

Andrew Carroll - July 14, 2015
Direct Examination by Mr. Vazquez

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ANDREW CARROLL,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. VAZQUEZ:

Q. Good afternoon, Officer Carroll.

A. Good afternoon, sir.

Q. Will you introduce yourself to the jury and state your name and people spell it for the record, please?

A. My name is Police Officer Andrew Carroll, A-n-d-r-e-w C-a-r-r-o-l-l.

Q. Thank you. And, obviously, you are a police officer. With what agency do you work with?

A. With the Houston Police Department, sir.

Q. That means you are a certified police officer?

A. Yes, sir.

Q. How long have you been certified as a police officer?

A. Coming up on three years now, sir.

Q. Three years. What kind of training did you undergo to become a police officer?

A. Well, we have our academy, sir, and then our field training program afterwards.

Q. Where are you currently assigned?

A. I'm assigned to the North Patrol Division, sir.

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1 Q. And what's your purpose of a patrol division?

2 A. Our purpose of patrol officers is when someone
3 picks up the phone and dials police, you get an officer
4 like me responding to the scene.

5 Q. And how long have you been assigned to that
6 division?

7 A. Two-and-a-half years, sir.

8 Q. Okay. Are you -- have you had any specialized
9 training pertaining to intoxicated drivers?

10 A. Yes, sir.

11 Q. So, let's talk a little bit about that
12 training. When you detect an intoxicated driver, what
13 are you supposed to do to determine -- what are you
14 supposed to do?

15 A. There's several telltale signs that you can use
16 to detect whether or not a driver is intoxicated or not.

17 Q. Okay. And are there evaluations that you can
18 do?

19 A. Yes, sir.

20 Q. And are you certified to conduct these
21 evaluations?

22 A. Yes, sir, I sure am.

23 Q. So, when you become certified, do you have to
24 go through classroom training and field training as
25 well?

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1 A. Yes, sir.

2 Q. And how long a classroom training did you
3 undergo?

4 A. The class was several days easily.

5 Q. Okay. And how about your field training?

6 A. In field training we encounter that as the
7 situations arise. But the field training program is six
8 months long.

9 Q. Okay. Are you required to take any refresher
10 courses when it comes to intoxicated drivers?

11 A. Yes, sir, it happens.

12 Q. And have you taken any refresher courses?

13 A. Yes, sir.

14 Q. When was the last time you took a refresher
15 course?

16 A. It's been a few months now. I actually did a
17 special program where we would go with a D.W.I. Task
18 Force officer.

19 Q. Okay. In that special program, did you
20 encounter suspects that you believed to be intoxicated?

21 A. Yes, sir.

22 Q. And during the -- did you conduct any
23 evaluations of those suspects?

24 A. Yes, sir.

25 Q. And during -- about how many would you say you

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1 did?

2 A. How many have I done total?

3 Q. Give or take, yes.

4 A. Ten or so.

5 Q. Okay. And based on your training and
6 experience, does it really require you to be an expert
7 to spot somebody who is intoxicated?

8 A. No, sir.

9 Q. Okay. So, if you believe somebody is
10 intoxicated, do you arrest them immediately?

11 A. No, sir. They are detained.

12 Q. And why are they detained?

13 A. At the point where we believe that we have a
14 reasonable suspicion that they are driving while
15 intoxicated or intoxicated, we detain them; and then we
16 perform a series of tests.

17 Q. Have you ever let anybody go that maybe you
18 didn't feel was intoxicated?

19 A. Yes, sir.

20 Q. And why would you do that?

21 A. Because at that point, when we encounter
22 somebody, there are certain signs that we see that leads
23 us to to be suspicious of their level of intoxication;
24 and we evaluate them with the standardized field
25 sobriety tests. If they pass those tests, we don't have

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1 probable cause to arrest them.

2 Q. What are some classic signs of intoxication?

3 A. Some of the most common ones are red, bloodshot
4 eyes, slurred speech, poor balance, slow speech,
5 disorientation.

6 Q. Okay. And when you come across somebody with
7 things like that, what are you trying to do?

8 A. I'm sorry?

9 Q. When you come across a person who exhibits
10 those signs, what are you trying to do?

11 A. To detain them.

12 Q. To detain them. Okay. Now, Officer Carroll, I
13 would like to direct your attention to the morning of
14 January 18, 2015. Were you on duty that day?

