

J. C. Wood - August 25, 2014
Cross-Examination by Ms. Meador

1 THE COURT: Anything else?

2 MS. GAIDO: Nothing else from the State,
3 Your Honor.

4 THE COURT: You may step down.
5 Call your next.

6 MS. GAIDO: Your Honor, the State calls
7 Officer Flora.

8 THE COURT: You may proceed.

9 MS. GAIDO: Thank you, Your Honor.

10 **CHARLES FLORA,**
11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 Q. (BY MS. GAIDO) Good afternoon. Can you please
14 introduce yourself for the record?

15 A. Officer Charles Flora.

16 Q. How are you currently employed?

17 A. With the Houston Police Department.

18 Q. What is your current assignment with the
19 Houston Police Department?

20 A. My current assignment is the Westside Patrol
21 Division Divisional Gang Unit.

22 Q. How long have you been with that unit?

23 A. Approximately two years.

24 Q. And how long have you been with HPD?

25 A. Five years.

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 Q. Do you have training that goes into being part
2 of the Westside Gang Unit?

3 A. Yes, ma'am, I do.

4 Q. Can you describe kind of briefly what that
5 training is?

6 A. A little bit of the training has to go along
7 with what you learn in the academy, but also once you
8 get on to the Westside Divisional Gang Unit, you do
9 training with veteran officers that are up there, as
10 well as I've gone to conferences like the Annual Gang --
11 Texas Gang Conference, as well.

12 Q. As a member of the Westside Gang Unit, do you
13 become familiar with some of the gang members in that
14 area?

15 A. Yes, ma'am.

16 Q. Are you familiar with someone named William
17 Horhn?

18 A. Yes, ma'am, I am.

19 Q. How are you familiar with that person?

20 A. I've had several interactions with William
21 Horhn and his affiliation with the Four Part Crips
22 Criminal Street Gang, all the way from arresting some of
23 his associates for different crimes like robbery and
24 burglary and in dealing with him. I've personally
25 arrested Mr. Horhn on these Oak Ridge warrants prior to

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 this, as well.

2 Q. Do you recognize Mr. Horhn in the courtroom
3 today?

4 A. Yes, ma'am, I do.

5 Q. Can you describe something he's wearing?

6 A. A blue long-sleeve shirt.

7 Q. I want to take you back to April 11th of 2013.
8 Were you on duty that day?

9 A. Yes, I was.

10 Q. Describe what you were doing? Was it patrol
11 or --

12 A. I was on the Westside Gang Unit and we were
13 patrolling the area of southwest Houston, Texas.

14 Q. At some point did you come into contact with
15 William Horhn?

16 A. Yes, ma'am, I did.

17 Q. Can you describe how that contact came about?

18 A. We were notified from our sergeant, Sergeant
19 Wood, that he had observed three males that are known
20 Four Part Crips Gang members and were at the Chevron gas
21 station at the 3800 block of Brant Rock or Dairy Ashford
22 area.

23 We had been actively look for Horhn for a
24 few weeks on his burglary warrant out of Fort Bend.

25 Normally every day we checked that warrant to see if it

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 was still good. That morning we had not checked that
2 warrant. And we were under the impression that warrant
3 was still good, but upon Sergeant Wood telling us that
4 he had eyes on Horhn at the gas station to -- we ride a
5 two-man unit. So, one is on the computer and one is
6 driving. And we started to research.

7 Q. Let me interrupt you.

8 You said you heard from Sergeant Wood
9 that he had made visual contact with William Horhn,
10 correct?

11 A. That's correct, yes.

12 Q. And at what point -- what do you do next?

13 A. So, at that point we were actually driving to
14 Sergeant Wood because he was there by himself and we
15 were in a separate area. We were just trying to get to
16 that location.

17 On the way there, as we were heading
18 there, we realized that his warrant for Fort Bend was
19 not good, but his Oak Ridge warrants were still valid,
20 which we had confirmed through dispatch.

