

1 MR. TURNER: Yes, Your Honor.

2 THE COURT: Thank you very much, officer.
3 Who will be your next witness?

4 MR. VOLKMER: State will call Officer
5 Greenhaw, Your Honor.

6 THE COURT: Officer, just come on up to
7 the witness stand. Have you already taken the oath?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Thank you.

10

11 J. GREENHAW,

12 the witness, having first been duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. VOLKMER:

16 Q Officer, could you spell your last name and last
17 name for the record?

18 A Officer J. Greenhaw.

19 Q Last name spelling?

20 A It's G-R-E-E-N-H-A-W.

21 Q Could you introduce yourself to the jury?

22 A Hi, how are you doing? I'm Officer Greenhaw.

23 Q How are you employed?

24 A I'm a police officer with the City of Houston.

25 Q How long have you been a police officer?

1 A Been a police officer five years.

2 Q What's your role with the department?

3 A Currently I'm an auto theft investigator. I
4 investigate auto thefts and burglary of motor vehicles.

5 Q What was your assignment in June of 2013?

6 A I was a patrol officer on night shift in northeast
7 Houston.

8 Q Okay. How long have you been in patrol?

9 A Three years. Three and a half years.

10 Q Okay. Were you working on June 9, 2013?

11 A Yes, sir.

12 Q And what was your shift that night?

13 A It was night shift. I was riding 7C41 nights.

14 Q What part of town is that?

15 A That's northeast. It's going to be like 5th Ward
16 area.

17 Q Is all of your patrol area in Harris County,
18 Texas?

19 A Yes, sir.

20 Q Okay. Are you familiar with it?

21 A Yes, sir.

22 Q Okay. The screen next to you is interactive.
23 It's to your left. If you will double tap that screen in
24 the bottom left that will clear the marks. What I want to
25 show you here is State's 14. Are you familiar with it?

1 A Yes, sir.

2 Q What is it?

3 A It's going to be 7C10s and 20s beat. It's going to
4 be Liberty and 59 area.

5 Q Okay. Is it a fair and accurate representation of
6 that area?

7 A Yes, sir.

8 Q Okay.

9 MR. VOLKMER: State moves to introduce
10 State's 14.

11 MR. TURNER: No objection, Your Honor.

12 THE COURT: Admitted.

13 Q (BY MR. VOLKMER) All right. If you would be so
14 kind as to explain to the jury kind of what the major
15 features are on State's 14?

16 A This is Highway 59 Eastex Freeway. This is
17 Liberty Road. Runs like that. The Lucas Street is right
18 here. The complainant's house is the second house on the
19 left right here on the west side, 2219 Lucas.

20 Q Okay. I am going to zoom in so you can go ahead
21 and clear those marks.

22 A Just wipe it?

23 Q Just double tap the bottom left.

24 A Okay.

25 Q All right. On the zoomed-in on State's 14, would

1 you kind of draw a circle around the address that you were
2 discussing?

3 A This is 2219 Lucas right there.

4 Q Okay. On June 9th in 2013 what reason did you have
5 to be interested in 2219 Lucas Street?

6 A I was dispatched to an assault in progress, code
7 one, serious lights and sirens, get there as quick as you
8 can.

9 Q Who was the assigned primary on that call?

10 A I was assigned primary.

11 Q Okay. Were there other officers in the area?

12 A Yes, sir.

13 Q Who were they?

14 A Officer Vargas, Officer Lopez and Officer
15 Delbrocolo.

16 Q Have you worked with them before?

17 A Yes, sir.

18 Q Few times or many times?

19 A Many times.

20 Q So you being primary, were you the first one on
21 the scene?

22 A No, sir.

23 Q Who was the first one on the scene?

24 A I can tell you who was there whenever I got there.

25 Q That's fine.

1 A It's going to be Officer Lopez and Officer Vargas
2 were there before me.

3 Q All right. What would be their roles with you
4 being primary and them arriving first?

5 A The main thing is calm the scene down. People
6 still fighting, you need to stop the fight. Just control
7 the situation. Take control of the screen.

