

1 (Open court, defendant present.)

2 *THE COURT:* This is Cause No. 1268678, the
3 State of Texas versus Ruben Juarez. And we are here on a
4 motion to suppress. If y'all agree, the State's going
5 first?

6 *MR. CORNELIUS:* Pardon?

7 *THE COURT:* The State's burden?

8 *MS. FULLER:* Yes.

9 *MR. CORNELIUS:* Yes.

10 *THE COURT:* Please call your first witness.

11 *MS. FULLER:* State calls Sergeant Eli
12 Cisneros.

13 *THE COURT:* Come on up, Officer Cisneros.

14 (Witness sworn.)

15 *THE COURT:* Have your seat. Would you state
16 and spell your name for the court reporter.

17 *THE WITNESS:* Sure. I'm Eli, E-L-I, Cisneros,
18 C-I-S-N-E-R-O-S.

19 *THE COURT:* And you may proceed.

20 *MS. FULLER:* Thank you, Your Honor.

21 **ELI CISNEROS,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 Q. (BY *MS. FULLER*) Sergeant Cisneros, how long have
25 you been with HPD?

1 A. 19 years and three months.

2 Q. And where are you currently assigned within HPD?

3 A. Within the homicide division.

4 Q. How long have you been with homicide?

5 A. About four and a half years.

6 Q. Prior to homicide, where were you?

7 A. I worked the street as a patrol officer and a
8 patrol sergeant.

9 Q. Okay. And is that what you did for the other,
10 what? 15 years?

11 A. Yes.

12 Q. Okay. Were you given a case to investigate that
13 happened out at 6100 Frisco?

14 A. Yes, I was.

15 Q. Okay. And through the course of your investigation
16 in that case, did you develop a suspect in the case?

17 A. I did.

18 Q. And when you developed the name of that suspect,
19 what did you do first in terms of locating them?

20 A. I found out that this person had a blue warrant,
21 open blue warrant for agg robbery and I contacted our
22 warrant execution team with the southeast division and I
23 passed the information on to one of the sergeants out there.

24 Q. What was the name of the suspect you determined in
25 this case?

1 A. Ruben Juarez.

2 Q. When you did a search on Ruben Juarez, you found he
3 had a blue warrant for his arrest?

4 A. That's correct.

5 Q. At this point did you determine you wanted to speak
6 with him regarding a case?

7 A. Yes.

8 Q. So, when you found that he had a blue warrant, what
9 steps did you take?

10 A. Again, I passed that information on to Sergeant
11 Kinsworth of the warrant execution team who works the
12 southeast division.

13 Q. And do you know if Ruben Juarez was picked up on
14 that blue warrant?

15 A. Yes.

16 Q. And do you know what day that was?

17 A. That would have been on Monday, June 28th, 2010.

18 Q. All right. So, after Ruben Juarez was picked up on
19 that blue warrant, where was he transported to?

20 A. To 1200 Travis, which is located downtown in the
21 homicide office.

22 Q. Okay. Was he told that he was going to the
23 homicide office?

24 A. Yes.

25 Q. When he got to the homicide office, where was he

1 placed?

2 A. In one of the interview rooms inside the homicide
3 office.

4 Q. Okay. Can you describe that interview room for us?

5 A. It's a room that's big enough to accommodate, I
6 guess, perhaps, a table the size of -- that you're on right
7 now, with enough to accommodate a couple of chairs. It has
8 soundproofing on the walls and it has a camera system that
9 records video and audio.

10 Q. Okay. And do you know approximately how long he
11 waited in the interview room before you came in?

12 A. Maybe about 20 minutes.

13 Q. Okay. And when you came into the room and first
14 made contact with Ruben Juarez, what did you say?

15 A. First I introduced myself and I told him who I was
16 and why he was in custody, which was for the parole
17 violation, and I informed him that I wanted to speak to
18 him -- told him first that I was investigating this
19 particular case, a case where skeletal remains were located,
20 and that I wanted to speak to him regarding that.

