

OSCAR COMEAUX - April 26, 2013
Direct Examination by Mr. Phanco

1 **OSCAR COMEAUX,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MR. PHANCO:

5 Q. Good afternoon -- good morning. Go ahead and
6 introduce yourself to the jury.

7 A. I'm Corporal Oscar Comeaux.

8 Q. Okay. And who do you work for?

9 A. Precinct 6 Constable's Office.

10 Q. All right. Now tell the -- okay. Let's just
11 back up. How long have you been with Constable 6?

12 A. Probably about twenty-seven years, twenty-five
13 or twenty-seven years.

14 Q. All right. How long?

15 A. About twenty-five -- at least twenty-five
16 years.

17 Q. You lose track around twenty, okay. I guess it
18 was a bad joke. All right. So around twenty-five years
19 you've been there?

20 A. At least, yes.

21 Q. Your entire law enforcement career was at
22 Precinct 6?

23 A. Yes, sir.

24 Q. Tell the jury kind of what you do for Precinct
25 6. What's your job description, if you will?

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1 A. I'm a civil deputy. I kind of oversee the
2 Civil Division at Precinct 6, and I also have a district
3 that I work in and actually serve civil process papers.

4 Q. All right. Now when you say serve civil
5 process papers, kind of break that down to us kind of on
6 the street. What do you do?

7 A. Serve a lot of child support, do evictions,
8 truancy papers, all different court documents that has
9 to be delivered by the court to individuals.

10 Q. Got you. So would it be safe to say that
11 criminal investigations, criminal calls, that's not
12 really your area of -- well, what you do for Constable
13 6?

14 A. No, not as my full-time position.

15 Q. Just doing the civil work?

16 A. Yes.

17 Q. All right. I got you. Do you recall on
18 October 5th, 2011, getting called up in a robbery
19 investigation/pursuit?

20 A. Yes.

21 Q. Tell us how you came to be in the area. Do you
22 recall where the area was?

23 A. Yes.

24 Q. What was the area?

25 A. It's kind of in between Fifth Ward and Denver

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1 Harbor area, which that's my area that I normally work
2 in. And I was traveling north on Sakowitz Street, and I
3 kind of observed someone running real fast beside me
4 and --

5 Q. Now, Officer, before we get to the guy running
6 beside you, how did you get to be in that area? You're
7 not patrolling, right?

8 A. Yeah -- no, no, no, sir. I was serving my
9 civil papers.

10 Q. Do you recall what time of day it was?

11 A. Somewhere around noon.

12 Q. Okay. So we're talking about midday on October
13 5th, 2011?

14 A. Yes, sir.

15 Q. And are you familiar with that area of town?

16 A. Yes, sir.

17 A. I'm going to hand you what's been marked as
18 State's Exhibits 1 through 6.

19 MR. PHANCO: And I'm tendering to opposing
20 counsel for inspection.

21 May I approach the witness, Your Honor?

22 THE COURT: You may.

23 Q. (By Mr. Phanco) You recognize State's Exhibits
24 1 through 6?

25 A. Yes. Yes, sir.

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1 Q. And what are they?

2 A. In that general area that I -- where I normally
3 work.

4 Q. When you say it's in that general area, what
5 specifically are they?

6 A. Like --

7 Q. Is it the area -- I guess the question is, what
8 are they of the area? Does that make sense?

9 A. This is the area where I was being flagged
10 down.

11 Q. Are they maps, for instance?

12 A. Sir?

13 Q. Are they maps?

14 A. Yes.

15 Q. Okay. So they're maps of the area that you
16 were --

17 A. Yes.

18 Q. -- in that night? Okay. And pictures of the
19 street?

20 A. Yes.

21 Q. Okay.

22 A. In that area.

23 Q. Now let me ask you, are those maps and the
24 pictures of the street -- do they accurately portray
25 that area as they were on October 5th of 2011?

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1 do that.

