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**ROGELIO CARREON,**

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

**BY MR. BURDETTE:**

Q. Would you please state your name for the record?

A. Yes. I'm Officer Rogelio Carreon.

Q. All right. Officer Carreon, I would like to talk to you about bits and pieces of this aggravated robbery investigation that you conducted, specifically, April 12th, 2011. Okay?

A. Yes, sir.

Q. Were you dispatched to the approximate location of 3000 Broadway in regards to an aggravated robbery?

A. That's correct, sir.

Q. Who were you with on that day?

A. I was with Officer Wyssbrod.

Q. Is that your partner?

A. That's my partner, yes, sir.

Q. When you arrived to that scene -- well, even before you arrived, what kind of call are you responding to?

A. It was an aggravated robbery that just occurred.

Q. Okay. Were there indications that a weapon had

1       been used?

2           A.     The call slip, I believe, did say that a weapon  
3       was used, yes, sir.

4           Q.     Approximately what time are we talking about  
5       here that you were dispatched?

6           A.     It was in the evening time. I want to say  
7       9:40, somewhere around there. It was later, almost  
8       close to my shift ending.

9           Q.     Okay. And upon arrival, did you meet with Jose  
10       Castillo?

11          A.     That's correct.

12          Q.     Now, you had met Mr. Castillo before; is that  
13       right?

14          A.     That's correct?

15          Q.     All right. You were familiar with him?

16          A.     Yes, sir.

17          Q.     Y'all weren't friends, like you spent time  
18       outside of work or anything?

19          A.     I wouldn't say we were friends. I just knew  
20       him because of a school that I worked at as an extra  
21       job. I know he's an employee there.

22          Q.     So upon arrival, you meet with him. What does  
23       he tell you that happened?

24          A.     He starts giving my -- right away, I asked him,  
25       What's the description? That way, I could put it out

1 over the computer so all the other units could know what  
2 to look for.

3 Q. What type of description do you recall him  
4 giving?

5 A. I remember him telling me it was a Chevy  
6 vehicle. He didn't know if it was a Malibu or Impala.  
7 And he gave me a plate. I tried running it or changing  
8 up the letters to see if the Chevy would come up.

9 Q. Okay. Besides the vehicle, did he give you any  
10 suspect descriptors?

11 A. Yes. He told me it was a black male, tall  
12 black male, light skin, had a hoodie. And started  
13 describing how the hoodie looked.

14 Q. Did he give you a color?

15 A. He told me it was either dark gray or black.

16 Q. Did he give any descriptors about anything that  
17 might be on the hoodie?

18 A. He also told me that there was some stitching  
19 in the back, some white stitching.

20 Q. Was he able to tell you whether he was wearing  
21 shorts or pants?

22 A. I don't recall what he -- what other stuff he  
23 was wearing, no, sir. I don't remember.

24 Q. Did he give you a description of the gun?

25 A. Yes. He told me he thought it was a 9

1 millimeter, black, semiauto.

2 Q. Based on the description he was able to give  
3 you, did you feel like you had maybe a vague picture of  
4 what the suspect looked like in your mind?

5 A. Yes.

6 Q. Okay. Compared to other suspect descriptions  
7 you have received over the course of your career, would  
8 you say this was a fairly good description or pretty  
9 vague, general description?

10 A. I would say it's a pretty good description. A  
11 lot of people don't remember a lot of details like  
12 Mr. Castillo did.

13 Q. Okay. Did he seem confident in those details?

14 A. Yes, sir.

15 Q. At that point are you conducting an  
16 investigation? You're said you trying to develop the  
17 suspect vehicle; is that right?

18 A. That's correct, sir.

19 Q. At some point do you receive a call from  
20 Officer Duran?

21 A. Yes, sir. I received a phone call from Officer  
22 Duran.

23 Q. Okay. And is it in regards to this case?

24 A. Yes, sir.

25 Q. Did he tell you he had a possible suspect?

1 A. Yes, sir.

2 Q. Okay. So what do you and your partner do?

3 A. I told him to get backup. That might be our  
4 suspect and he just robbed somebody, so he could be  
5 armed. And I'm on my way to meet up with him.

6 Q. All right. Did you go meet up with Officer  
7 Duran?

8 A. That's correct, sir.

9 Q. At that point does he have the suspect  
10 detained?

11 A. Yes, sir.

12 Q. Where is the suspect at this point?

13 A. I don't remember if he was outside of the  
14 vehicle or he was in the back of Duran's vehicle at that  
15 moment.

