

1 THE COURT: Have a seat, please.

2 THE WITNESS: Thank you.

3 THE COURT: You may proceed.

4 MR. VOLKMER: Thank you, Your
5 Honor.

6 **TODD JANKE,**

7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 **BY MR. VOLKMER:**

10 Q. Officer, could you introduce yourself to
11 the jury?

12 A. I'm Todd Janke.

13 Q. And could you spell your first and last
14 name for the record?

15 A. First name T-O-D-D. Last name
16 J-A-N-K-E.

17 Q. Officer, how are you employed?

18 A. With the Houston Police Department as a
19 police officer.

20 Q. How long have you been with the
21 department?

22 A. Tomorrow will be 32 years.

23 Q. And what has been your job duties in
24 those 32 -- three decades?

25 A. 11 years in Patrol and 20 years in the

1 Major Offenders Division.

2 Q. In the Major Offenders Division, what
3 has been your job responsibilities?

4 A. When I first went there, I was an
5 investigator for target offenders, repeat offenders.
6 Then I moved to the Police Impersonation Squad, then
7 the Cargo Theft and Fence Detail.

8 Q. Describe for the jury what the Cargo
9 Theft and Fence Detail, what are your job duties?

10 A. We investigate anything that's shipped
11 from a manufacturer, anything on a plane, a boat, a
12 ship, a train, anything that is transported from the
13 manufacturer to a distributor, from the distributor
14 to the stores, any type of cargo, electronics,
15 metals, pipe, anything that's on the truck, but the
16 large loads.

17 Q. Walk the jury through a procedure of how
18 you would conduct an investigation into a cargo
19 theft, let's say metal theft.

20 A. Well, basically we have a report where
21 someone has reported that their load has been
22 stolen, either at a truck stop or parked on the side
23 of the road or at a manufacturing plant, wherever it
24 was parked, and it was loaded. We go to that scene.
25 We see if there's any cameras, any witnesses.

1 We just sort of canvass the area, see if
2 there's anything that we can -- any kind of evidence
3 that we can see. We talk to the truck drivers,
4 the -- or the person that last had seen the load or
5 had the -- had the load themselves and we get the
6 information from them.

7 And then we go to try to find the truck
8 and trailer, whatever it was on at the time. We go
9 to different areas of Houston, in the county,
10 sometimes other cities, looking for the truck and
11 the product itself.

12 Q. What happens if you are never able to
13 find the cargo, if you're never able -- once it's
14 stolen, it never turns up again, what happens to
15 that investigation?

16 A. We inactivate that case.

17 Q. What happens to the cases where you are
18 able to find out what happened to the cargo?

19 A. Well, we go to the place that either
20 purchased it or the last person that had it that we
21 found out and we question the people, question the
22 companies or anyone around there to see if they've
23 seen anything, any trucks or anything being dropped
24 off that looked out of the ordinary. We just do the
25 investigation to see who -- who purchased it or

1 where it actually went, just follow the load.

2 Q. In those cases where the property turns
3 back up, what kind of evidence, what kind of links
4 do you use to come up with a suspect?

5 A. Well, we try to determine, first, the
6 product itself through the manufacturer. Most of it
7 has a serial number or there's identification marks
8 or markings on that product. Maybe a load of
9 refrigerators, pipe, any -- plate steel, anything
10 like that, tires, we trace that product from the
11 manufacturer to the last known origin.

12 Q. What about alias use? Do you ever
13 encounter alias use in these investigations,
14 people -- suspects using a different name?

15 A. Sure.

16 Q. In what way -- in your training and
17 experience, what does that indicate to you?

18 A. Well, they're trying to deceive people.
19 They don't want their name or their identity to be
20 found, so they just use a different name.

21 Q. From your training and experience, why
22 are they trying to conceal and use deception?

23 A. Well, to hide their identity so they
24 won't be prosecuted whenever we catch them.

25 Q. In these types of cases when the

1 property turns back up, is there usually some kind
2 of documentation?

