

1 A. Conviction for unsafe speed, March of '05.

2 Q. And event number seven?

3 A. Speeding conviction, April of '05.

4 Q. And event number eight?

5 A. It would be a crash with no citation issued.

6 Q. Based on your experience with the case involved
7 here that we're here for and his driver's record, do you
8 have an opinion as to whether or not the defendant has a
9 tendency to go a little fast in his motor vehicle?

10 A. Just based off of his driving record, it would
11 appear so, yes.

12 MS. BARD: Pass the witness, Your Honor.

13 THE COURT: Ms. Beck.

14 MS. BECK: No questions, Your Honor.

15 THE COURT: You may step down, sir.

16 THE WITNESS: Sure.

17 THE COURT: State, call your next witness.

18 MS. COOPER: Your Honor, State calls Deputy
19 Hulsart.

20 THE COURT: All right. You may proceed.

21 **COLLIN HULSART,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MS. COOPER:**

25 Q. Can you please introduce yourself to the

1 members of the jury?

2 A. My name is Collin Hulsart. I'm a deputy with
3 Harris County Precinct 8 Constable's Office.

4 Q. Where is the Precinct 8 Constable's Office?

5 A. We're in the south part of the county.

6 Everywhere from Webster to La Porte, Pasadena, just
7 south of South Houston, the south side of Houston,
8 all -- most of northbound to 45 inside the Beltway.

9 Q. How long have you been working for the Precinct
10 8 Constable's Office?

11 A. I've been with the constable's office for
12 seven -- just at seven years now.

13 Q. And in order to become a constable, did you go
14 through a police academy?

15 A. Yes. In '01, I took a basic police officer
16 course to get certified to receive my job.

17 Q. Can you tell the members of the jury about your
18 duties as a Precinct 8 Constable deputy?

19 A. Like I said, I'm a patrol deputy. So, traffic
20 enforcement, answer calls for service, accident
21 investigations, DWI enforcement, narcotics and
22 interdiction. Basically, anything a normal patrol
23 deputy would handle.

24 Q. What hours do you work?

25 A. I work the night shift, which is from 10:00

1 p.m. to 6:00 a.m.

2 Q. Did you work last night?

3 A. I did.

4 Q. Are you sleepy?

5 A. A little bit.

6 Q. All right. I want to talk to you about back in
7 2007, in October of 2007. Were you -- where were you
8 assigned within Precinct 8 at that time?

9 A. At that time, I had just came to this agency
10 from another one. When you first come to Precinct 8,
11 you get assigned to the toll road contract, which,
12 basically, you just patrol the toll road portion of our
13 precinct.

14 Q. Where did you work prior to Precinct 8?

15 A. I worked for the City of Dayton in Liberty
16 County for four years.

17 Q. As a police officer?

18 A. Yes.

19 Q. Now, back in October 2007, which area of the
20 toll road were you assigned to?

21 A. It's basically everything in our precinct,
22 which extends from the Gulf Freeway or 45 to Interstate
23 10.

24 Q. And when you worked the toll road, what were
25 your duties at that time?

1 A. Basically, just traffic investigations, any
2 kind of traffic violations, accidents. Of course, if
3 somebody, you know, had a flat or something, we'd help
4 them, too.

5 Q. Did you also conduct traffic stops?

6 A. Yes.

7 Q. I want to direct your attention specifically to
8 October 25th of 2007. Did you conduct a traffic stop
9 that day?

10 A. Yes.

11 Q. If you could, tell the members of the jury
12 around what time of the day or evening did you conduct
13 that traffic stop?

14 A. It was approximately 10:30. It was just after
15 I had come on duty that night.

16 Q. Is that 10:30 p.m.?

17 A. Yes, ma'am.

18 Q. And was there something that caught your
19 attention?

20 A. Yes. I was working stationary radar, sitting
21 on the outside shoulder of the toll road, which is in
22 the 7900 block, which is near Highway 3. I observed two
23 vehicles coming off the 45 ramp onto the toll road at an
24 excessive rate of speed.

25 Q. Can you tell the members of the jury what types

1 of vehicles those two vehicles were?

2 A. They were both pickups. One was a full-size
3 Dodge. The other one was a smaller Toyota.

4 Q. Do you remember what color the Toyota pickup
5 truck was?

6 A. I believe it was black. I know it was very
7 dark in color.

8 Q. And when you say they were traveling at an
9 excessive speed, describe that to the jury and what you
10 mean by that.