16 Q. Well, where is the vehicle, I should say?

17 A. They are at a gas station by Seller Brothers.  
18 I don't remember the hundred block. It is a few blocks  
19 away from where the incident occurred.

20 Q. Okay. Maybe about a mile or so?

21 A. I would say less than a mile.

22 Q. On the same street?

23 A. On the same street, yes, sir.

24 Q. Is that Broadway?

25 A. That's correct.

1 Q. When you arrive on scene, do you make contact  
2 with the defendant? You have Officer Duran get him out?

3 A. I'm sorry. Can you repeat that?

4 Q. Do you have Officer Duran get the defendant out  
5 of the car so you can take a look at him or what do you  
6 do?

7 A. Well, I arrive first. I saw the suspect first  
8 and I felt pretty confident that that was going to be  
9 our guy. That's what I thought.

10 Q. Okay. So based on what you saw and what  
11 Mr. Castillo had told you, did you feel like you had a  
12 good suspect there?

13 A. That's correct, sir.

14 Q. That fit the description he had given you?

15 A. That's correct.

16 Q. So do you contact Mr. Castillo?

17 A. I believe I'm the one that contacted him, yes,  
18 sir, because I'm the one that gathered his information.  
19 So, yes, sir.

20 Q. So he shows up; is that right?

21 A. That's correct.

22 Q. And walk us through what happens from the time  
23 Mr. Castillo gets there until the time he makes a  
24 positive ID. How is the show-up conducted?

25 A. Okay. When Mr. Castillo showed up, we pulled

1 out the suspect. He was approximately five to six yards  
2 away, a good distance. And we put a spotlight on the  
3 suspect so he wouldn't make any evil looks at the  
4 complainant, intimidate him in any way.

5 And the complainant looked at him and  
6 said, That's the guy. And -- but he said that he was  
7 wearing something different. And he started describing  
8 the coat that he was wearing.

9 Q. Okay.

10 A. And I remembered seeing the coat in the  
11 backseat, that exact same coat. It is a pretty  
12 distinctive coat.

13 Q. Okay. So he says, That's the guy. Did he  
14 exhibit any hesitancy?

15 A. No, sir.

16 Q. Did you believe that he was confident in his  
17 identification?

18 A. I believe he was confident, yes, sir.

19 Q. Was he wavering in any way at the time, like,  
20 Well, I'm not quite sure, maybe, maybe not, or was it  
21 positive ID?

22 A. It was positive ID, sir.

23 Q. After positively identifying him, you said he  
24 made a statement about the clothing that he was wearing  
25 at the time of the robbery; is that right?

1           A.     That's correct.

2           Q.     So what did you do, based on Mr. Castillo's  
3 statement?

4           A.     After he was the one that described it to me, I  
5 pulled out the coat. I said, This one?

6                     He said, That's the one.

7           Q.     Where was the coat located?

8           A.     It was in the backseat.

9           Q.     Backseat of --

10          A.     Right on top of everything else he had. He had  
11 a lot of junk back there.

12          Q.     There was a lot of items in that car?

13          A.     That's correct.

14          Q.     And the jacket was there on top of everything  
15 in the backseat; is that right?

16          A.     That's correct.

17          Q.     I'm showing you what's been marked as State's  
18 Exhibit 12. Do you recognize it?

19          A.     That's the coat right there.

20          Q.     Okay. When you pull it out, was it inside out  
21 or right side out? You can see here there is kind of  
22 two sides to it. You see you've got a side --

23          A.     It was laying on the side so you could see the  
24 yellow and the part of it. I didn't notice that was  
25 that much yellow, but I could see the edges of it when I



1 first saw it.

2 Q. Okay. When you pull it out and show it to  
3 Mr. Castillo, what does he tell you?

4 A. He said, That's it. Right away. He told me,  
5 That's the coat he was wearing.

6 Q. Was this stitching and hoodie consistent with  
7 how he described it initially at the scene?

8 A. Yes, sir.

9 Q. So he positively identified this as well?

10 A. Yes, sir.

11 Q. Did anyone there at the scene in any way  
12 suggest that he had to identify the suspect?

13 A. No, sir.

14 Q. Did you tell them before he made an  
15 identification of the suspect that that guy had his  
16 credit card in his possession?

17 A. No, sir.

18 Q. And do you see the suspect, the person that  
19 Mr. Castillo positively identified that night, here in  
20 the courtroom today?

