

1 indicating again patient's bleeding from vagina.

2 And finally HFD officer arrived at ED and stated that
3 the granddaughter told him that she came back to her apartment
4 to check on patient and found her nude, sitting in tub with
5 shower running on her face. She then took her out of the tub,
6 dried her off, and patient was moaning. When patient stopped
7 moaning, she then called 911. It was then that M70 realized
8 that this patient may have been abused.

9 MR. ASLETT: Your Honor, at this time the State calls
10 Officer Brady.

11 THE COURT: All right. You may proceed.

12 MR. ASLETT: Thank you, Judge.

13 SERGEANT M. BRADY,
14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ASLETT:

17 Q. Sir, would you please tell the jury your name.

18 A. My name is Mathew Brady.

19 Q. What is your occupation, Mr. Brady?

20 A. I'm a sergeant with the Houston Police Department
21 assigned to the homicide division.

22 Q. And how long have you been with the Houston Police
23 Department?

24 A. I've been with the Houston Police Department for
25 seven years, and with homicide for four years.

1 Q. What did you do with the Houston Police Department
2 prior to being assigned to homicide?

3 A. I was in patrol for about a year or so, and then I
4 went to a gang division unit called the crime reduction unit,
5 and then from there I was accepted into homicide.

6 Q. Can any patrol officer just walk up and decide, hey,
7 I want to apply for homicide?

8 A. They can apply if they want to, yes.

9 Q. Is it a rather selective process?

10 A. It tends to be.

11 Q. Tell us what you have to do to not only just apply to
12 become part of homicide, but once accepted, the training you
13 have to go through before you can handle homicide cases.

14 A. I began when I got to the police department preparing
15 to go to homicide because that was what my goal was. So I was
16 taking several hundred classes, or several hundred hours a year
17 of classes in preparation to go, and when the opportunity
18 finally came up I applied and was accepted.

19 Q. Tell us about some of the classes that you took as
20 part of that preparation to ultimately be a homicide detective.

21 A. Just a vast majority of classes, interview and
22 interrogation classes, crime scene classes, you know, the list
23 goes on and on.

24 Q. When were you -- you said it was about four years
25 ago. When did you first start working for homicide?

1 A. In the fall of 2009.

2 Q. I want to go ahead and get right to it and ask you to
3 remember a case that you worked on back in August 20, 2010.

4 A. Yes, sir.

5 Q. At the apartment complex in southeast Houston
6 involving a 92-year-old victim named Flora Ryan. Do you
7 remember that case?

8 A. I do remember it.

9 Q. Tell the jury how that call came in and what you did
10 when you were dispatched to the scene.

11 A. Well, I was on evening shift at that time, and the
12 call came in around, I would say in the 9:00 o'clock area. And
13 I was at the office and I was up for the next scene that came
14 in. It's kind of just a random rotation where, you know,
15 whoever's next gets whatever's next.

16 And so the call came in, and I was assigned to go out
17 there along with two other homicide detectives, that had just
18 joined the division, and so that's what I did, I proceeded out
19 to the scene with Sergeant Rohling.

20 Q. So you mentioned Sergeant Rohling. Who was the other
21 person going out there?

22 A. The other sergeant was Sergeant Joel Burton.

23 Q. About what time roughly do you get on the scene?

24 A. I would say in the 9:30-ish type area, maybe a little
25 before 10:00. I'd have to check.

1 Q. Tell the jury what you did once you arrived on the
2 scene.

3 A. Once I arrived on the scene, we talked to the primary
4 patrol officers to see what we had, because we really didn't
5 know what we had. It kind of came in as a very -- well, it
6 wasn't a very clear call. It was like a woman down, so we
7 weren't sure what we had.

8 So we talked to the basic patrol officers to kind of
9 find out what was going on. They had someone detained in the
10 back of a patrol car, and we went -- I went up and talked to
11 him for a couple seconds to see if he could tell us what was
12 happening.

13 Q. Let me stop you right there, okay. So I guess pretty
14 quickly from talking to patrol officers and other people
15 getting up to speed that it becomes clear that I guess Dean
16 Wood is a person of interest in this case?

17 A. Yes.

18 Q. And at the point you became aware of that, where was
19 the defendant?

20 A. He was in the back of a Houston police patrol car.

21 Q. And do you see the defendant Dean Wood in the
22 courtroom today?

23 A. Yes, sir.

24 Q. Would you please point him out and describe an
25 article of clothing he's wearing.

1 A. He is sitting over there, wearing a tannish long
2 sleeved shirt unbuttoned.

3 MR. ASLETT: Your Honor, may the record reflect the
4 witness has identified the defendant.

5 THE COURT: The record will so reflect.

6 Q. (By Mr. Aslett) Before you even go up to the patrol
7 car to speak to the defendant, did you notice anything about
8 his behavior in the patrol car?

9 A. I just knew he was in the patrol car and the officers
10 had told me that he was yelling and screaming prior to being
11 placed in the patrol car, so I couldn't really see what he was
12 doing until I walked up.

13 Q. Tell us what you saw when you walked up.

14 A. When I walked up he was sitting in the back of the
15 patrol car and he was yelling and screaming. I believe I
16 opened the door, and introduced myself, he started -- he was
17 spitting on the back of the cage, kicking the other window. I
18 tried to get him to calm down, explained who I was, and he
19 didn't want anything to do with it.

20 Q. Was he handcuffed?

21 A. He was handcuffed. He was yelling that he needed to
22 be unhandcuffed.

23 Q. What, if any, statements do you remember him making
24 to you directly?

25 A. Only that he needed to be unhandcuffed, and I think

1 he said something to the effect he was going to fucking kill
2 me, and it was only a few seconds because this was -- he was
3 not paying attention, wouldn't calm down so I just closed the
4 door.

