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**BRYAN CROSS,**

having been previously duly sworn, testified as follows:

**DIRECT EXAMINATION**

Q (BY MR. LESLIE) Deputy Cross, where do you work?

A I work for the Sheriff's Department, northside patrol.

Q And how long have you worked for the Sheriff's Department?

A It's a little over 15 years.

Q And were you working for the Sheriff's Department on November 16th, 2012?

A Yes, sir.

Q What capacity were you working for the Sheriff's Department?

A I'm a field training officer, so as we have new people come to the streets, I do the training.

Q And was that your role back in November of last year?

A Yes, sir.

Q What hours were you working?

A 10:00 at night until 6:00 in the morning.

Q And as a field training officer, do you patrol in a marked unit?

A Yes, sir.

1 Q And do you wear a uniform?

2 A Yes, sir.

3 Q And I'm assuming that as a field training  
4 officer, you have a partner; is that correct?

5 A Yes, sir.

6 Q Who was your partner on the scene?

7 A Deputy Avila.

8 Q And how did you get involved in the incident  
9 that is at issue here today?

10 A We got dispatched to the call.

11 Q When you say you were dispatched, how does  
12 that work?

13 A We received the call through 911, or however  
14 we get the call. Dispatch collects the information,  
15 puts it out over the radio. The closer units respond.  
16 Me, as a training unit, I want to get the rookies  
17 exposed to, you know, the more serious crimes, so that's  
18 why we responded.

19 Q And this call, how did it drop?

20 A I believe it dropped as a shooting or an  
21 in-progress.

22 Q So how do you respond to those kind of calls?

23 A It's a lights and sirens.

24 Q And do you remember where you were coming from  
25 on this evening?

1           A       I believe it's going to be up north towards  
2 Tomball-Huffman area.

3           Q       Do you recall what time this call dropped?

4           A       Not right offhand.

5           Q       Approximately?

6           A       Around 11 o' clockish. We hadn't been on duty  
7 that long.

8           Q       What time did you say you came on? 10:00?

9           A       10:00 at night until 6:00 in the morning.

10          Q       And do you know about how long it took you to  
11 get there?

12          A       No. Once we got on 249, we could move a  
13 little closer or a little faster, so it didn't take us  
14 all that too terribly long.

15          Q       And can you describe what the scene was like  
16 when you showed up?

17          A       There was maybe one or two units there before  
18 us, EMS. I observed a black male, multiple gunshots.  
19 He was -- he was laying in front of the food store. And  
20 my job is kind of like a front-line supervisor type,  
21 make sure we got everything in place. EMS was on the  
22 scene. They were working on the male. And it's going  
23 to be our responsibility to contain the scene. We're  
24 going to try to identify witnesses, suspects. See if we  
25 have any other victims or anything like that.

1           Q     And when you say contain the scene, what do  
2 you do to do that?

3           A     Just identify suspects, witnesses,  
4 complainants. We're going to put up scene perimeter  
5 tape. Or in something like that there, I'm going to be  
6 focused on the immediate and I'm going to designate, you  
7 know, make sure, designate the responding units.

8           Q     And is that what you did in this case?

9           A     Yes, sir.

10          Q     Do you know approximately how many deputies  
11 showed up on the scene that night?

12          A     There was probably ten. Maybe more than ten.  
13 Probably more than ten. I don't have an exact count.

14          Q     And what did you do immediately after you  
15 showed up on the scene?

16          A     You know, I get my rookie, he goes where I go,  
17 I go where he goes, and we start going to obtain as much  
18 information as we can about the complainant, but he  
19 wasn't talking; he was unconscious. EMS was dealing  
20 with him. So then we started identifying witnesses and  
21 separating witnesses.

22          Q     Were you able to find any witnesses to the  
23 shooting in this case?

24          A     Yes, sir.

25          Q     And do you remember the names of those

1 witnesses?

2 A I don't, but I didn't even bring the report.  
3 If I can get a copy of that.

4 MR. NEWMAN: I've got a supplement here.

5 MR. LESLIE: I would appreciate that.

6 Q (BY MR. LESLIE) Would it help to take a look  
7 at that to refresh your memory?

8 A No. That's going to be Deputy Villarreal's  
9 supplement. Me and my partner did the original report.

10 MR. NEWMAN: Oh, I've got that right  
11 here, too.

12 MR. LESLIE: I've got it, I think.

13 Q (BY MR. LESLIE) If you could take a look at  
14 that and see if that refreshes your memory.

15 A Okay.

16 Q Do you remember the names of the two  
17 witnesses -- or, excuse me. How many witnesses were you  
18 able to --

19 A We -- we found that the complainant's  
20 girlfriend was a witness. She was on the scene, so --

21 Q Was that Brandi Taylor?

22 A I believe so. And then a security guard also  
23 that was on the scene.

24 Q And would that be Porsha Dirden?

25 A Yes, sir.

1 Q And once you identify witnesses to something  
2 like this, what do you do with it?

3 A We're going to separate them, make sure they  
4 don't talk to each other, you know. We want their  
5 information fresh and firsthand. And we're going to try  
6 to get -- we're going to try and interview them up  
7 front, because at that point in time we knew we still  
8 had a suspect loose, so we're trying to gather as much  
9 information about the suspect at that time, because we  
10 need to focus on, you know, getting that suspect.