3 A. Sometimes. Sometimes there is.
4 Sometimes there's not.

5 Q. Describe the situations why there is
6 documentation and why there isn't.

7 A. Well, in the event that someone were to
8 approach someone on the street saying they have two
9 TVs for sale, they either buy them or they don't buy
10 them. If they buy them, you don't have any
11 documentation, invoice or anything like that. It's
12 just a street sale.

13 Usually the people know, you know, if
14 you don't have any documentation, it's a cash deal,
15 no harm, no foul, no one knows about it. So in
16 those events it's hard to determine who actually
17 sold it and who stole it.

18 Q. Let's talk about specifically with metal
19 thefts, your experience with scrap yards. Have you
20 ever encountered scrap yards in doing those metal
21 theft investigations?

22 A. Yes.

23 Q. Few times or many?

24 A. Many.

25 Q. Describe for the jury your interactions

1 with the scrap yards.

2 A. Well, basically what we do is if we have
3 a load or several loads that are stolen and we have
4 information that they've gone to a certain place
5 or -- and usually within the scrap industry, it's
6 very competitive; and the numbers, they fluctuate as
7 far as the price. So it's very competitive.

8 You may have one scrap yard calling you,
9 say, hey, listen, this guy, they just purchased a
10 whole load, a truckload of stuff, looked new. And
11 we have people who will call us and give clues and
12 we go out and we investigate that. We look at the
13 product, and we're able to either identify it or
14 not. We try to identify it.

15 And we just look at their documents.
16 They have documents when they purchase it. And
17 they -- from when a person goes into the scrap yard,
18 they document their license plate number, the
19 vehicle, the person who sells it, the fingerprint of
20 the person that sells it, sometimes phone numbers,
21 but definitely an ID card, a valid identification
22 card.

23 Basically we just -- and then the time
24 and date and how much it weighs and what it is, a
25 description of it.

1 Q. Describe the variety of loads that a
2 scrap yard would buy.

3 A. They buy -- they buy everything. If you
4 have an old refrigerator, a washer, a dryer, they
5 buy that. If you have some aluminum cans, if you've
6 been saving, they buy that to recycle. If you have
7 a business and you have scrap from that business, if
8 you are a manufacturer and you use plate steel or
9 anything to cut this steel and you have leftovers
10 that they can't use, they sell it for scrap.

11 They -- or if you have a load, a
12 truckload, an 18-wheeler load of pipe or flat plate
13 steel, if it's not the proper product for that --
14 for that industry, if it doesn't have -- if it's not
15 up to the same standards, they'll scrap it also.
16 And sometimes you have two or three loads of that if
17 it's not to the right specifications of product that
18 they're trying to manufacture.

19 Q. I'm showing you Defendant's 3. Would a
20 scrap yard buy that?

21 A. Sure.

22 Q. I'm showing you State's 13-J-6. Would a
23 scrap yard buy that?

24 A. Yes, sir.

25 Q. How often do we see in your experience

1 scrap yards buying what appears to be coated pipe?

2 Few times or many?

3 A. I would say a few to many. It's sort of
4 in between. Actually I don't -- I don't work a
5 squad that regulates scrap yards. I work cargo
6 theft, so I'm looking for a specific load and
7 specific things, not exactly going to every scrap
8 yard and looking and see what they have. I'm --
9 whenever I'm charged with an investigation, it's to
10 look for that specific product, if I can. So, I
11 don't go to these places, so I wouldn't know many;
12 but from my past experiences, there have been
13 several.

14 Q. But is it outright suspicious that a
15 scrap yard would buy a load of pipe like this?

16 A. No, not really. It's just -- because
17 they -- when they purchase it, they have to get
18 identification. Someone has to show who they are.
19 They have to document all this.

