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**STEVEN DAVIS,**

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

**BY MR. BALLENGEE:**

Q. Mr. Davis, will you introduce yourself to the jury?

A. Yes, sir. My name is Steven Allen Davis.

Q. And will you spell that for the record?

A. Yes. First name is S-t-e-v-e-n. Last name is D-a-v-i-s.

Q. And you are not in uniform today. Are you still with the Harris County Sheriff's Office?

A. No, sir.

Q. What do you do now?

A. I've been retired from the Harris County Sheriff's Office for three years now.

Q. And where do you live now?

A. I live in Livingston, Texas.

Q. How long were you with the Harris County Sheriff's Department?

A. Twenty-six years.

Q. When did you start?

A. I started in 1984.

Q. And where did you start in 1984?

A. I started on nightshift in the jail.

1 Q. How long were you in the jail for?

2 A. Roughly a year-and-a-half.

3 Q. And then after your stint in the jail, where  
4 did you go from there?

5 A. From there, I went to the fingerprint section  
6 of our booking area. I was then promoted from there to  
7 our AFIS computer system program when we installed and  
8 started that. From there, I went to the Harris County  
9 Crime Lab and worked in the crime lab. And then from  
10 there, I promoted to crime scene investigator.

11 Q. And how long were you a crime scene  
12 investigator?

13 A. Twenty-four years, I think. Twenty-four,  
14 twenty-two years, something like that.

15 Q. And were you working as a crime scene  
16 investigator on May 2nd, 2010?

17 A. Yes, sir.

18 Q. And tell me a little bit about being a crime  
19 scene investigator. I guess, what exactly are your  
20 duties as a crime scene investigator?

21 A. Well, we are tasked with reporting to crime  
22 scenes, we collect evidence, process the scenes for  
23 evidence, photographs, videotaping. It just depends on  
24 the type of scene. Each scene is -- you know, they have  
25 their own criteria, but that's pretty much what we do.

1 We try to locate items. A lot of times items are  
2 located before we get to the scene and we mark them and  
3 collect them, but things like that.

4 Q. You said that you collect items at the scene  
5 and you mark them and collect them?

6 A. Yes, sir.

7 Q. You also mentioned that you take videos of the  
8 scene. Is that common in just about every case that you  
9 handle?

10 A. Yes, sir. It's pretty common to take videos of  
11 scenes.

12 Q. Okay. And on -- well, on May 2nd, 2010, did  
13 you get called out to a scene?

14 A. Yes, sir.

15 Q. And where was that scene?

16 A. It was on Wallisville Road.

17 Q. Is that in Harris County, Texas?

18 A. Yes, sir.

19 Q. When you arrived at the scene, had the scene  
20 already been secured?

21 A. Yes, sir.

22 Q. What did you notice when you arrived at the  
23 scene?

24 A. There was several people that had been -- that  
25 were on the scene, including officers, detectives.

1 There were individuals detained, vehicles. You know, it  
2 was kind of a parking lot area. And that's kind of like  
3 what it was.

4 Q. And are you usually called out to just any  
5 scene or is it generally homicides or scenes like that?

6 A. I have been called to all kinds of scenes;  
7 homicides, suicides, infant deaths, skeletal remains,  
8 things they didn't know if it was a scene. I've had  
9 several different types of things.

10 Q. Just kind of anything that would need forensic  
11 processing?

12 A. Yes, sir. Our motto is if there is any doubt  
13 at all, call us and we'll see what we have.

14 Q. I'm approaching you with what has been  
15 previously marked as State's Exhibit No. 16. Do you  
16 recognize it (indicating)?

17 A. Yes, sir.

18 Q. And what is it?

19 A. It's a DVD video.

20 Q. Okay. What's it a DVD video of?

21 A. It's got the case number of the scene on  
22 Wallisville.

23 Q. Okay. And have you had a chance to view this  
24 video?

25 A. Yes, sir.

1 Q. And was it made by somebody with the  
2 capabilities of making an accurate recording?

3 A. Yes.

4 Q. Who was the operator of that?

5 A. Me.

6 Q. Okay. And when you viewed this video, is it a  
7 fair and accurate representation of the scene on May  
8 2nd, 2010 at 14355 Wallisville Road?

9 A. Yes, sir.

10 MR. BALLENGEE: State offers State's No. 16  
11 into evidence, tendering to opposing counsel for  
12 objection.

13 **(State's Exhibit No. 16 Offered)**

14 MR. BUCKLEY: No objection.

15 THE COURT: Thank you. State's 15  
16 admitted.

17 MR. BALLENGEE: Your Honor, permission to  
18 publish State's Exhibit No. 16.

19 THE COURT: I thought you said 15.

20 MR. BALLENGEE: If I did, then I need to  
21 correct myself. State's 16.

22 THE COURT: Okay. So, we're not talking  
23 about 15, we're talking about 16.

24 MR. BALLENGEE: Yes, Your Honor.

25 THE COURT: 16 is what we just admitted.

1 16 is admitted. You may publish. Go ahead and publish  
2 16.

3 **(State's Exhibit No. 16 Admitted)**

4 Q. (By Mr. Ballengee) Officer, if I could have you  
5 double tap the bottom left of your screen.

6 A. (Witness complies).

7 Q. Thank you.

8 MR. BALLENGEE: Sorry, Judge. I'm having  
9 some technical difficulties.

10 THE COURT: It's okay.

11 (Pause)

12 MR. BALLENGEE: I'll move on, Judge.

13 THE COURT: We'll work on it in the  
14 meantime.

15 MR. BALLENGEE: Yes, sir.

16 THE COURT: That's fine.

17 Q. (By Mr. Ballengee) You also said that one of  
18 your duties is to photograph the scene?

19 A. Yes, sir.

20 Q. Did you do that in this case?

21 A. Yes.

22 Q. The process that you go through when you are --  
23 prior to photographing the scene, what are some of the  
24 things that you do?

25 A. Well, prior to -- the first thing we do is we

1 try to talk to the patrolmen and people that are there  
2 to try to determine what type of scene we are actually  
3 working. That gives us an idea of what kind of evidence  
4 we might be looking for, things of that nature.