2 THE COURT: Okay.

3 MR. GREENLEE: With regard to State's
4 Exhibits 1, 2 and 3, the specific questions that were
5 propounded to the witness were relative to: Are these,
6 quote, maps of the area? That's the prosecutor's exact
7 words. Are these maps of the area?

8 And then further, are these maps as the
9 way it was depicted on the day of October the 5th of
10 2011? Clearly 1, 2 and 3 are maps, aerial maps of the
11 area as they existed on that day. State's proposed
12 Exhibits 4, 5 and 6, first of all, are not maps, which
13 is what the State asked the witnesses. Are these maps?

14 Two, actually they're pictures of just
15 simply streets where, I assume, the witness will testify
16 later that this is where he was actually driving when
17 the person ran along beside him. All I'm telling you is
18 at this particular point in time, based upon the initial
19 foundation that was laid from that, I don't think the
20 foundation has been made for pictures of streets,
21 specific pictures of streets.

22 MR. PHANCO: Again, I don't actually hear
23 what part of the foundation hasn't been satisfied; but
24 I'll retort anyway. And that is that within this
25 particular case I asked him, Are those maps? He

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1 responded, Yes. I asked him, Are they also pictures of
2 the roadways? He said, Yes. State's Exhibits 1 through
3 6 clearly and accurately depict the area as they were on
4 that date. That includes the maps and the pictures, and
5 that lays the proper foundation.

6 THE COURT: Okay. Overruled.

7 (Continuing in jury's hearing)

8 THE COURT: State's 1 through 3 are
9 admitted without objection, and 4 through 6 are
10 admitted.

11 MR. PHANCO: Your Honor, I'd ask to
12 publish to the jury.

13 THE COURT: You may publish.

14 Q. (By Mr. Phanco) I'm going to show you what's
15 been first marked as State's Exhibit No. 3. How are
16 you -- are you able to see -- you actually have a
17 monitor there to your right, and you might be able to
18 see better. That's just kind of a general area, right?

19 So, like, on that map, where was Downtown
20 Houston, kind of where we sit now, going to be? You can
21 actually draw on the screen, by the way, like with
22 arrows and things.

23 A. Okay. From here, from -- it would be -- let's
24 see -- west of I-10 -- downtown area, you said?

25 Q. Right. So if -- let me see. If this is

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1 I-10 --

2 MR. GREENLEE: Your Honor, I'm going to
3 object. I think the witness needs to testify as to what
4 it is, not the prosecutor.

5 THE COURT: Sustained.

6 Q. (By Mr. Phanco) Are you able to see --
7 double-click the left corner. Got it. So, kind of show
8 us where I-10 is. Can you see it on there? Is your
9 eyesight good enough for those TVs?

10 A. Okay. I was looking at it wrong. Yeah, it was
11 the -- yeah, I see 59 over here, and this is I-10.
12 Okay.

13 Q. Go ahead and draw on the screen. There you go.
14 Okay. And what is that?

15 A. Let's see. Lorraine -- okay. This is I-10
16 going east -- correction -- going west. And it's
17 crossing 59. So downtown would be kind of to the --
18 that would be the southwest side --

19 Q. All right.

20 A. -- of I-10.

21 Q. So we're talking about -- go ahead and kind of,
22 like, circle the area where downtown is going to be.

23 A. Somewhere over here.

24 Q. Okay. Now I'm going to show you State's
25 Exhibit No. 1, which is -- and tell me if your

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1 eyesight -- if you just want me to bring the map up to
2 you, and then I can kind of show the jury, whatever
3 works better for your eyesight.

4 A. Okay.

5 Q. All right. Now are you able to see this area
6 okay?

7 A. Uh-huh.

8 Q. Okay. All right. Now show us kind of where
9 you were, you know, patrolling and doing your civil
10 summons.

11 A. Okay. Do I draw it?

12 Q. Sure.

13 A. I was traveling here on Tremper Street.

14 Q. Okay.

15 A. And I made a left on Sakowitz.

16 Q. Okay.

17 A. And just kind of out of the corner of my eye, I
18 just saw a person running, going -- because I was
19 traveling north on Sakowitz; and they was going the
20 opposite, which would be south on Sakowitz.