15 A. Yes, sir.

16 Q. What shift were you working?

17 A. The night shift, sir.

18 Q. The night shift. And you were assigned --
19 where were you assigned? The north district?

20 A. Yes, sir.

21 Q. Okay. While you were on duty, did you come in
22 contact with somebody by the name of Jose Garcia?

23 A. Yes, sir.

24 Q. And do you see that person in the courtroom
25 today?

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1 A. Yes, sir.

2 Q. Can you please identify him by the article of
3 clothing?

4 A. It's the gentleman sitting there in the black
5 suit, sir.

6 MR. VAZQUEZ: Your Honor, may the record
7 reflect that the officer has identify Jose Garcia?

8 THE COURT: It will.

9 Q. (BY MR. VAZQUEZ) Okay. How did you first come
10 into contact with the defendant?

11 A. We received a call that there was an accident
12 on the freeway, sir.

13 Q. And do you remember what the address that
14 was -- the freeway was at or the freeway was?

15 A. Yes, sir. I believe it was about the 11300
16 block of the north freeway.

17 Q. Was that going into the city or going out of
18 the city?

19 A. Going out of the city, sir, northbound on the
20 north side of town.

21 Q. Is that a public place in Harris County?

22 A. Yes, sir.

23 Q. At what time was this?

24 A. About 2 30 in the morning.

25 Q. Do you recall what the defendant was driving?

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1 A. Yes, sir. It was a brown -- brown car.

2 Q. So, was it a motor vehicle?

3 A. Yes, sir.

4 Q. When you first made contact with the defendant,
5 what was the first thing you noticed?

6 A. I noticed there was damage to his vehicle on
7 the front side, on the right side.

8 Q. Okay. And where was the defendant at the time?

9 A. The defendant was in the driver's seat, sir.

10 Q. So he was behind the wheel?

11 A. Yes, sir.

12 Q. Was the car running?

13 A. Yes, sir.

14 Q. Okay. Did you -- when you made contact with
15 him, did he say anything to you?

16 A. Yes, sir, briefly.

17 Q. What did he say to you?

18 A. He had been in an accident, so I asked him if
19 he was okay, if he was hurt; and he said he was not.

20 And then he looked around -- as he was out of the
21 vehicle, he looked around; and he said the word "Katy".

22 Q. As in --

23 A. As in Katy, Texas.

24 Q. So you believed that he was asking -- he was
25 trying to determine if he was in Katy, Texas?

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1 A. Yes, sir.

2 Q. And you said you asked him if he had had -- if
3 he was hurt. Did you notice any signs of injury or
4 anything?

5 A. No, sir, nothing visible.

6 Q. Did you notice any damage to his steering
7 wheel?

8 A. No, sir.

9 Q. Any damage to the windshield?

10 A. No, sir, not that I can remember.

11 Q. Officer Carroll, if you had suspected that he
12 was injured in any way or if he had told you he was
13 injured, what would you have done?

14 A. If I suspected that he was injured or if he had
15 actually been injured in some kind of observable way, I
16 would have transported him by ambulance to the hospital.

17 Q. So, you would not have detained him? You would
18 have had an ambulance come get him?

19 A. That is correct, sir.

20 Q. Okay. So at this point you decided to get him
21 out of the vehicle?

22 A. Yes, sir, I asked him to step out of the
23 vehicle and he did.

24 Q. And what did you notice when he stepped out of
25 the vehicle?

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1 A. First thing I noticed when he stepped out is
2 that he had poor balance as he got out of the vehicle,
3 when he opened the door.

4 Q. Did you smell anything?

5 A. Yes, sir. I detected the strong odor, odor of
6 alcoholic beverage, and also another smell.

7 Q. And what was the other smell?

8 A. Urine, sir.

9 Q. And had the defendant urinated himself?

10 A. Yes, sir. You could see it on his pants and on
11 his shirt.

12 Q. What about his speech? Did you notice anything
13 about his speech?

14 A. It was slurred, sir.

15 Q. Okay. Now, how do you know what somebody'
16 normal speech pattern is? How can you tell it was
17 slurred?

18 A. It was slow and the pitches of his voice kind
19 of inflected. They went up and down, sir, which is not
20 typical.

21 Q. Are you trained to listen for those types of
22 things?

23 A. Yes, sir.

24 Q. And that is part of your D.W.I. training?

25 A. Yes, sir.

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1 Q. Did you notice anything about his eyes?

