

1 MR. DUARTE: This is one of the
2 unadjudicated ones. It's one of the unadjudicated
3 offenses. So, I was going to make an objection here.
4 Do you want to read that instruction to them now since
5 it's unadjudicated?

6 THE COURT: Did we need to at least to have
7 some context? So, if you want to make an objection at
8 the appropriate time, I'll be happy to instruct the
9 jurors.

10 MR. DUARTE: Okay.

11 (End of bench conference.)

12 MS. BENNETT: May I proceed, Judge?

13 THE COURT: Yes.

14 **GREG CLARK,**
15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 BY MS. BENNETT:

18 Q. Officer, if you would please introduce yourself
19 to the jurors by telling them your name and where you
20 work?

21 A. My name is Greg Clark. I'm a member of the
22 Houston Police Department.

23 Q. How long have you been with the Houston Police
24 Department?

25 A. Nine years.

1 Q. Any other law enforcement service prior to the
2 police department?

3 A. No, ma'am.

4 Q. What is your current assignment within HPD?

5 A. Greenspoint nightshift.

6 Q. Patrol?

7 A. Patrol.

8 Q. Have you always served on patrol since you've
9 been with HPD?

10 A. Except for the stint in the jail, yes.

11 Q. And are you a certified peace officer in the
12 State of Texas?

13 A. Yes.

14 Q. Were you working in the Greenspoint area on,
15 I'm sorry, let me start over, on January the 19th of
16 2011?

17 A. No, I was working the northeast area.

18 Q. Looking at an area 112300 Clear River, what
19 part of town is that?

20 A. Northeast Riverwood subdivision.

21 Q. And were you working at that location on
22 January the 19th?

23 A. Yes, ma'am.

24 Q. Were you on foot patrol, in a vehicle? How
25 were you getting about at that time?

1 A. In a marked patrol car.

2 Q. Were you riding alone or with a partner?

3 A. With a partner.

4 Q. I want to take your attention to about
5 11 o'clock in the morning at that location and on that
6 date?

7 A. Yes, ma'am.

8 Q. Were you riding with your partner then?

9 A. Yes, ma'am.

10 Q. In a marked patrol car?

11 A. Yes, ma'am.

12 Q. Did you come alongside somebody you later
13 learned was Anthony Latson?

14 A. Yes, ma'am.

15 Q. And why was it that you pulled alongside Mr.
16 Latson?

17 A. He was walking in the middle of a street where
18 a sidewalk was clearly provided.

19 Q. Was that a violation in Houston?

20 A. Yes, ma'am.

21 Q. Why is that a violation?

22 A. Well, it's a traffic impediment.

23 Q. So, there was a sidewalk there; and he was
24 walking in the street?

25 A. Yes, ma'am.

1 Q. What did you do when you saw that?

2 A. We pulled up alongside of him and told him to
3 come over to us. We were going to ask for his
4 identification and talk to him.

5 Q. What was his demeanor when you did that?

6 A. He was nervous, didn't really want to talk to
7 us.

8 Q. Did that concern you?

9 A. Yes, ma'am.

10 Q. Why is that a concern?

11 A. Well, it's a high-crime area, a lot of gang
12 activity, narcotic activity. When somebody doesn't want
13 to talk to us, it's usually because they might be doing
14 something wrong; they're doing something they shouldn't
15 be doing.

16 Q. Did he do anything else that made you nervous?

17 A. He -- we told him to place his hands on the car
18 and that's for our safety just so he doesn't reach for
19 any kind of weapons or destroy any evidence. He kept
20 taking his hands off the car and trying to put his hands
21 in his pockets, and that made us nervous.

22 Q. So, what did you do you next?

23 A. My partner got out of the car to place him into
24 custody. He didn't have any ID on him. So, we were
25 getting kind of nervous by him not following our verbal

1 commands. My partner got out of the car. The Defendant
2 then ran away on a foot chase.

3 Q. What did you do next?

4 A. I hopped over to the driver's seat. My partner
5 continued on foot pursuit. We followed him into a set
6 of row of houses. We maintained a perimeter until he
7 gave himself up.

