw as you
9 pulled up to the address?

10 A. Yes, sir.

11 Q. What did you see?

12 A. When I pulled up, I saw what appeared to
13 be consistent with a scrap yard, a large metal
14 building, a semi-trailer parked on what appeared to
15 be some kind of scales.

16 Q. Was this 4606 Langley?

17 A. Yes, sir.

18 Q. And the address, again, was given to you
19 from where?

20 A. From the dispatcher.

21 Q. I'm showing you State's 13-J-1.
22 Was this the truck on the scales?

23 A. It appears to be, sir, yes, sir.

24 Q. 13-J-2, was that the truck attached to
25 the trailer?

1 A. It appear to be, yes, sir.

2 Q. All right. And what's that license
3 plate?

4 A. You want me to read it?

5 Q. Please.

6 A. That would be Paul 215363.

7 MR. VOLKMER: Again, Your Honor, at
8 this point these photographs are contained in
9 State's 13. These are printouts of those
10 photographs. State's -- and they are in evidence.

11 THE COURT: Okay.

12 Q. (By Mr. Volkmer) So you read that
13 again. Thank you.

14 Do you remember the temperature that
15 day?

16 A. I don't remember the exact temperature,
17 but I think it was kind of cold.

18 Q. Was it icicle on the metal building
19 cold?

20 A. I would say so, yes, sir.

21 Q. Okay. So what was happening with this
22 truck and trailer when you arrived?

23 A. When I arrived, it was my understanding
24 that it had weighed in and they were preparing to
25 unload it as scrap.

1 Q. Who were the people that you encountered
2 when you arrived?

3 A. The person who had been driving the
4 vehicle and the person who identified himself as the
5 manager of the scrap yard.

6 Q. Do you remember the -- did you identify
7 the person that was driving the truck?

8 A. Yes, sir.

9 Q. Who did you identify him as?

10 A. Mr. Barconey.

11 Q. Would you remember him if you saw him?

12 A. Yes.

13 Q. I'm showing you State's 11. Who is
14 that?

15 A. That would be Mr. Barconey.

16 Q. And what was the name again?

17 A. Barconey.

18 Q. What's his first name?

19 A. I would have to refer to the report.

20 (Reviewing document.) First name,
21 Walter.

22 Q. Is Walt short for Walter?

23 A. It can be, yes, sir.

24 Q. And what was he doing when you arrived?

25 A. I found him inside the metal building on

1 the property, not doing anything specific, just
2 standing inside the building.

3 Q. How were you sure that that vehicle was
4 the one that you had been called out for the
5 service?

6 A. I confirmed that with the reportee who
7 had called it in and identified themselves as
8 representing the company who owned the vehicle.

9 Q. Were they on the scene there at 4606
10 Langley?

11 A. Yes, sir.

12 Q. What were their names?

13 A. I remember speaking to a Mr. Duty, was
14 his last name, William Duty.

15 Q. And what did he say?

16 A. He said he was there representing the
17 company. They had received a call from one of their
18 truck drivers --

19 MR. RAY: I'm going to object to
20 hearsay, Judge.

21 THE COURT: Sustained.

22 Q. (By Mr. Volkmer) Was he able to
23 demonstrate -- did he point out or identify his
24 property?

25 A. Yes, sir, he identified the trailer and

1 the load, had described the load.

2 Q. Okay. Did -- so, in your experience and
3 your training, what had occurred at this point?

4 A. Theft.

5 Q. Why is that?

6 A. The vehicle was reported stolen and
7 contained a load that was stolen; and it was being
8 scrapped, which didn't seem very reasonable.

9 Q. Who was driving the truck?

10 A. Mr. Walter Barconey.

11 Q. Did you actually see him inside the
12 truck?

13 A. No, I didn't.

14 Q. Okay. Did you talk to him?

15 A. Yes, I did.

16 Q. What did he say?

17 A. He said --

18 MR. RAY: Objection, hearsay.

19 THE COURT: Sustained.

20 Q. (By Mr. Volkmer) After your discussions
21 with Barconey, what did you do?

22 A. I spoke with the property manager, the
23 scrap yard manager.

24 Q. And what did you learn when you talked
25 to the scrap yard manager?

1 MR. RAY: Objection, the answer
2 calls for hearsay.

3 THE COURT: Overruled.

4 A. I learned that the manager had been
5 aware that the load was coming in to be scrapped and
6 I learned that he was prepared to, I guess, scrap
7 the load or receive the load and had received a
8 phone call from a gentleman who said the load was
9 being brought in for him.

