

1

**SHERMAN CHAFFIN,**

2

having been first duly sworn, testified as follows:

3

**DIRECT EXAMINATION**

4

BY MS. BARNETT:

5

Q. Would you please state your full name for

6

the record?

7

A. Sherman Chaffin.

8

Q. May I assume you're an HPD officer?

9

A. Yes, I am.

10

Q. How long have you been with the Houston

11

Police Department?

12

A. Twenty-eight years.

13

Q. Are you assigned to the Westside Tactical

14

Unit?

15

A. I am.

16

Q. Do you work alongside Sergeant Richards and

17

Officer Abel?

18

A. I do.

19

Q. And so what do you guys do?

20

A. We serve warrants, we address hot spot

21

issues where there's increasing crime, we move into

22

an area to address those increases.

23

Q. Let me take you back to the day of October

24

12th, 2011, and ask if you were working with your

25

group that day in the area of Hayes and Olympia?

1 A. I was.

2 Q. Tell me what your role was?

3 A. I was in plain clothes in an unmarked  
4 vehicle. My role and our unit's role was to drive  
5 around the area and look for crime.

6 Q. Were you in the same car as Sergeant  
7 Richards?

8 A. No.

9 Q. Were you traveling alone or did you have a  
10 partner or do you remember?

11 A. I was alone.

12 Q. What happened that day?

13 A. That happened? I became aware of an  
14 incident near the intersection of Hayes and Olympia.

15 Q. Was that you that became aware of it or was  
16 it Sergeant Richards or who was it?

17 A. I was advised by Sergeant Richards of an  
18 incident in progress.

19 Q. I'm sorry for interrupting you. Is this  
20 via radio?

21 A. Yes.

22 Q. Go ahead.

23 A. Yes. I learned over the radio incident in  
24 progress. I proceeded to go to that area to see what  
25 was going on myself and see how we're going to

1 address this incident.

2 Q. Did you go to that area because Officer  
3 Richards told you to go or just because it was  
4 appropriate for you to go?

5 A. I don't remember if he told me but it's  
6 appropriate, yes.

7 Q. You were going to investigate as well?

8 A. Yes.

9 Q. How close were you?

10 A. I was like a minute away. I was right  
11 there.

12 Q. When you got there what did you see?

13 A. I saw a maroon Impala exit a parking lot  
14 and travel south on Hayes Road that I had been  
15 already alerted to.

16 Q. Now, did you take part in anything that had  
17 to do with the girls, Taylor Latara or Zoya, that  
18 happened with Sergeant Richards?

19 A. Yes. After everything was contained and  
20 settled, I went back and interviewed them.

21 Q. All right. So at this point when you come  
22 up you see the Impala drive off, the maroon Impala.  
23 What do you do then?

24 A. I watched the vehicle as it passes by me.  
25 I advise the marked units, patrol units the direction

1 of travel, how many is in the car and pull out and  
2 follow the vehicle until the marked units catch up to  
3 stop it.

4 Q. Were the windows, were they up or down or  
5 do you recall?

6 A. They were all four down.

7 Q. Did you notice anything about the  
8 passengers that caught your attention?

9 A. Yes. None of them were wearing seat belts.

10 Q. Which is a violation of city ordinance?

11 A. Yes.

12 Q. Was there anything else that came to your  
13 attention that day?

14 A. Yes. As I followed the vehicle down Hayes  
15 Road, I saw the front passenger, Mr. Hollie, throw a  
16 magazine to a rifle out the window.

17 Q. A magazine rifle, what is that exactly?

18 A. That's what some people call a clip that  
19 you that put your live rounds in, you put it in the  
20 gun and it feeds ammunition to that gun itself.

21 Q. Did I show you yesterday a clip to gauge  
22 whether or not it's about the approximate size of the  
23 magazine?

24 A. Yes.

25 MS. BARNETT: May I approach the

1 witness?

2 *THE COURT:* Yes.

3 *MR. JONES:* Your Honor, we renew our  
4 objection as previously stated.

5 *THE COURT:* Court has ruled on it.

6 *Q.* (*BY MS. BARNETT*) I'm going to show you  
7 what's been marked for demonstrative purposes only as  
8 State's Exhibit 1 and ask if you can tell me what  
9 that is?

10 *A.* That is a magazine to a rifle, possibly 223  
11 caliber, I'm not sure what caliber it could be but  
12 it's similar to that one that day.

13 *Q.* Is it similar in size and shape?

14 *A.* Yes.

15 *MS. BARNETT:* I'm not going to offer  
16 into evidence -- I'm going to use for demonstrative  
17 purposes only if allowed.

18 *MR. JONES:* Judge, I'm going to object  
19 to any use other than the fact he's identified it to  
20 be the same or similar.

