

1 that with respect to him, where he was or whether he was
2 still there or whether he left or --

3 A. No, I don't.

4 Q. -- or if he came back?

5 A. No.

6 MR. CORNELIUS: I'll pass the witness.

7 THE COURT: Ms. Bruchmiller.

8 MS. BRUCHMILLER: No further questions.

9 THE COURT: You may step down, ma'am.

10 THE WITNESS: Thank you.

11 THE COURT: You're welcome.

12 State.

13 MS. BRUCHMILLER: State calls Officer
14 Boutte.

15 THE BAILIFF: Your Honor, this officer has
16 not been sworn.

17 (Witness sworn)

18 THE COURT: All right. Go ahead.

19 **ANTONIO BOUTTE,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **BY MS. BRUCHMILLER:**

23 Q. Good afternoon. Would you please introduce
24 yourself to the jury?

25 A. I'm Officer Antonio Boutte.

1 Q. And we see you're here in a police uniform.
2 How are you employed?

3 A. City of Houston Police Department,
4 29-and-a-half years.

5 Q. Twenty-nine-and-a-half years. Where have you
6 been stationed during that time?

7 A. I was an undercover narcotics officer, VICE.
8 All through the years, different type of jobs.

9 Q. Where are you currently working?

10 A. Central, traffic unit.

11 Q. And what are some of your current duties and
12 responsibilities?

13 A. I'm the dayshift traffic unit. I'm the radar
14 guy. That's what I do.

15 Q. And you said day shift. What are your hours
16 for that?

17 A. 7:00 to 3:00 p.m.

18 Q. Have you had any kind of specialized training
19 or courses during your 29-and-a-half years with the
20 office?

21 A. Yes, ma'am.

22 Q. What are some of your more recent courses
23 you've taken?

24 A. I would say TCLEOSE certifications that I go
25 through the academy. We have a 40-hour course that we

1 take and I just took that about two weeks ago.

2 Q. And this 40-hour course, is that one you take
3 every year?

4 A. Yes, ma'am.

5 Q. And are you a certified peace officer?

6 A. Yes, ma'am.

7 Q. Okay. I want to draw your attention to
8 December 12th, 2012. Were you on duty that day?

9 A. Yes, ma'am.

10 Q. Now, when you are on duty, are you alone or
11 with a partner?

12 A. I have a partner.

13 Q. Are you in an undercover car or a marked police
14 car?

15 A. I have -- I drive a slick top. It doesn't have
16 strobes on top of it.

17 Q. Are there any other identifications on your
18 police car?

19 A. Houston Police Department stickers both front
20 and back and the sides.

21 Q. So, it's a marked patrol car?

22 A. Yes, ma'am.

23 Q. Now, who is your partner?

24 A. Officer Al Estrada.

25 Q. Were you working the day shift on

1 December 12th, 2012?

2 A. Yes, ma'am.

3 Q. Did you come in contact with someone by the
4 name of Tyrone Brown?

5 A. Yes, I did.

6 Q. Do you see Tyrone Lee Brown in the courtroom
7 today?

8 A. I do, ma'am.

9 Q. Will you point him out and identify him by an
10 article of clothing?

11 A. He has a white shirt on with the stripes.

12 MS. BRUCHMILLER: Your Honor, may the
13 record reflect that this witness identified the
14 defendant?

15 THE COURT: All right.

16 Q. (By Ms. Bruchmiller) Now, how did you come in
17 contact with Mr. Brown on that day?

18 A. My partner and I were riding the lower downtown
19 area and I made a left and I saw what was an on-view
20 disturbance. I got out of the vehicle, asked the
21 gentleman what was going on. He couldn't correctly
22 say -- well, first he said it was a woman that was
23 picking him up, then he said it was a man picking him
24 up, and his stories weren't together.

25 Q. Did that cause you some concern based on what

1 you had viewed?

2 A. Yes. In my years of police experience,
3 something wasn't kosher with that.

4 Q. So, what actions did you take?

5 A. I told him to come over to the police car and
6 to place his hands on the hood of the car, just give him
7 a quick pat-down because I had no idea if he had any
8 weapons or anything.

9 Q. Did he have any weapons?

10 A. No, ma'am.

11 Q. Okay. Did you end up running him to see if he
12 had any warrants?

13 A. Usually on a situation like that, to secure the
14 person, I'll handcuff them, my partner and I place them
15 in the back seat of the car. Because our new MDC
16 system, when you run somebody on the computer and if
17 they're standing next to the car, a picture will pop up.
18 And if it pops up, that person might run off if you
19 don't have them secure.

20 Q. Did his picture pop up on your system?

21 A. Yes, it did.

22 Q. You had said "MDC." Can you explain to the
23 jury what that stands for?

24 A. It's a mobile data center, mobile computer that
25 we use through the police -- policing.

1 Q. Now, did you find out that there was a current
2 warrant out for Mr. Brown's arrest?

3 A. Yes, ma'am.

4 Q. And what was that for?

5 A. Aggravated robbery.

6 Q. Did you -- was that warrant verified?

7 A. Yes, it was.

8 Q. And were there descriptors that indicated what
9 person was linked to that warrant?

10 A. Yes, ma'am. My partner ran it over the MDC
11 along with the picture, his I.D. information, and his
12 history, criminal history popped up, also.