10 Q. (By Mr. Volkmer) From who?

11 MR. RAY: Objection, hearsay.

12 THE COURT: Sustained.

13 Q. (By Mr. Volkmer) Did you get a name for
14 the scrap yard manager?

15 A. Yes, sir, it's in my report. Mr. Abdul
16 Ghaffar.

17 Q. Did he show you his cell phone?

18 A. Yes, he did.

19 Q. And what did you see when you saw that
20 cell phone?

21 MR. RAY: Objection, hearsay.

22 THE COURT: Sustained.

23 Q. (By Mr. Volkmer) Were you able to
24 verify what he was telling you?

25 A. Yes, sir.

1 Q. Were you able to obtain a cellular
2 telephone number from him?

3 A. Yes, sir.

4 Q. Was that something that you visually
5 observed from -- was this something he told you or
6 was this something that you saw with your own eyes?

7 A. I saw it as he showed me his call log.
8 He pointed it out to me.

9 Q. And what number did you record?

10 A. I'll have to refer to my report.

11 (Reviewing document.) The phone number
12 that I observed in the call history was
13 832-768-1603.

14 Q. Can you say that one more time?

15 A. The phone number was 832-768-1603.

16 Q. And the conversation was regarding where
17 the load was coming from?

18 A. Yes, sir.

19 Q. How long did you talk to Mr. Ghaffar?

20 A. For several minutes.

21 Q. How long did you talk to Mr. Barconey?

22 A. Even longer, several minutes.

23 Q. What was your belief after you had these
24 discussions?

25 A. Well, I had confirmed that I had a

1 stolen truck and a stolen trailer, a complainant for
2 the stolen trailer and load, and that Mr. Barconey
3 had received that from another person and was there
4 to scrap it.

5 Q. The truck that's pulling the trailer,
6 did it belong to Mr. Barconey?

7 A. No, sir.

8 Q. What did you come to find out about that
9 truck?

10 A. That truck was also stolen, not with the
11 trailer originally. It was stolen separately.

12 Q. So there were two thefts that had
13 occurred?

14 A. Yes, sir.

15 Q. The truck that was there did not belong
16 to William Duty?

17 A. No, sir.

18 Q. What did you do at this point?

19 A. I had to confirm the stolen hit on the
20 truck, attempt to contact the owner for that, which
21 was in Louisiana, could not make contact and
22 arranged to have it towed.

23 Q. That truck had been stolen out of where?

24 A. Louisiana.

25 Q. What did you do after that point?

1 A. After obtaining all the available
2 information, I called and spoke with an Assistant DA
3 over the phone.

4 Q. The number called -- the number in the
5 phone of Mr. Ghaffar, did it have a name associated
6 with that contact?

7 MR. RAY: Object to hearsay.

8 THE COURT: Sustained.

9 Q. (By Mr. Volkmer) What did you do after
10 you talked to the District Attorney?

11 A. They accepted the charge. I then
12 contacted our Burglary and Theft Division for a hold
13 and was also put in contact with an investigator
14 from our Major Offenders who works, I think, special
15 thefts or cargo thefts.

16 Q. Were there other officers that were
17 assisting you?

18 A. Initially, yes, sir.

19 Q. And was the scene just there at 4606
20 Langley, or did it involve other places as well?

21 A. It was primarily at that location.
22 There was another location mentioned, but...

23 Q. What was going on there?

24 A. That was where the complainants had
25 initially tracked their vehicle, observed

1 Mr. Barconey with the vehicle before it was brought
2 to the scrap yard.

3 Q. Were there other vehicles there?

4 A. Yes.

5 Q. What was that?

6 A. There was an SUV there.

7 Q. What color?

8 A. Blue.

9 Q. Were you able to return the pipes and
10 the trailer to the rightful owner?

11 A. Yes, sir. The complainants representing
12 the company took custody of the trailer and its
13 load.

14 MR. VOLKMER: Pass the witness.

15 THE COURT: Defense.

16 MR. RAY: Yes, Judge.

17 **CROSS-EXAMINATION**

18 **BY MR. RAY:**

19 Q. Were you the first officer to respond
20 that day?

21 A. I believe so.

22 Q. Okay. As the -- I guess, were you the
23 primary officer on scene or --

24 A. Yes, sir.

25 Q. Okay. You said when you got there you

1 saw people who you found out to be Walter Barconey
2 and the man at the scrap yard and they were standing
3 together?

4 A. No, sir.

5 Q. Where were they standing?

6 A. Mr. Barconey was in a large metal
7 building. The manager I found in a separate
8 building, which I think was their office.