21 Q. Okay. Now, just so we're all oriented, draw an
22 opposing kind of line to where the other direction that
23 they're running. Do you know what I mean?

24 A. They were running this way.

25 Q. Okay. I'm probably making it more confusing.

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1 So you're headed north, on this map, on Sakowitz?

2 A. Yes.

3 Q. And the runner is running south back the other
4 way?

5 A. Right.

6 Q. All right. Now just to turn your attention
7 from the map for a second, tell the jury what you see
8 when you see the young man kind of -- was he running
9 when you first saw him? Tell us how you first viewed
10 him.

11 A. Yeah, he was running real fast, kind of slowed
12 down a little bit. But then he, you know -- I didn't
13 pay -- nobody wasn't running after him or anything. I
14 didn't pay no -- really looked at him. I kept traveling
15 north on Sakowitz.

16 Q. What did you think when you noticed his running
17 and kind of -- when he noticed you, you said, did he
18 slow down or speed, or how did it -- did he notice you
19 and then slow down, or how did that all go?

20 A. The person slowed down a little bit; and then,
21 you know, we passed him up -- I passed him up, and as I
22 was getting -- I didn't really think nothing of it, you
23 know, just observed someone running.

24 Q. And then what happened next?

25 A. And as I was getting closer to Lyons Avenue, a

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1 vehicle came and cut in front of me and flagging and
2 waving his arm. And it was a citizen saying that --

3 MR. GREENLEE: Objection. That would be
4 hearsay.

5 THE COURT: Sustained.

6 Q. (By Mr. Phanco) Without saying what they told
7 you, just do me a favor. Circle the area of Lyons
8 Avenue and Sakowitz. All right. So it was in that
9 general area that you were flagged down by a citizen?

10 A. Yes.

11 Q. Okay. Now without going specifically into what
12 he told you, when you were done speaking with him, what
13 did you do?

14 A. Okay. At that time, it was an investigation
15 of --

16 MR. GREENLEE: Objection. That would be
17 based on hearsay, what he's getting ready to testify.

18 THE COURT: Sustained.

19 Q. (By Mr. Phanco) Go ahead. Without saying
20 specifically, you turned around to do what at that
21 point?

22 A. I turned around to check the -- what was going
23 on.

24 Q. In other words, were you turning around to
25 check the male who had passed you running?

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1 A. Exactly.

2 Q. You said before you didn't think anything of
3 it. Were you now thinking that he was suspicious --

4 A. At that time, yes.

5 Q. -- after speaking with a citizen?

6 A. The citizen.

7 Q. Okay. Now you start following this particular
8 male who ran past your car. Did you do a U-turn?

9 A. Yes. I made a turn at Lyons Avenue and
10 Sakowitz and came back, which is a dead-end, as you can
11 see. It's a hill area right there.

12 Q. Go ahead and circle the dead-end.

13 A. Right up in here somewhere.

14 Q. All right. So you reach that dead-end, and
15 what happens next?

16 A. Well, I gets out the car. By that time this
17 person -- it's a railroad track, which is here. This
18 person was really on the other side of I-10. All I
19 could see is the body of that person.

20 Q. Hold on real quick. Are you saying that these,
21 like, two lines here, are these the railroad tracks?

22 A. Yes.

23 Q. Okay. And so these railroad tracks go north to
24 south?

25 A. Yeah, they run north and south.

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1 Q. All right. So when you got there was -- you
2 said the man that you were chasing after had now turned
3 and gone on the other side of I-10?

4 A. Yeah.

5 Q. So circle where he was when you noticed him.

6 A. Okay. He was about --

7 Q. Great.

8 A. -- just a little on the side of the tracks,
9 yeah.

10 Q. Okay. Great. All right. So what do you do
11 when you see him on the other side of I-10?

12 A. I got out of my car, and I started running --

13 Q. Okay.

14 A. -- and which I came -- followed that same route
15 and came along the opposite side of East Freeway. And
16 this is where Sakowitz picks up on the other side over
17 here. But as I was running along here, like I say, I
18 lost him.