21 *THE COURT:* Ladies and gentlemen, it  
22 is for demonstrative purposes only and that is the  
23 only reason that you may consider that magazine,  
24 Defendant's 1 is admitted for that purpose, that  
25 purpose alone.

1                   MS. BARNETT: We're not at all saying  
2 this is the magazine.

3           Q.       (BY MS. BARNETT) Okay. Explain to the jury  
4 what does that do in regards to a long gun?

5           A.       This feeds a weapon. You have a rifle,  
6 could be an assault type hunting weapon. These  
7 primarily are assault type weapons. What you do you  
8 feed the ammunition in here. This one probably holds  
9 about 30 rounds. You feed it in there, you put it  
10 into the rifle itself, it secures in there, you pull  
11 back the bolt, it'll feed the first round off of  
12 there and then after that, every time you pull the  
13 trigger, it will feed a round into the rifle itself.

14          Q.       How is it that you knew when you saw just  
15 this piece of metal being thrown out of the window,  
16 how do you know that this was a gun magazine?

17          A.       I'm very familiar with gun magazines.

18          Q.       Is that through your work?

19          A.       Through my experience as a police officer.

20          Q.       Now, after you saw this gun magazine being  
21 thrown out the window --

22                   MR. JONES: Your Honor, I'm going to  
23 object.

24                   THE COURT: That will be sustained.

25                   MR. JONES: As to that

1       characterization.

2           Q.       (BY MS. BARNETT) Not this one.  Okay.  I'm  
3       sorry.  I didn't mean to say this one.  After you saw  
4       the gun magazine that you saw being thrown out the  
5       window, did you turn and go get it right then or what  
6       did you do?

7           A.       I maintained a visual on that car till the  
8       marked units passed me and once they passed me I  
9       stopped, backed up and went and got it.

10          Q.       Did you recover it?

11          A.       Yes, I did.

12          Q.       Was it tagged with that other property from  
13       that car?

14          A.       Yes.

15          Q.       Eventually.  To see if you could find an  
16       owner?

17          A.       Yes.

18          Q.       Did you have any thought that maybe if a  
19       gun magazine was thrown out the window there might be  
20       a gun?

21          A.       Yes.  It heightened our alert status at  
22       that point.

23          Q.       Now, after the patrol units passed you by,  
24       it was their job to go and stop the car?

25          A.       Yes.

1 Q. And you just testified that at that point  
2 you turned back and went and got the magazine?

3 A. Yes.

4 Q. What did you do after that?

5 A. I retrieved the magazine. I drove back up  
6 to the stop which is actually on the street and  
7 they'd already gotten them out, securing them in  
8 police cars.

9 Q. What did you notice, if anything, about  
10 that car?

11 A. Once we moved the car into a parking lot to  
12 get out of traffic, I walked up to the car and  
13 immediately noticed a lot of property inside the car.

14 Q. Did it appear to you that anything was  
15 abnormal about that property in the car?

16 A. Yes. There was an abnormally large amount  
17 of phones, iPods, couple laptops, things like that in  
18 the car. In my experience most normal people don't  
19 carry that kind of property around.

20 Q. What about people that are moving, would  
21 they have that there?

22 A. They could. Generally people that are  
23 moving have their stuff in boxes in some kind of  
24 order.

25 Q. Was this in any kind of order?



1           A.       No. This was strewn throughout the whole  
2 car, front seat, backseat, floorboards, that kind of  
3 thing.

4           Q.       Was there property in the trunk?

5           A.       Yes.

6           Q.       Do you know whether or not credit cards  
7 were found?

8           A.       Yes.

9           Q.       Do you know whether or not HPD was able to  
10 pull up any owners of any of that property?

11          A.       Yes.

12          Q.       How so?

13          A.       Sergeant Richards located -- I'm not sure  
14 who found the credit card, but Sergeant Richards ran  
15 the name on the card through our system, didn't find  
16 any persons. He contacted someone from Harris County  
17 and found a name of a lady that had been burglarized.

18          Q.       And do you know whether or not he had a  
19 conversation with her?

20          A.       Yes, he did.

21          Q.       Do you know whether or not she was able to  
22 identify any of the other property as far as you  
23 know?

24          A.       Far as I know, yes, she was.

25          Q.       Now, do you recall -- was it part of your

1 report to make a determination of what property was  
2 taken?

3 A. Yes.

4 Q. Did you make that in your report or would  
5 that be Officer Lombardo?

6 A. I listed some of the property in my report,  
7 Lombardo cataloged most of it. At that point the  
8 property we had was pretty much --

9 (Cell phone ringing.)