5 Q. Okay. And do you try and establish what  
6 evidence is at the scene prior to actually taking the  
7 photographs?

8 A. Yes, sir. We do a sweep of the scene looking  
9 for evidence that is marked and tagged or located and  
10 then we'll take the photographs.

11 Q. When you say "marked," what do you mean by  
12 that?

13 A. Well, sometimes we have placards that we would  
14 put down to mark items. It depends on the type of scene  
15 it is. Sometimes I would draw circles or things like  
16 that with reflective tape or reflective chalk to mark an  
17 item. It just depends on what we're looking for and  
18 what we find.

19 Q. How are you able to determine whether or not  
20 something is evidence or whether it's just debris that's  
21 at the scene?

22 A. Well, my personal way I do my scenes are if it  
23 was located in the area, I consider it evidence until it  
24 was proven not to be.

25 Q. Okay. I'm showing you what's been previously

1 marked as State's Exhibits 10 and 11. And also State's  
2 Exhibits 17 through 28. Do you recognize them  
3 (indicating)?

4 A. Yes, sir, I sure do.

5 Q. And just so we know -- and you're squinting a  
6 little bit. Explain why you're squinting a little?

7 A. Yes, sir. One of my things I do at home, I  
8 have a little fish tackle shop up on Lake Livingston.  
9 And two weeks ago, I was working in and hit myself in  
10 the left eye with a dremel tool. So, my eye on my left  
11 side, I had to have surgery like pretty immediate and my  
12 cornea is messed up. So, I'm squinting. If I'm winking  
13 at people, please don't think anything about it.

14 Q. All right. I just wanted to clarify that.

15 Now, State's Exhibits 10 and 11 and 17  
16 through 28, what do you recognize those exhibits to be.

17 A. My photographs that I have taken from that  
18 scene.

19 Q. Were they all taken on the same day or were  
20 some of them taken on a different day?

21 A. No, sir. Some were taken on a different day.

22 Q. Okay. And are they fair and accurate  
23 depictions of the scene on May 2nd, 2010, and also of  
24 the scene a few days later?

25 A. Yes, sir.



1 Q. Would you tell me which photographs are taken  
2 or which exhibit numbers were taken a few days later?

3 A. Yes, sir. These right here (indicating).

4 Q. Would you tell -- or state the exhibit numbers  
5 for the record?

6 A. Yes, sir. I will try to get them in order.  
7 Exhibits 10, 26, 27, and 28.

8 Q. And were those pictures taken in the light or  
9 the dark?

10 A. In the light.

11 Q. Okay. And the rest of the pictures, were they  
12 taken in the light or the dark?

13 A. They were in the dark. It was a nighttime  
14 scene.

15 Q. Okay. Are these pictures fair and accurate  
16 representations of the scene on that day?

17 A. Yes, sir.

18 MR. BALLENGEE: Your Honor, State offers  
19 State's Exhibits 10 and 11 and then 17 through 28 into  
20 evidence, tendering to opposing counsel for objection.

21 (State's Exhibit No. 10 and 11, 17 through  
22 28 Offered)

23 MR. BUCKLEY: May I briefly take the  
24 witness on voir dire?

25 THE COURT: Certainly.

## 1 VOIR DIRE EXAMINATION

2 BY MR. BUCKLEY:

3 Q. Good afternoon, Mr. Davis.

4 A. Hello, sir.

5 Q. Just a quick couple of questions about the  
6 order that the photographs were taken in. I know you  
7 mentioned that Exhibits 10, 26, 27, and 28 --

8 MR. BUCKLEY: May I approach the witness?

9 THE COURT: Yes, sir.

10 Q. (By Mr. Buckley) -- 10, 26, 27, and 28 were  
11 taken at a later time during the light time hours; is  
12 that correct, sir?

13 A. Yes, sir.

14 Q. And do you recall how much after? Let me  
15 phrase that in a more understandable way. Was this  
16 hours or days after the incident, do you know?

17 A. Yes, sir. It was days.

18 Q. Okay. Do you recall how many days?

19 A. Two -- well, let's see. Sunday night was the  
20 scene. Monday, Tuesday. And Wednesday evening were  
21 these photographs, so...

22 Q. Sunday was the 2nd?

23 A. Yes, sir, the 2nd. And then these were on the  
24 5th.

25 Q. On the 5th. Okay. I understand. Fair enough.

1           A.    About two-and-a-half days.

2           Q.    Yes, sir.  Thank you very much.

3                   MR. BUCKLEY:  No objection with that  
4 understanding, Your Honor.

5                   THE COURT:  All right.  So, 17 through  
6 28 -- and what were the first ones?

7                   MR. BALLENGEE:  10 and 11.

8                   THE COURT:  And 10 and 11.

9                           **(State's Exhibit No. 10 and 11, 17 through**  
10                               **28 Admitted)**

11                   MR. BALLENGEE:  Permission to publish, Your  
12 Honor?

13                   THE COURT:  You may.

14                   MR. BALLENGEE:  Judge, I think we figured  
15 out the video and I would like to publish that.

16                   THE COURT:  Go right here.

17                           **(State's Exhibit No. 16 published)**

18                                   **DIRECT EXAMINATION**

19           **CONT'D BY MR. BALLENGEE:**

20           Q.    Okay.  Now, Mr. Davis, I'm showing you what's  
21 been previously marked as State's Exhibit No. 11.  What  
22 do you see in that picture (indicating)?

23           A.    Three of my placards marked 3, 4, and 5, and  
24 the back end of the vehicle.

25           Q.    And what do you recall being 3, 4, and 5?

1 A. They're shell casings, cartridge casings.

2 Q. I'm sorry?

3 A. Cartridge casings, shell casings.

4 Q. And what kind of cartridge casings were they?

5 A. .380 caliber.

6 Q. I'm showing you what's been previously marked  
7 as State's Exhibit No. 3 -- I'm sorry -- No. 18. What's  
8 that a picture of (indicating)?