11 Q Let me just back up for one minute. This  
12 location, was that 14180 Old Bammel Road; is that  
13 correct.

14 A Yes, sir.

15 Q And is that location in Harris County, Texas?

16 A Yes, sir.

17 Q So in this case how many witnesses did you say  
18 to the shooting? Just the two, correct?

19 A Yes, sir.

20 Q And when you say that you separate them, how  
21 was that done in this case?

22 A Brandi, she was placed in the back seat of our  
23 patrol car, and I had my rookie deputy, excuse me,  
24 Deputy Avila, who was assigned with me, my training  
25 partner, he kind of stayed with her, and then I

1       overwatch. I was right there as well.

2               Q       Did he conduct any kind of interview with her?

3               A       Yes, sir.

4               Q       Did you hear the interview?

5               A       Yes, sir.

6               Q       When we're talking about that kind of initial  
7 interview, neither one of you is homicide deputies; is  
8 that correct?

9               A       No, sir.

10              Q       So what is the purpose of that initial  
11 on-scene interview?

12              A       Just get a brief story of what happened so we  
13 can know what we're looking for. If we had, like I  
14 said, suspects, we want to get descriptions of the  
15 suspects, suspect or suspects, because we need to focus  
16 on getting that information out to the responding units.

17              Q       So it's not a detailed interview that goes  
18 through all of the step-by-step of what happened?

19              A       No. We're just going to -- basically we're  
20 going to take the story in their words. We're not  
21 really going to ask too many questions. We want the  
22 information to flow from them and we're jotting down  
23 information, because the detailed interview will always  
24 come later.

25              Q       And who usually conducts that detailed

1 interview?

2 A The homicide investigators.

3 Q Now, when you were talking -- when Deputy  
4 Avila, on your supervision, was talking to Ms. Taylor,  
5 did either of you record that?

6 A No, sir.

7 Q And what was her demeanor like at that time?

8 A She was upset.

9 Q What was she doing that made you know she was  
10 upset?

11 A You know, she was crying. Kind of ups and  
12 downs. We would try to calm her down. We would talk to  
13 her. Just visibly shaken, upset. Didn't really want to  
14 stand still. Didn't want to be cooped up in the back  
15 seat of the patrol car, so we would allow her to stand  
16 out there, stand right next to it, and then we would ask  
17 her to have a seat back. We wanted to maintain our  
18 presence with her.

19 Q Did she indicate to you who had shot her  
20 boyfriend?

21 MR. NEWMAN: Objection, Your Honor.  
22 Calls for hearsay.

23 MR. LESLIE: Judge, we would say that we  
24 met the predicate for excited utterance. She was  
25 clearly under the influence of a startling event.



1 THE COURT: Overruled.

2 MR. NEWMAN: May I take him on voir dire  
3 real quickly? It will be very brief, Your Honor.

4 THE COURT: Okay.

5 **VOIR DIRE EXAMINATION**

6 Q (BY MR. NEWMAN) Deputy, how long were you out  
7 there at the scene with her? Ballpark figure.

8 A I don't -- basically from when we got there  
9 and we ended up transporting her. We stayed there the  
10 whole time and we ended up transporting her -- I believe  
11 that we ended up transporting her to the homicide office  
12 as well.

13 Q And obviously when you arrived, she was very  
14 upset?

15 A Yes, sir.

16 Q Did she ultimately calm down prior to  
17 transport?

18 A Yes, sir.

19 Q How long had you been there before you  
20 actually did this cursory interview of her?

21 A Pretty immediate.

22 Q So would you say that her demeanor had calmed  
23 down to the degree that she was able to give you a  
24 statement?

25 A Well, we were able to establish communication

1 and she wasn't -- I mean, her boyfriend had just been  
2 shot, so it's obvious that she's --

3 Q Upset?

4 A -- upset.

5 Q Sure.

6 A Scared. You know, she just lost her loved  
7 one.

8 Q But at the time that she actually gives you a  
9 formal statement, is she still hyperventilating,  
10 freaking --

11 MR. LESLIE: Objection as to  
12 mischaracterization of the evidence. He said it was not  
13 a formal statement.

14 Q (BY MR. NEWMAN) By the time she was able to  
15 give you an informal statement, by the time she was  
16 actually able to give you some semblance of a narrative,  
17 has she calmed down significantly from when you first  
18 arrived?