8 Q All right. When you arrived, what was going on?

9 A Whenever I arrived HFD was there. They were
10 treating the people that were injured, they were checking
11 everybody out and the officers had detained everybody that
12 was all parties.

13 Q Spell out the acronym, what is HFD?

14 A HFD is the Houston fire department. If anybody
15 gets injured in the city they respond and they have
16 ambulance and medical personnel to treat them.

17 Q Was there a ladder truck there that night?

18 A Yeah, it was a big truck, ladder trucks.

19 Q Okay. So there is fire fighters. Who else -- and
20 there is Officer Lopez and Officer Vargas. Who else was
21 there?

22 A There is I'm assuming neighbors, people came out
23 and they seen the lights and sirens. Other people. It
24 was kind of crowded.

25 Q Was the defendant there that night?

1 A Yes, he was there.

2 Q Okay. Could you identify him by an article of
3 clothing he's wearing?

4 A He's wearing head phones.

5 Q Okay.

6 A He's wearing a yellow gray shirt.

7 Q Okay. Describe the street that night as far as
8 vehicles. If you can clear the screen. So describe how
9 many vehicles were on the street, on here, on State's 2.

10 A Whenever I arrived, the patrol cars were all
11 stacked right here. This is the house. This is the house
12 right here. Patrol cars started right here. There is one
13 right here. One right here. I pulled in behind that
14 pretty much at the intersection. There was an old work
15 pickup truck here and the HFD was over here.

16 Q Okay. Were there other -- could there have been
17 other vehicles there?

18 A There could have been other vehicles there. There
19 were other vehicles. The street was kind of narrow. But
20 the only ones I remember was the police vehicles, the
21 truck right here and HFD.

22 Q So you are not saying there aren't other vehicles
23 there. What are you saying?

24 A I'm saying there is very little parking here. So
25 it's common for people to park in the streets. And so I

1 would say that there was more vehicles on the street. I
2 just didn't pay attention to them because I was busy with
3 the case.

4 Q But you do remember there being a pickup truck?

5 A Yes, sir, I do remember the pickup truck.

6 Q Okay. Describe the pickup truck for the jury.

7 A It was an older model pickup truck. It had a bed.
8 If you look in the back there is a lot of clutter. It
9 appeared to be a work truck.

10 Q What gave you that impression?

11 A It was a beat up old truck and it had tools, pipes
12 in the back and just appeared to be a work truck.

13 Q Okay. What else did you observe when you arrived?

14 A I arrived the -- met with the other officers.
15 They had the scene pretty much in control. I didn't see
16 anybody fighting or arguing. There was a large crowd
17 approached the officer, asked them what was going on. They
18 gave me a brief statement. They said that there was a
19 fight. They pointed out who were -- where the suspects
20 were, where the complainants were and vice versa. I told
21 them let's separate everybody and I'll get statements from
22 everybody.

23 Q What is the purpose of separating everyone?

24 A Separating everybody so I can get -- it plays a
25 role in keeping the stories different or you don't want

1 them to cross contaminate each other's story. You want to
2 be able to ask one person a question and ask them all so I
3 can see if you get the same question or same answer or
4 different answer. It helps to find out if they are lying
5 to you.

6 Q Were you able to do that in this case?

7 A Yes, sir.

8 Q Who did you speak to first, if you remember?

9 A I believe I spoke to Mr. Gomez if I remember.

10 Q Okay. When you say Mr. Gomez, do you mean
11 Villa-Gomez, Mario Villa-Gomez?

12 A Yeah, Mario Gomez.

13 Q And where did you find him when you arrived?

14 A He was at the patrol car. The first patrol car so
15 he was in the front. Whenever I first got there and he
16 was, I think, with Lopez and Vargas.