21 A. Yes, sir.

22 Q. Would you point to him and identify him by  
23 article of clothing?

24 A. The one wearing the orange jumpsuit.

25 Q. Okay. So you had an opportunity to view the

1 defendant that night. Does he look different here today  
2 than he did that night?

3 A. Gained a little weight.

4 MR. BURDETTE: And, Judge, before he  
5 answers, could we have the defendant stand?

6 THE COURT: Would you stand, sir?

7 *(Defendant complies.)*

8 A. Yeah, he was a lot thinner.

9 Q. *(BY MR. BURDETTE)* He was thinner?

10 A. He was thinner, but same guy.

11 Q. Okay. Did he make any statements there at the  
12 scene? Did you interview him at all?

13 A. No, sir, I didn't.

14 Q. What were the lighting conditions like when  
15 Mr. Castillo identified the defendant?

16 A. Well, I had worked that area. That's my beat.  
17 And those lights are -- I want to say they are sodium.  
18 They're orangey/yellow. It's fairly well -- it's okay.  
19 It's fairly lit.

20 Q. Okay. And it was -- there was artificial  
21 lighting there when Mr. Castillo identified the  
22 defendant?

23 A. That's correct. And it was already dark, so.

24 Q. You said five to six yards?

25 A. I'm sorry. I thought you meant the crime

1 scene. You are talking about when we stopped him?

2 Q. No, no, no. Let me just ask a new question.

3 Earlier you said the defendant was five to  
4 six yards away from the time Mr. Castillo identified him  
5 there near the Sellers Brothers; is that right?

6 A. That's correct.

7 Q. So you and I are maybe 15 feet apart. Would  
8 you say Mr. Castillo was closer or further back?

9 A. I would say about that far.

10 Q. About this far?

11 A. Yes, sir.

12 Q. So I'm standing here at counsel table. You're  
13 at the witness stand. Maybe 20, 25 feet?

14 A. I'm better with yards.

15 Q. Okay.

16 A. Yeah. That's about it.

17 Q. Okay. And why do you keep this much distance  
18 between the two of them? Why won't you bring the victim  
19 right up close to the defendant like what happened at  
20 the robbery?

21 A. I wouldn't want the defendant to intimidate the  
22 complainant in any way and that's the main reason.

23 Q. Do you also try to keep the victim safe?

24 A. That's correct, sir.

25 Q. And so this distance here is a safe distance?

1 A. Yes, sir.

2 Q. Is that how you're trained to do it?

3 A. Yes, sir.

4 Q. And did you follow your training that night?

5 A. Yes, sir.

6 Q. Did Mr. Castillo indicate to you that the  
7 defendant used a real firearm?

8 A. Yes, sir.

9 Q. Okay. Did you have any reason to believe  
10 otherwise?

11 A. No, sir.

12 MR. BURDETTE: I'll pass the witness at  
13 this time.

14 THE COURT: Okay. Mr. Tanner.

15 MR. TANNER: Thank you, Judge.

16 **CROSS-EXAMINATION**

17 **BY MR. TANNER:**

18 Q. Officer Carreon, why don't we start off where  
19 you left off at.

20 He said he believed it was a real firearm,  
21 correct?

22 A. That's correct.

23 Q. You and the other officer never recovered a  
24 firearm in the vehicle, correct?

25 A. No, sir.

1 Q. Did you help search the vehicle?

2 A. Yes, sir.

3 Q. You didn't find any drugs either?

4 A. No, sir.

5 Q. No firearms?

6 A. No, sir.

7 Q. Is it true that there are some guns that are  
8 like -- look like real guns, but they are not real guns?

9 A. That's true.

10 Q. You have seen those?

11 A. Yes, sir, I have.

12 Q. When you went over to the Sellers Brothers  
13 where the defendant was with the other officer, is  
14 that -- are you the person -- you called the victim in  
15 this case and told him to come over, correct?

16 A. That's correct, sir.

17 Q. Did you tell him that you recovered the credit  
18 card?

19 A. No, I did not.

20 Q. Never said anything about the credit card?

21 A. No, sir.

22 Q. After he came over there and saw the defendant,  
23 did you tell him then that you all had his credit card?  
24 The guy had his credit card?

25 A. No, sir. Not until after he had identified

1 him, sir.

2 Q. All right. But then you did and gave him his  
3 credit card back?

4 A. That's correct, sir.

5 Q. Did you recover a wallet or any other property  
6 in the defendant's car?

7 A. I don't recall.

8 Q. Now, in your offense report -- you did an  
9 offense report, correct?

10 A. My partner, he is the one that wrote the  
11 report. I'm the one -- I was the one gathering all the  
12 information. I relayed it to him. He's the one that  
13 typed it.