19 A Well, as soon as we identified her as a  
20 witness, we escorted her to the patrol car and we're  
21 immediately getting her information. So it's off and  
22 on. We let her flow. If she needs to vent and cry,  
23 we're going to let her cry and then we're going to try  
24 to continue on the interview.

25 Q Had she calmed down by the time she started

1 giving details of the events?

2 A I mean, like I say, it was all kind of the  
3 same time. She was upset, crying. She would talk while  
4 she was crying. She wasn't hyperventilating or nothing  
5 like that.

6 MR. NEWMAN: Your Honor, I would renew my  
7 objection. I don't think this meets the criteria for an  
8 excited utterance.

9 THE COURT: Your objection will be  
10 overruled.

11 **DIRECT EXAMINATION (CONT'D)**

12 Q (BY MR. LESLIE) So did she tell you who had  
13 shot her boyfriend?

14 A Yes.

15 Q And what did she tell you?

16 MR. NEWMAN: Your Honor, may I have a  
17 running objection as to each statement that he purports?

18 THE COURT: Sure.

19 A Yes, she did. She said it was St. Louis.

20 Q (BY MR. LESLIE) And was she able to give you  
21 an actual name?

22 A Yes. She said his name was Derion.

23 Q Now, when she -- how long after you arrived on  
24 the scene was it that she told you that information?

25 A Oh, you know, at our initial speaking with

1 her, because again we're going to try to establish  
2 suspect information, so we want to know as much about  
3 the suspect as we can.

4 Q And did she give you any description of St.  
5 Louis?

6 A Yes.

7 Q What was the description that she gave?

8 A Black male with a street name of St. Louis.  
9 His real name was Derion. She said that -- she pointed  
10 to his apartment complex, which is right across the  
11 street.

12 Q Did she actually give you an apartment number?

13 A No.

14 Q Were you able to figure out if there was an  
15 individual named Derion who lived in the Meridian  
16 complex?

17 A Yes. Our computer system, we have access to  
18 all of the reports or anything like that.

19 MR. NEWMAN: Your Honor, object. His  
20 answer calls for hearsay.

21 THE COURT: Maybe you can rephrase the  
22 question.

23 Q (BY MR. LESLIE) Without going into how, did  
24 you obtain or did you find out if there was a Derion  
25 living in that apartment complex?

1 A Yes.

2 Q And were you able to determine what apartment  
3 number he lived?

4 A Yes.

5 Q Do you remember which apartment it was?

6 A 803.

7 Q And did any deputies go over there to  
8 investigate that apartment?

9 A Yes, sir. After I determined that it was  
10 Apartment 803 at that complex, I sent several deputies  
11 over to that apartment to, you know, see if we can make  
12 contact.

13 Q And did -- were they successful in locating  
14 the suspect there?

15 A No. Nobody answered the door and they advised  
16 me on the radio that it was negative contact made.

17 Q And did you see the defendant that night at  
18 all?

19 A Yes.

20 Q How did that happen?

21 A We are -- while we're waiting for -- after we  
22 get there, we tape off the perimeter. Our homicide --  
23 by that time we already knew it was a homicide, we had  
24 gotten confirmation that it was a homicide, so our  
25 immediate supervisor is going to contact watch command

1 or watch command dispatch and they're going to start  
2 sending out homicide investigators. Our homicide  
3 investigators, they don't work 24 hours a day. They're  
4 on call. So one may come through -- so, in other words,  
5 we're waiting on homicide units to show up. So our  
6 whole scene is at a standstill. We're waiting on the  
7 homicide units.

8 Q How long did it take the homicide units to  
9 show up on the scene?

10 A I don't know. Probably an hour-and-a-half,  
11 two hours.

12 Q And where are Brandi Taylor and Porsha Dirden  
13 while you're waiting?

14 A They are inside of our perimeter. Again, the  
15 complainant's girlfriend was Brandi. She was, you know,  
16 in the patrol car. If I remember correctly, the  
17 security guard, Ms. Dirden, her vehicle was inside the  
18 perimeter, I believe, and we just -- she stayed right  
19 there.

20 Q And so going back to when the defendant, when  
21 you came across him, how did that happen?

22 A In the area that this occurred in, it's in the  
23 middle of several apartment complexes. There are  
24 several apartment complexes and there's a lot of foot  
25 traffic. So these two complexes, it's not the best of

1 area, so when people hear of a shooting or this, that  
2 and the other, we have a bunch of onlookers and, you  
3 know, if they weren't witnesses to the crime, but, you  
4 know, they hear -- you know, they talk amongst  
5 themselves and somebody out of there knows who did it.  
6 So basically somebody started yelling "That's him.  
7 There he is. There he is."