19 Q. Show us where you're running along. Do another
20 line kind of where you saw him, okay?

21 A. Right here. And that other part of Sakowitz is
22 somewhere over on this side. I can't see, like, a road.
23 But it's somewhere --

24 Q. Okay.

25 A. -- on this side right up in here.

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1 Q. Got you.

2 A. And at that point in time I had lost view of
3 him then, view of that person.

4 Q. All right. So you lost -- circle the area you
5 lost view of him.

6 A. Right up in there.

7 Q. Okay. All right, great. Now turning your
8 attention away from the map, tell the jury what happens
9 after you lose view of the man who was running from you.

10 A. Okay. And I had also got on the radio to ask,
11 you know, to have some other units come by to check.
12 And so while I was -- do I need to show you? Back up in
13 there I found a wallet.

14 Q. Okay. Do kind of like -- I don't know. Since
15 we've got circles, do like a scribble or something
16 unique that shows us where the wallet is.

17 A. Yeah, somewhere up behind this building over
18 here somewhere. I would -- somewhere right around up in
19 here is where I found the wallet in the grass in the
20 back of this building here. There's a building right
21 there, and in this little grassy area there was a
22 wallet.

23 Q. So you found a wallet in that grassy area?

24 A. Yes, sir.

25 Q. All right. Draw the wallet again. I think

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1 that Mary here was able to make it green. I don't know
2 how she did it.

3 A. She made it.

4 Q. So circle where the wallet is, and it will show
5 up in green.

6 A. Oh, okay.

7 MR. GREENLEE: Your Honor, can I move that
8 board? Because it's blocking my view.

9 THE COURT: Sure.

10 MR. GREENLEE: Thank you.

11 A. Somewhere in between here and here is where a
12 wallet --

13 THE COURT: Hold on one second. Is the
14 jury able to see?

15 They can't.

16 (Off-the-record discussion)

17 THE COURT: You may proceed.

18 Q. (By Mr. Phanco) So is that green area that you
19 circled, that's where you found the wallet?

20 A. Yeah, somewhere around here.

21 Q. All right. Tell us what you do at that point.

22 A. I just held on to it, and we checked the
23 perimeter around up in there. And like I say, we didn't
24 see that person. So, eventually, I met up with my
25 patrol deputy, which is over here in the -- by the

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1 Fiesta parking lot, which is on the other side over
2 here.

3 Q. All right. Circle that area.

4 THE COURT: All right. One person talk at
5 a time.

6 Q. (By Mr. Phanco) All right. Circle that area.

7 A. I was trying -- this is Fiesta parking lot,
8 which is -- that would be on the east side of those
9 tracks over there on the other side of the --

10 Q. Okay. Just kind of circle the area, generally.
11 Okay.

12 A. -- freeway, somewhere up in here.

13 Q. Got you. Who do you meet up with over there?

14 A. Corporal Arthur Matamoros, one of our deputies,
15 patrol deputies; and I gave the wallet to him.

16 Q. Okay. So when you gave the wallet to
17 Matamoros, did you do anything more on this particular
18 case?

19 A. No, sir. That was pretty much it.

20 Q. All right.

21 MR. PHANCO: I pass the witness, Your
22 Honor.

23 THE COURT: Okay. Your cross.

24 MR. GREENLEE: May I proceed, Your Honor?

25 THE COURT: You may.

1 MR. GREENLEE: Thank you.

2 **CROSS-EXAMINATION**

3 BY MR. GREENLEE:

4 Q. Corporal Comeaux?

5 A. Yes, sir.

6 Q. I believe you testified that on that particular
7 day you were serving papers?

8 A. Civil papers.

9 Q. So, clearly, your focus was not in chasing
10 suspects or anything like that?

11 A. No, sir.

12 Q. Would that be fair?

13 A. Yes.

14 Q. I think you testified that you, in fact, saw a
15 man coming down the street?

16 A. Uh-huh.

17 Q. Was this person running towards you, away from
18 you or along the side of you?

19 A. Beside.

20 Q. And when you say he was running alongside of
21 you, how close to your vehicle did he get, if you can
22 recall?

23 A. Well, if you know how the street is, I'm in
24 this lane over here, the right lane, which is going
25 north, and just -- I say ain't but maybe no more than

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1 two, maybe three car lengths. But he wasn't close to
2 me. He was just on the edge of the other side of the
3 street, just running.