21 Q. Had you known about those warrants before that
22 day or were those warrants news to you?

23 A. No. I knew about his four Oak Ridge traffic
24 violation warrants.

25 Q. What happened when you got to the scene?

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 A. We initially got there -- I got there with my
2 partner second to the primary unit that actually got
3 there. But as I rolled up, they were being detained and
4 we assisted in the detention of all three of them.

5 Q. Was the defendant one of the people that was
6 being detained?

7 A. Yes, ma'am, he was.

8 Q. Do you remember who detained him?

9 A. I'm not sure. I would have to look at the
10 offense report. I'm pretty sure it was Officer Mishka
11 and O'Neill.

12 Q. Was he handcuffed?

13 A. Yes, he was.

14 Q. What was your next interaction with the
15 defendant, if any?

16 A. I didn't speak to Will again until -- I can't
17 remember where we grabbed his cell phone from, if it was
18 on him or in the car. It might have been where he was
19 sitting at. But that wasn't documented in the offense
20 report either, but I was asking him about his cell phone
21 was my next interaction there.

22 Q. At this point had he been Mirandized?

23 A. He had not.

24 Q. When you asked him about the cell phone, did
25 he respond?

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 A. Yes. He mentioned it was his phone, that it
2 didn't work. Kind of played the whole, Well, it's my
3 phone, but it doesn't work, in my opinion to distract me
4 from the phone.

5 That's when I asked, Hey, is there
6 anything illegal on the phone that we need to know
7 about? Do you mind if we look at it?

8 And he responded, Yeah, that's fine.
9 There's nothing on there.

10 Q. And, so, in your opinion, he consented to have
11 the phone searched?

12 A. Yes, ma'am.

13 Q. Was he wishy-washy about the consent?

14 A. Looking back, it seemed like he was just kind
15 of playing dumb about the phone. Trying to distance
16 himself from the phone.

17 Q. Did he ever take back -- did he ever say, No,
18 you can't search the phone?

19 A. No.

20 Q. After saying you could search the phone, did
21 he ever change his mind?

22 A. No.

23 Q. Did you look through the phone?

24 A. I did, yes.

25 Q. And while looking through the phone, what did

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 you find?

2 A. I initially went to the images on his phone
3 and I noticed a few spreadsheets that someone had taken
4 a picture of that contains several names, dates of
5 birth, social security numbers and addresses and some
6 e-mail accounts and stuff like that.

7 Q. What was your next step?

8 A. I think at that point, we contacted the
9 District Attorney's Office and said, Hey, here's what
10 we've got. What do you advise us to do?

11 And they said, It's best to get a search
12 warrant on the phone.

13 Q. And did you do that?

14 A. I did do that.

15 Q. Were you the affiant on the search warrant?

16 A. I was, yes, ma'am.

17 Q. What did you do after obtaining the search
18 warrant?

19 A. I took the cell phone to our digital forensics
20 lab and turned it to those folks so they could have the
21 information taken off the phone.

22 Q. Do you remember about what time you arrived on
23 the scene?

24 A. I think that arrest was probably made around
25 3:30 in the afternoon.

Charles Flora - August 25, 2014
Direct Examination by Ms. Gaido

1 Q. Can you give an estimated time between when
2 the defendant was detained and when he gave you consent
3 to search his phone?

4 A. Approximately 15 minutes, 20 minutes,
5 something like that.

6 Q. Were there any -- did anything extraordinary
7 happen in those 15 minutes or was it just sort of
8 business as usual, discussions with the defendant?

9 A. Nothing extraordinary happened.

10 MS. GAIDO: Pass the witness, Your Honor.

11 **CROSS-EXAMINATION**

12 Q. (BY MS. MEADOR) When you arrived, you said
13 that Mr. Horhn was already in handcuffs.

14 A. Yes, ma'am, he was.

15 Q. Was he in the back of the patrol car yet?

16 A. No. Everyone was kind of corralled around the
17 suspect's vehicle.

18 Q. Were you present when initially he's
19 pat-searched and his pockets were searched?

20 A. I was not.

21 Q. That had already happened when you got there?

22 A. Yes, ma'am.

23 Q. At any point did you or any other officer that
24 you saw remove his shoes or socks?

25 A. I don't remember that, but I'm sure that did

Charles Flora - August 25, 2014
Cross-Examination by Ms. Meador

1 take place -- or I would assume it took place.