21 Q. Okay. When you were speaking to him when you made
22 initial contact with him, who all was in the room with you?

23 A. Just myself.

24 Q. Just yourself and Ruben Juarez?

25 A. Yes.

1 Q. Okay. And were you wearing your gun at that time?

2 A. No.

3 Q. Does the door lock to that room?

4 A. No.

5 Q. Okay. Did you offer the defendant anything to eat
6 or drink?

7 A. Actually I offered both, food or drink, and he
8 accepted a bottle of water.

9 Q. Okay. Did you ask him if he needed to use the rest
10 room or if there were any other needs of his that needed to
11 be met?

12 A. Yes. That's standard for me. That's what I always
13 do prior to actually proceeding with the interview.

14 Q. Okay. Did he need anything?

15 A. Just the water.

16 Q. Okay. And so you gave him a bottle of water?

17 A. Yes.

18 Q. Okay. And is it -- did you go through all those
19 steps prior to telling him you were investigating Linda
20 Hartsough's case?

21 A. I don't know what order I did that in. Just it was
22 during the -- that time that I did offer him --

23 Q. Okay.

24 A. I don't recall if I did that as soon as I walked in
25 the room. I introduced myself as soon as I walked in. At

1 some point I did offer him something to eat or drink.

2 Q. Okay. Now, when you first made contact with him,
3 was the video equipment recording your first contact with
4 him?

5 A. No.

6 Q. Okay. Why?

7 A. I wanted to introduce myself to him first. I like
8 to take a moment to just -- to let him know who I am and to
9 get him just for a brief moment comfortable with me.

10 Q. Was he handcuffed when you put him in a room or
11 when he was placed in the room?

12 A. No.

13 Q. Okay. So, you're in the room with him. You're
14 building rapport. Do you remember what the two of you
15 talked about?

16 A. It was actually pretty quick. After explaining to
17 him why he was in custody, what I wanted to talk to him
18 about, from that point forward I just pretty much went --
19 told him I was going to activate the recording equipment and
20 I left the room, did so and then returned.

21 Q. Okay. Can you describe to the Court the
22 defendant's demeanor at this point?

23 A. As soon as I walked into the room, he was already
24 sitting at the edge of his seat, head kind of down, very
25 nervous, very scared. It appeared to me that he was scared

1 and somewhat crying, a bit.

2 Q. Okay. When you started talking to him and you told
3 him the purpose for why he was at the homicide office, did
4 he react in any way?

5 A. Yes, he did.

6 Q. How so?

7 A. He told me that he was scared and I explained to
8 him, look, this is what I want to talk to you about. You
9 just need to be honest with me when we talk and I'll help
10 you get through this, meaning the process itself, just
11 trying to calm him down, just relax, you know, we'll get
12 through this.

13 Q. Okay. When you're in the room, is it fair to say
14 that you're pretty close in proximity to the defendant?

15 A. Yes.

16 Q. Okay. Can you tell if he appears to be under the
17 influence of any drugs?

18 A. I didn't notice anything.

19 Q. Okay. Could you smell the odor of alcohol on him?

20 A. Definitely not.

21 *THE DEFENDANT:* You lying. You lying.

22 *(Defendant and Mr. Cornelius whispering.)*

23 *THE COURT:* Mr. Juarez, you'll have your time.

24 Q. *(BY MS. FULLER)* In your opinion, was he sober?

25 A. Yes.

1 Q. Okay. So, we're now at a point where you've
2 introduced yourself; you're building rapport. What do you
3 do next?

4 A. I left the room and went and turned on the
5 recording equipment and then returned back.

6 Q. Okay. When you returned back, what did you say to
7 the defendant?

8 A. I gave him his Miranda warning, Texas Statutory
9 Warning.

10 Q. Okay. Let's -- when you first walked back into the
11 room -- and now that the camera's rolling, did you kind of
12 start over with introducing yourself and explaining why he
13 was there?

14 A. Yes.

15 Q. Okay. And then what did you do?

16 A. After introductions again, then I Mirandized him,
17 reading him his Texas statutory warnings, which he waived
18 his rights and I proceeded on with the interview.