4 MR. GREENLEE: May I approach the
5 exhibits, Your Honor?

6 THE COURT: Yes.

7 Q. (By Mr. Greenlee) Corporal Comeaux, looking at
8 State's Exhibit No. 1, at what point in time did you
9 first notice -- at what point did you first notice this
10 person, looking at State's Exhibit No. 1?

11 A. Okay. As soon as I turned off of Tremper
12 Street onto Sakowitz.

13 Q. Okay. Following my pen, can you sort of direct
14 my pen?

15 A. Okay. I would say somewhere in between Farmer
16 Street and Tremper Street.

17 Q. Am I close with the pen?

18 A. Yeah. Just down a little bit, right where it
19 say street, up a little bit right there. Somewhere
20 around there is when I just noticed a person running.

21 Q. And where were you?

22 A. On the opposite side, traveling north.

23 Q. Would it be in this direction or in this
24 direction?

25 A. No. I was going north on Sakowitz, a street

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1 called Sakowitz.

2 Q. Okay. So it would be fair to say, Corporal
3 Comeaux, that you never really got close to this person,
4 did you?

5 A. No, sir.

6 Q. And, also, that frankly, you didn't pay any
7 attention because, well, you had no reason?

8 A. No reason.

9 Q. So you obviously didn't really look at the
10 person?

11 A. No, sir.

12 Q. Okay. Were you able to describe this person at
13 all?

14 A. The only thing is that it was a black male, and
15 that was pretty much --

16 Q. Was the person tall, short, thin, fat? Any
17 other kind of description?

18 A. He was youth in age. And he was, I would say,
19 slender, medium, you know, slender, medium, somewhere
20 around in there.

21 Q. And was the person tall or short?

22 A. I would say anywhere between five-eleven to
23 maybe five-twelve, somewhere around there.

24 Q. Which makes a person fairly tall; would you
25 agree?

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1 A. Fairly. Because I'm six-one, and I don't
2 think -- it didn't look like he was taller than I was,
3 so that's what I was going by.

4 Q. And you would agree that someone -- and you've
5 had training in terms of identification; would that be
6 accurate?

7 A. Yes, sir.

8 Q. So if you say it was someone who was
9 approximately, I think you said, between five --

10 A. Eleven, five-twelve, somewhere around there.

11 Q. Okay. That certainly is taller than someone
12 who's five-foot-eight?

13 A. Yes.

14 Q. That's noticeably different; isn't that
15 correct?

16 A. Yes.

17 Q. Okay. Now once you received some information,
18 at that point in time you turned your vehicle around; is
19 that correct?

20 A. Yes, sir.

21 MR. GREENLEE: May I approach the exhibit
22 again, Your Honor?

23 THE COURT: You may.

24 Q. *(By Mr. Greenlee)* And the point in time you
25 turned your vehicle around, where were you at that point

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1 in time? Looking at State's Exhibit No. 2, where were
2 you?

3 A. When I turned around and --

4 Q. Yes, sir.

5 A. I turned around at Sakowitz and Lyons Avenue.

6 Q. You can actually touch it, and it will make a
7 mark.

8 A. When I turned around, it was right at Sakowitz
9 and Lyons Avenue.

10 Q. Did you see the person whom you had seen
11 earlier at that point?

12 A. No.

13 Q. Okay. And then when you turned around, in what
14 direction did you head, sir?

15 A. Sir?

16 Q. What direction did you go after you turned your
17 vehicle?

18 A. Back south on Sakowitz.

19 Q. Okay. And as you were coming back south, did
20 you see the person?

21 A. Not until I got to the dead-end.

22 Q. Okay. And where is the dead-end, sir?

23 A. Right around up in here, right where this --
24 right up in here.

25 Q. And when you got to the dead-end, did you see

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1 that person?