11 A. Obviously, whenever you do what we do, we see a
12 normal traffic flow, it's very easy to tell when someone
13 is going at a high rate of speed just from what you've
14 observed over a period of time, but just in general you
15 can tell when someone's going excessively fast.

16 Q. Did that excessive speed concern you?

17 A. Yes, it did.

18 Q. Why?

19 A. Well, one, there was two vehicles at the
20 same -- side-by-side or one in front of the other at a
21 given time and they were weaving in and out of traffic.

22 Q. Was there other traffic on the roadway at this
23 time?

24 A. Yes, there was.

25 Q. Now, what did you do in response to the two

1 vehicles traveling at excessive speeds?

2 A. Just before I took off, I turned on my radar to
3 see if I could get them on radar to get an accurate
4 speed, just more than my observation, at which time I
5 got them traveling at 90 miles-an-hour.

6 Q. Explain to the members of the jury what radar
7 is.

8 A. I use a doppler. I'm pretty sure -- since I've
9 been here, I've had pretty much the same radar. I've
10 switched cars, obviously, since then. It's -- it sends
11 out radio -- radiowave frequencies, picks up an object,
12 sends it back to the radar. The radar basically just
13 reads out a speed of how fast the target is going.

14 Q. Are those radar -- is it a gun or how --

15 A. No. I have a -- I'm pretty sure at this time I
16 did, too, because like I said, I've been on the same
17 unit. It's mounted in the vehicle. You have antenna in
18 the front of the vehicle and an antenna in the rear of
19 the vehicle and a display mounted generally on your
20 dash.

21 Q. How do you know whether or not it's working
22 properly?

23 A. At the beginning of my shifts, I always test
24 the radar. It has internal test modes, fail safes, test
25 switches. Also, we check them with tuning forks to make

1 sure that the radar antennas are actually reading the
2 targets properly.

3 Q. So, were you able to -- you said that you were
4 able to clock both vehicles?

5 A. Correct. I got -- they were both pretty much
6 side-by-side or directly one in front -- not one -- one
7 wasn't pulling away from the other. They were at pretty
8 much the same speed and I was able to get a reading of
9 90 miles-an-hour.

10 Q. On the toll road in that area where you work --

11 A. Yes.

12 Q. -- what's the speed limit?

13 A. Sixty-five.

14 Q. Was this 90 miles-an-hour, was that a safe
15 speed?

16 A. No, not with the cars that were on the road.

17 Q. What did you do in response to clocking the
18 vehicles traveling at 90 miles-an-hour?

19 A. Obviously, I immediately took off. Since they
20 were already at 90 and I was sitting still, it was going
21 to take me a minute to catch them. By the time I was
22 catching up, they took the exit and got onto the feeder
23 road, at which point they were still in and out of
24 traffic at a high rate of speed.

25 Q. Let me stop you right there. When you observed

1 them on the toll road, you said they were in and out of
2 traffic. Can you explain that to the jury, what exactly
3 you mean by in and out of traffic?

4 A. Yeah. You know, I don't recall exactly how
5 many cars were on the road, but they were coming -- you
6 have one lane coming off of 45 into three lanes of
7 traffic on the toll road. They would -- any path they
8 could take to pass the cars that were actually doing the
9 speed limit or even under, because like I said, everyone
10 is merging at that point, they -- all the way to the
11 left lane, all the way back to the right lane to get
12 through the cars.

13 Q. And as they exited onto the feeder, are you
14 trying to catch up to them?

15 A. Correct.

16 Q. So, what did you do?

17 A. I continued to try to catch up. When we were
18 on the feeder road, I still observed them traveling in
19 and out of the vehicles. Going across the feeder road
20 there is three lanes. Traveling from the far left all
21 the way to the far right lane and back and forth getting
22 through vehicles. I was able to turn my radar back on,
23 which I have a moving mode, and get the vehicles still
24 speeding on radar just for confirmation at
25 73 miles-an-hour, which it's a 50 mile-an-hour zone on

1 the feeder.

2 Q. So, they're still speeding. Are the vehicles
3 still in the same position in relation to one another?

4 A. Yes. Like I said, if there was a little
5 opening, they'd be side-by-side, but as soon as they had
6 to cut in and out of traffic, one would fall in behind
7 the other.

8 Q. Based on your training and experience as a
9 patrol officer, what did that appear to you that they
10 were doing?

11 A. They were racing.

12 Q. On the feeder road, are there still other cars?

13 A. Yes. There's actually probably more traffic on
14 the feeder road than there is on the main lanes because
15 people just don't want to pay tolls.