9 A. A cartridge casing, .380 caliber.

10 Q. And in State's Exhibit No. 4 (indicating)?

11 A. A cartridge casing, also a .380 caliber.

12 Q. And in State's Exhibit No. 5 (indicating)?

13 A. Cartridge casing, also a .380 caliber.

14 Q. I'm showing you what's been previously marked  
15 as State's Exhibits 30, 31, and 32. Do you recognize  
16 them (indicating)?

17 A. Yes, sir.

18 Q. What are they?

19 A. These are the cartridge casings that were on  
20 the scene.

21 Q. And how do you know that they are the same  
22 cartridge casings that were on the scene?

23 A. Because as I collect items, I always mark the  
24 containers with the unit number, my name, case number,  
25 information like that, the date. And that's my writing.

1 This is the packaging. It's the same cartridge casing.

2 Q. And have these cartridge casings been altered  
3 in any way?

4 A. Well, actually, yes, sir, they have.

5 Q. How?

6 A. There's writing on them from the medical  
7 examiner's office.

8 Q. Okay. Have they -- are they in the same or  
9 substantially similar condition as the last time that  
10 you saw them?

11 A. Yes, sir.

12 MR. BALLENGEE: At this time, Your Honor,  
13 the State offers State's No. 30, 31, 32 into evidence.  
14 I'm tendering to opposing counsel for objection.

15 **(State's Exhibit No. 30 through 32 Offered)**

16 MR. BUCKLEY: May I take the witness  
17 briefly on voir dire, Your Honor?

18 THE COURT: You may.

19 **VOIR DIRE EXAMINATION**

20 **BY MR. BUCKLEY:**

21 Q. Mr. Davis, I'm showing you what's marked and  
22 admitted as State's Exhibit No. 11, which you had just  
23 commented on. And these are Markers 3, 4, and 5; is  
24 that correct, sir (indicating)?

25 A. Yes, sir.

1 Q. And these markers are what correspond to these  
2 .380 shells?

3 A. That's correct, yes, sir.

4 Q. .380 shell casings.

5 And so, when you say that these are the  
6 shell casings that were found at the scene, if there  
7 were other shell casings found at the scene, in any  
8 event these shell casings relate to these numbers?

9 A. Oh, yes, sir. The numbers on this photo are  
10 related to those casings, yes, sir.

11 Q. Yes, sir.

12 A. And the item numbers, yes, sir.

13 Q. Understood. Thank you. Thank you for that  
14 clarification.

15 MR. BUCKLEY: I have no objection.

16 THE COURT: Okay. So, 30, 31, 32 are  
17 admitted.

18 **(State's Exhibit No. 30 through 32**  
19 **Admitted)**

20 MR. BALLENGEE: Yes, sir. Thank you.

21 **DIRECT EXAMINATION**

22 **CONT'D BY MR. BALLENGEE:**

23 Q. Mr. Davis, I'm also showing you what's been  
24 previously marked as State's Exhibit No. 25. Do you  
25 recognize the item in State's Exhibit No. 25

1 (indicating)?

2 A. Yes, sir.

3 Q. What do you recognize it to be?

4 A. It's a .380 semiautomatic pistol in the trunk  
5 of the Dodge Charger.

6 Q. Okay. Now, did you mark that -- or tag and  
7 mark that .380 pistol?

8 A. Yes, sir. I collected it as evidence and gave  
9 it an item number.

10 MR. BALLENGEE: Judge, may I provide this  
11 to the deputy -- or the pistol to the deputy to make  
12 sure that it's clear?

13 THE COURT: Yes, sir.

14 THE BAILIFF: The weapon is secure.

15 THE COURT: All right. Thank you.

16 Q. (By Mr. Ballengee) And was the weapon in this  
17 property bag as well?

18 A. Yes, sir.

19 Q. And how do you know that weapon is the same  
20 weapon that you found in that trunk on May 2nd, 2010?

21 A. By the serial number and my report matching the  
22 weapon and my name and initials on the packaging as I  
23 packaged it.

24 Q. Is the gun in the same or similar condition as  
25 the last time that you saw it?

1           A.    Yes, sir.  It even has some of the fingerprint  
2 powder still left on it.

3           Q.    Okay.

4                   MR. BALLENGEE:  Your Honor, at this time,  
5 the State offers into evidence State's Exhibit 33.  I'm  
6 tendering it to opposing counsel for objection.

7                   MR. BUCKLEY:  No objection.

8                   THE COURT:  This says SEM test kit.  Is  
9 that what you're offering?

10                   MR. BALLENGEE:  No, Your Honor.  That's the  
11 wrong number.

12                   THE COURT:  All right.  If you will scratch  
13 through that and put the --

14                   MR. BALLENGEE:  That's all right, Your  
15 Honor.  I've got 42 as the number.

16                           **(State's Exhibit No. 42 Offered)**

17                   THE COURT:  Any objection to 42 now,  
18 Counsel, from the defense?  From the defense, any  
19 objection to 42?  That's the correct number.

20                   MR. BUCKLEY:  I apologize.  I was  
21 distracted.

22                   THE COURT:  That's okay.  42 is supposed to  
23 be the correct number.

24                   MR. BUCKLEY:  No objection, sir.

25                   THE COURT:  All right.  Thank you.



1                   It's admitted.

2                   **(State's Exhibit No. 42 Admitted)**

3           Q.     (By Mr. Ballengee) All right. Mr. Davis, I'm  
4 showing you now what's been previously marked as State's  
5 Exhibit No. 17. Do you recognize the items in State's  
6 Exhibit No. 17 (indicating)?

7           A.     Yes, sir.

8           Q.     And what are the items in State's Exhibit  
9 No. 17?

10          A.     Well, it's a large pool of blood like this and  
11 also a baseball cap, Item No. 2.

12          Q.     And is there anything next to or laying in the  
13 large pool of blood?

14          A.     No, sir, I don't believe there is.

15          Q.     If you will look very closely.

16          A.     Oh, the towel. I'm sorry. Yes, sir. There  
17 was a towel there. Absolutely. Item 1. Yes, sir. I  
18 stand corrected. Item 1 was a towel.

