

1 the Bentley was arriving at the intersection there at
2 Howard; is that --

3 A. Yes.

4 Q. And it took off?

5 A. Yes, sir.

6 MR. BUNDICK: Pass the witness.

7 MS. DICKSON: Nothing further, Your Honor.

8 THE COURT: You may step down, sir. Thank
9 you, sir.

10 THE WITNESS: Thank you, sir.

11 THE COURT: Ms. Dickson, what's next?

12 MS. DICKSON: Lieutenant Robert Irving,
13 Your Honor.

14 THE COURT: Lieutenant Irving, please.

15 THE BAILIFF: This witness has not been
16 sworn.

17 THE COURT: Thank you, sir.

18 (Witness sworn.)

19 THE COURT: Have a seat beside me.

20 THE WITNESS: Yes, sir.

21 THE COURT: The last name is Irving,
22 I-r-v-i-n-g?

23 THE WITNESS: That is correct, sir.

24 THE COURT: State, when you're ready.

25 **ROBERT IRVING,**

1 having been called as a witness and being first duly
2 sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 **BY MS. DICKSON:**

5 Q. Could you introduce yourself to the jury?

6 A. My name is Robert Irving. I'm a lieutenant
7 with the Houston Police Department.

8 Q. What do you do?

9 A. I'm a supervisor over a gang unit and a
10 tactical unit.

11 Q. How long have you been with HPD?

12 A. Twenty-three years.

13 Q. And what kind of training did you receive
14 before becoming a police officer?

15 A. Before becoming a police officer, I was in
16 college.

17 Q. Where did you go to college?

18 A. Southwest Texas State University.

19 Q. Did you, at some point, go to the police
20 academy?

21 A. Yes, ma'am.

22 Q. Did you go to the HPD Police Academy?

23 A. Yes. I graduated in June, 1990.

24 Q. And since being hired on with HPD, have you had
25 any other type of specialized training?

1 A. Yes, ma'am. I was a member of the SWAT team
2 for several years, and I was also an investigator with
3 the Auto Theft Division.

4 Q. And what do you currently -- I know you said
5 you were a supervisor of a gang unit, but tell us kind
6 of what you do.

7 A. They are kind of two different entities. My
8 gang unit investigates all gang-related crimes in what's
9 called Eleven District, geographical boundaries of
10 Eleven District. And my tactical unit is more of a
11 proactive style policing. We run warrants, we do
12 street-level prostitution, we assist Narcotics in their
13 operations.

14 Q. Do you know a sergeant by the name of Robert
15 Ruiz?

16 A. Yes, I do.

17 Q. How do you know him?

18 A. He is the supervisor over my gang unit.

19 Q. Do the two of you often collaborate in your
20 daily lives?

21 A. Daily we corroborate.

22 Q. All right. Were you called to help Robert Ruiz
23 in this case?

24 A. Yes, I was.

25 Q. Do you remember what date that was?

1 A. I don't remember exactly.

2 Q. Does October 11th sound about right, 2012?

3 A. I would really have to see an offense report to
4 say for sure.

5 MS. DICKSON: May I approach the witness?

6 THE COURT: You may.

7 A. Yes, October 11th. We did a follow-up
8 investigation to the original incident.

9 Q. (By Ms. Dickson) And when you say "we," who are
10 you talking about?

11 A. Myself, Sergeant Robert Ruiz, and Officer Aldo
12 Gonzales.

13 Q. Kind of walk us through it. What do you do?

14 A. Sergeant Ruiz had -- just a few days prior had
15 filed a couple of warrants. One for evading in a motor
16 vehicle and unauthorized use. We had been looking for
17 the suspect. I had my tact unit and my gang unit
18 checking several addresses that we had found in our HPD
19 databases with no success. On that particular day, I
20 wanted to go out and watch, do a little surveillance.
21 And if we weren't lucky on that, just go start knocking
22 on doors to try to locate our suspect.

23 Q. Did you, at some point, locate an address that
24 you were going to go knock on the door?

25 A. Correct.

1 Q. Do you remember what address that was?

2 A. It's on Kittridge. I don't know the exact
3 numbers. 6800-block, I believe.

4 Q. And did you travel to that location?

5 A. Yes.

6 Q. Let me show you what's already been admitted as
7 State's Exhibit 8. Is this the house that you --

8 A. Yes, it is.

9 Q. -- went to (indicating)?

10 Okay. When you arrived at the house, what
11 did you do?

12 A. When we arrived at the house, we saw a female
13 walking out the driveway. It looked like she was about
14 to put out some trash. And we were in separate cars.
15 We all got out of our cars and introduced ourselves and
16 asked her a couple of questions.