16 Q. So, were you concerned by the way that the
17 trucks were driving on the feeder road?

18 A. Yes.

19 Q. What did you do next?

20 A. I was finally able to catch up to the vehicles
21 and get them both pulled over at a gas station parking
22 lot.

23 Q. All right. Now, was the -- either one of the
24 vehicles involved in an accident in that chase?

25 A. No.

1 Q. Were there any near-misses from any cars?

2 A. There were several people that had to slam on
3 their brakes when -- because it was pretty close.

4 Q. You get both cars stopped?

5 A. Yes, ma'am.

6 Q. What do you do from that point?

7 A. I make contact with both drivers. One of the
8 drivers of the Dodge, I asked him why he was racing,
9 acting a fool, basically. And he said he was sorry and
10 really didn't have an excuse. The second driver, I
11 asked him and he said: Oh, I wasn't racing or driving
12 crazy, I might have been going a little fast.

13 Q. Okay. I want to talk to you about both of the
14 drivers. Did you identify both drivers?

15 A. Yes, I did.

16 Q. How did you identify both drivers?

17 A. With driver's license.

18 Q. The driver of the Dodge, who did you identify
19 him to be?

20 A. His name was Michael Malone.

21 Q. And the driver of the black Toyota pickup
22 truck, who did you identify him to be?

23 A. A Michael Petty.

24 Q. Did he --

25 MS. COOPER: May I approach the witness,

1 Your Honor?

2 THE COURT: Yes.

3 Q. (By Ms. Cooper) I want to show you State's
4 Exhibit No. 135. Do you recognize State's Exhibit 135
5 (indicating)?

6 A. Yes.

7 Q. How do you recognize that photo?

8 A. I believe I'm the one that took it when we did
9 AFIS.

10 Q. So, is this the mugshot that was taken of
11 Michael Petty on October 25th of 2007?

12 A. Yes, ma'am.

13 Q. And is this what he looked like back when he
14 was arrested for this offense?

15 A. Yes.

16 Q. Does it fairly and accurately depict the way
17 that he looked then?

18 A. From what I remember, yes.

19 MS. COOPER: Your Honor, at this time, I'm
20 tendering to opposing counsel State's Exhibit No. 135
21 for any objections and ask that it be admitted into
22 evidence.

23 **(State's Exhibit No. 135 Offered)**

24 MS. BECK: No objection, Your Honor.

25 THE COURT: State's 135 is admitted.

1 **(State's Exhibit No. 135 Admitted)**

2 MS. COOPER: May I publish it to the jury?

3 THE COURT: Yes.

4 Q. (By Ms. Cooper) I'm showing you State's Exhibit
5 No. 135. You said that you made contact with Michael
6 Petty out there on the roadway. What did he say to you?
7 You said you asked him why he was speeding?

8 A. Right. I asked him why he was racing and he
9 just said he wasn't racing, that he might have been
10 driving a little fast.

11 Q. A little fast?

12 A. That was the response that I had written in my
13 report, so...

14 Q. And was Michael Petty given any standardized
15 field sobriety tests during this stop?

16 A. I don't recall giving any. I didn't note it in
17 my report, so I would say no.

18 Q. Was he evaluated by a drug recognition expert
19 during this stop?

20 A. No.

21 Q. Was he arrested for an offense?

22 A. Yes. I arrested him for -- it ended up being
23 reckless driving, was the charge.

24 Q. Was that location within Harris County, Texas?

25 A. Yes, ma'am.

1 MS. COOPER: I pass the witness.

2 THE COURT: Ms. Beck.

3 MS. BECK: No questions, Your Honor.

4 THE COURT: You may step down, sir.

5 Call your next witness.

6 MS. COOPER: State calls Pete Galvan.

7 (Witness sworn)

8 THE COURT: All right. Go ahead.

9 **PETE GALVAN,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 **BY MS. COOPER:**

13 Q. Could you please introduce yourself to the
14 members of the jury?

15 A. My name is Pete Galvan.

16 Q. And how are you employed?

17 A. I'm a deputy sheriff with the Harris County
18 Sheriff's Office.

19 Q. What is your -- where are you assigned within
20 the Harris County Sheriff's Office?

21 A. I'm with our Homeland Security Bureau. We work
22 as a Jail Intelligence Unit.

23 Q. What's the Jail Intelligence Unit?

24 A. Well, it's broken up to many things. We
25 monitor inmate phone calls, monitor inmate mail. We