17 Q Okay. Describe him --

18 A I'm sorry. He was in this area. Go ahead.

19 Q Describe his appearance.

20 A His appearance, he didn't have a shirt on. He was
21 wearing basketball shorts. He was huffing and puffing
22 like he was in a fight or ran. He had a lot of marks on
23 him. He had -- his skin was red and looked irritated. He
24 had a strong odor of gasoline. It was obvious that he had
25 gasoline all over his body.

1 Q Okay. Did he have it on his clothing?

2 A He had it on his shorts he had it on -- all he had
3 was shorts so, yes, he had it on his clothing.

4 Q Describe his face.

5 A His face, he had a lump on his face and it was red
6 with like marks like he just recently been -- it was
7 obvious he had just been in a fight.

8 Q Where was the mark on his face?

9 A I think on his left forehead. It was a lump.

10 Q All right. Could you point to your own face for
11 the jury, kind of approximately where it was?

12 A I think it was like right here on his left.

13 Q Okay. What were his eyes like?

14 A They were blood shot. They were -- you could tell
15 his skin was like irritated, red and his eyes were like
16 blood shot red.

17 Q Was he calm or --

18 A No, he was in pain.

19 Q Okay. What was he doing?

20 A He was -- I mean he was just -- it was obviously
21 that he was kind of having difficulty breathing, it
22 appeared and he was just like -- jittery, I guess.

23 Q All right. What did you do?

24 A I smelled the gasoline, I said did anybody rinse
25 the gasoline off him; they said they didn't. I take him

1 over to the hose. He is in handcuffs. Because we didn't
2 know what had happened. So I get the hose and I wash him
3 down and wash his eyes out and try to rinse off the
4 gasoline.

5 Q All right. What happens next?

6 A Then I get a statement, asked him what happens, he
7 goes into the story of what happened.

8 Q Okay. Who did you talk to next?

9 A Then I went and talked to Esmeralda.

10 Q All right. Where was she?

11 A Esmeralda was on the porch when I first met her.

12 Q All right. After you talked to Esmeralda,
13 describe her appearance, if you will.

14 A She didn't appear -- she was pretty normal. She
15 didn't have any marks or anything. Didn't seem like she
16 was -- she didn't have any injury that I could see.

17 Q All right. Were you able to observe -- did she
18 show you her chest?

19 A No, she didn't show me her chest.

20 Q Okay. So you did not observe her chest?

21 A I mean she was wearing a shirt. I looked, I
22 didn't see. It's not like I took off the shirt or
23 anything.

24 Q I understand. But --

25 A I looked and I said do you have any marks and she

1 said that her husband had hit her in the chest. And I
2 said do you have any marks, does it show anything and I
3 think it was red but it wasn't like -- it didn't break
4 skin. She said she had a picture of it and she showed me
5 a picture of it.

6 Q Okay. All right.

7 A And it was red. Look like she got hit but it
8 wasn't -- I don't think it would bruise or no need to go
9 to the hospital.

10 Q Okay. So after you talked to Esmeralda, what did
11 you do next?

12 A I talked to Esmeralda. She gave me -- she walked
13 me through the house. It's common that we will have the
14 complainant walk us through the house, show us what
15 happened, what was knocked down if there was any furniture
16 knocked over. So she walked me through the house, showed
17 me where the fight started, where it took place and I just
18 looked for, if there was any articles or any furniture
19 that was knocked over. I didn't see anything that stood
20 out.

21 Q Did you see any kind of hole in the wall that you
22 remember?

23 A No, I don't remember any holes in the wall.

24 Q What did you do after you were in the house?

25 A So I, I went back outside and I went and talked to

1 Mario Gomez, got his statement. He said that --

2 MR. TURNER: Object to hearsay, Your
3 Honor.

4 THE COURT: Sustained.

5 Q (BY MR. VOLKMER) Okay. You had indicated that you
6 talked to Mario and you rinsed him off and you talked to
7 Esmeralda. When you came out of the house, did you talk
8 to Mario again? Did you talk to Mario Villa-Gomez again
9 after you came out of the house or did you talk to him
10 before you went in the house?