5 Q. Were there -- did you notice any particular odors
6 about him?

7 A. Yes. There was a strong odor of what I thought was
8 beer in the back of the patrol car when I opened it.

9 Q. Would you say he was intoxicated?

10 A. He was so angry and yelling, he appeared to be
11 intoxicated.

12 Q. But I guess so -- so angry almost hard to tell unless
13 he calmed down?

14 A. Right.

15 Q. Okay. So you tried to speak with him, he made clear
16 he wasn't interested, what did you do next?

17 A. So we closed the door and we sent him down to -- to
18 the jail because he had warrants that were already -- the
19 officers on the scene had already verified, and fit the bill
20 for public intoxication, so we got him off the scene because he
21 was very belligerent.

22 After that we talked with other officers to see what
23 we had. I believe I spoke with Julie Ostlund. She gave me a
24 brief rundown of what we had. At this point the apartment's
25 locked and I decided to call the DA's office to see if we would

1 need some sort of search warrant to go into the apartment.

2 Q. And after calling up the DA's office, what were you
3 told about the need or lack of need of getting a search
4 warrant?

5 A. He said look in to see who was on the lease, and once
6 we determined, you know, what this situation was, to call him
7 back.

8 Q. And did you determine whether Dean Wood was a
9 permanent resident there or a guest?

10 A. According to Ms. Ostlund he was a guest, and my
11 partner, meanwhile he's at the hospital, Joel Burton is talking
12 to Mary Ostlund, and he's asking her the same sorts of
13 questions, who's on the lease. They both tell us that they're
14 on the lease, Mary and Julie are the only two on the lease, so
15 we ask them to sign the consent to search forms.

16 Q. So once you determine he's a guest, he's not on the
17 lease, the other occupants of the apartment will let you search
18 it, do you -- what do you do next?

19 A. So we obtain consent to search forms from Julie and
20 Mary. And once we had those, and once the crime scene unit was
21 ready to go, Julie gave us the keys and we went into the
22 apartment.

23 Q. And just briefly, since I guess -- would it be fair
24 to say that the actual processing of the scene is more the
25 responsibility of the crime scene unit?

1 A. Yes.

2 Q. So then what do you do when you do a walk-through of
3 the scene and the CSU is doing their -- what's sort of your
4 goal?

5 A. That's basically what it is, is a walk-through where
6 we're getting an idea of what we see, what we have. They're
7 doing the, you know, the actual measurements of where things
8 are and the collecting of where, you know, different pieces of
9 evidence. We're getting a general overview of what we have.

10 Q. And just briefly, since we've already heard a lot of
11 this from the CSU, what your memory of the walk-through of that
12 scene is.

13 A. Well, the biggest -- the biggest memory I have is
14 that the bathtub had a lot of blood in it. There were some
15 other areas on the carpet near the door in the living room area
16 that had blood on it, or in it, and, you know, otherwise, it
17 was a fairly neat and orderly place in general.

18 Q. Now, you mentioned that you talked to Julie Ostlund?

19 A. Uh-huh.

20 Q. There's another deputy I guess at the hospital
21 talking to Mary Ostlund; is that correct?

22 A. Correct.

23 Q. Did you make attempts to speak to other potential
24 witnesses at that scene?

25 A. I spoke to the neighbor next door, which who I

1 believe is Coreena Rodriguez. I also went down and talked to
2 another neighbor that lived below. There's four apartments,
3 one, two, three, four, two up, two down, and I just attempted
4 to speak to everyone that was in those four apartments.

5 Q. Now, when you spoke to Coreena Rodriguez, we're
6 talking about the immediate next-door neighbor one unit over on
7 that second floor?

8 A. Yes.

9 Q. Okay. And when you spoke to her again, without
10 saying, because I don't want us to violate the hearsay rule, so
11 without saying what she told you, did you get any indication
12 from her that there was any other potential suspect besides the
13 defendant?

14 MR. BYNUM: I'm going to object to hearsay and
15 confrontation, Judge.

16 THE COURT: That's overruled.

17 Q. (By Mr. Aslett) I'll just repeat the question. I
18 guess when you're speaking to different witnesses, you're
19 trying to get information to learn what potential suspects are
20 out there, correct?

21 A. Correct.

22 Q. I guess if you had a suspect that potentially had
23 fled the scene, you'd want to get that description and
24 information out there as quickly as you possibly could, right?

25 A. Yes.

1 Q. Okay. So I guess after speaking to the patrol
2 officers, speaking to Julie and speaking to Mary, that fair to
3 say Dean Wood is a potential suspect here, right?

4 A. Yes.

5 Q. After speaking to Coreena Rodriguez and learning what
6 she had had to say, did you have any -- did your scope of
7 potential suspects expand at all beyond Dean Wood?

8 MR. BYNUM: Only for purposes of the record, Judge,
9 same objection.

10 THE COURT: Overruled.

11 A. No.

12 Q. (By Mr. Aslett) And did you get any useful
13 information from the downstairs neighbors as far as to what
14 possibly went on in that apartment?

15 A. No.

16 Q. Okay. And if you could explain to the jury, what is
17 a canvas?

18 A. A canvas is going basically through a neighborhood
19 door to door, talking to different people, looking for video,
20 seeing if anyone saw anything or heard anything.

21 Q. And did you do that in this case?

22 A. We did that in the area of the four apartments. The
23 way the buildings were set up, that was the only four
24 apartments that looked like they would have any sort of
25 relevance.

1 Q. Okay.

2 A. But we didn't go all through the entire apartment
3 complexes banging on every single door in this case, no.

4 Q. After you did your canvas I guess of the immediate
5 units, did your focus continue to remain on the one suspect
6 that you still had at that time, the defendant?