20 Q. Describe for the jury why they have to
21 give identification.

22 A. Well, they have to be able to tell
23 who -- who sold the load or who's the seller because
24 those loads can be -- they need to be -- they can be
25 identified; or if they're stolen, the scrap yards,

1 they hold it for three days before they can process
2 it. In other words, before they can cut up -- say
3 they purchased this load. If this load was
4 purchased, they hold it for three days to give time
5 for the scrap yard, if there are investigators that
6 are looking into that scrap yard or whatever, for
7 them to say -- to come in and look at it and inspect
8 it, write down the numbers on it.

9 Q. You're not a City of Houston scrap yard
10 inspector, are you?

11 A. No, I'm not.

12 Q. You investigate cargo theft?

13 A. That's correct.

14 Q. But you have a working understanding of
15 the regulations they're under?

16 A. Well, I've -- I do to the point that I
17 have contacted the sergeant in charge of the Metal
18 Theft Unit to get some information from him. Sure.

19 Q. And what are they required to take
20 photographs of?

21 A. Actually just -- I believe it's just the
22 metal, whatever they're purchasing.

23 Q. So taking additional photographs would
24 be additional levels of security?

25 A. Sure. And I believe it's possible that

1 they have to take a picture of the person along with
2 their IDs and a fingerprint. So what they -- and
3 I've seen this when I visit scrap yards. I can't
4 tell you this is the rule but they have a
5 fingerprint, they give a fingerprint, and when they
6 do that, it activates some camera. So it takes
7 their picture and their ID is there and everything
8 is taken in one picture. In some -- in some places
9 I've noticed that.

10 Q. I want to turn your attention to
11 November, December of 2013 and January of 2014. Do
12 you remember that time?

13 A. Yes, sir.

14 Q. And were you working with the Houston
15 Police Department, specifically with the Cargo Theft
16 Unit at that time?

17 A. Yes, sir.

18 Q. What had been occurring in November,
19 December and January of that time?

20 A. We were recovering trucks and trailers,
21 empty -- empty trailers and trucks from different
22 areas, from Louisiana, from the Houston area, from
23 Harris County. We were recovering stolen trucks and
24 trailers that had once had loads of metals and other
25 items.

1 Q. When you would recover these trucks and
2 trailers, were they a pair? Had they been stolen
3 together, the trucks and trailers?

4 A. Not necessarily.

5 Q. Describe that for the jury.

6 A. We would find a trailer sitting by
7 itself at a truck stop and on the side of the road
8 in a neighborhood or an industrial park and it would
9 be empty. Or we had a truck with -- that the
10 trailer was attached and they belonged together.
11 They were stolen together.

12 Q. Did you also find abandoned tractor
13 trucks?

14 A. Yes, just the truck itself, yeah,
15 abandoned. That's correct.

16 Q. And, again, describe for the jury the
17 outlying areas that these thefts were occurring in.

18 A. Well, from Baton Rouge, Louisiana, to
19 Humble, the north county near 45 and 1960/45 North,
20 that's where they were occurring, and the east side
21 of Houston and Dayton, Texas, just in the outlying
22 areas.

23 Q. And where were these trailers and trucks
24 being recovered?

25 A. At truck stops at -- on the side of the

1 road, industrial parks, just abandoned.

2 Q. Were they being recovered in Harris
3 County, Texas?

4 A. Yes, sir.

5 Q. So from your training and experience,
6 had these vehicles been transported into the county
7 just from where they were stolen to where you found
8 them?

9 A. Yes. Yes, sir. I mean, where they were
10 stolen was somewhere else and they ended up here.

11 Q. So take the jury through your
12 investigation. What did you do at this point?

13 A. Well, we would contact the complainants,
14 actually the agencies, and we'd get a copy of the
15 report or we would talk to them or call -- contact
16 the complainant, the person who last had possession
17 of that vehicle, and we would ask them, hey, what
18 was significant about your truck and trailer that we
19 need to look for here in Houston? What was on it?
20 And we would obtain that type of information.