17 Q. Did she provide you with any information?

18 A. Yes.

19 Q. What information was that?

20 A. Specifically the question we asked her is if
21 she knew Demetrius and if he was here. She told us he
22 was indeed inside.

23 Q. After she told you he was there, what happened?

24 A. Well, we actually weren't anticipating him
25 being there. We got on the phone, called for a couple

1 other units to come help us. And we began covering the
2 house. Like I said, we were just standing in the front.
3 In the event he was looking out a window, I asked
4 Officer Gonzales to cover the back in case he ran out
5 the back.

6 Q. What side did you cover?

7 A. I covered the front, kind of the front left.
8 Exactly --

9 Q. This area (indicating)?

10 A. Yes. So I could see all the way down the house
11 that way.

12 Q. Okay. What did you see?

13 A. I saw Mr. Daniels open a window and start to
14 climb out.

15 Q. Now, is there a window on this side of the
16 house (indicating)?

17 A. Correct.

18 Q. How did you know it was him?

19 A. Well, I had seen a picture of him previously.
20 And to be honest, I assumed it was him. I was
21 probably -- I was in the street, probably 25 yards away.

22 Q. It's not common to exit a house through the
23 side window?

24 A. Not common at all.

25 Q. So, after he exits through the side window,

1 where does he go?

2 A. He runs, which I believe would be southbound.
3 He hops the fence further to the left of the house and
4 begins running away from me.

5 Q. I'm showing you what's already been admitted as
6 State's Exhibit 9. Do you recognize this area
7 (indicating)?

8 A. Let me familiarize myself.

9 Q. This is Kittridge, that's Homestead, and this
10 little blue dot would be the location (indicating).

11 A. Okay. As I'm looking at it, the right side of
12 the location, he runs towards Banyan into that wooded
13 area. That's where we lost him.

14 Q. You're saying this wooded area (indicating)?

15 A. Initially this wooded area directly behind the
16 blue dot.

17 Q. Okay. Now, this screen to your left is a touch
18 screen. All you've got to do is touch it and tell us
19 where you're talking about.

20 A. Okay. Right there is initially where we lost
21 him (indicating).

22 Q. Okay. So, there's houses in this area, right?
23 Is this forest?

24 A. Pretty much, yes, forest.

25 Q. So, what do you do at this point?

1 A. At this point, I go back to Kittridge in the
2 event -- I'm hoping he doesn't come back to try to come
3 to the house. And we're getting some more units in
4 route. We're setting up a perimeter, contacting a
5 canine unit, things we normally do when we have a person
6 on the ground.

7 Q. Does the canine unit come out?

8 A. Yes.

9 Q. What happens next?

10 A. The canine unit actually got there very
11 quickly, probably, I would say, less than 15 minutes.
12 And we had a pretty good perimeter set up. One of my
13 units, almost immediately about the time we lost him,
14 without actually seeing him coming down Banyan, and I
15 directed him down this way. And he set up a perimeter
16 around this area near Kittridge. And I'm not sure what
17 this other street is. So, we had Kittridge covered,
18 Banyan, and all of those back here in this open wooded
19 area. If he came out, we could see him.

20 Q. So, did he eventually come out?

21 A. Yes, he did. The canine eventually flushed him
22 out, and he ran towards Banyan and was taken into
23 custody.

24 Q. Now, did you take him into custody?

25 A. I did not personally.

1 Q. But another officer did?

2 A. Yes.

3 Q. At that point, was he taken back to the scene?

4 A. Yes.

5 Q. All right. What do y'all do with him once he
6 gets back to the scene?

7 A. Basically, when he gets back to the scene, he's
8 secured, searched, thoroughly placed in the back of the
9 patrol car, book and blotter is filled out, and all the
10 paperwork that is associated with an arrest.

11 Q. When you searched him, did you find anything?

12 A. I did not search him.

13 Q. Okay. Did you go back to the residence to kind
14 of snoop around the residence?

15 A. Yes. We were allowed back in the residence,
16 searched it for our safety.

17 Q. Who let you in the residence?

18 A. I believe it was Ms. Myers.

19 Q. The female on the scene?

20 A. Yes, ma'am. The female that we originally
21 spoke to that was bringing the trash out.

22 Q. And what did you find inside the residence?

23 A. In the room where he had jumped out the window,
24 I found a pair of men's shorts, shoes, and picked them
25 up, asked her if they were his, and she said yes, they

1 were. And inside -- in the pockets, I found a key fob
2 to the Bentley.