19 Q. Okay. Can you tell the Court exactly what you --
20 when you say Mirandize, can you tell the Court exactly the
21 warnings that you gave the defendant on that day?

22 A. I read him the Texas Statutory Warning directly off
23 the Harris County-issued District Attorney's blue card.

24 Q. And do you have that card with you today?

25 A. I do not.

1 Q. Do you know that card by heart?

2 A. I couldn't quote it verbatim.

3 Q. Okay. There are several rights on that card; would
4 you agree?

5 A. Yes.

6 Q. Okay. And again, all of this is on the video?

7 A. Yes.

8 Q. There are several rights on the card. Did you read
9 through each one or did you read through all of them and ask
10 for a waiver or did you read a right and ask him if he
11 understood?

12 A. The process that I go through is I read each right,
13 and after reading each right, I asked them if they
14 understand that and I ask that they verbally acknowledge yes
15 or no. If they do not understand it, I'll explain it again.
16 I read each right, he verbally acknowledged he understood
17 each right and at the end of all of the rights he agreed to
18 waive his rights and then from that point I proceeded on.

19 Q. Okay. When you say that he agreed to waive his
20 rights, did he verbally agree to waive all of his rights?

21 A. Yes.

22 Q. And what did he say when he made that agreement?

23 A. Well, what I do is I asked him, Do you voluntarily
24 waive your rights so I can obtain a statement from you? And
25 he answered, Yes.

1 Q. Okay. At any time during the taking of the
2 statement, did the defendant ask to speak with a lawyer?

3 A. No.

4 Q. At any time during the taking of the statement, did
5 he ask that the interview be terminated?

6 A. No.

7 Q. At any time during the statement or prior to the
8 statement, did you threaten or coerce the defendant into
9 talking to you and giving a statement?

10 *THE DEFENDANT:* Yeah, you did.

11 A. No.

12 *MR. CORNELIUS:* You can't do that.

13 *(Defendant and Mr. Cornelius whispering.)*

14 *THE COURT:* I'm so sorry. I did not hear his
15 answer. Can you just reask the question?

16 *MS. FULLER:* Okay.

17 Q. *(BY MS. FULLER)* At any time during the taking of
18 the statement or prior to the statement, did you threaten or
19 coerce the defendant into making a statement?

20 A. No.

21 Q. At any time did you directly or indirectly promise
22 the defendant anything in exchange for giving a statement?

23 A. No.

24 Q. At any time during the statement did he ask for any
25 basic necessities? You mentioned you already gave him water

1 but during the statement, did he ask for water, food, to
2 stop to go to the rest room?

3 A. No.

4 Q. And just to be clear, what was the offense that you
5 were investigating that you wanted to speak with him about?

6 A. At this point I had skeletal remains. That's
7 pretty much it. And a dead person.

8 MS. FULLER: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 Q. (BY MS. FULLER) I'm going to show you what's been
12 previously marked as State's Exhibit 1. Do you recognize
13 State's Exhibit 1?

14 A. Yes, I do.

15 Q. What is State's 1?

16 A. This is the statement I took, the interview of
17 Ruben Juarez.

18 Q. Okay. On the day that we're talking about?

19 A. On the date we're talking about.

20 Q. Okay. Is it a fair and accurate depiction of the
21 statement that Ruben Juarez gave to you that day?

22 A. Yes.

23 Q. Can you identify -- you've watched it since coming
24 into court?

25 A. Yes.

1 Q. Okay. Recently?

2 A. Yes.

3 Q. Okay. Can you identify all the voices that are on
4 the video?

5 A. Yes.

6 Q. And who are the voices?

7 A. Ruben Juarez and my voice.

8 Q. Okay. And when you went to take the statement and
9 you actually turned the recording device on, is it still
10 just you and Ruben in the room together?

11 A. Yes.

12 Q. Okay. So, Ruben and your voices are on there. Was
13 the operator of the recording equipment competent to run the
14 equipment?