8 Q You're not sure who it was that was yelling  
9 that?

10 A No.

11 Q Do you know where they were pointing?

12 A Yeah. They were pointing to a car that was  
13 exiting that apartment complex.

14 Q Do you remember what kind of car it was?

15 A 2003 Chrysler Sebring.

16 Q Did you actually see the car yourself that  
17 night?

18 A Yes, sir.

19 Q Showing you State's Exhibit No. 49, do you  
20 recognize this?

21 A Yes, sir.

22 Q Is that the car you saw that evening?

23 A Yes, sir.

24 Q And do you remember where you said you saw it  
25 coming from?

1           A       It looks like it was exiting the apartment  
2 complex there at 10200 Old Bammel and fixing to turn on  
3 Old Bammel North Houston.

4           Q       Now, once you were alerted that the suspect  
5 was in that vehicle, what happened next?

6           A       There was several deputies that were closer to  
7 that vehicle. Me, there was several other deputies.  
8 Because we've got a possible murder suspect in this  
9 vehicle, we converged on the vehicle, guns drawn.

10          Q       And do you know who was driving the vehicle?

11          A       Yes, sir.

12          Q       Who was it?

13          A       It was this gentleman here.

14          Q       Can you please --

15          A       Derion Caldwell.

16          Q       Can you please identify him by an article of  
17 clothing?

18          A       The suit with the maroon tie.

19                   MR. LESLIE: Your Honor, may the record  
20 reflect that he's identified the defendant as the driver  
21 of that car?

22                   THE COURT: The record will so reflect.

23          Q       (BY MR. LESLIE) Was there anyone else in the  
24 car?

25          A       There was a black female.



1 Q Do you know what her name was?

2 A Aspen Cooper.

3 Q And when you detained the defendant, what was  
4 his demeanor like?

5 A He was kind of like nonchalant, cool, you  
6 know, what are you all doing, why are you all messing  
7 with me type attitude.

8 Q Did he appear to be intoxicated in any way?

9 A Not that I recall.

10 Q After you detained him, what happened next?

11 A Well, I identified him, asked him his name. I  
12 don't remember -- yeah, because I was on that side of  
13 the vehicle, but there was several other deputies there  
14 and, you know, we didn't -- when we ran up there, we  
15 didn't know if he was going to stop, run, get out,  
16 whatever. So that's why we, you know, drew our guns  
17 and, you know, we're going to, you know, make our move  
18 after he stopped. We told him to get out of the car.

19 Q And did he comply with your command?

20 A Yes.

21 Q Was he handcuffed?

22 A Pretty much after he exited that vehicle we  
23 handcuffed him and I asked him what his name was and he  
24 was like, Derion.

25 Q Did he say Derion or did he say St. Louis?

1           A       He said Derion.

2                   MR. NEWMAN:  Objection to leading, Your  
3 Honor.

4                   THE COURT:  Please don't lead your  
5 witness.

6           Q       (BY MR. LESLIE) Did he say anything to you?

7                   MR. NEWMAN:  Your Honor, may we approach?

8                   THE COURT:  Sure.

9                   (Discussion up at bench:)

10                  MR. NEWMAN:  Judge, just as a precaution,  
11 I don't believe that the offense report indicates that  
12 he said anything.  If his only answer is no, I'm fine  
13 with it, but he is clearly custodial.  Before he answers  
14 that, would you just ask him, that's a yes or no  
15 question in case the answer is yes?

16                  THE COURT:  Sure.

17                  MR. NEWMAN:  Thank you.

18                  (In the hearing of the jury)

19           Q       (BY MR. LESLIE) Just keeping it to a yes or no  
20 answer, did the defendant say anything to you at that  
21 point?

22           A       No, I don't remember if he said anything  
23 directly to me.

24           Q       Okay.  Once he was in custody or once he was  
25 detained, what did you do then?

1           A       I didn't -- I didn't put handcuffs on him. I  
2 didn't deal with him. I went on to the female  
3 passenger.

4           Q       And what was her demeanor like?

5           A       She was kind of -- she wasn't too upset or  
6 anything. She was more like disturbed, agitated, that  
7 she knew something was going on, but, you know, kind of  
8 hesitant to -- she didn't want to speak with us.

9                   MR. NEWMAN: Objection. That being  
10 nonresponsive and hearsay.

11                   THE COURT: Sustained.

12           Q       (BY MR. LESLIE) Did you conduct any further  
13 follow-up investigation dealing with either Ms. Cooper  
14 or the defendant?

15           A       Yes. I talked to Ms. Cooper.

16           Q       And what about the car, was that car processed  
17 at all?

18           A       No. No.

19           Q       What else did you do? You said you were still  
20 on the scene. How much longer were you on the scene  
21 after the defendant was taken into custody?

22           A       Probably 30, 45 minutes maybe.

23           Q       And what were you doing while you were out  
24 there for those 30, 45 minutes?

25           A       During my investigation I determined that she

1 lived nearby.