11 A I talked to him before.

12 Q Okay. So when you came out of the house after
13 talking to Esmeralda, what did you do next?

14 A I went to the patrol cars and I talked to the
15 suspects.

16 Q Okay. Who did you speak to first?

17 A I spoke to Jose first.

18 Q Okay. What did the defendant say?

19 A Jose told me that -- I asked him what happened.
20 He said he was defending himself. His uncle came over to
21 the house and he had to defend himself. I asked him well,
22 why did you pour gas on him. He said he poured gas on me
23 first. I didn't -- he didn't, he smelled of gas but he
24 didn't have it on his clothing and it wasn't on him
25 anywhere as bad as it was on Mario.

1 Q Did you find his account credible?

2 A No, because he said that --

3 MR. TURNER: Object to -- well --

4 Q (BY MR. VOLKMER) Who did you talk to next?

5 A Then I talked to Bertoldo. And I asked him what
6 happened. He says he was just defending his brother. I
7 asked him about the gasoline. He denied knowing of any
8 gasoline.

9 Q Okay.

10 A He didn't see it, he didn't know what I was
11 talking about.

12 Q What did you do next?

13 A Called the DA and asked -- and ran all the facts
14 of the case by the DA.

15 Q Did you do a search for physical evidence at the
16 scene?

17 A Yes. Yes, sir. At that time --

18 Q When did that occur?

19 A That happened after I talked to the suspects,
20 sorry.

21 Q And run the jury through how that, what that
22 physical search was like and how the other officers might
23 have been involved.

24 A The other, well, the Officer Delbroccolo he is the
25 one that handled the evidence. Usually we will break up,

1 whenever we have a big case like this, we will break it up
2 in different jobs. I'll handle like the complainants, the
3 witnesses and the suspects and another officer will handle
4 the scene like the evidence and that's just how we break
5 it up. The --

6 Q Did you get a chance to scour the scene for
7 evidence?

8 A Yes, I did a walk-around of the scene to -- they
9 said that -- I don't want to -- well, that's saying what
10 he said. They said there was evidence along the streets
11 so I followed the street, found evidence from where Mario
12 told me there would be evidence.

13 Q Why don't you clear the screen and with your
14 finger kind of indicate on the screen what you found
15 where.

16 A The truck was here. There is a pickup truck over
17 here. In the grass, in the gravel, there was a cup. It
18 had an odor of gasoline coming off of it and you could see
19 the puddle like it was still wet which was odd on -- I
20 mean it was obvious it was just used because it was a dry
21 night and it was showing that it was liquid and it was
22 gasoline. You could smell it.

23 Q Okay. Let's be clear. The liquid that was in the
24 cup, was it -- was it in the cup? I'm sorry, I'm
25 unclear. Was the liquid in the cup or was it on the

1 ground around or both?

2 A It was on the side from what I remember. It was
3 on the side but it was still wet. It was like poured out.
4 It would be like you just dropping like a glass of
5 beverage. Like you dropped a liquid and it absorbed into
6 the ground.

7 Q So was there liquid still in the cup?

8 A There was liquid still in the cup.

9 Q And was there liquid surrounding the cup?

10 A Yes, it had pooled out into a puddle.

11 Q What did it smell like?

12 A It was gasoline.

13 Q Okay. What else did you find?

14 A In the street where the victim told me that he ran
15 down the street towards the intersection over here at
16 Campbell, he said the two brothers were chasing him,
17 throwing lit matches at him. We found matches throughout
18 the street.

19 Q Okay. About where did you, where were the matches
20 found?

21 A From the start of this house to the intersection
22 in the middle.

23 Q All right. How many matches were found?

24 A Three matches total were found.

25 Q What was the visibility in the area that you were

1 searching?

2 A It's very poor visibility. There might be some
3 street lights but if they are, they are few and far
4 between or broken. So visibility is very poor in that
5 area.

6 Q If you know is it possible there were other
7 matches there that you didn't see?

8 A Certainly there could have been matches underneath
9 our patrol vehicle and there could have been some in the
10 grass that we didn't see, sir.