21 Q. Have you performed these kinds of
22 investigations on few or many times?

23 A. Oh, many, many.

24 Q. Were you canvassing the areas that you
25 were familiar with in the city regarding this

1 investigation?

2 A. Yes, sir.

3 Q. Describe that for the jury.

4 A. Well, we would -- there's some truck
5 stops that, you know, that people frequent that are
6 a little shady and different things go on and the
7 owners don't ask a lot of questions. They allow
8 people to park any kind of vehicle there. They
9 don't actually keep a lot of records of who comes in
10 and out. Not that they're -- they're not -- they're
11 shady. It's just the fact that they are there to be
12 in business to sell fuel and products, and so they
13 allow anyone to go and park.

14 So when you have people coming in and
15 out, in and out, we go to those places. We go to
16 industrial parks right off the freeway, places where
17 it's easy to get off and get on and drop a trailer
18 or whatever. And we've been able to establish
19 numerous places in this city and in the county where
20 this occurs.

21 Q. When did you get the big break in the
22 case?

23 A. It was on the 24th of January of 2014.

24 Q. And what happened?

25 A. Well, at 4606 Langley there's a Super

1 Global Metal scrap yard there, like, a junk yard or
2 scrap yard, and the complainant, a person with a
3 company of a truck and trailer that was stolen from
4 Chambers County, had a tracker on the trailer itself
5 and they were tracking the trailer which was loaded
6 with pipe that was stolen from Chambers County. I
7 believe it was that night or that -- early that
8 morning of the same day, the 24th.

9 And they were tracking it, and they had
10 tracked it to that location and had noticed it
11 there. And the patrol officers arrived, and they
12 arrested the driver and recovered the load. There
13 was a different truck attached to this trailer that
14 had the load on it. It was a different -- different
15 truck that was attached to it, but they had the
16 driver in custody.

17 Q. Was this consistent with -- your empty
18 trailers and trucks, was this kind of consistent
19 with the MO that you had been seeing?

20 A. Well, it was a load of pipe and metal
21 product and it was going to be unloaded there and
22 that would have been something that we would have
23 probably picked the trailer up later, I'm sure.

24 Q. The other empty trailers and trucks that
25 had been recovered in Harris County from outlying

1 areas, what were the loads on those trucks?

2 A. Mainly all steel products, pipe, flat
3 plate steel, engineered steel products, like for
4 building buildings or in a plant, like at an oil
5 treating plant or a refinery, just something
6 specifically made for that type of place.

7 Q. What was the weather like that day on
8 January 24th?

9 A. It was cold. It was one of the days
10 where all the overpasses were frozen. They're iced
11 over. There wasn't any wiggle room. I mean, you
12 couldn't -- they were wanting everyone to stay home.
13 It was a Friday. It was extremely cold. Everything
14 was iced over.

15 Q. Did you make the scene at 4606 Langley?

16 A. No, sir.

17 Q. Why is that?

18 A. I was in the Willowbrook station where I
19 was ordered to stay because I live north of town,
20 and I was waiting there for the roads to either thaw
21 or to go home.

22 Q. Were you notified about the arrest?

23 A. Officer Mares notified me of the arrest,
24 yes, he did.

25 Q. Who is Officer Mares?

1 A. That was my partner.

2 Q. So you didn't make the scene because it
3 was too cold?

4 A. Well, not because it was too cold. I
5 can handle the cold. It was the ice. And we were
6 ordered not to go -- to go out and have a wreck and
7 endanger anyone.

8 Q. In State's 35, these marked units, they
9 were able to appear.

10 A. That's correct.

11 Q. But you didn't. It was too cold for
12 you?

13 A. No, it wasn't too cold. I was in -- I
14 was -- I was north -- north of Houston.

15 Q. It was too icy?

16 A. Yes. I came into Willowbrook and that's
17 as far I could get because all the roads on the
18 north side, the deep north side of Houston, were
19 frozen.

