

1 P R O C E E D I N G

2 (Motion to Suppress)

3 THE COURT: Call your next witness.

4 MS. VOLLMAN: Judge, the State calls Candace
5 Gonzalez.6 THE COURT: Ms. Gonzalez, if you will come
7 forward and be sworn, please? Stand right there and raise
8 your right hand.

9 (Witness sworn.)

10 MS. VOLLMAN: Thank you, Judge.

11 CANDACE GONZALEZ,
12 having first been duly sworn, testified as followed: you
13 may proceed.

14 DIRECT EXAMINATION

15 BY MS. VOLLMAN:

16 Q. Ms. Gonzalez, can you please tell the Judge your
17 name?

18 A. Candace Gonzalez.

19 Q. Where do you work?

20 A. The Harris County District Attorney's Office,
21 Financial Crime's Division.22 Q. And in what capacity do you work for the Harris
23 County District Attorney's Office?

24 A. I'm a certified fraud examiner.

25 Q. Are you full-time or part-time?

1 A. Part-time.

2 Q. Where did you work before coming to work for the
3 District Attorney's Office?

4 A. The Office of the Attorney General.

5 Q. Can you tell us what you did for them?

6 A. I was an Investigative Auditor, gathered
7 information, analyzed it and summarized it relating to any
8 of the criminal cases we were investigating.

9 Q. And how long did you do that for the Attorney
10 General's Office?

11 A. About five years.

12 Q. Can you give the Judge the benefit of your
13 background, training and expertise and experience that
14 qualifies you to do the type of work that you did for the
15 Attorney General's Office and for the District Attorney's
16 office?

17 A. Well, during the last 25 years -- or more than 25
18 years, I've held numerous investigative positions. I was
19 a tax examiner. I was a tax trainer. This is for the
20 Workforce Commission, and I was also a manager there.

21 I also was a contract manager for large
22 state contracts; and after that, I went to the Attorney
23 General's Office as an Investigative Officer.

24 Q. At some point in time, do you, as part of your
25 work with the Attorney General's Office, have an

1 opportunity to interview defendants?

2 A. Yes.

3 Q. Both represented by an attorney and those
4 without?

5 A. Well, have I -- no. Normally, I interviewed with
6 representation.

7 Q. With the Defendant having his attorney present?

8 A. Yes, that's correct.

9 MS. VOLLMAN: Judge, may I approach?

10 THE COURT: Yes.

11 MS. VOLLMAN: Let me show you what I'm going
12 to mark as State's Exhibit 1 for purposes for the Motion
13 to Suppress.

14 A. Yes.

15 Q. (BY MS. VOLLMAN) Can you tell what you say it
16 is?

17 A. It's an summary of an interview that I conducted
18 with Marcus Jefferson and his attorney.

19 Q. Can you talk a look at the date of interview and
20 tell us, for the record, what is the date?

21 A. September 2nd, 2008.

22 Q. Now, as far as State's Exhibit No. 1, is that a
23 word-for-word statement of Marcus Jefferson, or is it a
24 summary of the interview that you prepared?

25 A. It's a summary of the interview I prepared.

1 Q. And what date did you prepare this interview
2 documentation?

3 A. On the date of the interview, September 2nd,
4 2008, the next day.

5 Q. Okay. And it was done by you; and it's reflected
6 on State's Exhibit No. 1, correct?

7 A. Yes.

8 Q. Now, can you tell us how it came about that you
9 had this interview Marcus Jefferson and his attorney?

10 Before you do that, do you see Marcus
11 Jefferson in the courtroom today?

12 A. Yes.

13 Q. Can you point him out to us and describe
14 something he's wearing?

15 A. He's in a light orange shirt.

16 MS. VOLLMAN: Judge, may the record reflect
17 that the witness has indicated the Defendant in this case,
18 Marcus Lee Jefferson?

19 THE COURT: The record will so reflect.

20 Q. (BY MS. VOLLMAN) Can you tell us how that
21 interview came about?

22 A. Well, we received a notice from his attorney,
23 Crystal Moody, of her representation, then spoke with her;
24 and she indicated that he would like to come in and talk
25 to us about the money he was paid by the Fraizers.

1 Q. Okay. Are you familiar with whether he had
2 talked to any investigators prior to this?

3 A. Well, I believe he did speak with our
4 investigators, but I don't know.

5 Q. When Mr. Jefferson came in with his attorney
6 during the interview, was the attorney present with
7 Mr. Jefferson during the entire interview?

8 A. Yes.

9 Q. And was there any indication to you that Marcus
10 Jefferson did not want to be there?

11 A. No. No. He was --

12 MR. MARTIN: Objection, Judge. Calls for
13 speculation.

14 THE COURT: Sustained.

15 Q. (BY MS. VOLLMAN) Did Mr. Jefferson or his lawyer
16 every indicate that he did not want to be there?

17 A. No.

18 Q. Was he free to leave at any time?

19 A. Yes.

20 Q. And was -- from what you could observe, was
21 Crystal Moody, his attorney, providing him with any type
22 of representation?