19          Q.     Did you do anything at the scene to collect any  
20 evidence from that large pool of blood?

21          A.     Yes, sir.

22          Q.     What was it that you did at the scene?

23          A.     I took some swabs. It was for purposes of DNA  
24 analysis.

25          Q.     I'm handing you what's been previously marked

1 as State's Exhibits 38, 39, 40, and 41. Do you  
2 recognize them (indicating)?

3 A. Yes, sir.

4 Q. What do you recognize them to be?

5 A. Swabs of blood that I collected on the scene.

6 Q. And how do you know that these are the same  
7 swabs of blood that you collected on the scene?

8 A. This is my packaging with my case number, date,  
9 time, my unit number, and my name. And this is also my  
10 envelope packaging with my bar codes that I created, put  
11 on the back, still including my name, my unit number,  
12 date, and the times that they were collected.

13 Q. And have they been altered in any way?

14 A. No, sir, not that I can tell.

15 Q. Okay. Are they in the same or similar  
16 condition as the last time that you saw them?

17 A. Yes, sir.

18 MR. BALLENGEE: Your Honor, at this time  
19 the State offers State's Exhibits 38 through 41. I'm  
20 tendering to opposing counsel for objection.

21 **(State's Exhibit No. 38 through 41 Offered)**

22 MR. BUCKLEY: No objection.

23 THE COURT: Thank you.

24 38 through 41, State's Exhibits, are  
25 admitted.

1                                   **(State's Exhibit No. 38 through 41**  
2                                   **Admitted)**

3           Q.    (By Mr. Ballengee) When you were at the scene,  
4 did you also separate everyone -- or did you speak to  
5 everyone that was separated?   Excuse me.

6           A.    There were some individuals detained on the  
7 scene.   Yes, sir.   They were detained by patrolmen.

8           Q.    And were you asked to do any kind of analysis  
9 on them?

10          A.    Yes, sir.

11          Q.    What kind of analysis were you asked to do on  
12 those individuals?

13          A.    I was asked to conduct what we commonly refer  
14 to as SEM or gunshot residue test kits on those  
15 individuals.

16          Q.    And what is that test kit?   What does it do?

17          A.    The SEM stands for scanning electron  
18 microscope.   And what it does is looks for particles of  
19 gunshot residue on people's hands or items, things of  
20 that nature.   And those tests are done at the medical  
21 examiner's office under their microscope.   We're tasked  
22 with collecting that evidence and packaging it and  
23 submitting it to them.

24          Q.    And I'm showing you what's been previously  
25 marked as -- I'm running out of room here.

1           A.    That's all right, sir.

2           Q.    Let me move some of those.  That one we've  
3 already used.  Previously marked as State's Exhibit --  
4 or currently marked as State's Exhibits No. 33 through  
5 37.  State's Exhibit 33, do you recognize it  
6 (indicating)?

7           A.    Yes, sir.

8           Q.    And what do you recognize it to be?

9           A.    This is a gunshot residue test collection kit  
10 for one individual that I did on the scene, including my  
11 unit number, badge number, date, the case number, and  
12 the individual's name.

13          Q.    What is the individual's name?

14          A.    Justin Harris.

15          Q.    Okay.

16          A.    And this is the original packaging.

17          Q.    Does it have your markings on it?

18          A.    Yes, sir.  The original packaging as well as  
19 the collection kit after it was sealed.

20          Q.    And has it been altered in any way?

21          A.    No, sir.  Other than there is evidence that the  
22 medical examiner's office did test it because they put  
23 their seal on it after they opened it.

24          Q.    Okay.  And is it in the same or substantially  
25 similar condition as the last time that you saw it?

1           A.    Yes, sir.

2                       MR. BALLENGEE:  And I'm going to go through  
3 each one of these, Your Honor, and offer them as a  
4 whole.

5                       THE COURT:  All right.

6           Q.    (By Mr. Ballengee) Now, on what's been  
7 previously marked as State's Exhibit No. 34 -- and,  
8 actually, I will go through these each as a whole in  
9 order to save some time -- as well as State's Exhibit  
10 No. 35 and State's Exhibit No. 44 -- excuse me.  Did I  
11 say 34 or 44?

12           A.    44.

13           Q.    Okay.  That's incorrect.  It should be State's  
14 Exhibit No. 36 and then State's Exhibit No. 37.

15                       Now, do those items all -- or what do you  
16 recognize those items to be (indicating)?

17           A.    These are the SEM test kits that I collected on  
18 the scene from the five individuals that were detained.

19           Q.    And who were the SEM test kits from?

20           A.    Mr. Justin Harris, Mr. Adrian King, Mr. William  
21 Watson, Mr. Frederick Gibson, and Mr. Timothy  
22 Stallworth.

23           Q.    And are those test kits in the -- have they  
24 been altered in any way?

25           A.    No, sir.

1 Q. Are they in the same or substantially similar  
2 condition as the last time that you saw them?

3 A. Yes, sir.

4 MR. BALLENGEE: At this time, the State  
5 offers State's Exhibits 34, 35, 36, and 37 into  
6 evidence. I'm tendering to opposing counsel.

7 **(State's Exhibit No. 34 through 37 Offered)**

8 MR. BUCKLEY: I will make your job easier.

9 MR. BALLENGEE: Thank you. I appreciate  
10 it.

11 MR. BUCKLEY: No objection.

12 THE COURT: 34 through 37 are admitted.

13 **(State's Exhibit No. 34 through 37**  
14 **Admitted)**

15 Q. (By Mr. Ballengee) Now, Mr. Davis, I'm showing  
16 you what's been previously marked as State's Exhibit  
17 No. 21. What are the marks that are on the ground  
18 around the blood spatter (indicating)?

19 A. Those are arrows showing directionally. It's  
20 the blood trail with the use of reflective chalk.

21 Q. What are they kind of marking off?

22 A. Well, it's marking the direction of the travel  
23 of blood.

24 Q. How are you able to determine that?

25 A. By the angle of the droplets as it hits the

1 target. Such as in this case, pavement. You can  
2 determine directionality as far as movement.

3 Q. And where does that trail end?

4 A. It actually goes up towards a sidewalk area and  
5 then turns and comes -- excuse me. I didn't mean to do  
6 that -- and then it comes back towards the main pool of  
7 blood.