2 A. Yes, sir. They were bloodshot.

3 Q. And, again, what does bloodshot indicate?

4 A. It indicates intoxication.

5 Q. Did he -- did you ask him if he had been
6 drinking?

7 A. Yes, sir.

8 Q. And what did he tell you?

9 A. Yes, that he had been.

10 Q. Did he tell you where he had been drinking at?

11 A. No, sir.

12 MR. VAZQUEZ: May I approach, Your Honor?

13 THE COURT: Yes, you may.

14 Q. (BY MR. VAZQUEZ) I'm now handing you what's
15 been marked as State's Exhibit 5. Do you recognize
16 that?

17 A. Yes, sir.

18 Q. And what is that?

19 A. That is a picture of the defendant.

20 Q. Was this taken at or about the time of the
21 incident?

22 A. Yes, sir.

23 Q. And was this taken as part of the intake
24 process?

25 A. Yes, sir.

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1 MR. VAZQUEZ: Your Honor, I would move to
2 admit State's Exhibit 5.

3 MR. GUERRA: Can I see it?

4 MR. VAZQUEZ: Yes. I'm sorry.

5 MR. GUERRA: No objection.

6 THE COURT: State's Exhibit 5 is admitted.

7 MR. VAZQUEZ: May I publish it, Your
8 Honor?

9 THE COURT: You may.

10 Q. (BY MR. VAZQUEZ) Now, Officer Carroll, it's a
11 little difficult to tell there; but do the defendant's
12 eyes appear red?

13 A. Yes, sir, they appear to be from here.

14 Q. Okay. Is there anything else you notice about
15 that picture that you would maybe lead you to believe
16 that he might have been intoxicated?

17 A. His hair is a little messed up and his eyelids
18 are not all the way open.

19 Q. Now, Officer Carroll, we talked about the fact
20 that there was car accident involved. Do you notice any
21 visible signs of injury?

22 A. No, sir.

23 Q. Any head injuries?

24 A. No, sir.

25 Q. Facial injuries?

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1 A. No, sir.

2 MR. GUERRA: Object. That is all
3 speculation, Your Honor. This is all visible injuries.
4 He can't possibly testify to that.

5 THE COURT: Overruled. He's asking him
6 what he sees in the picture.

7 Q. (BY MR. VAZQUEZ) Do you see any bruising on his
8 face?

9 A. No, sir.

10 Q. Okay. Did you ask the defendant if he had
11 eaten that night?

12 A. No, sir.

13 MR. VAZQUEZ: I have no further questions,
14 Your Honor.

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

16 THE COURT: Mr. Guerra, you may proceed,
17 sir.

18 MR. GUERRA: Thank you.

19 **CROSS-EXAMINATION**

20 **BY MR. GUERRA:**

21 Q. Good afternoon, Officer Carroll.

22 A. Good afternoon, sir.

23 Q. You testified that you've been a patrol officer
24 for approximately three years, correct?

25 A. Approximately, yes, sir.

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1 Q. You've investigated approximately ten cases of
2 D.W.I.?

3 A. Yes, sir.

4 Q. And you've made hundreds, if not thousands, of
5 arrests in you role as a patrol officer, correct?

6 A. I would say more towards hundreds and less
7 towards thousands, sir; but, yes, sir.

8 Q. So hundreds of arrests as a patrol officer?

9 A. Yes, sir.

10 Q. And only ten D.W.I. investigations?

11 A. Yes, sir.

12 Q. Let me ask you: You testified about your
13 training and experience, correct?

14 A. Yes, sir.

15 Q. Part of your training and experience is to
16 write reports?

17 A. Yes, sir.

18 Q. Did you write a report in this case?

19 A. No, sir.

20 Q. Now, there was a report written in this case by
21 Officer Gillham, correct?

22 A. Yes, sir, that is correct.

23 Q. Now, part of his report he asks your
24 observations, asked you that night, correct?

25 A. Yes, sir.

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1 Q. So you gave him those observations?

2 A. Yes, sir.

3 Q. And he included those observations in his
4 report?

5 A. Yes, sir.

6 Q. And it's important to document everything that
7 you observe -- that you see that night because it's
8 fresh in your memory, correct?

9 A. Yes, sir.

10 Q. So, would it be a fair statement that the facts
11 of that case were -- you had a better memory back
12 January 18th of this year than you do here today?

