

1 No. 6, Harris County, Texas. State of Texas versus Leon
2 Thompson. Date of the judgment: April 13, 2009, date;
3 sentence imposed: April 13, 2009; date of offense,
4 4-11-09. Attorney for the State, J. Long. Attorney for
5 defendant, J. Hernandez. Offense convicted of:
6 Carrying a weapon. Misdemeanor Class A.
7 Terms of plea bargain in detail: 20 days HCJ, three
8 days credit. Punishment imposed and place of
9 confinement, 20 days Harris County Jail. Plea to the
10 offense: Guilty.

11 May I call my next witness, Your Honor?

12 THE COURT: You may.

13 MR. RAMIREZ: Deputy R.S. Carrizal.

14 (Witness sworn)

15 MR. RAMIREZ: May I proceed, Your Honor?

16 THE COURT: You may.

17 **R.S. CARRIZAL,**

18 having been first duly sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. RAMIREZ:**

21 Q. Good morning, sir. Tell us your name.

22 A. Shane Carrizal, C-a-r-r-i-z-a-l.

23 Q. Are you a police officer, sir?

24 A. Yes, sir, I am.

25 Q. What agency are you employed with?

1 A. I'm with the Harris County Sheriff's Office.

2 Q. How long have you been a police officer with
3 the Harris County Sheriff's Department?

4 MR. GAISER: May we approach the bench?

5 THE COURT: You may.

6 (At the Bench, on the record)

7 MR. GAISER: Judge, I believe this
8 testimony will involve an extraneous offense, if I'm not
9 mistaken.

10 MR. RAMIREZ: This officer recovered the
11 Glock from the freeway.

12 MR. GAISER: Okay.

13 MR. RAMIREZ: That's the only reason I'm
14 calling him.

15 THE COURT: All right.

16 (Open court, defendant and jury present)

17 Q. (By Mr. Ramirez) Officer, how long have you
18 been a police officer?

19 A. Approximately 13 years.

20 Q. Thirteen years.

21 Have you been a crime scene officer?

22 A. Yes, I have.

23 Q. Back in April 2009, were you a crime scene
24 officer?

25 A. Yes, sir.

1 Q. Did part of your duties involve the recovery of
2 items that might prove to be evidence in cases that were
3 under investigation?

4 A. Yes, sir.

5 Q. Let me direct your attention to April 19th,
6 2009, and specifically in the early morning hours of
7 April 19th, 2009. Did you have occasion to be assigned
8 to recover some items that had been discarded on a
9 freeway here in Harris County?

10 A. Yes, sir.

11 Q. And what freeway was that?

12 A. It was the Eastex Freeway.

13 Q. What's the official name of that freeway?
14 Would that be U.S. 59?

15 A. Yes, sir. I'm sorry.

16 Q. Whereabouts on U.S. 59 were you directed?

17 A. I was directed to 12303 Eastex Freeway.

18 Q. And what would be the nearest cross-streets?

19 A. Lee Road overpass.

20 Q. Okay. When you went to that scene as directed
21 on U.S. 59, did you find any weapons?

22 A. Yes, sir.

23 Q. What did you find?

24 A. I found a Glock pistol.

25 Q. Did you recover that Glock pistol?

1 A. Yes, sir, I did.

2 MR. RAMIREZ: May I approach the witness,
3 Your Honor?

4 THE COURT: You may.

5 MR. RAMIREZ: May we have the bailiff check
6 this?

7 THE BAILIFF: It's clear.

8 THE COURT: All right.

9 Q. (By Mr. Ramirez) Is it Deputy?

10 A. Yes, sir.

11 Q. Deputy Carrizal, let me show you what has been
12 marked for identification purposes as State's Exhibit
13 No. 73. Do you recognize this item (indicating)?

14 A. Yes, sir.

15 Q. How do you recognize it?

16 A. This is -- I'm sorry. It's hard to see, but my
17 initials are on the bottom of the weapon.

18 Q. You recognize your initials on it?

19 A. Yes, sir.

20 Q. And does that help you testify that this is the
21 weapon you recovered --

22 A. Yes, sir.

23 Q. -- from the Eastex Freeway or U.S. 59?

24 A. Yes, sir.

25 Q. What did you do with this weapon once you had

1 recovered it?

2 A. It eventually goes to the Harris County
3 Firearms Lab.

4 Q. Okay. Did you deposit it in the firearms lab?

5 A. Yes, sir. Submitted it, yes, sir.

6 Q. Submitted it?

7 A. Yes, sir.

8 Q. Is that the last dealings that you had with
9 this weapon?

10 A. Yes, sir.

11 MR. RAMIREZ: Pass the witness, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. GAISER:**

14 Q. Deputy, what date was that that you recovered
15 the pistol?

16 A. It was April 19th, 2009.

17 Q. Thank you.

18 MR. GAISER: That's all I have.

19 THE COURT: Anything further?

20 MR. RAMIREZ: Nothing further, Your Honor.

21 THE COURT: You are excused. Thank you.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Call your next witness.

24 MR. RAMIREZ: L.A. Ditta.

25 MR. GAISER: May we approach, Your Honor?

1 (At the Bench, on the record)

2 MR. GAISER: This testimony will involve an
3 extraneous offense and I want to object to this
4 testimony. The -- the testimony will reveal that my
5 client was driving a stolen vehicle and ran from the
6 police, that he -- he threw out some items as he was
7 running and that -- that I assume the State is
8 attempting to offer this to show that his guilty
9 knowledge from the offense he's on trial for as opposed
10 to the fact that he was running because he was in a
11 stolen car, that he was later charged with driving a
12 stolen vehicle and evading.