8 Q. Was he doing anything as he ran?

9 A. Yes, he was trying to take off -- he had like a
10 big, heavy coat on, this is January. He was taking his
11 coat off, and then he also took a pistol out of his
12 clothing and threw it on the coat.

13 Q. You recognized it as a pistol?

14 A. Yes, ma'am.

15 Q. What did it look like from where you were?

16 A. Small black, I couldn't tell anything else.

17 Q. Were you able to maintain visual contact with
18 the coat and the pistol that he had thrown as he ran?

19 A. Yes, ma'am.

20 Q. And what happened next?

21 A. With what exactly?

22 Q. Well, he kept running. Was he ultimately
23 caught?

24 A. Right, he was ultimately caught. He went into
25 a house. My partner was on the backside of the house.

1 I was on the front side of the house so I could maintain
2 eye contact on his personal items that he left at the
3 road. We called in our K-9, our helicopter units,
4 backup units. As they were all arriving, he walked out
5 of the house and gave himself up.

6 Q. Let's back up for just a minute. As he
7 continued to run after shedding the coat and the pistol,
8 did he shed anything else?

9 A. I think it was just, maybe, I can't remember.
10 All I remember was the coat and the gun.

11 Q. And you said that he went to a residence?

12 A. Yes.

13 Q. Did you actually see him go inside?

14 A. I did not because I had to get out and get into
15 the driver's seat. But we knew he was in that area
16 because my partner had seen him last.

17 Q. Okay. And you said that he came out of the
18 residence. Now, was he the first person to come out of
19 the residence?

20 A. No, an elderly man came out and flagged me down
21 and said, is this the guy you're looking for? I said,
22 excuse me? He pointed to him as he was walking out,
23 flagging me down.

24 Q. Did you get the impression as to whether or not
25 the elderly man had actually invited him in?

1 A. No, I did not get that impression. He seemed
2 pretty nervous and scared by the whole ordeal.

3 Q. Once he's taken into custody -- and let me just
4 ask you, we've been talking about Anthony Latson, do you
5 see him here in the courtroom?

6 A. Yes, ma'am.

7 Q. Could you please point him out and describe
8 what he's wearing?

9 A. He's wearing a checkered, button-down shirt.

10 MS. BENNETT: Your Honor, may the record
11 reflect the witness has identified the Defendant?

12 THE COURT: It will.

13 Q. (BY MS. BENNETT) Did you go back to the items
14 that you had seen him toss?

15 A. Yes.

16 Q. And, in fact, was that item a pistol?

17 A. Yes.

18 Q. Did you recover it?

19 A. Yes.

20 MS. BENNETT: Approach the witness, Your
21 Honor?

22 THE COURT: Yes.

23 Q. (BY MS. BENNETT) Showing you what's been
24 marked as State's Exhibit 37. And I'll note for the
25 Court that the weapon has, in fact, been secured by the

1 bailiff.

2 Do you recognize what I've marked as
3 State's Exhibit 37?

4 A. Yes, ma'am.

5 Q. And what is that?

6 A. It's a revolver pistol.

7 Q. Was that the pistol that you saw the Defendant
8 throw as he was running?

9 A. Yes, ma'am.

10 Q. And at the time that you located it, was it
11 loaded?

12 A. Yes, ma'am.

13 Q. Showing you State's Exhibit 38 or what I've
14 marked as State's Exhibit 38, are those the contents of
15 that weapon marked State's Exhibit 37?

16 A. Yes, ma'am.

17 MS. BENNETT: After tendering to Defense
18 counsel State's Exhibit 37 and 38, I'd ask that they be
19 admitted at this time.

20 (State's Exhibit Nos. 37 and 38 offered.)

21 MR. DUARTE: We object to 38 and 37, Judge,
22 404(b) and 404, Your Honor.

23 THE COURT: Your objections are overruled.
24 State's Exhibit 37 and 38 are admitted.

25 (State's Exhibit Nos. 37 and 38 admitted.)

1 Q. (BY MS. BENNETT) Officer Clark, just for those
2 jurors that didn't have an opportunity to see, this is
3 State's Exhibit 37, the gun that was recovered?