2 MR. NEWMAN: Objection, Your Honor. He's  
3 answering to hearsay.

4 THE COURT: Overruled.

5 A Carry on?

6 Q (BY MR. LESLIE) Yes.

7 A She lived nearby.

8 Q And by "she," are you talking about Ms.  
9 Cooper?

10 A Ms. Cooper. So I sent a deputy to her house.

11 Q Why did you do that?

12 A To look for the suspect's vehicle.

13 Q And do you know if those deputies were able to  
14 locate the suspect's vehicle?

15 MR. NEWMAN: Objection, Your Honor. It  
16 calls for speculation and hearsay.

17 THE COURT: Sustained.

18 Q (BY MR. LESLIE) Is there anything else that  
19 you can think of that you did on the scene before you  
20 wrapped it up and went to the station?

21 A We went to Lockwood and I'm pretty sure that  
22 we transported Ms. Taylor to Lockwood, which is our  
23 homicide investigation office. We transported her so  
24 she could be interviewed. I also made arrangements with  
25 Ms. Cooper that she could drive her vehicle there and

1 follow us, so she followed me.

2 Q In that car?

3 A Yes, sir.

4 Q And did Ms. Taylor identify the defendant on  
5 the scene?

6 A Yes.

7 MR. NEWMAN: Objection, Your Honor.  
8 Calls for hearsay.

9 THE COURT: Just answer yes or no.

10 A Yes.

11 Q (BY MR. LESLIE) Did you or any other deputies,  
12 once she identified the defendant, look for any  
13 additional suspects?

14 A No.

15 Q Why not?

16 A Because we already had Derion in custody.  
17 Based on the information, based on our investigation, we  
18 had the person that we were looking for.

19 Q So at that point you didn't continue to  
20 interview any of the other neighbors or occupants of  
21 those apartments?

22 A No, sir.

23 Q Did you go around that car wash or any of the  
24 other businesses to the side and search for other  
25 witnesses or other suspects?

1           A     No, sir.

2                     MR. LESLIE: Pass the witness, Your  
3 Honor.

4                     THE COURT: Mr. Newman.

5                     MR. NEWMAN: Thank you, Your Honor.

6                                     **CROSS-EXAMINATION**

7           Q     (BY MR. NEWMAN) Deputy Cross, one of the first  
8 roles of being a first responder, one of your first  
9 duties is to secure the scene, correct?

10           A     Yes, sir.

11           Q     And it's generally done like this on TV, with  
12 police tape put up around as wide of a perimeter as is  
13 relevant, correct?

14           A     Yes, sir.

15           Q     And also to keep people from leaving, to  
16 identify any type of potential witnesses to a scene?

17           A     Yeah, we try to prevent them from leaving.  
18 We're going to talk to them, we're going to ask them,  
19 you know, whether they had witnessed the incident. If  
20 they have valuable information or witnessed the  
21 incident, we're going to try to put them in the back of  
22 the patrol car.

23           Q     Okay. This is your district, correct?

24           A     Well, I'm -- yeah, as a whole it's my  
25 district. I don't work that area much. I work the

1 north end of that district. That's the south end of the  
2 district.

3 Q Okay. Are you familiar with it, though?

4 A Yes.

5 Q And were you familiar with the Primos Food  
6 Store, Food Market?

7 A Yes, sir.

8 Q And were you familiar with it as being a  
9 high-traffic area?

10 A Yes, sir.

11 Q A lot of foot traffic coming from the two  
12 apartment complexes across the street, right?

13 A Yes, sir.

14 Q And certainly on a Friday night like this,  
15 even more foot traffic than usual?

16 A It's been a while since I worked there, but,  
17 yes, that's usually a pretty hot area.

18 Q It's also a pretty high-crime area, correct?

19 A Yes, sir.

20 Q And when you arrived, out of all the people  
21 that were available at the area for you to basically  
22 list as witnesses, the only two you had there at the  
23 scene were Brandi Taylor and Porsha Dirden, the security  
24 guard, correct?

25 A Yes, sir.

1           Q     Out of that whole scene you only had two  
2 females out of that corner on Friday night?

3           A     Yes, sir.

4           Q     And you did an interview or at least  
5 preliminary interview with Ms. Taylor and you described  
6 her as being very upset, correct?

7           A     Yes, sir, emotionally.

8           Q     And the entirety of the reason that  
9 Mr. Caldwell was arrested was solely based on what she  
10 said happened, correct?

11          A     No, sir.

12          Q     There was nothing -- nobody else that had  
13 witnessed the shooting. Ms. Dirden witnessed the  
14 shooting, correct?

15          A     Correct.

16          Q     She was not able to identify a person as being  
17 involved, was she?

18          A     Oh, I don't know about that.

19          Q     Where does it say that she was able to select  
20 Derion Caldwell as the person who fired the shots?

21          A     I didn't -- we didn't really speak with her.  
22 We did -- hang on one second. Yeah, she -- you want me  
23 to read you what I got here?