7 A. Yes.

8 Q. Okay. And at any point during your investigation
9 that night, did you receive any information that would indicate
10 to you that there was a possible alternative suspect who would
11 have done this besides Dean Wood?

12 A. No.

13 Q. Okay. All right. So you do the walk-through of the
14 scene, you do your canvas, speak to Julie, what else did you do
15 out there?

16 A. I spoke with Sergeant Burton who was at the hospital
17 handling that side of the investigation, and we were comparing
18 information about what he saw versus what I saw.

19 Q. So I guess after speaking to everybody that you
20 could, letting the CSU do its job, and having the defendant be
21 transported, did you then leave the scene?

22 A. Yes.

23 Q. Okay. And do you recall how late, how long you were
24 on the scene, roughly?

25 A. A few hours. I think we probably left around 1:30 or

1 so maybe.

2 Q. Okay. What did you do as far as your investigation
3 of this case after you left the scene, I would imagine early
4 morning hours August 21st?

5 A. Right after we left the scene we went to the district
6 attorney's office.

7 Q. Okay. And what did you do there?

8 A. We spoke with ADA Jordan about getting a search
9 warrant.

10 Q. Okay. And was that a search warrant for the
11 defendant's clothing and other items?

12 A. No.

13 Q. Okay. What was the search warrant for then?

14 A. It was for --

15 Q. Let me stop you there. Was it to collect items from
16 the defendant?

17 A. Yes.

18 Q. At the jail. Okay. All right. So that was done.

19 And did you have any involvement with collecting any
20 of the items from the defendant at the jail, his shorts, his --
21 anything like that?

22 A. I was there, that was all.

23 Q. Okay. And did you witness those items being
24 collected from the defendant at the jail?

25 A. Yes.

1 Q. Okay. And did that include a pair of blue -- navy
2 blue shorts?

3 A. Yes.

4 Q. After you witnessed those items being collected at
5 the jail, what did you do then?

6 A. Then we went back to the office, and I think we just
7 got together and talked about what we were going to do next the
8 following day, or later on in the day.

9 Q. Let's talk about the, I guess the days after this
10 happens, the follow-up investigation that you do, what's the
11 next thing that you do as part of your investigation in this
12 homicide?

13 A. We went back and reinterviewed Julie and Coreena,
14 clarified some things. We went to the Fiesta to get some video
15 of that to make sure our timing was correct. We would order
16 911 tapes.

17 Q. All right. So you mentioned going to Fiesta doing
18 some surveillance video. Could you tell us about that?

19 A. Sergeant Rohling and I went to the -- I believe
20 Sergeant Rohling and I went to the Fiesta and had them get us
21 the video of that day of Julie going in and out of the store
22 buying cigarettes and beer or whatever she was buying.

23 Q. Okay. Did you personally view that video?

24 A. I viewed it, uh-huh.

25 Q. What does that video generally show?

1 A. Shows them going into the store, purchasing their
2 items, and coming out of the store.

3 Q. Okay. By them, we're talking about Julie Ostlund?

4 A. Julie and her friend, her next-door neighbor.

5 Q. And do you remember what items were being purchased?

6 A. I believe it was cigarettes and beer, maybe a soda.

7 I'd have to check the report or the receipt, but --

8 Q. And do you remember when you met with Julie after
9 watching the surveillance video, did she give you a receipt of
10 what she purchased with Coreena at that Fiesta?

11 A. We got a receipt at some point. I don't know if it
12 was that night of the initial investigation, or if it was a
13 couple days later, but at some point she gave us a receipt.

14 Q. Okay. And --

15 MR. ASLETT: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 Q. (By Mr. Aslett) Officer Brady, I'm showing you what's
18 been already admitted into evidence as State's Exhibit 120. Is
19 this the copy of the receipt that Julie Ostlund gave to you --

20 A. Yes.

21 Q. -- during the investigation? Okay.

22 And the purchase of these Marlboro Gold cigarettes
23 and Bud Light, did that match with what you say on surveillance
24 video from around the time that this homicide took place?

25 A. I don't think you could specifically -- I don't

1 remember if we could specifically tell, you know, what type of
2 cigarettes or anything. You could notice a box of beer and
3 something small.

4 Q. I guess then that you couldn't see on the
5 surveillance video anything more that was being bought other
6 than just cigarettes and beer, correct?

7 A. No.

8 Q. Okay. And did the surveillance video you viewed and
9 the receipt that you got from Julie corroborate what she and
10 the neighbor had been telling you about what occurred?

11 A. Yes.

12 Q. What did you do after that?

13 A. Like that day or -- where are --

14 Q. Just generally. So you go with the surveillance
15 video, you get this receipt, you go reinterview Julie and
16 Coreena. Generally what else did you do, if anything, as part
17 of your investigation of this case?

18 A. After that I was submitting certain things to the lab
19 to be processed, based on conversations mostly with the
20 district attorney's office, and gathering whatever they
21 suggested that they might need.

22 Q. Now, during the course of this homicide
23 investigation, did there come a point where you requested
24 certain items to be tested by the Houston Police Department
25 crime lab?

1 A. Yes.

2 Q. And what items do you recall requesting to be tested
3 by the lab?

4 A. Well, there were various items of clothing. The
5 items that were taken the night of the investigation by the
6 crime scene unit, which consisted I believe of clothing and
7 some pillowcases.

8 Q. Let me stop there. I guess I'll focus you on, so you
9 requested for clothing to be tested, right?

10 A. I requested whatever we had gathered, whatever we had
11 collected to be tested.

12 Q. All right. And did you submit just one request or
13 multiple requests?

14 A. I don't know. I would imagine more than one.

15 Q. Did you also request that the beer bottles, the Rock
16 Star energy can and malt liquor bottle recovered at the scene
17 be tested as well?