14 Q. Okay. So you and your partner together entered  
15 this report, right?

16 A. That's correct, yes, sir.

17 Q. I have got a copy of it. I don't see where  
18 there was a description given to you of the suspect. Is  
19 that true? There was no description in the report that  
20 you-all put in as to what the victim told you as to  
21 height or anything?

22 A. I didn't read that in the report. My partner  
23 didn't put that on there, but it was entered in the  
24 computer. As soon as he told me, I sent it off to  
25 everybody, all the units in the area of Houston.

1 Q. But in your report, you and your partner didn't  
2 enter the actual description of the person?

3 A. No, sir.

4 Q. The particular vehicle which this suspect was  
5 caught driving, do you have any pictures of that? You  
6 and the other officer?

7 A. I didn't take pictures of it, no, sir. I don't  
8 believe my partner did either.

9 Q. Do you remember the two letters -- you say in  
10 the offense report or your partner in the offense report  
11 said there were two letters in the license plate number.  
12 Do you recall what they were?

13 A. I don't remember. I just remember they were  
14 the first two letters. But I don't remember which ones  
15 they were. I would have to refer to the report.

16 Q. Do you remember this person when you met him?  
17 Do you remember seeing him?

18 A. Yes, sir.

19 Q. Do you remember the scar on his face that he  
20 has?

21 A. I don't remember the scar, no.

22 Q. You don't recall?

23 A. No, I don't recall.

24 Q. Do you recall the tattoos?

25 A. I remember him having tattoos, but not that

1 many tattoos. I don't know if he added new ones.

2 Q. Right. So the description that the victim gave  
3 you was somebody who was tall?

4 A. That's correct.

5 Q. Did he say how tall? Did he tell you six foot?

6 A. He just told me he was taller than me. And he  
7 just showed me with his hand. I remember him showing me  
8 with his hand.

9 Q. What did he show you like?

10 A. He just said, He's about that tall  
11 (indicating). I figured he was about six one, six two.

12 Q. Did he tell you any other descriptors about the  
13 guy?

14 A. He told me he was light-skinned.

15 Q. Anything else?

16 A. And just what he was wearing. He was very  
17 specific on the coat.

18 Q. Okay.

19 MR. TANNER: Thank you.

20 Nothing further, Judge.

21 THE COURT: Thank you, Mr. Tanner.

22 Anything further?

23 MR. BURDETTE: Nothing from this witness,  
24 Judge.

25 THE COURT: Thank you, Officer. You're



1 excused.

2 Call your next witness.

3 MR. BURDETTE: The State calls Officer  
4 Duran. This is for the stop.

5 *(Discussion off the record.)*

6 MR. BURDETTE: Judge, I'm done with  
7 questioning of witnesses with regards to the show-up for  
8 identification.

9 MR. TANNER: We still have questions of  
10 Duran on the show-up, Judge.

11 THE COURT: Okay.

12 MR. TANNER: Just as to what he observed.

13 At this time we need to inform the Court  
14 that we have the defendant's mother in the courtroom.

15 THE BAILIFF: She won't be able to testify  
16 since she's been sitting here watching.

17 THE BAILIFF: Judge, they just walked in.

18 THE COURT: Okay.

19 MR. TANNER: The only way they would  
20 testify would be in the second phase of the trial.

21 THE COURT: Oh, okay. That's not a  
22 problem.

23 MR. BURDETTE: They are still under the  
24 Rule, Judge.

25 THE COURT: But you're under the Rule so

1 now you won't be able to sit and listen to testimony.  
2 So you will have to be outside while they are  
3 testifying. Your lawyer invoked the Rule, not the  
4 State.

5 All right.

6 *(Witness sworn.)*

7 THE COURT: Thank you. Please take a  
8 seat.

9 You may proceed.

10 MR. BURDETTE: Thank you, Judge.

11 **J. DURAN,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 **BY MR. BURDETTE:**

15 Q. Good morning, Officer Duran.

16 A. Morning, sir.

17 Q. Do you have a copy of your report with you?

18 A. It's actually in the back.

19 Q. Okay. Do you feel like you might need it to  
20 refresh your memory?

21 A. Yes, please.

22 Q. We'll get that. It's in the witness room?

23 A. Yeah. Officer Carreon has got it back there.

24 Q. Okay. Well, I would like to direct your  
25 attention to April 12th, 2011. You have an independent