11 Q Of the matches located, were they struck or
12 unstruck?

13 A There were some that were struck and some that
14 were unstruck.

15 Q Okay. Was there one cup -- you talked about one
16 cup found. Was anything else found?

17 A Officer Delbroccolo, he tagged two cups but I only
18 remember seeing the one. He did a more thorough search
19 than I did.

20 Q All right. Was there anything else found that you
21 were looking for in corroboration of the accounts?

22 A Delbroccolo, he found the pipe that was used and
23 he walks up -- he found the pipe around the truck or in
24 the truck. He takes the pipe and he asks the complainant
25 if this was a pipe and he identified that as being a

1 weapon that he was struck with.

2 Q Okay. Did you observe injuries on Joe Carapia?

3 A He had minor injuries on his, like scratches for
4 his face. It was obviously he was fighting. But they
5 weren't as bad as Mario's injuries.

6 Q Did you observe injuries on Berto Villa, the other
7 suspect?

8 A It would be the same, small scratches. He was
9 fighting but it wasn't anything -- it wasn't no major
10 injury like -- it wasn't a major injury like Mario had.

11 Q Did you observe gasoline on any vehicles?

12 A No. No, I didn't.

13 Q Okay. Were there any females on the scene in
14 addition to Esmeralda?

15 A Esmeralda and the, Mario's wife was there.

16 Q And Mario's wife, did you come aware of her name?

17 A No, I don't think I spoke to her that night.

18 Q Okay. Did you ask her if she had been at the
19 scene at the time of the incident?

20 A No, sir.

21 Q Why not?

22 A She was handling the kids. Whenever I first got
23 there, I got -- I did like a broad statement who seen it,
24 anybody seen it. Usually, most screens they will come
25 approach me when they seen it. If they seen anything.

1 And this, I spoke to the two complainants and their
2 stories matched up identically. So I feel like I got the
3 accurate depiction of what happened.

4 Q Did you ask them about other possible witnesses?
5 Did you ask the two that you already gotten statements,
6 did you ask them about other people that might have
7 observed?

8 A I don't recall asking that, no, sir.

9 Q Would that have been a good thing to ask them?

10 A Yes, sir.

11 Q Why didn't you?

12 A Just busy. I got a lot going on. I'm one
13 officer, I'm handling a lot of the stuff going on at once.
14 I'm in charge of the charges, the report, the scene
15 description, documenting everything and that was one of
16 the things that just didn't get taken care of.

17 Q The amount -- you observed Mario Villa-Gomez
18 before you rinsed him off, correct?

19 A Oh, yes, sir.

20 Q Describe to the jury how much gasoline was on him.

21 A Consistent with being poured, gasoline being
22 poured on you. His whole skin was irritated, it was all
23 red. The odor was almost unbearable for me. His hair was
24 wet. It was just all over his body.

25 Q Are you familiar with the interaction between fire

1 and gasoline?

2 A It's highly flammable. You get fire close enough
3 to the fumes it's going to light, it's going to burn and
4 it's hard to put out.

5 Q Would the, if you know, would the amount of
6 gasoline that you were observing on Mario Villa-Gomez,
7 what would a lit flame have done to that?

8 A It would have killed him I think.

9 Q How would it have killed him?

10 A I would have burned -- he would have burned to
11 death. I don't think you could have put it out. Your
12 whole body is just covered in gas. How are you going to
13 put it out? It's just too much.

14 Q In your opinion would a lit on fire ignited object
15 being applied to Mario in that condition, would that be a
16 deadly weapon?