15 A. Yes.

16 Q. Okay. And it's a fair and accurate depiction of
17 the statement?

18 A. Yes.

19 MS. FULLER: Your Honor, at this time, I
20 tender to defense counsel State's Exhibit 1 and --

21 MR. CORNELIUS: No objection for purposes of
22 this hearing, Judge.

23 THE COURT: All right. It will be admitted
24 for purposes of this hearing.

25 MS. FULLER: Judge, you want to --

1 *THE COURT:* Let's play it. Or not.

2 *MS. FULLER:* May I approach the witness, Your
3 Honor?

4 *THE COURT:* Sure.

5 *MS. FULLER:* I guess I need to mark this.

6 *THE COURT:* Uh-huh. If he's willing to give
7 it up.

8 *MS. FULLER:* May I approach the witness, Your
9 Honor?

10 *THE COURT:* You may.

11 *Q.* (BY *MS. FULLER*) I'm going to hand you what's
12 marked as State's Exhibit No. 2. Do you recognize that?

13 *A.* Yes, I do.

14 *Q.* What is State's Exhibit No. 2?

15 *A.* This is the Texas Statutory Warnings blue card.

16 *Q.* Okay. Is that the exact same blue card that you
17 referred to earlier when you testified that you read the
18 defendant his rights from the blue card?

19 *A.* Yes.

20 *Q.* Okay. Can you take a moment to look at it and make
21 sure that it's exactly the same rights that you read the
22 defendant on that day?

23 *A.* Sure. Okay. It's the same.

24 *MS. FULLER:* Okay. Your Honor, at this time
25 move to admit State's Exhibit No. 2 and tender to defense

1 counsel for inspection.

2 MR. CORNELIUS: No objection.

3 THE COURT: 2 will be admitted.

4 Q. (BY MS. FULLER) Officer Cisneros, can you read to
5 us the warnings you read to Ruben Juarez on that day?

6 A. Sure. No. 1, you have the right to remain silent
7 and not make any statement at all. Any statement you make
8 may be used against you at your trial.

9 No. 2, any statement you make may be used as
10 evidence against you in court.

11 No. 3, you have the right to have a lawyer
12 present to advise you prior to and during any questioning.

13 No. 4, if you're unable to employ a lawyer,
14 you have a right to have a lawyer appointed to advise you
15 prior to and during any questioning.

16 And No. 5, you have the right to terminate
17 this interview at any time.

18 Q. Okay. And those are the warnings that Ruben Juarez
19 waived when he agreed to give you a statement?

20 A. Yes.

21 Q. Do you see Ruben Juarez here in the courtroom
22 today?

23 A. Yes, I do.

24 Q. Could you please point him out and identify him by
25 an article of clothing?

1 A. This is Mr. Juarez here in the orange jumpsuit.

2 *MS. FULLER:* Your Honor, may the record
3 reflect Sergeant Cisneros has identified the defendant?

4 *THE COURT:* The record will so reflect.

5 *MS. FULLER:* Your Honor, at this time State
6 would like to publish State's Exhibit 1.

7 *THE COURT:* Sure. It's audio and video,
8 right?

9 *MS. FULLER:* It's video.

10 *THE COURT:* Okay. I just want to make sure I
11 can see it. Thank you.

12 *(State's Exhibit No. 1, the CD, is played.)*

13 *(Defendant exits courtroom during the playing*
14 *of the statement.)*

15 *MS. FULLER:* May I proceed?

16 *THE COURT:* You may.

17 *Q. (BY MS. FULLER)* At the end of the statement, you
18 hear the defendant saying that you said you were going to
19 help me. Do you know what he was referring to when he said
20 that?

21 A. Yes, I do.

22 *Q. And what was that?*

23 A. When I first walked in the interview room to make
24 my introduction, he was in a similar position to what you
25 saw there when the video started, him, head down. He was

1 already kind of emotional at that point and let me know that
2 he was making statements, that he was scared and when I
3 said, look, we're going to help you get through, I'll help
4 you get through this, I was referring to the process itself
5 of what we were about to do and not anything other than
6 that.