23 A. Yes.

24 Q. Okay. Throughout the entire interview?

25 A. Yes.

1 Q. Okay.

2 MS. VOLLMAN: Pass the witness, Judge.

3 THE COURT: Mr. Martin, you may proceed.

4 MR. MARTIN: Thank you, Judge.

5 CROSS-EXAMINATION

6 BY MR. MARTIN:

7 Q. Good morning, ma'am.

8 A. Good morning.

9 Q. Good to see you again. You say that interview
10 occurred on September the 2nd?

11 A. Yes.

12 Q. To your knowledge, had Mr. Jefferson been
13 indicted by that point in time?

14 A. Yes, I believe he had.

15 Q. And you say you got a phone call from his then
16 attorney Crystal Moody that indicated that Mr. Jefferson
17 wanted to come in and talk?

18 A. Yes.

19 Q. And in speaking with Mr. Jefferson, you stated he
20 was free to leave at any time. What did you base that on?

21 A. Well, no one told him that he had to stay.

22 Q. Who was present in the interview with
23 Mr. Jefferson? Ms. Moody and yourself?

24 A. John Roth.

25 Q. And who is he?

1 A. An investigator in our office.

2 Q. And is he a licensed peace officer?

3 A. Yes, he is.

4 Q. And was Mr. Jefferson under detention or threat
5 of detention at that time?

6 A. No.

7 Q. Who explained to or expressed to Mr. Jefferson
8 that he was free to leave at any time?

9 A. Well, I don't know that that was expressed.

10 Q. Who expressed --

11 A. If it was --

12 Q. Who expressed to Mr. Jefferson that he had a
13 right to terminate the interview at any time?

14 A. I don't think that was expressed. I guess it was
15 assumed. It was voluntary. They wanted to come in.

16 Q. Who expressed to Mr. Jefferson that he had a
17 right to remain silent since he was already under
18 indictment?

19 A. I believe that was expressed.

20 Q. And who expressed to Mr. Jefferson that he had a
21 right to have his lawyer present throughout the entire
22 hearing?

23 A. Well, his lawyer was present.

24 Q. I understand that, ma'am. But who was --

25 A. I don't think it was necessary to be expressed.

1 I don't think it was expressed.

2 MR. MARTIN: Pass.

3 REDIRECT EXAMINATION

4 BY MS. VOLLMAN:

5 Q. At the termination of the interview, did
6 Mr. Jefferson and his attorney leave the Attorney
7 General's Office?

8 A. Yes. Actually, Mr. Jefferson left before his
9 attorney.

10 Q. No one tried to keep him there?

11 A. No.

12 Q. Or hold him, correct?

13 A. No.

14 MS. VOLLMAN: That's all we have, Judge.

15 THE COURT: Mr. Martin, anything further?

16 MR. MARTIN: No recross. Just brief
17 argument.

18 THE COURT: Thank you, ma'am. You may step
19 down.

20 Mr. Martin, this is your motion. Go
21 ahead.

22 MR. MARTIN: Judge, the Defense has made its
23 motion on motion to suppress. While it is true that
24 Mr. Jefferson did attend this meeting with the his former
25 attorney Crystal moody, the tape of the interview does not

1 comport with the requirements set forth under 38.22
2 regarding a tape. They did not meet that predicate.

3 Ms. Gonzalez testified that certain
4 things were never stated. They were relying on the fact
5 that Ms. Moody, the former attorney, accompanied
6 Mr. Jefferson. So on the lack of the predicate being met
7 on this interview, we would object to that; and also, I
8 don't know if State 1 was formally offered.

9 MS. VOLLMAN: I offer State's 1.

10 (State's Exhibit 1 was offered into evidence.)

11 MR. MARTIN: We object to State's 1 on the
12 basis of hearsay.

13 THE COURT: 38.22 only applies to custodial
14 integration.

15 MR. MARTIN: I'm aware of that. Our position
16 was, he was already under indictment.

17 THE COURT: And your position is, despite the
18 fact that he voluntarily came in requesting to give his
19 side of the story, that was -- somehow, became a custodial
20 interrogation?

21 MR. MARTIN: Yes, that's our belief, Judge.

22 THE COURT: Your motion is denied.

23 Anything further before we proceed with
24 the trial?

25 MS. VOLLMAN: Judge, there is going to be

1 another motion to suppress. I think we need to hear about
2 the videotape. I just want to make sure --

3 THE COURT: The videotape that was given as
4 part of this same statement?

5 MS. VOLLMAN: This is different. We'll give
6 you the transcript for that, but I think that will be
7 closer in time when that officer testifies.

8 THE COURT: Which will be today?

9 MS. VOLLMAN: No.

10 THE COURT: I guess we'll have a little
11 homework. Okay. So opening statement at 10:00, after we
12 get the jury sworn. How long for opening?

13 MS. VOLLMAN: As long as it takes. It will
14 not be an hour. It's two phases.

15 THE COURT: More than 15 minutes.

16 MS. VOLLMAN: Maybe 20, 25.

17 THE COURT: 20? Does that sound good?

18 MR. MARTIN: The Defense will elect to defer.

19 THE COURT: In the presence of the jury?

20 MR. MARTIN: Oh, absolutely.

21 THE COURT: Okay.

22 MS. VOLLMAN: Judge, you want me to arraign
23 the Defendant outside the presence of the jury before we
24 get started?

25 THE COURT: Mr. Martin, would you like your