9 Q. Okay. When you said this didn't seem
10 very reasonable, scrapping this metal, is that what
11 you meant?

12 A. The overall situation after speaking to
13 Mr. Barconey.

14 Q. Okay. Looking at that load, was it
15 reasonable to assume that's scrap metal?

16 A. Visually, no, sir.

17 Q. Okay. Why is that?

18 A. It looks like it has some type of
19 industrial purpose and would not be discarded or
20 scrapped.

21 Q. Okay. You said you looked at
22 Mr. Ghaffar's cell phone?

23 A. Yes, sir, he showed it to me.

24 Q. Okay. Did you -- did you ask him for
25 it, or was he readily trying to show it to you?

1 A. No, he readily showed it to me to
2 demonstrate who was responsible for scrapping the
3 load.

4 Q. Okay. And you said you looked at the
5 call log?

6 A. Just what he showed me where it showed
7 that contact name and phone number.

8 Q. Okay. Did you look at the incoming and
9 outgoing calls?

10 A. He was holding the phone. I did not
11 scroll through his call history.

12 Q. Okay. You say you don't know who called
13 who first, anything like that, right?

14 A. I don't know the contents of his call
15 history.

16 Q. Okay. When you -- being the primary
17 officer at the scene, did you -- I guess, were you
18 the person who made the arrest and did the transport
19 or is that another officer?

20 A. I made the arrest, and another officer
21 transported him.

22 Q. Okay. Did you tag any evidence or
23 anything like that?

24 A. No.

25 Q. Okay. When you -- when you made the

1 arrest, what officer did the transport?

2 A. I believe it was Officer Lamb.

3 Q. Okay. Did you go around, I guess, and
4 get any video surveillance, any photographs, or any
5 evidence at all or see if there was any available?

6 A. No, sir.

7 Q. Okay. And you said there was, I guess,
8 another location or something or some other people
9 at another location?

10 A. Not other people, just another location.

11 Q. Okay. And you said there was a blue SUV
12 there?

13 A. Yes, sir.

14 Q. Do you know, was that a blue Navigator
15 at all?

16 A. I don't recall the make or model.

17 Q. Okay. Was there anybody in that
18 Navigator?

19 A. I was advised there was not.

20 Q. Okay. They were just sitting there?

21 A. It was just parked there.

22 Q. Okay.

23 MR. RAY: Nothing further.

24 THE COURT: State.

25 MR. VOLKMER: Yes, Your Honor.

1
2 **REDIRECT EXAMINATION**3 **BY MR. VOLKMER:**4 Q. How far -- could you walk from there on
5 that cold day to the blue Lincoln Navigator?6 A. You could walk. It would take a little
7 time.

8 Q. What's a little time?

9 A. I guess depends on the pace. 15 minutes
10 maybe.11 Q. Okay. In the arrest of Walter Barconey,
12 did he have \$100 on him that you're aware of?

13 A. Not that I recall.

14 Q. Defense counsel asked you about your
15 conversation with Abdul Ghaffar. Did he run up to
16 you showing you his cell phone?

17 A. No, sir.

18 Q. How did that interplay go?

19 A. I actually met him at the office as I
20 was trying to determine the details of the load
21 being scrapped. He identified himself as the
22 manager. He told me that he didn't know anything
23 about any stolen property.24 Q. What was his emotional response when he
25 found out that the load was stolen?

A. He was surprised.

1 Q. Describe to the jury what he looked
2 like.

3 A. He had a shocked look on his face when I
4 mentioned that the truck and trailer were stolen. I
5 mean, just his eyes kind of enlarged and he just
6 appeared a little shocked.

7 Q. Do you interact with people frequently
8 in your job duties?

9 A. Yes, sir.

10 Q. Do you experience people finding things
11 out like that on few or many occasions?

12 A. On a regular occasion.

13 Q. And did his response to him finding out
14 that it was stolen, did that appear credible to you?

15 A. At the time. At the time.

16 Q. All right. In your interactions with
17 Walter Barconey, did you observe an emotional
18 response from him?

19 A. When I told him that the truck and
20 trailer were reported stolen, he didn't really
21 respond at all. He didn't act surprised.

22 MR. VOLKMER: Pass the witness.

23 THE COURT: Defense.

24 MR. RAY: Yes, Judge.

25

1
2 **RECROSS-EXAMINATION**3 **BY MR. RAY:**4 Q. Did you see Mr. Ghaffar ever go in and,
5 I guess, take these pictures that we're looking at?

6 A. No, sir.

7 Q. Okay. Did -- I guess, if he did take
8 those pictures after you got there, would you have
9 seen them?10 A. Probably, but I don't know when those
11 pictures were taken.12 Q. Okay. They were -- it could have been
13 that they were taken before you got there, right?14 A. Could have. I don't know who took those
15 pictures.16 Q. Okay. When you got there, were -- were
17 these -- the metal pipes and stuff, were they being
18 unloaded already or were they still on there?