17 A Yes, sir. Yes, sir. Without a doubt.

18 Q Would it have mattered if it was matches --

19 A Any fire would have ignited that, I believe.

20 Q Would that also include a lighter?

21 A Yes, sir.

22 MR. VOLKMER: Pass the witness.

23 THE COURT: Thank you. Cross examination.

24 MR. TURNER: Thank you, Your Honor.

25

1 CROSS EXAMINATION

2 BY MR. TURNER:

3 Q Officer, did you hear anything that night about a
4 lighter being involved?

5 A No, sir.

6 Q Nobody mentioned that of any people you talked to?

7 A I didn't remember a lighter.

8 Q You would have included it in your report if you
9 heard that probably?

10 A In what way?

11 Q Well, if somebody had tried to set him on fire
12 with a lighter, in addition to the matches, that's
13 something you would have included in your report?

14 A Yes, sir.

15 Q Okay. And you had flashlights, didn't you?

16 A Yes, sir, we all have flashlights.

17 Q You all have flashlights?

18 A Yes, sir.

19 Q So if it went out searching for matches in the
20 street, up and down the street, it's likely that y'all
21 would have used flashlights and you wouldn't have had any
22 trouble finding matches, correct?

23 A It would be easier during the daytime.

24 Q I understand.

25 A Because the lights there, they are almost too

1 bright. They kind of blind it out. So if you are looking
2 for a white match, it's going to be hard to see it. If I
3 was looking for a black gun in the grass with lights it
4 would be easier. It's like finding a needle in the
5 haystack. It's a small object, same color as the light.

6 Q So you found three matches?

7 A Found three matches in the dark colored street.

8 Q Okay. You said major injury on Mario.

9 A Yes, sir.

10 Q Are you saying that that small lump on his head
11 was a major injury?

12 A No, sir, he had a large welt on his back. It was
13 like one inch by six inches. I would have wanted to go to
14 the hospital.

15 Q Over a welt?

16 A A welt, it's long and it's on the small of your
17 back. I would be worried I had spine damage or something
18 but it was, it looked like it hurt.

19 Q Well, was he walking okay?

20 A He was standing there. From the short distance
21 from me walking to him, to the water hose he was walking.

22 Q So he didn't appear to have any spine damage?

23 A No, he didn't appear to have any.

24 Q Wasn't complaining that his back was hurting so
25 bad he needed to go to the hospital?

1 A No.

2 Q In fact he was offered the opportunity to go to
3 the hospital, wasn't he?

4 A I wasn't there. The HFD handled that.

5 Q But they talked to him?

6 A They didn't transport him.

7 THE COURT: Excuse me, gentlemen, this
8 nice lady is writing down what everybody says and when you
9 all kind of talk over each other it makes her job very
10 difficult.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: See how you said yes, ma'am
13 before I finished my sentence. You are just trying to be
14 responsive and we appreciate that. Mr. Turner, let him
15 finish his question all the way through, kind of give a
16 split second pause before you answer. Thank you. You may
17 proceed.

18 Q (BY MR. TURNER) Would you describe the lump over
19 his eye as a dime size lump?

20 A I believe that's the way I describe in my report.

21 Q Okay. So you wouldn't say that was a major injury?

22 A Any lump on my body I think is -- maybe I am a
23 little weaker than most.

24 Q I want to show you what's been marked as
25 Defendant's Exhibit 1. Would that fairly and accurately

1 depict the defendant that night?

2 A Yes, sir.

3 Q And does it reflect the injuries that he had?

4 A Yes, sir.

5 Q Okay.

6 MR. TURNER: We would offer defense
7 exhibit No. 1, Your Honor.

8 MR. VOLKMER: No objection.

9 THE COURT: Admitted.

10 MR. TURNER: May it be published to the
11 jury? Would you like the bailiff to do that or would you
12 like me to do it? Different courts are different.

13 Q (BY MR. TURNER) So as you were canvassing for
14 potential witnesses, was it your testimony that Mario's
15 wife did not volunteer that she knew anything about what
16 happened?

17 MR. VOLKMER: Objection, Your Honor, calls
18 for hearsay.

19 THE COURT: Sustained.

20 Q (BY MR. TURNER) Did you canvass as you stated
21 earlier the persons present as to whether anybody knew
22 anything about what happened?