8 Q. Okay. Towards this main pool of blood down at  
9 Marker 1?

10 A. Yes, sir.

11 Q. And then Photograph Nos. 22, 23, and 24. And I  
12 just want the family to be prepared for this. What does  
13 State's Exhibit No. 22 show (indicating)?

14 A. That's Mr. Tevin Williams.

15 Q. And were you able to take this photograph  
16 before he was transported?

17 A. No, sir.

18 Q. Do you know who took that photograph?

19 A. No, sir, I don't.

20 Q. Okay. And were you able to see the victim in  
21 this case?

22 A. Yes, sir.

23 Q. And where were you able to see him?

24 A. The initial call that I received from dispatch  
25 was to proceed to Ben Taub emergency room for a person

1 that had been shot.

2 Q. Now, were you able to make a scene diagram that  
3 night?

4 A. No, sir, I didn't.

5 Q. Are scene diagrams something that are normally  
6 made in CSU investigations?

7 A. They can be made. It's a visual aid, really.  
8 In instances we have made scene sketches. In some  
9 instances, we don't.

10 Q. What about the scene didn't really -- or made  
11 you think that you didn't really need a scene diagram?

12 A. The information that I had at the time, the  
13 items -- I didn't really know if it was the original  
14 locations of certain items. We had three vehicles in a  
15 business parking lot. And I had video, I had  
16 photographs, and I just -- I didn't think a scene sketch  
17 would be beneficial at that time.

18 Q. Were you able -- on the night of the incident,  
19 were you able to find the actual bullet -- any actual  
20 bullets at this scene?

21 A. Well, there was one projectile that was located  
22 later.

23 Q. So, the night of, were you able to find any?

24 A. No, sir. We did not find any projectiles that  
25 night.



1 Q. That night, did you find any -- you said that  
2 you found .380 shells, correct?

3 A. Yes, sir, .380 shell casings.

4 Q. Did you find any other shell casings that  
5 night?

6 A. No, sir.

7 Q. Did you search the entire perimeter of that  
8 parking lot?

9 A. Yes, sir.

10 Q. Once you were able to determine that you had  
11 these .380 shell casings and -- but you didn't have a  
12 bullet, what did you do next?

13 A. Let's see. After we collected the evidence, I  
14 guess -- after the scene, I just transported everything  
15 back downtown and processed the pistol and then I locked  
16 everything in lockers to be transported to the medical  
17 examiner's office.

18 Q. Now, did you ever revisit the scene after that  
19 initial date?

20 A. Yes, sir. On the 5th.

21 Q. And why did you revisit the scene on the 5th?

22 A. Well, actually, I was back in route back to the  
23 office on regular duty and I was contacted by Sergeant  
24 Gonzalez and he said: Can you come back by Wallisville  
25 and let's do another search? I said absolutely.

1 Q. Why did you need to do another search?

2 A. If we are asked, we go. And we wanted to make  
3 sure we had everything, if there is any additional  
4 evidence that could have been found.

5 Q. What kind of evidence were you looking for?

6 A. Mainly at that time we were looking for  
7 firearms related items.

8 Q. Did you bring any special equipment to look for  
9 those items?

10 A. Yes, sir.

11 Q. What did you bring?

12 A. We had Garrett metal detectors that are used to  
13 search grassy areas, sand, places like that.

14 Q. Is it common that sometimes evidence can be  
15 overlooked in a nighttime scene like that?

16 A. Yes, sir.

17 Q. And is it common that you use those metal  
18 detectors in order to find some of that missing evidence  
19 that might have been missed that night?

20 A. Oh, absolutely. Yes, sir.

21 Q. When you searched that parking lot and the  
22 areas around that parking lot on the 5th, did you find  
23 any additional evidence?

24 A. We found one item.

25 Q. And what was that one item?

1           A.    A projectile.    What appeared to be a  
2 projectile, yes, sir.

3           Q.    Okay.    And do you recall where you found that  
4 item?

5           A.    Yes, sir.    It was in a little grass median  
6 area.    I believe it was the west side of the parking  
7 lot.    It was like northwest of that pool of blood where  
8 it had been located.

9           Q.    Did you photograph the scene again that day?

10          A.    Yes, sir, I think I did.

11          Q.    And I had previously shown you what's marked as  
12 State's Exhibits 10, 26, 27, and 28.    Are these the  
13 photographs that you took on that day (indicating)?

14          A.    Yes, sir, that's one of them.

15          Q.    State's Exhibit 26, is that another  
16 (indicating)?

17          A.    Yes, sir.

18          Q.    And State's Exhibit 27 (indicating)?

19          A.    Yes, sir.

20          Q.    And State's Exhibit No. 28, is that another  
21 (indicating)?

22          A.    Yes, sir.

23          Q.    Now, what is State's Exhibit No. 28 showing  
24 (indicating)?

25          A.    It's very hard to see, but right here at the

1 base of that marker rod is a projectile (indicating).

2 Q. Are you familiar with caliber of weapons?

3 A. Sort of, yes, sir.

4 Q. And are you aware of what caliber that bullet  
5 would be?

6 A. Not at that time, no. I know now.

7 Q. When you say a projectile, what do you mean by  
8 "projectile"?

9 A. A projectile is a bullet that is fired out of a  
10 weapon.

11 Q. Okay. And how did you mark that projectile?

12 A. Well, when it was located, we just took a green  
13 rod and just took -- or stuck it in the ground to mark  
14 the spot and mark the item.

15 Q. Was there any particular reason why you took  
16 this photograph from the angle that you took it?

17 A. Yes, sir.

18 Q. And why was that?

19 A. I was wanting to show the location of the  
20 projectile in relation to the pool of blood that was in  
21 the parking lot.

22 Q. And you said you marked it with a green rod?

23 A. Yes, sir.

24 Q. Are you able to view that green rod from this  
25 photograph?

1 A. Yes, sir. It's right there (indicating).

2 Q. Okay. I'm showing you what's been -- let me  
3 get some of this stuff out of your way.

4 I'm showing you what's been previously  
5 marked as State's Exhibit No. 43 and also State's  
6 Exhibit No. 63. Do you recognize them (indicating)?