24          Q     I want you to tell me the part where Porsha  
25 Dirden says Derion Caldwell was the shooter.



1           A       She didn't name him by name. She stated that  
2       suspect pulled a gun, fired numerous shots, striking the  
3       victim. The victim ran to the front of Primos,  
4       collapsed. Stated she was sitting in her car at the  
5       time of the shooting but had a clear view of what took  
6       place. She informed us that she could identify the  
7       suspect by sight.

8           Q       And yet she didn't, did she?

9           A       Well, the suspect wasn't there when we talked  
10      to her.

11          Q       Was she not still at the scene when you made  
12      your arrest of him?

13          A       I don't recall. I'm pretty sure that she was,  
14      because when we transport everybody -- I don't know if  
15      we transported her or what.

16          Q       At the scene no one other than Brandi Taylor  
17      said this man shot the complainant, correct?

18          A       Correct.

19          Q       So the entire arrest was based on Brandi  
20      Taylor's word, correct?

21          A       I didn't make the arrest. We just detained  
22      him as a suspect. He wasn't arrested until, I would  
23      say, four more interviews were completed, taped  
24      statements, that kind of stuff.

25          Q       Was he handcuffed?

1 A Yes.

2 Q Was he free to leave?

3 A No.

4 Q We're just not calling it an arrest?

5 A Detained.

6 Q But the point that I'm getting to is that you  
7 all placed a tremendous amount of value on what Brandi  
8 Taylor had related to you?

9 A Yes, sir.

10 Q So much to the degree, that you stopped  
11 looking to see if anybody else could have been involved?

12 A Yes, sir.

13 Q So much to the degree, that you slapped  
14 handcuffs on this guy as he's just driving out of a  
15 parking lot and take him into custody?

16 A Yeah.

17 Q Correct? Did Brandi Taylor tell you that she  
18 was in the middle of a domestic altercation with the  
19 complainant shortly before his death?

20 A No.

21 Q Did she tell you that she had been fighting  
22 with him so much to the degree that she had ripped his  
23 shirt in front of the food store?

24 A No. We didn't ask anything about what  
25 happened prior to. We just asked what happened about

1 the shooting.

2 Q You just arrested my client or stopped him or  
3 detained him?

4 MR. LESLIE: Object to argumentative,  
5 Your Honor.

6 THE COURT: Sustained.

7 Q (BY MR. NEWMAN) You make reference or Deputy  
8 Avila makes reference to a male security guard giving  
9 some information at one point in that original portion  
10 of the offense report, correct?

11 A The male security guard that -- Ms. Dirden, I  
12 believe she was the security guard for the -- I forget  
13 the name of the complex. Not the 10200.

14 Q Not the Meridian?

15 A Correct. The 14150 Tomball Parkway. The male  
16 security guard, I'm not positive, but I think he's the  
17 one that was saying -- that yelled "There he is. There  
18 he is." We -- I didn't talk to him.

19 Q Let me stop you right there, because I want to  
20 back up a little bit on this. What time did you arrive  
21 at the scene?

22 A Can we get our call slip?

23 MR. LESLIE: Judge, I think the other  
24 deputies have it.

25 THE COURT: Okay. It's not in the

1 offense report?

2 MR. LESLIE: No, ma'am, not the call  
3 slip.

4 THE WITNESS: No.

5 Q (BY MR. NEWMAN) Is it not on -- it's not on  
6 page three of that supplement you have, the original  
7 report, on Friday --

8 A No. That's about the time we were dispatched.

9 Q And what time is that?

10 THE COURT: I'm sorry, can you wait?

11 MR. NEWMAN: I'll wait for Coby.

12 THE WITNESS: Thank you, sir.

13 Q (BY MR. NEWMAN) What time?

14 A Can you repeat your question?

15 Q Sure. What time did you all arrive?

16 A We arrived at 22:48, 10:48 p.m.

17 Q And this report says you got dispatched at  
18 22:44, so about a four-minute response?

19 A Yeah. I got -- yeah, about that.

20 Q And you said you were not the first unit to  
21 arrive?

22 A Correct.

23 Q And you have the preliminary interview with  
24 Brandi Taylor, and based on that -- oh, by the way, did  
25 she mention like a mystery man type guy -- she didn't

1 know who he was -- suddenly stopping her from walking  
2 over to where Mr. Caldwell was allegedly talking to the  
3 victim?

4 A Not that I recall.

5 Q That would have been relevant information,  
6 don't you think?

7 A Probably.

8 Q But she did provide the name of Derion, who  
9 also went by St. Louis, correct?

10 A Correct.

11 Q And you had Ms. Dirden there, the security  
12 guard, correct?

13 A Yes, sir.

14 Q And do you know whether or not the information  
15 that you were looking for a Derion that went by St.  
16 Louis was conveyed to that male security guard as well?