20 Q. What occurred with -- are you aware of
21 the arrest that took place there?

22 A. Yes, sir.

23 Q. And who was arrested?

24 A. Walter Barconey.

25 Q. I'm showing you State's 11. Who is

1 this?

2 A. That's Walter Barconey.

3 Q. January 24th, when you were told that a
4 Walter Barconey had been arrested, did you know who
5 that was?

6 A. Yes.

7 Q. What did you want to do at that point?
8 On January 24th, I mean, we've decided that you were
9 icy; but if had been a bright, sunny day, what would
10 you have done?

11 A. Oh, I would have driven down to the --
12 actually went to the scene possibly and went to the
13 jail to interview him.

14 Q. And what did you end up doing with 4606
15 Langley?

16 A. I returned -- this was a Friday. I
17 returned on the Monday, that Monday morning around
18 8:00 o'clock when it was opening.

19 Q. Why were you going?

20 A. I wanted to find out everything I could
21 about this load and why this guy was at this place
22 with this load, the stolen load, and I wanted to
23 investigate not only that load but all his prior
24 loads that he purchased or whatever he had
25 purchased.

1 Q. Did you go by yourself?

2 A. No, sir.

3 Q. Who did you go with?

4 A. With my partner, Officer Mares.

5 Q. And who were you going to meet? Did you
6 know at that point?

7 A. Oh, no, sir, just the owner of the -- of
8 the property that was listed in the report itself.

9 Q. Were you familiar with the scrap yard
10 before this time?

11 A. No, sir.

12 Q. So did you know the ownership?

13 A. No, sir, I didn't.

14 Q. But you reviewed the report from the day
15 of the arrest?

16 A. Yes, sir.

17 Q. So it was -- let me get a calendar.

18 State's 9, January 24th, the day of the
19 arrest, a Friday. When did you come to 4606
20 Langley?

21 A. On the 27th of January.

22 Q. That's here (indicating)?

23 A. That's correct.

24 Q. Okay. With the intention of
25 investigating these thefts?

1 A. Well, especially this -- the theft that
2 he was under arrest for, yes.

3 Q. Describe for the jury who you went with
4 and what you observed when you arrived.

5 A. Officer Mares and myself went to that
6 location, which is the north side of Houston, near
7 Little York and the Eastex Freeway. We drove there.
8 We noticed that the gate was ajar. We walked up to
9 the gate. A man stepped out and talked to us. He
10 identified himself as Mr. Abdul Ghaffar. He said he
11 was the owner.

12 And we asked him if -- I asked him if he
13 would mind talking to us. He said not a problem. I
14 would love to talk to you guys. Come on in. So we
15 went into the office. We discussed this -- what had
16 happened on that Friday, and we discussed everything
17 that had to do with these type of loads with Walter
18 Barconey and with the others that were involved in
19 bringing the loads.

20 Q. What was Mr. Ghaffar's demeanor when you
21 made -- when you introduced yourself as police
22 officers?

23 A. He was very -- he was open. He was very
24 open, inviting. It was as if he was expecting us to
25 be there.

1 Q. From your training and experience,
2 contrast your experience making the initial contact
3 with Super Global and other scrap yards you've
4 investigated.

5 A. Most scrap yards, they don't want to
6 talk to the police. I mean, most companies,
7 sometimes they don't want to talk to the police.
8 But when you say with scrap yards how are they
9 normally, it just depends. If you have a crooked
10 scrap yard -- when we got there at that -- if this
11 would have been the case, the gate would have been
12 locked and no one would have been there.

13 That's a different -- different way that
14 we're welcomed or not welcomed, you know. Or we
15 have someone who locks the gate and says, look, if
16 you want to talk to someone, you contact my
17 attorney. Here's his phone number.

18 But in this instance, we walked up, we
19 talked to him, he invited us in. It was real open.
20 He invited us in. We talked. We discussed
21 everything.