23 A Yeah, I asked who was there.

24 Q Right. And then everyone that volunteered that
25 they knew something, did you talk to them?

1 A Yes, sir.

2 Q When Esmeralda walked you around the inside of the
3 house to show you the scene of the, what took place in
4 there, you said she showed you a photograph on her phone I
5 guess of the injury to her chest?

6 A Yes, sir.

7 Q Okay. Did she also show you the hole in the wall
8 where she knocked the defendant's head through the
9 Sheetrock?

10 A I don't remember that, sir.

11 Q She didn't show you that?

12 A I don't think so, sir.

13 Q Well, would you likely remember that if she did?

14 A It happened a long time ago. I don't -- a hole in
15 the wall?

16 Q If Esmeralda had told you that she knocked the
17 defendant's head through the Sheetrock is that something
18 you would have included in your report?

19 A Yes.

20 MR. VOLKMER: Objection, argumentative.

21 THE COURT: Overruled.

22 Q (BY MR. TURNER) And your answer was yes?

23 A Yes.

24 THE COURT: To make sure the court
25 reporter got the answer and the jury.

1 Q (BY MR. TURNER) And did you in fact include
2 anything like that in your report?

3 A No, I didn't.

4 MR. TURNER: Okay. Pass the witness, Your
5 Honor.

6 THE COURT: Redirect?

7 MR. VOLKMER: Yes, Your Honor.

8

9 REDIRECT EXAMINATION

10 BY MR. VOLKMER:

11 Q Showing you what's been marked State's Exhibit 5,
12 now that you have inspected it, do you recognize it?

13 A Yes, sir, this is a pipe that -- it was used on
14 that night. Mario identified this pipe as the one he was
15 struck with and it's about the same width as the injury
16 that was on his back.

17 Q Okay. Did you -- what happened to this pipe from
18 the scene there at 2219 Lucas?

19 A Delbroccolo, he is the one that handled it. He
20 found it, he brought it to the complainant or yeah, the
21 complainant and I whenever we were talking and he held on
22 to it the whole time.

23 Q All right. How did it leave the scene that night?

24 A Delbroccolo transported it.

25 Q And then when is the next time you saw State's 5?

1 A I went and picked it up.

2 Q Where did you --

3 A I went to the property room and picked it up.

4 Q Okay. When was that?

5 A It was yesterday.

6 Q All right. And how did it get to court?

7 A I brought it to court.

8 Q All right. And what did you do with it?

9 A I gave it to you.

10 Q I'm showing you a box. Inside of it is marked
11 State's 6, 7 and 8. Do you remember last seeing the box?

12 A Yeah, I seen the box yesterday.

13 Q And where did you see it?

14 A I picked it up from the property room, brought it
15 to you.

16 Q Okay. When you brought it to me, what was the
17 condition of the box?

18 A It was in good condition. It was sealed. The
19 usual initials were there. I mean not usual but the
20 officer that initialed it whenever they put the evidence
21 tape on it on both sides and it was still there, it wasn't
22 tampered with.

23 Q Now had you ever seen that box before?

24 A No. No, I never seen that box before.

25 Q And so how did you know this was the correct box

1 to pick up from the property room?