13 A. Yes, sir, I would say my memory of the event
14 was sharper the night it happened than it is today.

15 Q. Sure. Now, let's talk about what you saw that
16 night. You get a call about an accident, correct?

17 A. Yes, sir.

18 Q. It's a major accident, correct?

19 A. Yes, sir.

20 Q. No fatalities but a major accident,
21 nonetheless?

22 A. Correct, sir.

23 Q. The vehicle had severe damage?

24 A. It had some damage, yes, sir.

25 Q. It had severe damage?

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1 A. It had some damage, yes, sir.

2 Q. It had damage in the front?

3 A. Yes, sir.

4 Q. Had damage on the back?

5 A. It had damage on the front and had damage on
6 the right, yes, sir.

7 Q. That vehicle was towed away, right?

8 A. Yes, sir.

9 Q. Now, who would -- you initially made contact
10 with Mr. Garcia?

11 A. Yes, sir.

12 Q. He is in the driver's seat?

13 A. That's correct, sir.

14 Q. And you asked him to get out of the vehicle?

15 A. Yes, sir.

16 Q. Now, you said you observed red eyes?

17 A. Yes, sir.

18 Q. Observed slurred speech --

19 A. Yes, sir.

20 Q. -- and poor balance?

21 A. Yes, sir.

22 Q. Now, before this night had you ever met
23 Mr. Garcia?

24 A. No, sir.

25 Q. So you don't know if he naturally has red eyes,

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1 correct?

2 A. That's correct, sir.

3 Q. You don't know if he naturally has slurred
4 speech?

5 A. Correct.

6 Q. You don't know -- well, as far as the balance,
7 have you investigated accidents in the past?

8 A. Yes, sir.

9 Q. And would it be fair to say that some people
10 that are involved in a major accident sometimes in your
11 experience have poor balance?

12 A. Yes, sir.

13 Q. They are groggy, correct? Disoriented,
14 correct?

15 A. It could be, yes, sir.

16 Q. Now, at this point, what you observe aside from
17 those three things, you said -- you testified that you
18 didn't see any visible signs of injury, correct?

19 A. Yes, sir.

20 Q. Concussions aren't visible, are they?

21 A. No, sir.

22 Q. You also testified that you observed or smelled
23 an odor of alcohol?

24 A. Of alcoholic beverage, yes, sir.

25 Q. Alcoholic beverage?

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1 A. Yes, sir.

2 Q. And at the same time the smell of urine,
3 correct?

4 A. Yes, sir.

5 Q. So, you are testifying that you -- both odor of
6 alcohol and urine?

7 A. Yes, sir.

8 Q. And this was when the -- Mr. Garcia exited the
9 vehicle?

10 A. Yes, sir.

11 Q. So at that point did you administer any
12 standardized field sobriety tests?

13 A. No, sir.

14 Q. He was put in the back of your patrol car,
15 correct?

16 A. Yes, sir.

17 Q. He was handcuffed?

18 A. Yes, sir.

19 Q. He was not free to leave, correct?

20 A. That's correct, sir.

21 Q. Did any of the other officers observe what you
22 observed?

23 A. Yes, sir, I believe they did.

24 Q. Which officer is that?

25 A. Officers Gillham and Parker was on the scene,

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1 sir.

2 Q. Gillman?

3 A. Gillham.

4 Q. Gillham. I'm sorry. And who?

5 A. And Parker.

6 Q. So, at that point he was taken down to the
7 police station for further investigation?

8 A. No, sir.

9 Q. Where was he taken?

10 A. I believe he was taken off the scene because at
11 that point being on the freeway is a big traffic hazard.
12 So our initial prerogative is to get out of the middle
13 of the road.

14 Q. So, you put him in your patrol vehicle and take
15 him to the feeder?

16 A. I took him to my patrol vehicle; and later at
17 the scene Officers Parker and Gillham took him out of my
18 patrol vehicle and put him in theirs.

19 Q. No further observations while he's waiting in
20 your vehicle, correct?

21 A. Correct, sir.

22 Q. Just the observations that you described?

23 A. Correct.

24 Q. No field sobriety tests were administered there
25 on the feeder road?

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1 A. I did not administer any, sir.