18 A. Yes.

19 Q. Now, at the time you requested those items to be
20 tested for the investigation, were you aware of any DNA results
21 in the case?

22 A. No.

23 Q. Okay. Then why did you request for them to be
24 tested?

25 A. To see if there would be any DNA results from them

1 that might help us.

2 Q. Okay. And as a general matter, how many cases would
3 you say you're working on at any given time as a homicide
4 investigator?

5 A. That's a very difficult question to answer. I
6 don't -- dozens perhaps. I mean, they come, you finish 'em,
7 they sometimes rear back up, sometimes they're never completed,
8 new ones keep getting added, so it's a very hard question to
9 answer.

10 Q. And so back in August going to the fall of 2010,
11 similar situation, this is not the only case that you're
12 working on?

13 A. No. I'd been there about a year, so maybe 20 cases.

14 Q. Okay. And when you're in -- would you say it's fair
15 to say that there are investigations that are in different
16 stages, some are more active and some are less active?

17 A. Yes.

18 Q. So after August 2010, would it be fair to say you had
19 a suspect and you collected about all the evidence you would be
20 expected to collect?

21 A. Yes.

22 Q. Okay. And were there other cases that you were
23 working on at this time that are more active, maybe hunting
24 down witnesses, leads, things like that?

25 A. I'm sure there were, yes.

1 Q. And where I'm going with all this, is do you recall
2 why you might have requested the bottles, other items of DNA
3 testing be, other items collected in this case to be tested
4 weeks or a couple of months after this arrest was made?

5 A. Hmm, no. I mean, no, I don't know. Sometimes that's
6 what we do. Sometimes things get requested really quickly,
7 sometimes they don't get requested really quickly.

8 Q. Okay. Do you ever request items to be tested solely
9 based on DNA results that come back that you may not like?

10 A. (No response.)

11 Q. I guess what I'm saying is that do you let your
12 investigation of a case be -- let me ask it this way. When you
13 get reports of DNA evidence results, do you go where that
14 evidence leads or do you try to shoehorn evidence into whatever
15 your preconceived notion of the case is?

16 A. No, we go to where the evidence leads.

17 Q. Okay. So after requesting all these items to be
18 tested, before you knew what the DNA results were and after
19 speaking with all the witnesses, did you have any further
20 involvement in this case?

21 A. No.

22 Q. Thank you, Officer.

23 MS. FULLER: Pass the witness, your Honor.

24 THE COURT: Cross-examination.

25 MR. BYNUM: Thank you, Judge.

1 CROSS-EXAMINATION

2 BY MR. BYNUM:

3 Q. Officer Brady, good afternoon.

4 You know, the first thing I'd really like to talk to
5 you about is this idea that this prosecutor was talking to you
6 about, about developing suspects when you arrived on the scene.

7 A. Yes, sir.

8 Q. I mean, we can agree that your job as a homicide
9 investigator when you first arrive on a scene is to identify
10 potential suspects, right?

11 A. Yes.

12 Q. And when you arrive on this scene, one of the first
13 things you see is Dean Wood in the back of a police car in
14 handcuffs?

15 A. Yes.

16 Q. So fair to say that at that point you're thinking,
17 Dean Wood is a suspect in this case?

18 A. That's true.

19 Q. Upon seeing that?

20 A. Sure.

21 Q. Because he's in the back of a police car?

22 A. Okay.

23 Q. And then after you're there a little while, you learn
24 some things about Dean and some things about the other
25 residents of the house, right?

1 A. Yes.

2 Q. And you learn that Dean and Julie are the only two
3 people that have access to the apartment that are present at
4 the scene when this happens, right?

5 A. Yes.

6 Q. And so they have that in common. And you learn that
7 both Dean and Julie live there?

8 A. Yes. Well, he's staying there.

9 Q. Staying there.

10 A. Yeah.

11 Q. So they have that in common?

12 A. They do.

13 Q. And you learn that they both were trying to revive
14 Flora on the ground as the other officers and the EMS arrived,
15 right?

16 A. Correct.

17 Q. And that's something else that they have in common?

18 A. Yes.

19 Q. And you also observe that, you know, neither Dean nor
20 Julie has -- let me take that back.

21 And they're both, to a certain degree, upset, right?

22 A. Yes, that's true.

23 Q. Now, Dean is a little more upset than Julie, right?
24 Dean's very upset, isn't he?

25 A. I only saw him for about 30 seconds to a couple -- a

1 few minutes, but he's definitely upset about something.

2 Q. Right. And so is Julie?

3 A. Yes.

4 Q. And that's something else they have in common?

5 A. Yes.

6 Q. So, but, you know, one thing they don't have in
7 common is that Julie is not in the back of a police car, right,
8 and Dean Wood is?

9 A. Yes.

10 Q. And as you're canvassing the scene for additional
11 witnesses, you discover there are no witnesses, eyewitnesses
12 that actually observed what happened to Flora Ryan?

13 A. That's correct.

14 Q. And so as I'm understanding the kind of progression
15 here, you show up on scene and you see Dean in the back of a
16 police car, you find that Dean has a great deal in common with
17 the other person who had access to the house, but Dean remains
18 a suspect and Julie in your mind never becomes a suspect?

19 A. Yeah, that's probably true.

20 Q. And you never questioned Julie in kind of an
21 antagonistic way that would indicate that she was a suspect?

22 A. Not in an antagonistic way, no. We asked her what
23 happened.

24 Q. Right. And you also learned that one thing that they
25 also don't have in common is that Julie has a key to the

1 apartment, right?