7 A. This is the packaging and projectile that I  
8 collected. And this packaging is from the medical  
9 examiner's office for the swab from the projectile.

10 Q. Did they come from this bag here (indicating)?

11 A. Yes, sir. This is my original packaging, the  
12 sack with the case number, my name, unit number, the  
13 date, and projectile Item 23 that I found in the grassy  
14 area at Wallisville Road.

15 Q. Does it have your markings on it?

16 A. Oh, yes, sir. That's my writing.

17 Q. And is that projectile in the same -- well, is  
18 that projectile in the same or similar condition as the  
19 last time you saw it?

20 A. Yes, sir. I really packaged these things good,  
21 didn't I? It's been repackaged in the same envelope.  
22 That's the projectile.

23 Q. Is it in the same or similar condition as the  
24 last time that you saw it?

25 A. Yes, sir.

1 Q. Has it been altered in any way?

2 A. No, sir.

3 MR. BALLENGEE: At this time, Your Honor,  
4 State offers State's No. 43 into evidence, tendering to  
5 opposing counsel for objection.

6 **(State's Exhibit No. 43 Offered)**

7 MR. BUCKLEY: No objection. And while  
8 we're up, may we approach about something, Your Honor?

9 THE COURT: 43 is admitted.

10 **(State's Exhibit No. 43 Admitted)**

11 (At the Bench, on the record)

12 MR. BUCKLEY: Judge, there's a photograph  
13 that was published to the jury that I don't believe has  
14 come into evidence yet. It's the decedent and the  
15 bloody --

16 THE COURT: What number was it?

17 MR. BUCKLEY: I will wait till he comes  
18 back.

19 THE COURT: Which one?

20 MR. BUCKLEY: 22.

21 THE COURT: I show it was admitted. 17  
22 through 28. We went from 17 through 28. I got it  
23 admitted.

24 MR. BUCKLEY: Somehow I missed that. I  
25 apologize.

1 THE COURT: That's okay.

2 (Open court, defendant and jury present)

3 MR. BALLENGEE: Judge, did we have a ruling  
4 on the entrance of No. 43?

5 THE COURT: We admitted it.

6 MR. BALLENGEE: We did. I just wanted to  
7 make sure. Thank you, Judge.

8 Pass the witness.

9 THE COURT: All right. From the defense,  
10 please.

11 MR. BUCKLEY: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. BUCKLEY:**

14 Q. Good afternoon again, Mr. Davis.

15 A. Hi.

16 Q. I guess I wanted to put your work in framework  
17 so the jury can understand what you do. I know that in  
18 this day and age people watch a lot of television like  
19 "C.S.I." and things like that. Have you ever watched  
20 those shows?

21 A. Actually, I'm on some of them.

22 Q. Oh, great. Well, one of the things that is  
23 interesting about those shows is that they typically  
24 show someone who has forensic knowledge and the ability  
25 to investigate cases from beginning to end. You

1 understand that's often the story line?

2 A. Oh, yes, sir.

3 Q. And that differs in many degrees with what your  
4 role would be in a case like this, correct?

5 A. Oh, absolutely. Yes, sir.

6 Q. Your role would be very specific as to  
7 investigating evidence at the scene, correct?

8 A. Yes, sir.

9 Q. While not involving yourself in developing an  
10 overall theory of the case or identifying other  
11 suspects?

12 A. That's absolutely correct, sir.

13 MR. BUCKLEY: May I use the overhead, Your  
14 Honor?

15 THE COURT: Certainly.

16 Q. (By Mr. Buckley) Looking again, Mr. Davis, at  
17 what's been admitted as State's Exhibit 11. And we  
18 spoke about this photograph earlier with the markings 3,  
19 4, and 5, which correspond to the .380 shell casings,  
20 correct, sir?

21 A. Yes, sir.

22 Q. And just to understand what the markers  
23 signify, the markers signify the position of those cases  
24 at the time that you observed them, correct?

25 A. That's correct, sir.



1 Q. So, you would have observed them and upon your  
2 observation you would place a marker?

3 A. Yes, sir.

4 Q. In understanding and processing the crime scene  
5 or a scene of any kind, you rely on the work of first  
6 responders partly to secure the scene, right?

7 A. Yes, sir.

8 Q. And because your work is most meaningful when  
9 it reflects the evidence that was deposited at the time  
10 of an event, right?

11 A. Yes, sir.

12 Q. And that if there is foot traffic or automobile  
13 traffic through an area that can disrupt the placement  
14 of items, right?

15 A. Absolutely.

16 Q. Do you have knowledge yourself as to whether  
17 there was foot traffic in this area before you arrived?

18 A. I have the information I received when I got  
19 there.

20 Q. Is your understanding -- without asking you  
21 what somebody else told you, but was it your  
22 understanding there had been a group of people in the  
23 area before it was secured?

24 A. Yes, sir.

25 Q. So, that information would create some question

1 as to whether these casings are where they were at the  
2 time of the incident?

3 A. Yes, sir.

4 Q. I mean, in fact -- and I'm not asking you to  
5 speculate, but, hypothetically, they could have been  
6 much farther apart, right?

7 A. Yes, sir.

8 Q. And, likewise, hypothetically, they could have  
9 been grouped together very closely, right?

10 A. That's true.

11 Q. And you reviewed with the prosecutor State's  
12 Exhibit 42. And this is the Bersa Thunder .380,  
13 correct, sir?

14 A. Yes, sir.

15 Q. And I'm not asking you to come to a conclusion  
16 about the ballistics itself, but is this weapon  
17 consistent with .380 shells?

18 A. Yes, sir.

19 Q. And a .380, just for the jury's reference --  
20 and I'm no expert, but my understanding is that a .380  
21 is similar in size to a 9-millimeter. Is that accurate?

22 A. I'd have to measure them.

23 Q. Fair enough.

24 A. I think it might be a little smaller, but  
25 pretty close.

1 Q. Neither are a large caliber like a .45?

2 A. That's true.

3 Q. And this, again, was the weapon that you  
4 photographed and then retrieved from the back of the  
5 Dodge Charger?