2 Q. Did any officers administer field sobriety
3 tests?

4 A. I don't believe on the side of the freeway,
5 sir.

6 Q. You were there for approximately an hour
7 investigating the accident, correct?

8 A. I don't recall exactly how long it was; but I
9 don't believe it took us an hour to get it off the
10 freeway, sir.

11 Q. You called a tow truck?

12 A. Yes, sir.

13 Q. Tow truck came, towed away the car, correct?

14 A. Yes, sir. I was not on the scene for very long
15 after Mr. Garcia was out of my patrol car and into
16 Officer Gillham and Parker's.

17 Q. But you were there when the vehicle -- when the
18 crash site was being cleared, correct?

19 A. I don't recall if the tow truck was there when
20 I left, sir.

21 Q. How long were you there?

22 A. Not very long.

23 Q. Okay. So, how long did you observe Mr. Garcia
24 there on the scene?

25 A. Maybe 20 or 30 minutes, sir.

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1 Q. You came and made contact with him, correct?

2 A. Yes, sir.

3 Q. And how long did you observe Mr. Garcia before
4 you put him in your patrol car?

5 A. Maybe a couple of minutes.

6 Q. A couple of minutes. And your testimony, you
7 testified that you investigated approximately ten D.W.I.
8 cases, correct?

9 A. Yes, sir.

10 Q. And in your two-minute investigation/
11 observation and your ten investigative D.W.I. cases'
12 experience, you decided that Mr. Garcia was intoxicated?

13 A. I had a reasonable suspicion, sir.

14 Q. He was not free to leave, correct?

15 A. That's correct, sir.

16 Q. All right. You testified that in the two
17 minutes that you observed Mr. Garcia, that he indicated
18 to you that he had been drinking?

19 A. Yes, sir.

20 MR. GUERRA: May I approach the witness,
21 Your Honor?

22 THE COURT: You may.

23 Q. (BY MR. GUERRA) Now, I know this is not your
24 report; but this is Mr. Gillham's report.

25 A. Yes, sir.

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1 Q. That includes your observations. Can you look
2 through there, see if it indicates you telling Officer
3 Gillham that Mr. Garcia had been drinking?

4 A. I'm sorry, sir. Can you say the question one
5 more time?

6 Q. Sure. Bad question.

7 In Mr. Gillham's report, Officer Gillham's
8 report --

9 A. Yes, sir.

10 Q. -- your observations are noted on there?

11 A. Yes, sir.

12 Q. And it would be an important fact to include or
13 to tell Officer Gillham that Mr. Garcia said he had been
14 drinking, correct?

15 A. Yes, sir.

16 Q. It's a very important fact, do you agree?

17 A. Yes, sir.

18 Q. We are talking about a D.W.I. investigation.

19 A. Yes, sir.

20 Q. That is an important fact?

21 A. Uh-huh.

22 Q. Has Mr. Gillham indicated in his report that
23 you mentioned to him that Mr. Garcia had indicated that
24 he was drinking?

25 A. I don't believe so, sir.

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1 Q. So how important in your line of work is it to
2 detail important information when conducting any
3 investigation?

4 A. It's important, sir.

5 Q. Well, is it a little important? Is it real
6 important; or is it, awe, maybe?

7 A. I would say it's very important.

8 Q. So would you agree with me, sir, that in a
9 D.W.I. investigation, somebody admits to drinking, that
10 is a very important detail?

11 A. Yes, sir.

12 Q. Okay. And that detail that you just testified
13 to here is not included in Officer Gillham's report?

14 A. It's not included in my observations.

15 Q. I'm sorry?

16 A. It's not included in my observations.

17 Q. Okay. Now, before you testified here today,
18 did you meet with any of these State -- assistant
19 district attorneys?

20 A. Yes, sir.

21 Q. Who did you meet with?

22 A. This gentleman right here.

23 Q. Can you point to him and point out an article
24 of clothing that he's wearing?

25 A. Yes, sir. The gentleman in the dark gray or

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1 black suit.

2 MR. GUERRA: I would like the record to
3 reflect that he's pointed out A.D.A. Vazquez.

4 THE COURT: The record will reflect that
5 for whatever reason.

6 MR. GUERRA: Thank you, Your Honor.

7 THE COURT: And the record will also
8 reflect that when you pointed him out, he pointed at
9 Mr. Vazquez, just as he did the defendant.