7 Q. To be clear for the record, did you ever make him
8 any promises in exchange for speaking with you about what
9 happened that night?

10 A. No.

11 MS. FULLER: Pass the witness, Your Honor.

12 THE COURT: Mr. Cornelius. And just for the
13 record, so we're all clear, that during the video,
14 Mr. Juarez got up and left the courtroom. He went to the
15 holdover. No one thinks he ran off.

16 MR. CORNELIUS: Yeah, I know.

17 THE COURT: But that he made that decision
18 himself. Did you want to go and visit with him?

19 MR. CORNELIUS: No.

20 THE COURT: Before you begin
21 cross-examination?

22 MR. CORNELIUS: No.

23 THE COURT: Just wanted to check, give you
24 that opportunity.

25 MR. CORNELIUS: May I proceed?

1 THE COURT: You may.

2 **CROSS-EXAMINATION**

3 Q. (BY MR. CORNELIUS) Do you know who it was that
4 arrested Mr. Juarez?

5 A. It was Sergeant Kinsworth.

6 Q. Do you know what time that was?

7 A. I don't know his exact time.

8 Q. Is there a way to find that out?

9 A. There is.

10 Q. How would we find that out?

11 A. I can get in touch with Sergeant Kinsworth.

12 Q. Okay. When did you -- do you know when you found
13 out he was arrested?

14 A. I do. I'll tell you what. If you'll give me a
15 second, I can look and see if they did a supplement.

16 Q. Great.

17 A. Give me a second.

18 I see their supplement, but they didn't
19 indicate a time.

20 Q. Yeah, I couldn't find it either. Do you know when
21 you found out he'd been arrested?

22 A. At around 1640, around 4:40.

23 Q. All right. So, within 40 minutes of that, you were
24 interrogating him?

25 A. Yes.

1 Q. Actually it would be sooner than that, wouldn't it?

2 A. I think so.

3 Q. I mean, within -- is the 5:21 time the time that
4 you turned on the recording device?

5 A. Yes.

6 Q. Okay. So, about what time was it that you first
7 started talking to him?

8 A. From the time he entered the office, maybe about
9 10, 15 minutes, something like that.

10 Q. Well, I don't know what that means. 10 or 15
11 minutes before 5:21 or what are you saying? After 1640 or?

12 A. Prior to the actual, I guess, the tape going on.

13 Q. Okay. And the tape went on at 5:21.

14 A. 5:21.

15 Q. So, like, 5:10 then, roughly?

16 A. Yeah.

17 Q. So, within 30 minutes of you finding out when he
18 was arrested, you don't know for sure what time they
19 arrested him but within 30 minutes of you finding out, you
20 started to talk to him?

21 A. Yes.

22 Q. And that conversation was at the homicide division?

23 A. Yes.

24 Q. Downtown?

25 A. Yes.

1 Q. And had you met him before that?

2 A. No.

3 Q. Do you know anything -- if anybody had talked to
4 him before you talked to him?

5 A. Are you referring to the arresting officers
6 regarding this case?

7 Q. Yes.

8 A. No.

9 Q. You don't know or they did not?

10 A. I'm not aware of anybody talking to him.

11 Q. Okay. And there's no report that you've read that
12 shows anybody else having talked to him and what was said,
13 correct?

14 A. No.

15 Q. All right. Now, did you talk to him, what? Ten
16 minutes or so? Ten -- before you turned the tape on?

17 A. Just a few minutes. Making introductions.

18 Q. Okay. When was the bottled water given to him?

19 A. When he first arrived.

20 Q. Did you give that or somebody else?

21 A. I gave him the water.

22 Q. Okay. So, making introductions and all that before
23 the tape is turned on took, what?

24 A. Maybe five minutes.

25 Q. Okay. During that five minutes did you tell him

1 why you wanted to talk to him?

2 A. Yes.

3 Q. Sort of the same thing that's on the tape?

4 A. Yes.

5 Q. Now, this tape contains the business about him
6 being arrested pursuant to a blue warrant, the one we just
7 saw, right?