17 A Well, one thing that we didn't talk about  
18 is -- well, we may not have gotten into specifics, but  
19 this apartment complex, there's lots of lookie-loos, so  
20 everybody is watching --

21 MR. NEWMAN: Objection, nonresponsive.

22 THE COURT: Ask your question again.

23 Q (BY MR. NEWMAN) The question was, did you talk  
24 to the male security guard and ask him or convey any  
25 information that you were looking for a Derion Caldwell?

1 A No.

2 Q Or someone named St. Louis? He was not an  
3 eyewitness to the shooting, was he?

4 A No.

5 Q And you do have in your report, though, that  
6 he's the one who said "There he is." He's the one  
7 that -- this male security guard was the one who pointed  
8 out Derion Caldwell as he's exiting the Meridian  
9 Apartments?

10 A Hang on one second.

11 Q Page four of your supplement. I keep saying  
12 supplement. I know it's the original report.

13 A Okay. Yes.

14 Q He's the one who pointed out to you all  
15 there's the person you were looking for, correct?

16 A Yes.

17 Q Because I believe what you said to the jury,  
18 that people started shouting "There he is."

19 A Yes.

20 Q But you're not saying it's a bunch of people  
21 who witnessed the shooting suddenly yelling out in  
22 unison there goes the shooter. This was a security  
23 guard telling you the person you were looking for that  
24 you described you were looking for is driving out of the  
25 driveway, correct?

1 A Well, yes, a security guard did say that.

2 Q Okay. But it's not like he was saying there's  
3 the shooter. He's saying here's the person that you are  
4 looking for?

5 A Yes, that was one of the vehicles.

6 Q I just want to make sure that it's very clear  
7 to the jury that the only person there at the scene that  
8 is pointing out Derion Caldwell as the shooter is Brandi  
9 Taylor?

10 A Repeat.

11 Q I just want to make it clear to the jury that  
12 the only person at the scene that is pointing out Derion  
13 Caldwell as the shooter is Brandi Taylor?

14 A Correct.

15 Q Nobody in unison is telling you that he did  
16 it. It's just her, correct?

17 A Yes.

18 Q Okay. Based on the information that you  
19 gather, you get a location that an Apartment No. 803  
20 belongs to Derion Caldwell over in the Meridian  
21 Apartments, correct?

22 A Correct.

23 Q And you proceed over there?

24 A No.

25 Q Who did?

1           A       I relayed the information to other deputies,  
2 because I had responsibilities where I was at.

3           Q       Okay. Did you get any information -- well,  
4 first of all, what time did you send deputies over there  
5 to do that?

6           A       I don't know. After I arrived and started  
7 investigating.

8           Q       How long do you think you had been there  
9 approximately?

10          A       Maybe an hour, but I'm guessing. I mean, I  
11 can't give you an exact time. I don't know.

12          Q       Was there any report at that time that his  
13 apartment appeared to have been broken into?

14          A       I wasn't advised of any of that.

15          Q       Okay. Approximately what time was it when the  
16 Sebring comes driving out?

17          A       I'm trying to see when the vehicle information  
18 was added to the call slip.

19                    We had that information on the call slip  
20 at 1:23.

21          Q       The following morning?

22          A       Yes, sir.

23          Q       Now, so was that the time that he was stopped  
24 or would it have been done significantly before then?

25          A       It would have been done shortly before then.



1 Q So it's after 1 o'clock?

2 A It's going to be done before that, before  
3 1:23.

4 Q So somewhere --

5 A Pretty close in proximity before that.

6 Q So at least two hours since the call dropped?

7 A Yes, sir.

8 Q And so you all draw down on him based on  
9 Brandi Taylor's word?

10 A Yes, sir.

11 Q And he doesn't floor it, try to get through  
12 you all or anything like that?

13 A No, sir.

14 Q He certainly could have, correct?

15 A Yeah.

16 Q He stopped, he complied?

17 A No, he didn't. He was hesitant to roll down  
18 the windows, didn't want to unlock the doors.

19 Q With people pointing guns at him?

20 A Yep. I mean, it took some convincing. It  
21 wasn't no big, long standoff, but...

22 Q Okay. Could you see a scenario where you were  
23 pulling out of your apartment complex and a bunch of  
24 police pointing their guns at you could perhaps become  
25 confusing and pause for thought for a minute?

1           A       Well, yeah, especially if you just shot  
2 somebody.

3                   MR. NEWMAN:  Objection, Your Honor.  
4 Nonresponsive.  Ask that be stricken.

5                   THE COURT:  Overruled.

6           Q       (BY MR. NEWMAN) You're just surmising that.  
7 You have no personal knowledge that he did that other  
8 than what Brandi Taylor told you, do you?