6 A. Oh, yes, sir.

7 Q. You had mentioned that you were directed to  
8 return to the scene, I believe it was three days later  
9 or so.

10 A. Yes, sir.

11 Q. When we spoke earlier, your first appearance  
12 was on a Sunday, right?

13 A. Yes, Sunday night.

14 Q. And then you appeared during the daylight hours  
15 on Wednesday?

16 A. Wednesday evening.

17 Q. And so, you were directed to return to the  
18 scene to look for additional items that could pertain to  
19 this incident. And one of the items -- or some of the  
20 items that you found were, as you said, shell casings in  
21 the street. Is that accurate?

22 A. No, sir.

23 Q. Did you ever find any shell casings in the  
24 street?

25 A. No, sir.

1 Q. Okay. There are occasions when you investigate  
2 incidents that involve firearms that could have been  
3 shot in the vehicle, right?

4 A. Yes, sir.

5 Q. That's not an uncommon scenario in Harris  
6 County to have that type of investigation?

7 A. Absolutely. You're right.

8 Q. And so, in the course of that kind of  
9 investigation one thing you would do would be to search  
10 the inside of the vehicle for shell casings, right?

11 A. Yes, sir.

12 Q. Because in a scenario like that, if a person  
13 fires a semiautomatic weapon, the weapon will discharge  
14 the shell casings at the time it's fired, right?

15 A. Yes, sir. It's designed to do that.

16 Q. In other words -- try not to point this at  
17 anyone, but if somebody is firing a gun that's a  
18 semiautomatic, then the bullet, the projectile comes out  
19 the front, correct, sir?

20 A. Yes, sir.

21 Q. And the shell casings that held the gunpowder  
22 and other material flies out the side?

23 A. That's right.

24 Q. Depending on the firearm itself, the model,  
25 other characteristics, there can be an angle or a

1 distance associated with that ejection, right?

2 A. Yes, sir, it can be.

3 Q. And you really wouldn't know until you actually  
4 tested that particular firearm?

5 A. Right. And it also depends on the way it's  
6 held and things like that.

7 Q. Sure.

8 And because of that ejection in some  
9 cases -- in cases of a firearm fired from within a car,  
10 you might find shell casings inside the vehicle,  
11 correct?

12 A. It's possible.

13 Q. And, likewise, if a firearm was fired at a  
14 certain angle or held at a certain way inside of a  
15 vehicle, the shell casings could discharge from the  
16 vehicle?

17 A. Yes, sir.

18 Q. And so, having -- determining whether shell  
19 casings were inside a vehicle or outside a vehicle could  
20 provide some insight into the manner in which the weapon  
21 had been fired?

22 A. Possibly.

23 MR. BUCKLEY: May I confer with opposing  
24 counsel, Your Honor?

25 THE COURT: Sure.

1 (Pause)

2 Q. (By Mr. Buckley) I guess another basic firearms  
3 reference is a semi -- excuse me. Too many carbs for  
4 lunch.

5 A semiautomatic weapon like this Bersa  
6 Thunder, what does it mean to say that something is  
7 semiautomatic?

8 A. Semiautomatic is a term used for that  
9 particular handgun by pulling the trigger, the slide,  
10 comes to the rear, and on a return spring pushes the  
11 slide forward and it reloads itself. And then you pull  
12 the trigger and shoots again. And you can keep shooting  
13 as long as you pull the trigger and there's ammo in the  
14 magazine.

15 Q. So, as opposed to a gun like a revolver, for  
16 example, which keeps the spent shell casing inside the  
17 gun in the revolving element -- correct --

18 A. Yes, sir.

19 Q. -- this one would eject the shell casings?

20 A. Absolutely. If it's working properly, it will.

21 Q. Yes, sir.

22 And I know that when you first discussed  
23 this weapon, you had mentioned that there was powder on  
24 it still from the fingerprinting?

25 A. Yes, sir.

1 Q. Do you know, if you know, whether fingerprints  
2 were detected on the weapon?

3 A. It did not. I did process it for prints and I  
4 did not get any.

5 Q. Okay. Also, you had processed I think it's  
6 called SEM for the gunpowder residue. That, I think, is  
7 a pretty advanced process, isn't it?

8 A. Yes, sir. It's done in the medical examiner's  
9 office. And it stands for scanning electron microscope.  
10 And I can explain it, but it's --

11 Q. I'm not asking you to. I guess what I'm  
12 curious about, that the way to check for gunshot residue  
13 or are there other ways?

14 A. There used to be an old test called an atomic  
15 absorption test. It was used by using liquids and Q-tip  
16 swabs. They no longer do that test there. They do now  
17 the scanning electron microscope.

18 Q. How long does it take for -- well, let me ask  
19 you a different way.

20 When a person fires a gun, say with a bare  
21 hand, and the gun fires, what is it that causes a person  
22 to then have the GSR on their hand?

23 A. It's powder residue from the chamber from the  
24 end of the barrel as it explodes out of the gun and it  
25 gets on items and people or whatever. Yeah, that's

1 about the basics of it.

2 Q. Okay. Is there a time period that GSR will  
3 usually stay on skin or on clothing?

4 A. Not that I know of. I don't think there is a  
5 limitation as far as it being on items or on people.

6 Q. But, I guess, the results then of your  
7 investigation as to both the GSR and the fingerprinting  
8 is that the gun was clean for prints, right?

9 A. Yes, sir.

10 Q. And none of the tested subjects showed GSR.  
11 They were clean, too, right?

12 A. That's correct.

13 Q. Mr. Davis, I'm showing you what we've marked  
14 Defendant's Exhibit 1 for identification. And do you  
15 recognize what's depicted in that photograph  
16 (indicating)?

17 A. No, sir.

18 Q. Do you recall if that is the interior of the  
19 Dodge Charger that you either video'd or photographed?

20 A. I don't have a relation to that. It might be  
21 the Dodge Charger.

22 Q. Let me grab another one real quick. I'm  
23 showing you what's been marked for identification as  
24 Defense No. 2. Do you recall, is that the Dodge Charger  
25 that you would have photographed at the scene



1 (indicating)?