8 A. Yes, sir.

9 Q. That's redacted, though.

10 MR. CORNELIUS: For purposes of the record, I
11 talked to the State; on the record, that part's redacted,
12 right?

13 MS. FULLER: Not on this copy. It would be on
14 a different disk.

15 MR. CORNELIUS: The part that's going to be
16 offered for the jury, it's going to be redacted.

17 MS. FULLER: Yes.

18 THE COURT: Good. I made a note of that. We
19 need to make sure that's done.

20 MR. CORNELIUS: It was only those sentences
21 leading up to the blue warrant, that part.

22 THE COURT: Yeah, y'all can listen to that and
23 make sure --

24 MR. CORNELIUS: They've given me a copy. I
25 just hadn't heard it yet.

1 THE COURT: Yeah. If I admit it, let's be
2 sure we get that done over the weekend.

3 MR. CORNELIUS: It's been done, Judge.

4 THE COURT: No, that you listened to it. I
5 don't want a Roger Clemens thing going on.

6 MR. CORNELIUS: I don't, either.

7 Q. (BY MR. CORNELIUS) How many other officers were
8 taking part -- I know you did the talking, but how many
9 other officers were taking part in this interview?

10 A. I'm the only officer/investigator that was doing
11 the interview.

12 Q. Okay. So, no other officers were involved?

13 A. Now, are you asking conducting the interview or in
14 the proximity of where things are going on?

15 Q. Yeah, either working the equipment or observing or?

16 A. Yeah. It was Investigator Ferguson who was -- I
17 think at the monitor and I think it was Sergeant Carsons who
18 also was listening to what was going on.

19 Q. They were outside the room but watching it?

20 A. Yes.

21 Q. Now, did they have any interaction with the suspect
22 themselves?

23 A. No.

24 Q. That you know of?

25 A. No.

1 Q. All right. Was there any attempt to take any type
2 of blood test or urine test from the suspect?

3 A. No.

4 Q. So far as you know, none was taken?

5 A. That's correct.

6 Q. When you said on the tape that it was 5:44 and you
7 were terminating the interview, so the interview itself took
8 23 minutes, roughly?

9 A. That's about right.

10 Q. Any time during that interview -- was that a
11 continuous interview; tape was not stopped at any time
12 during that interview?

13 A. It was a continuous interview.

14 Q. So, the tape recorder was only turned on one time
15 and only turned off one time.

16 A. That's correct.

17 Q. The only thing -- well, what was said after the
18 interview? Did you continue to talk to him after the
19 interview?

20 A. No.

21 Q. So, the only part of your interview with him that
22 was not recorded is the first five minutes or so?

23 A. Yes.

24 MR. CORNELIUS: Nothing further at this time.

25 THE COURT: Any redirect?

1 MS. FULLER: Briefly, Your Honor.

2 **REDIRECT EXAMINATION**

3 Q. (BY MS. FULLER) Just to be clear, Sergeant
4 Kinsworthy (sic) with the WET team, what does WET team stand
5 for?

6 A. Warrant Execution Team.

7 Q. He knew from the beginning that he was picking up
8 the defendant on that blue warrant and transporting him
9 directly to the homicide office to speak with you?

10 A. That's correct.

11 MS. FULLER: Pass the witness, Your Honor.

12 MR. CORNELIUS: Nothing further.

13 THE COURT: All right. Can I excuse him?
14 Y'all want to keep him around till we're done? What's --

15 MS. FULLER: We have no further witnesses.
16 So, we're done at this point.

17 THE COURT: Okay. All right. Thank you,
18 Officer. You can step down.

19 MR. CORNELIUS: Okay.

20 THE WITNESS: Okay.

21 THE COURT: So, you're resting on the motion?

22 MS. FULLER: Yes, Your Honor.

23 THE COURT: Mr. Cornelius?

24 MR. CORNELIUS: I have no evidence. I have a
25 legal argument for this and then if we have any evidence, it