3 Q. Now, did you go outside and look for the
4 Bentley?

5 A. Yeah. That's actually kind of funny. Probably
6 about after all the commotion going on with him running,
7 as I was going back to the house to set up the
8 perimeter, it wasn't until then that I noticed a car
9 under a car cover. It had some sheets of plywood leaned
10 up against it.

11 Q. Where was that? Point on the map where you
12 found this Bentley.

13 A. Is this Kittridge (indicating)?

14 Q. Yes. This is Kittridge. This is the front of
15 the house.

16 A. The car was right here. The front end was
17 facing this way and the back end was over here. Parked
18 kind of odd.

19 Q. Back, front?

20 A. Correct.

21 Q. That's terrible.

22 All right. So, you got the car right here
23 (indicating).

24 A. Correct. Parked very close to the back of the
25 house.

1 Q. What was it covered over with?

2 A. There was a car cover over it, a regular car
3 cover that you purchase at an auto store. And leaned up
4 against it, it had three sheets of plywood, two on the
5 side and one on the back.

6 Q. Wow. So, what did you do?

7 A. I deduced that that would probably be the
8 Bentley. And I lifted up the car cover, and, sure
9 enough, there was a black two-door Bentley under there.

10 Q. All right. And I'm showing you what's been
11 entered as State's Exhibit 1. Is this kind of similar
12 to the car you saw (indicating)?

13 A. Yes, ma'am.

14 Q. Not the same, though, right?

15 A. Not the same.

16 Q. But similar?

17 A. Very similar. The wheels on the one I found
18 were black.

19 Q. Now, who pulled it out of the backyard?

20 A. I backed it out.

21 Q. When you get into the vehicle, did you notice
22 anything?

23 A. Yes. I noticed that I couldn't touch the
24 pedals.

25 Q. Why?

1 A. Because the seat was way, way back.

2 Q. How tall are you?

3 A. Five-foot-ten.

4 Q. So, did you have to move the seat forward to
5 pull the car out?

6 A. Yes, several inches.

7 Q. Now, do you see the person that you took into
8 custody in the courtroom today?

9 A. Yes, ma'am.

10 Q. Could you point to him and identify the color
11 shirt that he's wearing?

12 A. Sure. He's wearing a tan shirt with a brown
13 tie sitting over here (indicating).

14 MS. DICKSON: Let the record reflect the
15 witness has identified the defendant?

16 THE COURT: Agreed.

17 MS. DICKSON: I'll pass the witness.

18 THE COURT: Mr. Bundick?

19 MR. BUNDICK: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MR. BUNDICK:**

22 Q. Lieutenant Irving --

23 A. Yes, sir.

24 Q. -- you -- your investigation -- your
25 involvement in this case was regarding the circumstances

1 for the arrest of my client; is that right? You weren't
2 involved in the investigation, I guess, of the alleged
3 crime of any --

4 A. Correct. More in a supervisory role, make sure
5 that the proper follow-up was done. And on this
6 particular day, just assisting.

7 Q. You were a supervisor assisting with the
8 investigation that's trying to find my client; is that
9 right?

10 A. Correct.

11 Q. But you weren't involved in the investigation
12 regarding the evading arrest charge?

13 A. No, sir.

14 Q. Was there a garage associated with that house
15 there on -- is it Kittridge?

16 A. Kittridge. No, sir.

17 Q. Was there any kind of building you could park a
18 car in?

19 A. No, sir.

20 Q. I've never seen one. Is it a really cool -- a
21 Bentley, is it really cool?

22 A. It's very nice.

23 Q. If you had a Bentley and you didn't have a
24 garage, would you put a car cover over it?

25 A. Probably so.

1 Q. How many days was this after the alleged crime,
2 the evading arrest in a motor vehicle?

3 A. Exactly, I couldn't tell you. Maybe a week.
4 I'd have to refer to the offense report.

5 Q. Six, seven, eight, something like that?

6 A. Something like that. It wasn't long.

7 Q. You indicated that you got in the car and what
8 you noticed was that your feet couldn't touch the pedal
9 or it wasn't convenient for you to drive the car. Is
10 that fair?

11 A. I couldn't reach the pedals sitting normally in
12 the driver's seat of this particular car.

13 Q. Which would indicate that somebody tall had
14 been driving it possibly; is that right?

15 A. Yes, sir.

16 Q. But you don't know when that person drove that
17 car?

18 A. No, sir.

19 Q. So, it could have been my client or some other
20 tall person who had driven the car?

21 A. Yes.

22 Q. But certainly you don't know when?

23 A. Certainly not.

24 MR. BUNDICK: Pass the witness.

25 MS. DICKSON: Brief redirect, Judge.