2 A They put the evidence, they put the case number
3 right here on the side.

4 Q Okay. What is the case number?

5 A Case number is 071691313.

6 Q And what is the grammar symbol that? Is that a
7 colon?

8 A Yeah, colon.

9 Q And then what are these numbers?

10 A 001.

11 Q And then on State's 5, what is the tag?

12 A Case number 071691313 colon 002.

13 Q Okay. Did this box -- what did you do with this
14 box when you picked it up from property?

15 A Picked it up from property, came right to this
16 courthouse, gave it to you.

17 Q What happened to it? Did we do anything with the
18 box?

19 A Oh, we opened the box and examined the property
20 inside.

21 Q What was inside?

22 A Inside the box there's two cups and a bag of
23 matches.

24 Q I'm showing you State's 6 and State's 7. Are
25 these what's inside the box?

1 A Yes, sir.

2 Q Okay. And I'm showing you a bag, State's 8. Was
3 this in the box?

4 A Yes, sir.

5 Q Okay. And what is in State's 8?

6 A Two lit matches, one unlit match.

7 Q Okay.

8 MR. VOLKMER: Pass the witness.

9 THE COURT: Anything else?

10 MR. TURNER: Yes, please.

11

12 RE CROSS EXAMINATION

13 BY MR. TURNER:

14 Q Being familiar with the combustibility of gasoline
15 as you testified a few moments ago, it's actually the
16 fumes that ignite, isn't it, as opposed to the liquid gas?

17 A Yes, sir.

18 Q And open flame up against gasoline fumes will make
19 quite a big flash and flame, won't it?

20 A Yes.

21 Q So that if the condition that you saw Mario that
22 night, had he come in contact with an open flame of a
23 match would he have gone up in smoke?

24 A Yes, sir.

25 Q No doubt about that?

1 A He was -- the smell of fumes was coming off him
2 very strong. I wouldn't want to take that chance.

3 Q Okay. The pipe that you picked up, is that a
4 pretty serious weapon to be swung at somebody?

5 A Yes, it's a deadly weapon.

6 Q If someone were whacked with that 10 or 15 times
7 or 20 or 30 times -- well, let me narrow that down. If
8 somebody was hit with that pipe 10 or 30 times they are
9 going to have some pretty serious injuries?

10 A Yes, sir.

11 Q Were you looking for any other weapons that night
12 other than that pipe and the matches?

13 A He just said a pipe.

14 Q A pipe?

15 A A pipe.

16 Q So all you had reason to look for was one pipe?

17 A Yes, sir.

18 Q And nobody indicated to you any different that
19 night?

20 A I don't know. I don't remember anybody saying
21 anything else. I just remember the pipe. He hit me with
22 a pipe, that's pretty much what he said. I looked for a
23 pipe.

24 Q Okay.

25 MR. TURNER: I pass the witness.

1 THE COURT: Thank you. Any redirect?

2 MR. VOLKMER: One question, Your Honor.

3

4 FURTHER REDIRECT EXAMINATION

5 BY MR. VOLKMER:

6 Q The work truck that you described, were there
7 other type similar instruments in that work truck?

8 A There was a lot of tools in there. The main thing,
9 I looked in there briefly whenever I was canvassing the
10 area. Delbroccolo is the one that found the pipe. There
11 were other things inside the truck. I could have done a
12 more thorough search on it but I didn't.

13 MR. VOLKMER: Pass the witness.

14 THE COURT: Anything else?

15 MR. TURNER: No, Your Honor.

16 THE COURT: Is this witness excused for
17 all purposes or can he be excused?

18 MR. VOLKMER: Yes, Your Honor.

19 MR. TURNER: He can be excused, Judge.

20 THE COURT: Thank you. Your next witness.

21 MR. VOLKMER: State calls Officer Lopez.

22 THE COURT: Thank you.

23 MR. TURNER: Judge, I'm sorry, can I
24 un-excuse that last officer until this officer testifies?
25 I can catch him.

1 THE COURT: If you go catch him. Send
2 somebody young.

3 MR. TURNER: They have to wait for the
4 elevators, Judge.

5 THE BAILIFF: Judge, this witness has not
6 been sworn.

7

8 JOSE LOPEZ,
9 the witness, having first been duly sworn, testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. VOLKMER:

13 Q Officer, could you spell your first initial and
14 your last name for the court reporter?

15 A J. E. Lopez L-O-P-E-Z.

16 Q And you can introduce yourself to the jury?

17 A Hi, my name is Officer Lopez. I have been with
18 the department for about three and a half years.

19 Q What's your role in the department?

20 A I work patrol, northeast patrol.

21 Q Okay. I want to specifically turn your attention
22 to June 9th, 2013. Were you working that night?

23 A Yes.

24 Q And what was your responsibilities that night?

25 A Patrolling the streets. Taking calls for service.