2 A. Yes, she has a key.

3 Q. And Dean does not?

4 A. Correct.

5 Q. But at that point, I mean, is it unusual for a
6 homicide -- in a homicide investigation, upon learning that a
7 person has uncontrolled access to a scene, and, in fact, may
8 have been the only person that had controlled access to a
9 scene, is it unusual for you to discard the possibility that
10 that person could be a suspect?

11 A. Nope.

12 Q. So, even upon learning that Julie could come and go
13 freely as she wished, and Julie was the 911 caller and so the
14 police didn't arrive until she wanted them to, that never
15 caused you to think that Julie could have been involved with
16 this?

17 A. We asked her what happened, and she gave us an
18 explanation.

19 Q. So she said she didn't do it, and that was good
20 enough for you?

21 A. Well, it doesn't end right there that specific
22 moment, no.

23 Q. But at no point did you ever think Julie was a
24 suspect in this case. I think that was your testimony earlier.
25 I just want to make sure in light of the other questions that's

1 still the case?

2 A. At this point that's correct.

3 Q. Okay. And really at no point in this investigation
4 was she treated like that?

5 A. No.

6 Q. So, you talked to her. At a certain point -- let me
7 ask this, have you listened to the 911 tape that when Coreena
8 called 911 -- Julie?

9 A. I knew what you meant. Julie.

10 Q. Thank you.

11 A. I have not listened to that in several years.

12 Q. But you did listen to it at some point during your
13 investigation?

14 A. Yes.

15 Q. And do you remember -- do you remember how the caller
16 sounded in that tape?

17 A. Not really.

18 Q. No. Fair to say that the way you heard Julie on the
19 tape, how her affect and her tone was similar as she appeared
20 to you on the scene?

21 A. I don't remember what it sounded like.

22 Q. Okay. You know, I want to talk to you about
23 something you said earlier about going to the Fiesta. You said
24 that -- the prosecutor asked you did viewing the video
25 corroborate the statements, the witness statements you had

1 taken before, and you answered that it did?

2 A. Yes.

3 Q. But that's not true, is it? I mean, isn't it true
4 that the video contradicted the statement that you took from
5 Coreena?

6 A. I don't know.

7 Q. Okay. Well, you wrote an offense report in this
8 case, right?

9 A. Yes.

10 Q. You wrote notes into an offense report, and it's, you
11 know -- you know what I'm about to ask you. You know how
12 important it is to take accurate notes in an offense report,
13 right?

14 A. Okay.

15 Q. And, I mean, would it refresh your memory to
16 review -- I mean, do you remember Coreena telling you that she
17 didn't go to Fiesta with Julie?

18 MR. ASLETT: Objection, hearsay, your Honor.

19 MR. BYNUM: If I can respond here or at the bench?

20 THE COURT: Why don't you-all come up.

21 (The following proceedings were had at the bench:)

22 MR. BYNUM: We're impeaching him. If the State wants
23 a limiting instruction, you know, that's fine, but, I mean, he
24 said that the tape corroborated the statement, but his previous
25 statement was that Coreena told him that she wasn't at the

1 Fiesta, so -- I'm impeaching him. I'm not introducing her
2 statement for the truth of the matter asserted.

3 THE COURT: My thought is, the answer was that it
4 corroborated what Julie did, not what Coreena said.

5 MR. BYNUM: That's not how I heard it. I mean, I
6 thought --

7 THE COURT: Think about it.

8 MS. FULLER: Judge, there are a couple of jurors that
9 keep wiggling in their seats.

10 (The following proceedings were had in open court:)

11 THE COURT: Ladies and gentlemen, we're going to take
12 a quick break. We'll get you back out here. I'm so sorry. I
13 thought we'd wrap up quickly, but I need to check something out
14 real quick. You-all all rise for the jury, please.

15 (Jury out.)

16 THE COURT: All right. So you asked about the
17 neighbor and so you want to cross-examine that the neighbor
18 said something different than what the officer testified to?

19 MR. BYNUM: Yes.

20 THE COURT: All right. So say it in a way that you
21 don't ask for hearsay.

22 MR. BYNUM: Okay. But I still think I can impeach
23 with hearsay.

24 THE COURT: Well, I will agree in certain context you
25 can, but if she said something different. The answer obviously

1 has to rely on hearsay.

2 MR. BYNUM: Yeah, sure, okay.

3 THE COURT: Does that make sense?

4 MR. BYNUM: It does.

5 THE COURT: Obviously you can impeach with the
6 prior --

7 MR. BYNUM: Okay. Got it, Judge.

8 (Break.)

9 (Jury in.)

10 THE COURT: You may be seated, Mr. Bynum.

11 Q. (By Mr. Bynum) Officer Brady, let's go back to you
12 going to the Fiesta. And you had said before that the video
13 you saw at Fiesta corroborated the statements given to you by
14 Julie and her neighbor Coreena, right?

15 A. Yes.

16 Q. And but -- and we know now, because you've actually
17 had a chance to refresh your recollection as well, that that's
18 not true?

19 A. No, that is -- no, I do not say that.

20 Q. Okay. Well, isn't it true that when you view the
21 videotape from Fiesta that it did directly contradict Coreena's
22 statement?

23 A. Coreena's initial statement.

24 Q. Right.

25 A. But not Julie's.

1 Q. And, in fact, at the time you viewed the video that
2 was the only statement you had from her?

3 A. From her, but not from Julie.

4 Q. Right. And we're just talking about her right now,
5 you know, because --

6 A. Well, we went back and asked her about it.

7 Q. Right.

8 A. Right. So --

9 Q. You went back and asked them both about it, in fact?

10 A. Yes.

11 Q. And you went back and Coreena admitted to having lied
12 to you?

13 A. Yes.

14 Q. And then you went to Julie's house, right after you
15 spoke to Coreena, you went and spoke to Julie about the same
16 thing?