2 A. All I saw is the person -- the same person that
3 I saw running was over here, like I say, already on the
4 other side of the freeway.

5 Q. And using the courtroom as a gauge, about how
6 far away from you was that person?

7 A. About what now?

8 Q. Using the courtroom as a gauge, about how far
9 away from you was that person? Was the person further
10 than this courtroom?

11 A. Oh, yes.

12 Q. Much further; is that correct?

13 A. Much further.

14 Q. Okay. At that point in time, did you terminate
15 your efforts to look for the person at that point?

16 A. When I saw him?

17 Q. Yes, when you're at the dead-end.

18 A. No, no, no, sir. That's when I got out, and I
19 ran -- I went the same, back to the tracks, and ran
20 across, is when I -- we didn't terminate it until we
21 kind of searched this area a little bit.

22 Q. And how long a time period were you out there
23 searching the area? Do you recall?

24 A. I want to say at least ten or more than fifteen
25 minutes.

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1 Q. And after you went to the train tracks, which I
2 assume to be the area around the circle to the left on
3 the map; is that correct?

4 A. The train tracks is to my right, but --

5 Q. Okay. On the map it would be to the left? It
6 would be where the green circle is?

7 MR. GREENLEE: May I approach the exhibit
8 again, Your Honor?

9 THE COURT: You may.

10 A. Yeah.

11 Q. (By Mr. Greenlee) Would the train tracks be
12 right there, right here in this area? Are those the
13 train tracks?

14 A. Just wait. You're moving too much. Right in
15 the middle, that's the train tracks right here.

16 Q. Okay. Thank you. So on this map that would be
17 right here; is that correct?

18 A. Yes.

19 Q. Thank you. At some point in time you did
20 terminate looking for this person; is that right?

21 A. Yes.

22 Q. Was that when you found the wallet?

23 A. No. I found the wallet as when I was running
24 over here. And like I say, I didn't know which
25 direction that he had -- I know he went down Sakowitz.

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1 But by the time I got over there, I mean, I didn't know
2 which way he went from there.

3 Q. And when you found --

4 A. This is Sakowitz on the other side.

5 Q. I see. And when you found this wallet, were
6 you alone or were there other officers in the area with
7 you?

8 A. Probably was some there, but I was the only one
9 that picked it up.

10 Q. And what did you do with the wallet after you
11 found it in the bushes?

12 A. I just held on to it until we got through with
13 searching.

14 Q. And how long was this wallet in your
15 possession? Do you recall?

16 A. I say it was within ten or fifteen minutes
17 after we terminated it, and I got with the other
18 officer.

19 Q. Did you indicate to anyone else who may have
20 had any involvement in this case where exactly you found
21 the wallet? Did you tell anybody?

22 A. The deputy that did the report.

23 Q. Okay. And you gave it to him; is that right?

24 A. Yes, sir.

25 Q. Once you gave the wallet to the deputy, did you

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1 have any additional involvement in this case?

2 A. No, sir.

3 Q. And have you had any involvement in this case
4 since, I guess, about a year-and-a-half ago? Have you
5 had any involvement?

6 A. No, sir, none at all.

7 Q. And it would be fair to say, would it not,
8 Corporal Comeaux, that the person sitting next to me --
9 you're not saying he was in any way involved in anything
10 out there on October 5, 2011?

11 A. I couldn't say that.

12 Q. And certainly, you did not see this person --

13 A. No.

14 Q. -- would that be accurate?

15 MR. GREENLEE: Pass the witness, Your
16 Honor.

17 THE COURT: Okay.

18 MR. PHANCO: I just have one question,
19 Judge.

20 THE COURT: Okay.

21 **REDIRECT EXAMINATION**

22 BY MR. PHANCO:

23 Q. I don't even know. I may have asked you this.
24 But do you happen to remember what the guy you were
25 chasing -- what he was wearing?