10 MR. GUERRA: Thank you, Your Honor.

11 Q. (BY MR. GUERRA) Now, you didn't ask Mr. Garcia
12 if he had anything to eat?

13 A. No, sir.

14 Q. You didn't ask him if -- when he had anything
15 to eat at all?

16 A. That's correct, sir.

17 Q. You didn't ask him what time he had his first
18 drink?

19 A. That's correct, sir.

20 Q. You didn't ask him what time he had a second
21 drink?

22 A. Correct.

23 Q. You didn't ask him what time he had his last
24 drink?

25 A. Correct.

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1 Q. You didn't ask him if he had any medical
2 conditions, correct?

3 A. I asked him if he was hurt.

4 Q. Did you ask him if he had any medical
5 conditions?

6 A. No, sir.

7 Q. Did you ask him if he was taking any
8 medication?

9 A. No, sir.

10 Q. Did you ask Mr. Garcia how long he lived in
11 Houston?

12 A. No, sir.

13 MR. GUERRA: Pass the witness.

14 THE COURT: Mr. Vazquez.

15 MR. VAZQUEZ: Thank you, Your Honor.

16 **REDIRECT EXAMINATION**

17 **BY MR. VAZQUEZ:**

18 Q. Officer Carroll, are you an E.M.T.?

19 A. No, sir.

20 Q. Are you trained in the medical profession in
21 any way?

22 A. No, sir.

23 Q. So, not being trained in the medical profession
24 as a police officer, what would be important for you to
25 see or understand -- how should I phrase it -- to see in

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1 order for you to call medical personnel?

2 MR. GUERRA: Object. It calls for
3 speculation, Your Honor. He just testified he's not an
4 E.M.T., trained as a medical professional.

5 THE COURT: Overruled.

6 A. I'm sorry, sir. Could you repeat the question
7 one more time?

8 Q. (BY MR. VAZQUEZ) Let me try to rephrase it a
9 little better for you.

10 A. Yes, sir.

11 Q. As a police officer, not being medically
12 trained, what would be something that you would look for
13 in order to call medical personnel to the scene?

14 A. Medical personnel are usually called
15 automatically on a call like that, whenever it drops as
16 a major accident. Whenever that is called in, a lot of
17 times the citizen will see the major damage to the car
18 and just out of concern for someone else, they will
19 assume there's injuries.

20 As for me, I did not observe anything. I
21 didn't observe any bruising, any blood or anything like
22 that. And when I asked him if he was injured, he said,
23 "No."

24 Q. So, are you trained to spot concussions?

25 A. No, sir.

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1 Q. Would it be relevant to your investigation at
2 the time whether he had a medical condition?

3 A. Yes, sir.

4 Q. How would that be relevant?

5 A. Different medical conditions can affect the
6 tests we do in different ways.

7 Q. So, why didn't you ask him if he had a medical
8 condition?

9 A. I knew that Officers Gillham and Parker will be
10 continuing the investigation, so my focus on the
11 investigation was on the safety part of it; and I wanted
12 to get the accident off the freeway so that we didn't
13 get hit by a vehicle.

14 Not too long ago, just a couple years ago,
15 there was an officer who was struck by an intoxicated
16 driver while --

17 MR. GUERRA: Object to nonresponsive, Your
18 Honor.

19 THE COURT: Sustained.

20 THE WITNESS: Yes, ma'am.

21 Q. (BY MR. VAZQUEZ) So, you said Officers Gillham
22 and Parker were taking over the investigation?

23 A. Yes, sir.

24 Q. So, would you have a need, then, to know his
25 medical history?

Andrew Carroll - July 14, 2015
Redirect Examination by Mr. Vazquez

1 A. No, sir.

2 Q. Would you have a need to know what medications
3 he was on?

4 A. No, sir.

5 Q. Okay. You said that you were face-to-face with
6 him for a couple of minutes before placing him in your
7 patrol car, correct?

8 A. Yes, sir.

9 MR. GUERRA: Object as to leading, Your
10 Honor.

11 THE COURT: Overruled.

12 Q. (BY MR. VAZQUEZ) Now, during those couple of
13 minutes, did it take you long to suspect, to have
14 reasonable suspicion, that he may be intoxicated?

15 A. No, sir.

16 Q. How long do you usually need to suspect
17 somebody of intoxication?

18 A. It varies, sir.

19 Q. Could it be quick? Could it take a long time?

20 A. Yes, sir.

21 Q. There are different levels of intoxication?

22 A. Yes, sir. I would say, yes, sir, it could be
23 quick.

24 Q. Okay. Why wouldn't you want to conduct a
25 further investigation on the interstate?

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1 A. Because it's dangerous.