4 A. Yes, ma'am.

5 Q. And was it your understanding at the time that
6 you took the Defendant into custody that he was not
7 allowed under law to be carrying that firearm?

8 A. I'm sorry, repeat, ma'am?

9 Q. Was it your understanding at the time you took
10 the Defendant into custody that he was not allowed to be
11 carrying that firearm?

12 A. Yes, ma'am.

13 Q. And for what reason?

14 A. He had a felony conviction.

15 Q. And did you charge him with that offense?

16 A. Yes, ma'am.

17 Q. Do you recall the offense report number that
18 was assigned this case by the Houston Police Department?
19 And if it would help to refresh your memory, I could
20 show you the offense report?

21 A. If you could show it to me, yes, ma'am.

22 Q. Officer Clark, if you could please tell me what
23 HPD offense number was assigned to this case?

24 A. Sure, 007913411B, as in boy.

25 Q. And is that the unique identifying number for

1 that case that you filed for felon in possession of a
2 weapon?

3 A. Yes, ma'am.

4 Q. Not assigned to any other cases?

5 A. No, ma'am.

6 Q. And I think we've agreed this occurred on
7 January the 19th of 2011?

8 A. Yes, ma'am.

9 MS. BENNETT: At this time, Your Honor,
10 State's marked as State's Exhibit No. 39, a certified
11 copy of an indictment for felon in possession of a
12 weapon. I'll tender to Defense counsel for admission.

13 (State's Exhibit No. 39 offered.)

14 MR. DUARTE: We object to 39, Your Honor,
15 404 (b) and 403, Texas Rules of Evidence.

16 THE COURT: Your objection is overruled.
17 State's Exhibit No. 39 is admitted.

18 (State's Exhibit No. 39 admitted.)

19 MS. BENNETT: May I publish it, Your Honor?

20 THE COURT: Yes.

21 Q. (BY MS. BENNETT) Showing you what has been
22 admitted as State's Exhibit No. 39. It's an indictment
23 issued for the offense of felon in possession of a
24 firearm against Anthony Terrell Latson, which occurred
25 on January the 19th of 2011. And, Officer Clark, I'm

1 pointing to a number there cited at the top. Is that
2 the offense report number assigned by the Houston Police
3 Department for this case?

4 A. It appears to be, yes, ma'am.

5 Q. Thank you.

6 MS. BENNETT: State will pass the witness.

7 THE COURT: All right, Mr. Duarte.

8 MR. DUARTE: Yes, ma'am.

9 **CROSS-EXAMINATION**

10 BY MR. DUARTE:

11 Q. Officer Clark, regarding the elderly gentleman,
12 his name was Thurston Philailo, I believe?

13 A. I think so, yes.

14 Q. Was he injured anyhow?

15 A. No, sir.

16 Q. He was just startled?

17 A. Yes, sir.

18 Q. He was an older individual; is that correct?

19 A. Yes, sir.

20 Q. Did you know if -- did your investigation lead
21 you to believe that maybe Mr. Latson knew that gentleman
22 somehow?

23 A. I believe there was some sort of relationship.
24 I think the gentleman's son maybe knew Mr. Latson.

25 Q. So Mr. Latson may have been invited to come in

1 maybe?

2 A. He told me he did not invite him in, but he
3 probably knew him.

4 Q. That Mr. Thurston Philailo may have known Mr.
5 Latson, that's why Mr. Latson would have gone into that
6 house?

7 A. There's a good chance, yes, sir.

8 Q. Familiarity with the house?

9 A. Yes, sir.

10 Q. Again, that individual, he was more startled;
11 but he wasn't injured, correct?

12 A. No, sir, not injured.

13 Q. And neither you nor your partner were injured
14 in that occasion?

15 A. No, sir, no injuries.

16 Q. And Mr. Latson didn't threaten you at any time
17 with the handgun; is that correct?

18 A. No, sir.

19 Q. Nor your partner?

20 A. No, sir.

21 MR. DUARTE: I'll pass this witness.

22 THE COURT: All right. Is there anything
23 further?

24 MS. BENNETT: No, Your Honor.

25 THE COURT: May Officer Clark be excused?