10 THE COURT: Turn the phone over to the  
11 deputy.

12 You may proceed.

13 MS. BARNETT: Thank you, Judge.

14 Q. (BY MS. BARNETT) I'm sorry. What did you  
15 say about the property inventory?

16 A. We inventory all property. At that point  
17 we didn't know where the property came from other  
18 than the credit card.

19 Q. What was Officer Lombardo's job then? What  
20 did he do?

21 A. He assisted once we got back to the office  
22 and cataloging the property.

23 Q. Do you know if officer Lombardo is coming  
24 in this morning?

25 A. I understand he's en route.

1                   MS. BARNETT: Your Honor, at this  
2 point I'll pass the witness.

3                   THE COURT: Thank you. Mr. Jones.

4                   **CROSS-EXAMINATION**

5 BY MR. JONES:

6           Q.       Sergeant Richards --

7                   MR. JONES: May I approach the  
8 witness, Judge?

9           Q.       (BY MR. JONES) This is a banana clip,  
10 right?

11          A.       Banana clip's typically longer, they're  
12 more curved but you can call it that.

13          Q.       When it starts to curve it's like a banana,  
14 right?

15          A.       Pretty much, sir.

16          Q.       And the clip you confiscated on  
17 October 12th, 2011, was not a banana clip.

18          A.       I don't remember. It was similar, I don't  
19 remember that.

20          Q.       You do remember previously testifying in  
21 another hearing that it was straight?

22          A.       I don't remember that.

23          Q.       Well, you said it was straight or do we  
24 need to look at the transcript?

25          A.       I may have. I don't remember.

1 Q. So if it was straight it wouldn't have been  
2 a banana clip, it would have stopped somewhere before  
3 it becomes curved, right?

4 A. Sure.

5 Q. So when you say this is same or similar,  
6 it's like calling a dog and cat that weighs  
7 10-pounds, 20 pounds but it's not necessarily a dog  
8 and cat, it's a small animal, it would not be the  
9 same.

10 A. That's why I said similar.

11 Q. And similar you're saying it holds two to  
12 three rounds, would that be it? Is it two to three?

13 A. There's a couple different calibers that  
14 can use it.

15 Q. All right. Two to three rounds. And is it  
16 illegal to have a clip?

17 A. No, sir.

18 Q. Is it illegal to have a clip with rounds in  
19 it?

20 A. No, sir.

21 Q. Is it illegal to walk down Main Street with  
22 a clip with rounds in it with a rifle, long rifle?

23 A. No, sir.

24 Q. That's probably like nowhere except for  
25 Texas, right?

*Sherman Chaffin - November 28, 2012  
Cross-Examination by Mr. Jones*

1           A.     Yes.

2           Q.     We love our guns.  Anyway, but a clip  
3 coming out a window creates some concerns; is that  
4 right?

5           A.     Yes.

6           Q.     You didn't find any weapons, did you?

7           A.     No.

8           Q.     You didn't find any bullets, did you?

9           A.     No, sir, I don't believe so.

10          Q.     And that car was filthy?

11          A.     I would say so.

12          Q.     Telephones?

13          A.     Found a number of those.

14          Q.     All the same kind?

15          A.     No, they were all different makes and  
16 models.

17          Q.     Bunch of old ones?

18          A.     I don't remember how old or new, sir.

19          Q.     Do you know anybody who over the years  
20 started purchasing phones maybe ten years ago and may  
21 have 10 or 15 or 20 of them?

22          A.     Not that many but I've come across people  
23 who have a few phones.

24          Q.     Especially where the wife gets a phone and  
25 then gets one for the husband?

1           A.     Yes.

2           Q.     And so even with all those old phones you  
3 can go to grocery store and somebody's willing to buy  
4 them who have the little counter there?

5           A.     Right.

6           Q.     There's nothing illegal about that.

7           A.     No.

8           Q.     Really nothing unusual.

9           A.     To me it is.  You have many, many phones  
10 together at one time.

11          Q.     You found a person who was driving that  
12 vehicle Joseph Anthony Simien who had a telephone; is  
13 that right?

14                               (Students entered.)

15                       *THE COURT:*  Excuse me.  We wish to  
16 welcome you to your courthouse.  Will you stand and  
17 be recognized.  Which school are you from?

18                       *THE WITNESS:*  We're from Pasadena  
19 Independent School District, a school, it's called  
20 L.P. Card, it's like a magnet school where all five  
21 high schools come to our campus to study criminal  
22 justice.

23                       *THE COURT:*  Thank you.  Appreciate you  
24 coming, the jury appreciates you coming to watch them  
25 work hard.

1                   THE SPECTATOR: Thank you. We  
2 appreciate being here.

3           Q.       (BY MR. JONES) I forgot where I was. That  
4 means I don't have anymore questions. Younger minds  
5 always help. Mr. Simien, Joseph Simien, he had a  
6 phone, did he not?