9           A       Are you asking me a question, sir?

10          Q       Yes.  Brandi Taylor, you're basing your belief  
11 of his involvement in this strictly on Brandi Taylor?

12          A       Yes, sir.

13          Q       There's no weapon found in that car, is there,  
14 in the Sebring?

15          A       No, sir.

16          Q       You all arrest him.  You have him out on the  
17 side of the road.  Would you tell the jury what swabs  
18 are sometimes done on suspects' hands?

19          A       Swabs?

20          Q       Swabs.  An SEM swab.

21          A       I know they do that for gunshot residue.

22          Q       Was that performed on him?

23          A       I have no idea.  I didn't do it.

24          Q       You said that at some point you went to  
25 Ms. Cooper's separate residence?

1 A No, I didn't.

2 Q Well, did you dispatch someone to Ms. Cooper's  
3 separate residence? You understood her to live away  
4 from the Meridian Apartments?

5 A Based on information we had, we knew that she  
6 had a residence or lived there or used to live there.

7 Q At a separate off Meridian site place?

8 A Correct. And I don't know if it was from  
9 running her driver's license or what. I don't recall.

10 MR. NEWMAN: I'll pass the witness, Your  
11 Honor.

12 THE COURT: Mr. Leslie, anything further?

13 MR. LESLIE: Briefly, Judge.

14 **REDIRECT EXAMINATION**

15 Q (BY MR. LESLIE) Deputy, you went on the side  
16 of the car that Aspen Cooper was on, correct?

17 A Yes, sir.

18 Q And you had her step out of the car?

19 A Yes, sir.

20 Q And you talked to her; is that correct?

21 A Yes, sir.

22 Q Did she tell you anything that would have  
23 indicated to you that the defendant was the shooter?

24 MR. NEWMAN: Objection. Calls for  
25 hearsay.

1 THE COURT: I'm sorry. Rephrase your  
2 question or ask your question again.

3 Q (BY MR. LESLIE) Did Aspen Cooper tell you  
4 anything that would indicate to you that the defendant  
5 was the shooter?

6 MR. NEWMAN: Objection, hearsay.

7 THE COURT: Sustained.

8 MR. LESLIE: Judge, may we approach?

9 THE COURT: Sure.

10 (Discussion up at bench:)

11 MR. LESLIE: Judge, we feel this is  
12 necessary to correct the false impression that he left  
13 with the jury, that the only reason he left the scene  
14 was because of Brandi Taylor, when Aspen Cooper also  
15 told officers that he shot somebody.

16 MR. NEWMAN: And I would respond, first  
17 of all, no, I didn't, and even if I did, I don't think  
18 that gets to open the door to hearsay.

19 THE COURT: You certainly can ask  
20 Ms. Cooper that, not this witness.

21 (In the hearing of the jury)

22 MR. NEWMAN: Your Honor, I ask the jury  
23 be instructed to disregard Mr. Leslie's question.

24 THE COURT: There hasn't been an answer.  
25 Ask your next question.

1 MR. LESLIE: Nothing further from this  
2 witness, Judge.

3 MR. NEWMAN: Pass the witness, Judge.

4 THE COURT: Thank you, Deputy. You are  
5 free to go.

6 MR. LESLIE: Judge, can we ask for a  
7 brief recess?

8 THE COURT: All right. Let's recess the  
9 jury.

10 (Recess taken)

11 (Jury seated)

12 THE COURT: Be seated, please.

13 And please call your next witness.

14 MR. LESLIE: State calls Aspen Cooper.

15 THE COURT: Come right up here,  
16 Ms. Cooper. Raise your right hand to take the oath,  
17 please.

18 (Witness sworn)

19 THE COURT: Have a seat, please. And  
20 would you please state and spell your name for my court  
21 reporter?

22 THE WITNESS: Aspen Cooper, A-s-p-e-n,  
23 C-o-o-p-e-r.

24 THE COURT: You may proceed.

25 MR. LESLIE: Thank you, Judge.

1 **ASPEN COOPER,**

2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 Q (BY MR. LESLIE) Ms. Cooper, where do you  
5 currently live?

6 A 9603 Whitepost Lane.

7 Q And where were you living in November of 2012?

8 A November, 10200 Old Bammel North Houston Road.

9 Q Is that an apartment?

10 A Yes.

11 Q What apartment complex is that?

12 A The Meridian.

13 Q If you don't mind, can you speak into the  
14 microphone just so we can all hear? So you said it was  
15 the Meridian Apartments?

16 A Uh-huh. Yes.

17 Q What apartment were you living in in those  
18 apartments?

19 A 803.

20 Q And who were you living with in those  
21 apartments?

22 A Derion Caldwell.

23 Q How long had you been living in that apartment  
24 with him?

25 A For about seven months.