17 A. Okay.

18 Q. Right?

19 A. Yes.

20 Q. And Julie said that she knew her neighbor lied?

21 MR. BYNUM: Objection, hearsay, your Honor.

22 THE COURT: Overruled.

23 Q. (By Mr. Bynum) Right?

24 A. Repeat the question, please.

25 Q. I mean, Julie told you that she knew that her

1 neighbor lied to you?

2 A. She had to have known that because Coreena was with
3 her, yes. Well, I don't know if she knew what Coreena had told
4 us actually. I don't remember. I'd have to check the report.

5 Q. Would it refresh your recollection to refer to your
6 offense report at page 2.079 in the last full paragraph?

7 A. This is written -- this is not written by me, by the
8 way.

9 Q. Okay. But still would it refresh your recollection
10 to read your partner's notes about that interaction?

11 A. Okay. Yes, it would.

12 Q. Now, read it to yourself.

13 A. Which page, what, which part?

14 Q. Just that last paragraph, if you could just read it
15 silently to yourself, if it would refresh your recollection.

16 A. (Complies.) Okay, yes, go ahead.

17 Q. Did reading that refresh your recollection as to your
18 own personal knowledge of what happened when you were
19 interviewing Julie that afternoon? This is about two weeks
20 after --

21 A. Right.

22 Q. -- the incident.

23 A. Okay.

24 Q. Did that refresh your memory?

25 A. Yes.

1 Q. Now, did Julie admit to you that she knew her
2 neighbor had lied to you?

3 A. Yes, that's what it says.

4 Q. So it stands. So what that means is, is that at some
5 point after Coreena spoke to you Coreena must have spoken with
6 Julie about lying to you?

7 MR. BYNUM: Objection, calls for speculation, lack of
8 personal knowledge.

9 THE COURT: Overruled.

10 A. Yes.

11 Q. (By Mr. Bynum) So as a homicide investigator, did
12 that not raise any red flags that two potential suspects at
13 least as you arrive now have gotten together to kind of like
14 get stories straight?

15 A. At this point, no.

16 Q. No. So you have someone who -- at no point did Julie
17 talking to her neighbor about lying to police officers, did you
18 at all change your thought process about her possibly being
19 involved in this?

20 A. No, because we'd already spoken to Mr. Wood at this
21 point.

22 Q. And Mr. Wood denied all involvement in this, didn't
23 he?

24 A. I don't believe so.

25 Q. Well, but you didn't interview him?

1 A. No.

2 Q. And -- so you know the real -- the real contradiction
3 between all these statements that you're trying to get to the
4 bottom of when you're revisiting them and going to the Fiesta
5 is the amount of time, is the time, right?

6 A. That's one thing we're trying to do.

7 Q. That's the main thing you're trying to do, fair to
8 say?

9 A. It's one thing we're trying to do.

10 Q. And that's where the contradiction is, is the
11 timeline, right?

12 A. What contradiction?

13 Q. Well, the contradiction that you encountered when you
14 re-interviewed both Julie and Coreena, was had to do with the
15 timeline of events that night, right?

16 A. I don't know -- I don't know if that was -- if that's
17 true or not.

18 Q. Well, the thing that Julie knew that Coreena had lied
19 to you about involved the timeline, didn't it?

20 A. I think it involved their actual actions, not the
21 timeline necessarily.

22 Q. Well, their actions would fall on a timeline,
23 wouldn't they?

24 A. They were lying for other reasons.

25 Q. Well, but the way -- the thing about the Fiesta, I

1 mean -- in a homicide investigation the timeline is crucial,
2 isn't it?

3 A. Yes.

4 Q. So all events happen in sequence as we kind of move
5 through this life and time, right?

6 A. Sure.

7 Q. I asked you a question a moment ago and I'm about to
8 ask you another question and the order of these things is
9 really important.

10 A. Okay.

11 Q. Right?

12 A. Yes.

13 Q. And, in fact, isn't it fair to say that the timeline
14 is the most important thing in a homicide investigation?

15 A. I wouldn't say that.

16 Q. No. I mean, you use the timeline to determine when
17 the decedent died, right, at any investigation?

18 A. Sure, we find out what time the decedent died.

19 Q. And what time potential suspects come and go from a
20 scene, that's an important part of the timeline too, isn't it?

21 A. Yes.

22 Q. And what time officers arrive at the scene is an
23 important part of the timeline, right?

24 A. Yes.

25 Q. And what time the 911 call is made is an important

1 part of the timeline?

2 A. It's part of the timeline, yeah.

3 Q. So the timeline is really essential to any
4 investigation?

5 A. It's part of it for sure.

6 Q. And, you know, when people are certain places on the
7 timeline it's very important, isn't it?

8 A. Yes.

9 Q. And another thing that Coreena admitted to lying to
10 you about is that Julie was in the apartment?

11 MR. ASLETT: Objection to hearsay, Judge, a running
12 objection to hearsay for any statements Coreena made.

13 THE COURT: That's sustained.

14 Q. (By Mr. Bynum) Coreena was inconsistent with you
15 about Julie's location that night, wasn't she?

16 A. I believe she was, yes.

17 Q. Yeah. So she lied to you about where Julie was in
18 her first statement to you, right?

19 A. Yes.

20 Q. But despite that, you still never made a decision to
21 investigate Julie's involvement any further?

22 A. We took her statement three times or -- whatever,
23 so --

24 Q. So you took her at her word that she wasn't involved?

25 A. Yes, we did.

1 Q. Okay. I'd like to play for you what I believe the
2 State is going to stipulate to submitting, the 911 tape; is
3 that correct?