13 Q. As far as like his driver's license, any home
14 address, things like that, correct?

15 A. Yes, ma'am.

16 Q. Okay. Now, when you -- did you take him into
17 custody at that point?

18 A. He was already in the back seat, ma'am.

19 Q. Okay. And did you take him down to get him
20 booked in?

21 A. I called -- called to get the warrant verified
22 on my cell phone and the warrant was verified.

23 MS. BRUCHMILLER: Your Honor, may I
24 approach the witness?

25 THE COURT: Yes.

1 Q. (By Ms. Bruchmiller) I'm handing you what has
2 been marked as State's Exhibit 8. Does this -- do you
3 recognize this, first of all (indicating)?

4 A. Yes, ma'am.

5 Q. Does it fairly and accurately depict how the
6 defendant looked on September 12th, 2012?

7 A. Yes, ma'am, off the MDC. Yes.

8 MS. BRUCHMILLER: Your Honor, at this time,
9 I offer State's Exhibit 8, tendering to opposing counsel
10 for any objection.

11 (State's Exhibit No. 8 Offered)

12 MR. CORNELIUS: No objection.

13 THE COURT: State's 8 is admitted.

14 (State's Exhibit No. 8 Admitted)

15 MS. BRUCHMILLER: May I publish?

16 THE COURT: Yes.

17 Q. (By Ms. Bruchmiller) Okay. Now, State's
18 Exhibit 8, is this a photograph of Mr. Brown?

19 A. Yes, it is.

20 Q. When you checked or booked him in, could you
21 tell us what his height and weight were at that time?

22 A. About 5-foot-10, about 185 pounds.

23 Q. Any other descriptors?

24 A. No, ma'am.

25 MS. BRUCHMILLER: Pass the witness.

1 THE COURT: Mr. Cornelius.

2 MR. CORNELIUS: I'd like to see the booking
3 information.

4 THE COURT: Okay.

5 MR. CORNELIUS: I can't get it out of the
6 computer, but it can be gotten out.

7 MS. BRUCHMILLER: Can we approach?

8 THE COURT: Okay.

9 (At the Bench, on the record)

10 MS. BRUCHMILLER: The only booking
11 information I have is from the OR, which you have a copy
12 of. You're welcome to see my OR. You're welcome to ask
13 the witness regarding that, but I don't have a printout
14 from when he was booked. Just a mugshot.

15 MR. CORNELIUS: Can I see what you have for
16 his arrest?

17 MS. BRUCHMILLER: Yeah. It's in the
18 offense report.

19 THE COURT: Can we take the jury out?

20 MR. CORNELIUS: Yeah, please.

21 (Open court, defendant and jury present)

22 THE COURT: Ladies and gentlemen of the
23 jury, please retire to the jury room.

24 (Open court, defendant present, no jury)

25 (Discussion off the record)

1 (Open court, defendant and jury present)

2 THE COURT: Please be seated.

3 Mr. Cornelius.

4 **CROSS-EXAMINATION**

5 **BY MR. CORNELIUS:**

6 Q. Officer, how tall are you?

7 A. Six foot.

8 Q. And how much do you weigh?

9 A. Two-twenty-five.

10 MR. CORNELIUS: Can I have the defendant
11 stand next to the witness?

12 THE COURT: Okay.

13 MR. CORNELIUS: In front of the jury like
14 right out here.

15 Q. (By Mr. Cornelius) Could you come down and
16 stand next to the defendant? I want you to stand this
17 way so the jury can see.

18 (Witness complies)

19 Q. (By Mr. Cornelius) Did you just testify to the
20 jury that the defendant was booked in at five-ten, 185?

21 A. Yes, sir.

22 Q. Have you seen the booking information since the
23 jury was taken to the jury room?

24 A. Yes, I did.

25 Q. What was he actually booked in at?

1 A. Six foot, 215 pounds, I think.

2 Q. So where did you come up with 5-10, 185?

3 A. That's what was on the booking blotter.

4 Q. Where is that?

5 A. I could not pull that up this morning.

6 Q. And you just stood next to him, right?

7 A. Yes, sir.

8 Q. Do you think he's 5-10?

9 A. About 5-11.

10 Q. You think you're taller than he is?

11 A. About the same height.

12 Q. But did you just tell the jury you're 6 feet
13 tall?

14 A. Yes, sir.

15 Q. So, you're the same height as he is, but you're
16 6 feet tall and he's 5-11? Right?

17 A. Yes, sir.

18 MR. CORNELIUS: I don't have any further
19 questions.

20 THE COURT: Ms. Bruchmiller.

21 MS. BRUCHMILLER: No other questions.

22 THE COURT: You may step down, sir.

23 Ms. Bruchmiller.

24 MS. BRUCHMILLER: State rests.

25 THE COURT: All right. Please retire to

1 the jury room again. Please retire.

2 (Open court, defendant present, no jury)

3 (Discussion off the record)

4 MS. BRUCHMILLER: No objection to the
5 charge, Your Honor, other than it does talk about
6 some -- certain evidence was admitted with regards to
7 the defendant having been charged and convicted of an
8 offense other than this one at trial.

9 THE COURT: Okay. We can take that out.

10 MR. CORNELIUS: Yeah, I would like that
11 taken out.

12 Do you have any more argument?

13 MS. BRUCHMILLER: That's it. No
14 objections.

15 MR. CORNELIUS: May I speak, Judge?

16 THE COURT: Yes.

17 MR. CORNELIUS: I would like that taken
18 out.

19 There's also an instruction about the
20 evidence admitted concerning convictions of a witness or
21 any witness in the case, and that that can be -- the
22 jury can use that in considering the testimony or not
23 considering the testimony. It's just a one-page charge
24 just like this one, but it's for witnesses.

25 THE COURT: Okay.