2 Q. And this was early in the morning?

3 A. Yes, sir.

4 Q. Are -- I will withdraw that one.

5 Now, you said you detained him -- during
6 cross-examination, you said you detained him. Why
7 wasn't he free to leave?

8 A. Because at that point I had the reasonable
9 suspicion that he was intoxicated.

10 Q. So why didn't you just, you know, write up an
11 accident report and let him go about his business?

12 A. Because driving while intoxicated is a crime.

13 Q. Okay. Was the vehicle drivable in your
14 opinion?

15 A. Not by him, sir.

16 Q. Okay. Why was it towed, then?

17 A. It was towed because he was detained and taken
18 down for further investigation.

19 Q. So is that standard procedure, to tow a
20 vehicle?

21 A. Yes, sir.

22 Q. So it wasn't towed because it was damaged
23 beyond -- or was totaled out?

24 MR. GUERRA: Speculation, Your Honor.

25 THE COURT: Sustained.

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Redirect Examination by Mr. Vazquez

1 Q. (BY MR. VAZQUEZ) Have you investigated many
2 accidents?

3 A. Yes, sir.

4 Q. Have you seen vehicles that are drivable after
5 an accident?

6 A. Yes, sir.

7 Q. Have you seen vehicles that aren't drivable
8 after an accident?

9 A. Yes, sir.

10 Q. Do you think this vehicle was drivable?

11 A. I don't recall, sir.

12 Q. Was there smoke, fire, anything coming out of
13 the car?

14 A. No, sir.

15 Q. Had the airbags deployed?

16 A. I don't remember, sir. I remember there was
17 damage on the vehicle.

18 Q. But no airbags?

19 A. I don't recall, sir.

20 Q. I mean, in your accident investigations --
21 disregard that.

22 Why did you cuff him when you detained
23 him?

24 A. That's standard procedure for anybody we place
25 in the rear of our patrol car, sir.

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Redirect Examination by Mr. Vazquez

1 Q. And why is that?

2 A. That was the policy that was set down for us.
3 It's a safety measure.

4 Q. So, that's Houston Police Department policy?

5 A. Yes, sir.

6 Q. So, anybody who is detained for any reason is
7 automatically handcuffed?

8 A. Yes, sir. Handcuffs can come on and off, and
9 anybody who goes in any back seat gets handcuffs.

10 Q. That's when they go into your patrol unit?

11 A. Yes, sir.

12 Q. Now, Officer Gillham wrote the report, correct?

13 A. Yes, sir.

14 Q. And defense counsel asked you why the fact that
15 the defendant told you he had been drinking wasn't in
16 the report?

17 A. Yes, sir.

18 Q. You can't actually speak as to why Officer
19 Gillham left that out, correct?

20 A. Yes, sir. I can't speak to that.

21 Q. You think it may have been just an oversight on
22 his part?

23 MR. GUERRA: Objection. That's
24 speculation, Your Honor.

25 THE COURT: Sustained.

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Recross-Examination by Mr. Guerra

1 MR. VAZQUEZ: No further questions, Your
2 Honor.

3 THE COURT: Mr. Guerra.

4 MR. GUERRA: Just briefly, Your Honor.

5 **RECROSS-EXAMINATION**

6 **BY MR. GUERRA:**

7 Q. Officer, you take pride in your work, correct?

8 A. Yes, sir.

9 Q. Pride yourself on being thorough?

10 A. Yes, sir.

11 Q. Being in detail?

12 A. Yes, sir.

13 Q. Being complete?

14 A. Yes, sir.

15 Q. When you conduct investigations, you want to be
16 thorough?

17 A. Yes, sir.

18 Q. You want to be complete?

19 A. Yes, sir.

20 Q. And you want to be detailed?

21 A. Yes, sir.

22 MR. VAZQUEZ: Objection, asked and
23 answered, Your Honor.

24 THE COURT: Overruled.

25 Q. (BY MR. GUERRA) And in order to do those

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Recross-Examination by Mr. Guerra

1 things, you have to -- in order to be detailed, complete
2 and thorough, you have to investigate whatever it is
3 thoroughly, correct?