22 Q. How long were you there?

23 A. Three or four hours.

24 Q. What did --

25 A. Possibly.

1 Q. What did you do to document your
2 investigation there at the scrap yard?

3 A. Well, when we first walked up, I had a
4 recorder in my hand, a tape -- just a recorder, a
5 voice -- digital voice recorder and I talked to him.

6 And then once we were inside -- and I
7 advised him, I have a recorder in my hand. Oh,
8 that's fine.

9 We went inside. After we discussed
10 things, he started showing us things on the
11 computer. I asked him to just stop for a minute and
12 I had Officer Mares go get our video camera that we
13 have and I asked him do you mind if we video this
14 interview. He said, no, not a problem. So we
15 videotaped the interview.

16 Q. Have you reviewed the video from that
17 day on the 27th?

18 A. Not lately, but, yes, I have. I've seen
19 it since we made it.

20 Q. I'm showing you State's 18 with the
21 audio redacted. Are you familiar with the video
22 recordings of that day?

23 A. Yes.

24 Q. Fair and accurate representation of what
25 you saw on that day?

1 A. Yes.

2 MR. VOLKMER: State moves to
3 introduce State's 18.

4 *(State's Exhibit No. 18 offered.)*

5 MR. RAY: Can we approach on that,
6 Judge?

7 THE COURT: You can.

8 *(Bench proceedings:)*

9 MR. RAY: I just want to be clear
10 that it has no sound because they talk about, like,
11 knowing Elijah Reed and other investigations on him
12 and stuff in the video. I just don't want to have
13 any sound at all.

14 THE COURT: Okay. So what's the
15 point of it?

16 MR. VOLKMER: Just to show the
17 layout of Global Steel [sic], how it appeared on
18 that day.

19 THE COURT: Oh, this was, like, a
20 part of a walk-through and stuff?

21 MR. VOLKMER: It's a walk-through
22 of the scrap yard.

23 MR. RAY: Oh.

24 MR. VOLKMER: It's a walk-through
25 of the -- it also shows them in the office of Abdul

1 Ghaffar.

2 THE COURT: I assume, like, to show
3 the demeanor of Mr. Ghaffar?

4 MR. VOLKMER: Yes.

5 MR. RAY: That's fine. I just
6 don't want --

7 THE COURT: How long is the video?

8 MR. VOLKMER: I don't plan on
9 showing all of it.

10 MR. RAY: It is long.

11 THE COURT: Hours?

12 MR. RAY: Hours.

13 THE COURT: How much do you want to
14 show?

15 MR. VOLKMER: I just want to talk
16 about the demeanor, show him. So maybe, you know,
17 five, six minutes.

18 THE COURT: Okay. Well, I think
19 one of our jurors needs to use the restroom. He got
20 Corey's attention. So why don't we go ahead and
21 take a break.

22 MR. RAY: We can make sure there's
23 no audio.

24 THE COURT: Yeah, we'll
25 double-check.

1 *(Bench proceedings concluded.)*

2 THE COURT: Okay. So the video is
3 marked as what?

4 MR. VOLKMER: State's 18.

5 THE COURT: State's 18. So by
6 agreement -- there's audio, correct, to State's 18?

7 MR. VOLKMER: Yes, Your Honor.

8 THE COURT: Just the video portion
9 will be played.

10 *(State's Exhibit No. 18 admitted.)*

11 THE COURT: All right. We're going
12 to go ahead and take a short break because we've got
13 to take care of something first, make sure there's
14 no audio on that. We'll go ahead and send you back
15 -- I think one of y'all needs to use the restroom.
16 And your food might show up in a couple of minutes.
17 So if the food does get here, we'll take our lunch
18 break and let you eat, but we'll go ahead and take a
19 break.

20 THE BAILIFF: All rise for the
21 jury.

22 *(Jury retired.)*

23 *(Brief recess.)*

24 *(Jury recessed for lunch break.)*

25 THE COURT: So the jury is eating