19 A. They were still on the trailer.

20 Q. Okay. Was it, like -- were they getting
21 ready to get unloaded or --22 A. Well, there wasn't much activity around
23 the trailer; but they were just still sitting on the
24 trailer.25 Q. Okay. And you said at the time you
found Mr. Ghaffar's reaction to be, I guess,

1 credible? Or what did you say?

2 A. He appeared surprised.

3 Q. And you said and you thought that was, I
4 guess, legitimate at the time?

5 A. I mean, at the time it didn't draw my
6 suspicion or attention.

7 Q. Okay. Looking back and seeing that
8 load, do you think that's legitimate?

9 A. His reaction?

10 Q. Yeah.

11 A. I mean, as I think about it, receiving a
12 load that looks like that as scrap is kind of
13 suspicious.

14 Q. Okay.

15 MR. RAY: Nothing further.

16 THE COURT: State.

17 **FURTHER REDIRECT EXAMINATION**

18 **BY MR. VOLKMER:**

19 Q. Do you work cargo theft?

20 A. No, I don't.

21 Q. Is there an HPD unit that works cargo
22 theft?

23 A. Yes, sir.

24 Q. And how often do you deal with scrap
25 yards and stolen loads?

1 A. I believe that was the only time.

2 Q. So this is the only time you've ever
3 dealt with this?

4 A. Yes, sir.

5 Q. Would you be able to know if that pipe
6 was defective? If the screw -- the head was wrong
7 or if it wasn't the right length or if it was the
8 wrong diameter, would you know that?

9 A. No, sir.

10 Q. What do companies do about pipe that
11 they order that's perfectly fine except for it's the
12 wrong measurement? Do you know?

13 A. I don't.

14 Q. How many scrap yards are you aware of
15 just in your area that you patrol?

16 A. Maybe three.

17 Q. Okay. Do you know if there are more in
18 the Houston area?

19 A. I'm sure there are.

20 Q. What time did you arrive? What time
21 were you dispatched?

22 A. I'll have to refer to my report.

23 Q. Please do.

24 A. (Reviewing document.)

25 I received the call and it was

1 dispatched at 11:05.

2 Q. I'm showing you State's 14-D. And what
3 number do we see here? Would you read that
4 (indicating)?

5 A. That is 832-768-1603.

6 Q. You were dispatched at what time?

7 A. 11:50 -- or 11:05. Sorry.

8 Q. On 1/24, what times do we see here?

9 A. 9:45 a.m.

10 Q. And what about here (indicating)?

11 A. 10:48 a.m.

12 Q. And we do see an outgoing call to this
13 number at 9:42 a.m., correct?

14 A. Yes, sir.

15 Q. You were dispatched at 11:00?

16 A. 11:05, yes, sir.

17 MR. VOLKMER: Pass the witness.

18 THE COURT: Defense.

19 MR. RAY: Briefly, Your Honor.

20 **FURTHER RECROSS-EXAMINATION**

21 **BY MR. RAY:**

22 Q. Were you aware that that cargo load was
23 stolen at 9:30 a.m.?

24 A. I was told that it was reported stolen.
25 I would have to refer to my report as far as what

1 the -- Mr. Duty had said what they learned from
2 their driver.

3 Q. Approximately that time?

4 A. I don't know if that's documented or
5 that Mr. Duty specified.

6 Q. Fair enough.

7 And you said you got there at 11:05,
8 right?

9 A. I was dispatched at 11:05.

10 MR. RAY: Nothing further, Judge.

11 THE COURT: State.

12 MR. VOLKMER: Nothing further, Your
13 Honor.

14 THE COURT: All right. May he be
15 excused?

16 MR. RAY: He may, Judge.

17 MR. VOLKMER: Yes, Your Honor.

18 THE COURT: All right. You're free
19 to go. Thank you very much.

20 THE WITNESS: Thank you, Judge.

21 THE COURT: Try one more. Call
22 your next. Or is this all you've got?

23 MR. VOLKMER: That's all I've got.

24 THE COURT: Oh, well. All right,
25 then. I guess we'll stop for the day.

1 We'll start back at it tomorrow,
2 folks. Again, 9:30 tomorrow. Same admonitions.
3 Don't do any investigation on your own. Don't
4 discuss this case amongst yourselves or with anyone
5 at home tonight.

6 And we will see y'all in the
7 morning.

8 THE BAILIFF: All rise for the
9 jury.

10 *(Jury retired.)*

11 *(Evening adjournment.)*

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