4 MR. ASLETT: Yes.

5 MR. BYNUM: I believe as Defendant's Exhibit 2. Are
6 we at 2?

7 THE COURT: That's right.

8 Q. (By Mr. Bynum) I'd like to play for you finally the
9 911 tape.

10 MR. BYNUM: And I'm tendering the 911 tape to the
11 State and asking for it to be admitted by stipulation.

12 MR. ASLETT: No objections, Judge.

13 THE COURT: All right. Defense 2 is admitted without
14 objection.

15 MR. BYNUM: And I'd ask the State to help me publish
16 it.

17 And may I publish it, Judge?

18 THE COURT: Yes, with the State's help.

19 MR. ASLETT: Putting my law degree to use.

20 MR. BYNUM: Yes.

21 Q. (By Mr. Aslett) And, Officer Brady, what I'm going to
22 ask you to do at the end of this, just listen to it, and with
23 keeping in mind your interactions with Julie when you arrived
24 on the scene the night.

25 (Audio recording played.)

1 Q. (By Mr. Bynum) So, Officer Brady, having listened to
2 that with some attention to the tone and effect of Julie
3 Ostlund, based on your experiences with her that night, is this
4 call, is the tone and affect of Julie Ostlund on this --

5 MR. BYNUM: May I approach the exhibits, Judge?

6 THE COURT: You may.

7 Q. (By Mr. Bynum) Is the tone and affect of Julie
8 Ostlund in this call the same or substantially similar the way
9 she was, the way you remember her being when you saw her that
10 night?

11 A. I just don't know.

12 Q. Okay.

13 A. I don't know.

14 Q. Now, you don't or --

15 A. Means that I don't really remember. I don't
16 remember.

17 Q. Okay.

18 MR. BYNUM: Pass the witness, Judge.

19 THE COURT: Redirect?

20 MR. ASLETT: Yes, your Honor.

21 REDIRECT EXAMINATION

22 BY MR. ASLETT:

23 Q. Officer Brady, let's talk about certain aspects of
24 Julie's affect that you might remember. When you talked to her
25 with Sergeant Rohling, was she screaming at you?

1 A. No.

2 Q. Was she claiming to be in special ops?

3 A. Pardon?

4 Q. Was Julie claiming to have been a Marine?

5 A. No.

6 Q. Threatening to kill you?

7 A. No.

8 Q. Claiming she's killed other people?

9 A. No.

10 Q. Did she have any smell of alcohol about her?

11 A. No.

12 Q. Fair to say that, I believe the word that defense
13 counsel used was the defendant is upset and Julie is upset.
14 We're talking two very different types of upset here, aren't
15 we?

16 A. Yes.

17 Q. Okay. And we hear some yelling from the defendant on
18 the 911 tape, although it's hard to hear because it's in the
19 background. Same kind of yelling that you witnessed him doing
20 that night?

21 A. It was calmer on the 911 tape.

22 Q. Okay. Let's talk about Coreena. We hear her voice
23 briefly in the 911 tape, don't we?

24 A. I think we do.

25 Q. It sounds like Julie's handed her the phone, she's

1 briefly holding the phone while they're grabbing her out of the
2 bathtub. Is that how you heard it as well?

3 A. Yes.

4 Q. Okay. Now, you get several statements from Julie
5 about what occurred. You and Sergeant Rohling interview her a
6 couple of times, correct?

7 A. That's correct.

8 Q. Okay. And her -- is her account of what happened
9 consistent from statement to statement to statement?

10 A. Generally speaking, yes.

11 Q. Okay. And you already testified that it's
12 corroborated by her receipt and the video that you observed
13 from Fiesta, correct?

14 A. Yes.

15 Q. Okay. Now, that's not the same for Coreena. We've
16 heard that there was -- that Coreena in her first statement,
17 she lied; is that correct?

18 A. Yes, I believe she did.

19 Q. Okay. And she basically lied about whether she went
20 to Fiesta or not, right?

21 A. I believe that's true.

22 Q. Okay. And then you saw obviously Coreena went to
23 Fiesta and then you confront her about that, right?

24 A. Yes.

25 Q. Okay. And then obviously she has to admit that she

1 did go to Fiesta with Julie, right?

2 A. Yes.

3 Q. And did you get a reason for why she lied about this
4 little detail?

5 A. Yes.

6 Q. And what was that reason?

7 A. According to the report, she said it had to do with
8 she left her infant or small child with her teenage brother,
9 and thought that that was -- we would -- oh, then there's
10 something about an illegal, her husband's illegal or her
11 brother's illegal, someone is illegal, and she left the child
12 and she didn't want us to know that she left her child.

13 Q. So she's worried about immigration consequences?

14 A. I guess so.

15 Q. And she's worried about possible child abandonment?

16 A. I suppose.

17 Q. Okay. During your investigation did you get any
18 information suggesting that Coreena had a motive to kill Flora
19 Ryan, at all?

20 A. No.

21 Q. Or that she was a potential suspect in this at all?

22 A. No.

23 Q. Did you ever learn whether Coreena had a key to the
24 apartment or not?

25 A. I -- they didn't say she did.

1 Q. All right. As far as you know from the information
2 you developed it would be Julie and Mary Ostlund were the only
3 people with access to that apartment?

4 A. That's what they said.

5 Q. Okay. And so we have an explained lie from Coreena
6 and fair to say no -- you don't catch Julie in any sort of lies
7 about this case that you can find?