4 A. Yes, sir.

5 Q. You have to pay attention to details?

6 A. Yes, sir.

7 Q. In this case you observed Mr. Garcia for about
8 two minutes?

9 A. Approximately, yes, sir.

10 Q. Let me talk to you about standard procedure for
11 an accident of this kind. Major accident, correct?

12 A. Yes, sir.

13 Q. Medical personnel should have been called or
14 normally is called?

15 A. Yes, sir.

16 Q. They weren't called in this case?

17 A. I'm sorry?

18 Q. They were not called in this case?

19 A. Okay.

20 Q. Is that accurate?

21 A. I don't remember, sir.

22 Q. No medical personnel ever saw Mr. Garcia?

23 A. Not that I can recall, sir.

24 Q. He was in the back of your patrol car?

25 A. Yes, sir.

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Recross-Examination by Mr. Guerra

1 Q. You moved him to the feeder, correct?

2 A. I moved him out of my patrol car into Officer
3 Gillham and Parker's patrol car.

4 Q. Not on the freeway. On the feeder?

5 A. The accident was on the freeway, so it was on
6 the freeway.

7 Q. So on the freeway he's in your patrol car?

8 A. Yes, sir.

9 Q. You drive him down to the feeder?

10 A. I don't believe we drove him down to the
11 feeder, sir.

12 Q. How does he get to the feeder?

13 A. I'm sorry?

14 Q. How does he get to the -- out of the freeway?

15 A. He was in my patrol car. Then we moved him to
16 Officer Gillham and Parker's patrol car, and then they
17 drove him off of the freeway.

18 Q. I understand. And in your time, you did not
19 see any medical personnel attend to Mr. Garcia?

20 A. No, sir.

21 Q. Not on the freeway?

22 A. No, sir.

23 Q. And not at the second scene?

24 A. No, sir.

25 MR. GUERRA: I will pass the witness.

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Recross-Examination by Mr. Guerra

1 THE COURT: Mr. Vazquez.

2 MR. VAZQUEZ: Nothing further, Your Honor.

3 THE COURT: May this witness be excused?

4 Any objection from the State?

5 MR. VAZQUEZ: No, Your Honor.

6 MR. GUERRA: No, Your Honor.

7 THE COURT: All right. Thank you. You
8 may be excused. Thank you for coming down.

9 Next witness, please.

10 MR. VAZQUEZ: Your Honor, the State calls
11 Officer B. Parker.

12 THE COURT: Officer Parker.

13 Officer Parker.

14 THE WITNESS: Yes, Judge.

15 THE COURT: Raise your right hand, please.

16 (Oath administered)

17 THE COURT: All right. Thanks. Have a
18 seat. Keep your voice up.

19 MR. VAZQUEZ: May I proceed, Your Honor?

20 THE COURT: You may.

21 MR. VAZQUEZ: Thank you.

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BRENT PARKER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. VAZQUEZ:

Q. Good afternoon, Officer Parker. Will you please introduce yourself and spell your name for the record, please?

A. I'm Officer Brent Parker, B-r-e-n-t; Parker, P-a-r-k-e-r.

Q. And you are a police officer?

A. Yes, sir.

Q. And what agency are you employed with?

A. I'm employed by the Houston Police Department.

Q. Are you a certified Texas police officer?

A. Yes, sir.

Q. How long have you been certified as a Texas police officer?

A. I've been certified for two years and approximately a month.

Q. Would you move the mic just a little bit closer to you? Thank you.

Did you have to undergo extensive training to become a police officer?

A. I went through a six-month academy, followed by an F.T.O. program and three months more of probation.

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1 So a full year of training.

2 Q. Okay. And what is your current assignment?

3 A. My current assignment is at north patrol, off
4 of Shepherd, and I work nights.

5 Q. And what's the purpose of your assignment?

6 A. The purpose of my assignment is run calls for
7 service. I perform duties such as traffic control,
8 assaults, disturbances, just run calls for service.

9 Q. And as part of your assignment, are you trained
10 to enforce traffic laws?

11 A. Yes, sir.

12 Q. And have you had any specialized training
13 pertaining to intoxicated drivers?

14 A. We had some specialized training at the
15 academy.

16 Q. And about how long training did you have at the
17 academy?

18 A. It was approximately, I believe, a week long.

19 Q. Have you done any outside training, in field
20 training?

21 A. For intoxicated --

22 Q. For intoxicated drivers.

23 A. No, sir.

24 Q. Are you certified to administer field sobriety
25 tests?