2 Q. Is that common?

3 A. Yes, it is.

4 Q. Were you present when his wallet was looked
5 through?

6 A. I was there when they were going through the
7 wallet.

8 Q. But you didn't see how they got the wallet?
9 They had already done that?

10 A. Right. The wallet was already out. That's
11 correct.

12 At that point it was determined that he
13 was going to go to jail for his SETCIC warrants and
14 looking through the wallet, you always make sure there's
15 no one else's ID, that kind of stuff, that need to be
16 tagged in evidence.

17 Q. So, the search of the wallet was a search
18 incident to arrest?

19 A. Correct.

20 Q. And then after that, his wallet was released
21 to Mr. Soles, one of the other people present.

22 A. Yes. That's what William Horhn wanted.

23 Q. So, you said that you had a discussion with
24 him or some discussion with him about the phone and him
25 saying it was his, but it didn't work?

Charles Flora - August 25, 2014
Cross-Examination by Ms. Meador

1 A. Right. I don't remember exactly what our
2 conversation consisted of, word for word, but it was
3 along that line.

4 Q. And there's not anywhere in the offense report
5 where you document that conversation at all?

6 A. That's right. It's not.

7 Q. And, in fact, in the offense report, you refer
8 to it at one point that he had an iPhone in his
9 possession, officer searched incident to arrest in an
10 attempt to locate more evidence pertaining to the stolen
11 credit card. Suspect warrant also gave verbal consent
12 to search the phone.

13 A. Right.

14 Q. And HPD, y'all have consent to search forms
15 that you can give people, correct?

16 A. That is correct, yes, ma'am.

17 Q. But that didn't happen in this case?

18 A. No. It's not required. We don't have to get
19 a consent to search form.

20 Q. And you also have some ability in your cars to
21 record suspects if you choose to; is that correct?

22 A. Yes, we can, if you chose to do that.

23 Q. But his consent was not recorded in any way in
24 this case?

25 A. No, ma'am, it wasn't.

Charles Flora - August 25, 2014
Cross-Examination by Ms. Meador

1 Q. Just one thing I want to clarify. By the time
2 his wallet was looked through and his phone was looked
3 through, y'all already knew that he was under arrest and
4 he was going in for those outstanding warrants?

5 A. That is correct, yes.

6 Q. And then you got his consent you said on
7 April 11th, but then you still went and got a warrant to
8 search the phone the next day?

9 A. Correct.

10 MS. MEADOR: Nothing further, Your Honor.

11 THE COURT: Anything else?

12 MS. GAIDO: Briefly, Your Honor.

13 **REDIRECT EXAMINATION**

14 Q. (BY MS. GAIDO) Officer Flora, you said when
15 you went through his wallet, you found a credit card?

16 A. I didn't personally find the credit card.
17 That would have been Officer O'Neill.

18 Q. Oh, pardon me.

19 MS. GAIDO: No further questions, Your
20 Honor.

21 THE COURT: You may step down.

22 Call your next.

23 MS. GAIDO: Officer O'Neill, Your Honor.
24
25

Terrance O'Neill - August 25, 2014
Direct Examination by Ms. Gaido

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TERRANCE O'NEILL,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

Q. (BY MS. GAIDO) Having introduced yourself to the court reporter, can you tell us how you are currently employed?

A. With the Houston Police Department.

Q. How long have you been with HPD?

A. Five and a half years.

Q. What is your current assignment?

A. I'm assigned to the Midwest Patrol Station Divisional Gang Unit.

Q. Is that the same unit that we just heard Officer Flora discuss?

A. No, ma'am. It's a separate substation divisional gang unit.

Q. What are your responsibilities there?

A. Just to conduct gang investigations in the greater Sharpstown area of Houston.

Q. In your role as a peace officer with HPD, have you had training?

A. Yes, ma'am.

Q. Does that training continue even today?

A. Yes, ma'am, absolutely.

Q. Are you familiar with someone named William