8 A. Lies, no.

9 MR. ASLETT: Pass the witness, your Honor.

10 MR. BYNUM: Very briefly, Judge.

11 RE CROSS-EXAMINATION

12 BY MR. BYNUM:

13 Q. You know, there's an inconsistency that I left out.
14 You know, I was so focused on Coreena that I forgot when you go
15 and look at the videotape in Fiesta, Julie also initially was
16 inconsistent to you about what she purchased at Fiesta, wasn't
17 she?

18 A. I think she does talk about a Coke at some point. I
19 don't remember what part of this, if it's in the first
20 interview, Sergeant Wilson's interview, or whoever later
21 interviews her.

22 Q. When you're viewing that tape from Fiesta, do you
23 remember what the largest in terms of size item was that was
24 purchased in that video?

25 A. I think it's, like, not a Coke, it's a box, right.

1 Q. A box. A box of?

2 A. Beer.

3 Q. Beer.

4 A. Yes.

5 Q. And when you see this tape, you realize that that is
6 not consistent with Julie's initial statement, right?

7 A. We probably did, yes.

8 Q. And you also know that part of the evidence taken in
9 this case that you actually requested to be DNA tested later
10 were beer bottles, right?

11 A. Yes.

12 Q. And Julie was inconsistent to you about whether or
13 not she was ever in possession of beer bottles, right?

14 A. She may have been, yes, yes, I guess.

15 Q. And they were -- and we're talking about Bud Light
16 bottles, right?

17 A. Right.

18 Q. She was inconsistent with you about whether she was
19 ever in possession of Bud Light bottles, right? Right?

20 A. At some point she was, yes.

21 Q. And one of your theories as a homicide investigator
22 is that a Bud Light bottle was involved in this homicide,
23 right?

24 A. I --

25 Q. That's one of your theories, right?

1 A. Okay, yeah.

2 Q. And she lied to you about whether or not she had any
3 that night, right?

4 A. I have to review the report, but she was inconsistent
5 about small little things, yes.

6 Q. Well, is it a small little thing, is a potential
7 murder weapon a small little thing?

8 A. You got me.

9 Q. What do you mean?

10 A. Congratulations, I walked into that trap. But, yes,
11 I mean, she -- I don't -- maybe she -- she might have been
12 inconsistent about the Bud Light.

13 Q. And -- all right. And, you know, the prosecutor --
14 or no, I think it was you that talked about --

15 MR. HOCHGLAUBE: Can we approach?

16 (The following proceedings were had at the bench:)

17 MR. HOCHGLAUBE: One of the other reasons that
18 Coreena lied to the police is that there was marijuana found at
19 the -- that there was marijuana in her apartment. And that was
20 not discussed, the rest of the story. Based on the
21 prosecutor's last questioning basically explained why Coreena
22 would lie.

23 THE COURT: I agree.

24 (The following proceedings were had in open court:)

25 Q. (By Mr. Bynum) And so Coreena also gave you another

1 reason why she lied to you, right, that night, and that reason
2 was that there was marijuana on her porch?

3 A. I think that's -- yes, at some point she brings that
4 up. She didn't want us to go out onto her porch or something
5 because there was marijuana outside.

6 Q. Even though the porch is visible from the porch of
7 this apartment, right?

8 A. It's visible.

9 Q. So you could have -- you saw over on to Coreena's
10 porch as you were looking at the porch in the Ostlund
11 residence, right?

12 A. Yes.

13 Q. So did you find Coreena's excuses as to why she lied
14 to a police officer to be credible?

15 A. Why she lied? I found them to be the typical type of
16 lie that we get sometimes.

17 Q. I mean, don't you think it's unusual that the
18 complainant's granddaughter knew that a witness had lied to you
19 and didn't contact you about that?

20 A. No, not -- I don't have any opinion about that.

21 Q. Well, do -- does family of complaining witnesses, do
22 they -- do they, in your training and experience, do they
23 typically cooperate with the investigation because they want
24 some finality, or do they not cooperate?

25 A. In general they cooperate.

1 Q. So is it cooperating with the police to conceal that
2 a witness has lied to the police?

3 A. No.

4 Q. No. So in this case, Julie was not cooperating with
5 your investigation of her grandmother's death?

6 A. I'm not saying that.

7 Q. You know, I think the heart -- I talked a lot about
8 the timeline, right? And the point of the timeline is that
9 people are going in and out of an apartment where there ends up
10 being a dead old woman, right?

11 A. At what point are they going in and out are you
12 talking about?

13 Q. Throughout the evening people are going into and out
14 of an apartment where eventually an old woman is dead?

15 A. Well, someone leaves and then goes back, so I don't
16 think in and out is -- she left and then she went back.

17 Q. Julie?

18 A. Julie.

19 Q. But just to be clear, you've received multiple
20 different accounts of when Julie was in the apartment on the
21 night of her grandmother's death, right?

22 A. I don't think multiple different accounts is
23 accurate.

24 Q. Well, you've heard more than one, haven't you?

25 A. Are you talking about within, like, five minutes or

1 ten minutes, that type of different account? Or are you
2 talking about numbers of times?

3 Q. I'm talking about numbers of times in and out of the
4 apartment.

5 A. I'd have to look.

6 Q. So --

7 THE COURT: All right. We're going to take a break
8 for the day. It's 5:00 o'clock. I need you back here, jurors,
9 at 9:30. I appreciate you-all returning today after the long
10 break. If you-all would please try to be prompt tomorrow at
11 9:30 we'll get started right away, okay. We'll see you
12 tomorrow at 9:30.

13 (Jury out.)

14 THE COURT: All right. We'll start back here at
15 9:30. Make sure that you-all have reviewed the charge so we
16 can review it before we start at 9:30.

17 MR. BYNUM: I think we already have.

18 (Proceedings recessed until September 24, 2013.)
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