13 MR. RAMIREZ: What I intend to get into
14 with this officer was that May 30th, 2009, while an
15 arrest warrant was outstanding for the defendant and
16 about a month-and-a-half -- or more than a
17 month-and-a-half after the Black Widow crime, the
18 officer pulled up behind a car occupied by the defendant
19 and another individual. And the officer got out to
20 investigate. And before he could even walk up to the
21 car, the defendant took off at a high rate of speed and
22 the officer chased him for a few miles.

23 I do not intend to offer evidence about the
24 car being stolen. There's indications he possessed a
25 small amount of marijuana. I do not intend to offer

1 evidence of that either. What this testimony will be
2 offered for would be to show the defendant's guilty
3 state of mind in running from the officer in this
4 fashion.

5 The high-speed chase took quite a while and
6 covered several miles and then he jumped through some
7 back yards. As I mentioned in my opening statement, he
8 was caught hiding in a backyard -- this was 2:00 a.m. in
9 the morning -- by a canine unit. And the argument is
10 going to be that because he knew he had committed Black
11 Widow and because he had this capital murder warrant
12 outstanding for him for more than a month-and-a-half,
13 that's why he ran from the police. It goes to show his
14 guilty state of mind, consciousness of guilt of this
15 offense.

16 MR. GAISER: Judge, there's no showing that
17 he knew anything about a warrant, that he knew the
18 police were looking for him. The evidence is -- the
19 State well knows that he was driving a stolen car, that
20 he ends up being charged with unauthorized use of a
21 motor vehicle and evading. And there's just simply
22 nothing that connects his guilty knowledge with this
23 offense. And I think when you have a situation where a
24 person is -- part of the State's case is flight, that
25 the State has to show what crime the defendant is

1 fleeing from before they can show the actual flight.

2 MR. RAMIREZ: The crime --

3 MR. GAISER: The probative value is
4 certainly outweighed by the prejudice involved in
5 showing my client driving a stolen car in possession of
6 drugs.

7 MR. RAMIREZ: The crime that he was fleeing
8 from so passionately, if you will, is the capital murder
9 that he had committed and was charged with. The
10 marijuana he possessed was a very small amount, would
11 have been just a few days in jail. Even the stolen car
12 would have been a few months in jail.

13 THE COURT: Is there anything to show that
14 he knew that he was charged with capital murder at that
15 particular time?

16 MR. RAMIREZ: Circumstantially. We've had
17 testimony from Stephanie Solis that he never tried to
18 retrieve his property. She never saw him again. And
19 the officer would testify that he was steady talking
20 after he had been arrested until the officer ran him and
21 found out he had a capital murder charge, when the
22 defendant then stopped talking.

23 MR. GAISER: Well, I would, too.

24 THE COURT: What?

25 MR. GAISER: Stop talking if I was charged

1 with capital murder.

2 MR. RAMIREZ: At this point in time when
3 this occurs, he had left his property at Stephanie
4 Solis' and never went back to get it. Batiste has been
5 locked up since April 19th. A warrant's been out on him
6 for all this time. So, that's circumstantial evidence
7 enough to show guilty knowledge on his part. Why else
8 would he run in this fashion?

9 MR. GAISER: Because he's driving a stolen
10 car. You're assuming he's guilty of the Black Widow
11 because Batiste is arrested.

12 MR. RAMIREZ: That would become a fact
13 issue. The test -- the test for keeping something out
14 in 403 is, is the evidence -- is the prejudicial value
15 or danger substantially outweighed, does it
16 substantially outweigh the probative value. And I would
17 submit that anything he's arguing does not substantially
18 outweigh the probative value.

19 MR. GAISER: There's no probative value if
20 he's running from them because he's driving a stolen
21 car. The probative value doesn't make sense unless you
22 assume he's running from this offense.

23 THE COURT: You're stretching it a little
24 bit, aren't you?

25 MR. RAMIREZ: I don't know. I mean,

1 whatever the Court rules, I'll, of course, respect,
2 but...

3 THE COURT: No.

4 MR. RAMIREZ: Okay. Well, then
5 logistically I don't have any other witnesses here. I
6 had this officer and the other officer who participated
7 in arresting him.

8 THE COURT: You've got somebody else that
9 participated in this very --

10 MR. GAISER: Yes.

11 THE COURT: So that goes to the two next
12 witnesses. It that correct?

13 MR. RAMIREZ: Right. The next two
14 witnesses who are here are witnesses who testified to
15 this incident that the Court will not allow me to
16 introduce. So, what I'm saying is I don't have another
17 witness to call, if the Court doesn't allow these two
18 witnesses. At this point. Now, I do have other
19 witnesses I'm going to call, they're just not here.

20 THE COURT: How soon can they get here?

21 MR. RAMIREZ: I'd have to call them. Maybe
22 as soon as half an hour.

23 THE COURT: Go call them. Let's do it.

24 MR. RAMIREZ: Okay. Are you going to
25 retire the jury to the jury room?