2 A. Yes, sir, that's the license plate on it.  
3 That's the Dodge Charger.

4 Q. Does that refresh your recollection to say that  
5 Defendant's Exhibit 1 --

6 A. Absolutely.

7 Q. And so, now you recall that the photograph of  
8 Defendant's Exhibit 1 is a photograph of the interior,  
9 the front seat of the Defendant's Exhibit 2?

10 A. Yes, sir.

11 Q. Are those both fair and accurate  
12 representations of the scene the way that you remember  
13 them?

14 A. Yes, sir. I don't remember the items in it.

15 MR. BUCKLEY: I move to admit Defense 1 and  
16 2.

17 **(Defense Exhibit No. 1 and 2 Offered)**

18 MR. BALLENGEE: No objection, Your Honor.

19 THE COURT: Defense 1 and 2 are admitted.

20 **(Defense Exhibit No. 1 and 2 Admitted)**

21 MR. BUCKLEY: May I publish, Your Honor?

22 THE COURT: Certainly.

23 Q. (By Mr. Buckley) So, I don't want to go in  
24 reverse order, but we have Defense Exhibit 2. And  
25 you've identified this as the Dodge Charger at the scene

1 that you photographed (indicating)?

2 A. Yes, sir.

3 Q. And then cutting back to Defendant's Exhibit 1,  
4 the interior of the Dodge Charger, correct, sir  
5 (indicating)?

6 A. Yes, sir.

7 Q. And when you arrived on the scene, did you  
8 collect any materials and place them in any of the  
9 vehicles?

10 A. In the vehicles? No, sir.

11 Q. Yes, sir. So, you would have photographed the  
12 vehicles as they were at the time you arrived?

13 A. Yes, sir.

14 Q. And so, looking down in the front seat of the  
15 Charger -- and you'd agree with me that it looks like  
16 what we have are a watch, right?

17 A. Yes, sir. A watch right here (indicating).

18 Q. And some kind of necklace?

19 A. Beaded necklace, yes, sir.

20 Q. Beaded necklace.

21 And you don't personally have any  
22 understanding of where those came from?

23 A. No, sir, not at all.

24 Q. They were like that when you got there?

25 A. Yes, sir.

1 Q. Apparently -- and I'm not asking you to  
2 speculate, but apparently just thrown there?

3 A. Maybe. I do not know.

4 Q. You spoke a little bit about the scene diagram,  
5 Mr. Davis.

6 A. Yes, sir.

7 Q. And I know that in this case you did not  
8 produce one, correct?

9 A. That's correct.

10 Q. You had evaluated the circumstances of the  
11 scene and determined in your judgment that one would not  
12 be useful?

13 A. Yes, sir.

14 Q. And what I understand your feelings, were that  
15 the evidence, the items at the scene, there was really  
16 no certainty as to where they had started out, right?

17 A. That's true, yes, sir.

18 Q. So, to make a scene diagram would have been  
19 kind of an arbitrary drawing of the way things looked by  
20 the time you arrived?

21 A. Yes, sir.

22 Q. Do you know if any measurements were taken of  
23 the parking lot perimeter?

24 A. I don't think I took measurements of the whole  
25 parking lot. I did measure a few things as far as to

1 get a generality, but as far as measuring the whole  
2 parking lot, I didn't do that.

3 Q. And, again, because of the -- I guess the  
4 narrowness of your role as compared to what they do on  
5 C.S.I., shows like that, you would not -- you would wait  
6 for direction from the detectives before investigating  
7 something beyond what you first noticed, correct?

8 A. Yes, sir. A lot of times the detectives will  
9 locate items or they will get information after the fact  
10 and go back and then we'll take a look at that.

11 Q. Because you would not be involved in developing  
12 the theory of the case or considering particular  
13 suspects --

14 A. Oh, no, sir.

15 Q. -- you would not have any independent reason to  
16 investigate beyond what you saw as a CSU?

17 A. That's true.

18 Q. In other words, I guess you depend on the  
19 detectives for direction?

20 A. Yes, sir.

21 Q. At the time you arrived -- and I'm talking  
22 about the evening of the 2nd, this would have been  
23 Sunday evening by the time you arrived -- did you  
24 receive any direction from a detective at that point?

25 A. Well, sir, the information that I received from

1    them was there had been a large party with numerous  
2    individuals and a person that had been in the parking  
3    lot at the party had been shot.

4           Q.    Did they provide -- without asking what anybody  
5    said, but did you receive any direction as to what parts  
6    of the area might be of greater interest?

7           A.    No, sir.  I just -- well, with the blood and  
8    the vehicles and the shell casings that were found, I  
9    was concentrating in that parking lot because that's the  
10   information I had at that time.

11          Q.    Understood.

12                         And I think that you answered it now, but  
13   this two-and-a-half day delay between Sunday and  
14   Wednesday, until you were contacted again on Wednesday,  
15   you had no reason to believe that anything had been  
16   missed on Sunday, right?

17          A.    That's true.

18          Q.    So, there was no -- other than the fact that  
19   the detectives waited to contact you, you had no reason  
20   to wait?

21          A.    No, sir, I did not.

22          Q.    No reason, in fact, to go back unless they  
23   asked you to?

24          A.    No, sir.  I really didn't till they called me.

25                         MR. BUCKLEY:  Nothing further.  Thank, you,

1 sir. Pass the witness.

2 MR. BALLENGEE: Nothing further from this  
3 witness.

4 THE COURT: May he be excused?

5 MR. BUCKLEY: Yes, Your Honor.

6 THE COURT: All right. You are excused,  
7 sir. Thank you so much.

8 All right. Ladies and gentlemen, let's  
9 take a short break.

10 THE BAILIFF: All rise for the jury.

11 (Recess)

12 (Open court, defendant and jury present)

13 THE COURT: All right. Thank you.

14 Please be seated.

15 Let's continue.

16 MR. BALLENGEE: Your Honor, for the record,  
17 the State calls Adrian King to the stand. This witness  
18 has previously been sworn.

19 THE COURT: Thank you.

20 **ADRIAN KING,**

21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MR. BALLENGEE:**

24 Q. Adrian, will you introduce yourself to the  
25 jury?