7           A.       I don't recall.

8           Q.       But somebody became interested in  
9 Mr. Simien's phone, didn't they, because of what they  
10 discovered on it?

11          A.       Yes. I believe that might be the phone,  
12 yes.

13          Q.       He was negotiating sales and purchases of  
14 different things?

15          A.       I didn't address that.

16          Q.       Did you see it?

17          A.       I don't recall if I saw it or not. I know  
18 I heard about it.

19          Q.       But he wasn't arrested for burglary, was  
20 he?

21          A.       No, sir.

22          Q.       He wasn't charged with burglary, was he?

23          A.       No, sir.

24          Q.       He drove the car with a key to the trunk  
25 that had Ms. Crohn's (sic) credit card in it; is that

1 right?

2 A. Yes, sir.

3 Q. He drove the car that had the key to the  
4 trunk that had other items belonging to Ms. Chron's  
5 in the trunk?

6 A. Yes.

7 Q. I'm told it is Crozier. You know who I'm  
8 talking about?

9 A. Yes, sir.

10 MR. JONES: I pass the witness.

11 THE COURT: Thank you.

12 **REDIRECT EXAMINATION**

13 Q. (BY MS. BARNETT) Let me take you back to  
14 the defense attorney's questions about somebody  
15 buying a phone at the mall. Would it be illegal to  
16 sell a phone to somebody at the mall that you've  
17 taken in a burglary?

18 A. No, it would not.

19 Q. Would it be illegal to sell a phone that's  
20 stolen from somebody?

21 A. No, it would not.

22 Q. Is it illegal to possess a phone that's  
23 stolen from somebody if you know it's stolen?

24 A. No, ma'am.

25 Q. Is it legal to -- it's not illegal to



1 handle a clip, to hold a clip, to walk down the  
2 street with a clip. Is it illegal to throw a clip  
3 out a passenger window?

4 A. Yes.

5 Q. Is it illegal to throw a clip when you're  
6 walking on the ground?

7 A. Yes.

8 Q. Is that littering?

9 A. Yes.

10 Q. Do you know whether or not Mr. Simien was  
11 the owner of that vehicle?

12 A. He was not.

13 Q. And do you know whether or not Travoy  
14 Hollie is the one that had permission to drive that  
15 vehicle?

16 MR. JONES: I object to that, that  
17 would be hearsay.

18 THE COURT: That will be sustained.

19 Q. (BY MS. BARNETT) Mr. Simien was the driver  
20 of the vehicle but you just testified he wasn't the  
21 owner -- he wasn't the person that had the car?

22 MR. JONES: Your Honor, I'm going to  
23 object. He did have the car, he was driving it.  
24 It's mischaracterization.

25 THE COURT: Overruled. You may

1 answer.

2 A. I'm sorry, repeat the question.

3 Q. (BY MS. BARNETT) Sure. Though Mr. Simien  
4 was the driver of the car, as far as you know was he  
5 the person that was the legal processor as far as had  
6 ownership of the car or permission to drive it?

7 MR. JONES: Your Honor, that goes  
8 within the provenance of the jury. It calls for a  
9 legal conclusion and any answer to that would be  
10 hearsay.

11 THE COURT: He may answer if he knows.

12 A. I believe--

13 MR. JONES: Other than what somebody  
14 told him, Judge.

15 THE COURT: The Court's ruled.

16 A. Simien was the driver but he wasn't the  
17 person that actually owned the car as far as I know  
18 and had permission --

19 MR. JONES: I object to any other  
20 references to anything about Mr. Simien because it  
21 would be a conclusion on his part.

22 THE COURT: Be overruled.

23 Q. (BY MS. BARNETT) Go ahead.

24 A. That was not Mr. Simien's car. I  
25 understand that the car belonged to a female that was

1 the boyfriend of one of the people in the car.

2 MR. JONES: Your Honor, I object that  
3 any additional answer is not responsive to the  
4 question and it's hearsay.

5 THE COURT: That will be sustained.

6 MS. BARNETT: That's all I have,  
7 Judge. I pass the witness.

8 **CROSS-EXAMINATION**

9 BY MR. JONES:

10 Q. Did you arrest Travoy Hollie for throwing a  
11 magazine out the window?

12 A. No.

13 MR. JONES: Pass the witness.

14 THE COURT: Thank you. You may step  
15 down. Call your next witness.

16 MS. BARNETT: May I see if they're  
17 here, Judge? We call officer Lombardo.

18 THE BAILIFF: He needs to be sworn,  
19 Judge.

20 THE COURT: Thank you. Swear the  
21 witness.

22 *(The witness was sworn.)*

23 MS. BARNETT: May I proceed?

24 THE COURT: Flip the mic over where  
25 you're comfortable.