

1 Call your next witness.

2 MS. MITCHELL: The State calls Sergeant  
3 Matthew Jenkins.

4 THE BAILIFF: This witness has been sworn.

5 THE COURT: All right. Thank you, sir.  
6 You may take the stand.

7 You may proceed when you're ready.

8 **SERGEANT MATTHEW JENKINS,**

9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 BY MS. MITCHELL:

12 Q. Would you please introduce yourself to us?

13 A. Yes. My name is Matt Jenkins.

14 Q. Where are you currently employed?

15 A. I work for the Houston Police Department.

16 Q. How long have you been with the Houston Police  
17 Department?

18 A. August will be sixteen years.

19 Q. What's your current assignment?

20 A. I work at the southwest division in patrol.

21 Q. Was that your assignment in March of 2012?

22 A. No, ma'am. I was assigned to the robbery  
23 division at that time.

24 Q. How long had you been with the robbery  
25 division?

1 A. As of March of 2010, I had been there --

2 Q. 2012.

3 A. I'm sorry?

4 Q. 2012.

5 A. 2012, I had been there two years.

6 Q. I'd like to take your attention to a case that  
7 you worked on that occurred on March 23, 2012. Do you  
8 remember that case?

9 A. I do.

10 Q. And did you have a partner?

11 A. I did.

12 Q. Who was that partner?

13 A. Stephanie Wilson.

14 Q. And in this case were you able to create a  
15 photo spread?

16 A. Yes, ma'am.

17 Q. And were you able to show that photo spread to  
18 a Mohammed Abdlahi?

19 A. Yes, ma'am.

20 Q. I'm showing you what's been marked as State's  
21 Exhibit No. 21. Do you recognize this?

22 A. Yes, ma'am, I do.

23 Q. And what is that?

24 A. This is the photo spread that I composed and we  
25 showed to Abdlahi.

1 Q. And is it a fair and accurate copy?

2 A. Yes, ma'am, it is.

3 MS. MITCHELL: Your Honor, at this time the  
4 State offers State's Exhibit No. 21 after tendering  
5 it opposing counsel for inspection.

6 MR. STILL: No objection, Your Honor.

7 THE COURT: It's admitted.

8 (Whereupon State's Exhibit No. 21 is  
9 admitted into evidence.)

10 Q. (By Ms. Mitchell) And before you gave the photo  
11 spread to Mr. Abdlahi, did you read him any sort of  
12 admonitions?

13 A. Yes, ma'am. There's an admonition form  
14 attached to the front of that photo array.

15 MS. MITCHELL: May I publish this to the  
16 jury, Your Honor?

17 THE COURT: Yes, ma'am.

18 Q. (By Ms. Mitchell) So, we're looking at State's  
19 Exhibit 21, and this is the actual photo array. Which  
20 photo did Mr. Abdlahi identify as the suspect?

21 A. Photo No. 4.

22 Q. And who was placed in photo No. 4?

23 A. The defendant, Patrick Sowell.

24 Q. Do you see Patrick Sowell in this courtroom  
25 today?

1 A. I do.

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

4 A. He's sitting over here at defense table. He's  
5 wearing a blue shirt and tie.

6 MS. MITCHELL: Your Honor, my the record  
7 reflect this witness has identified the defendant?

8 THE COURT: It will.

9 Q. (By Ms. Mitchell) Okay. So, on Mr. Abdlahi's  
10 form it says that it's a tentative and that he's about  
11 80 percent sure. What does tentative mean?

12 A. Tentative means that they are not 100 percent  
13 sure.

14 Q. Okay. The photo arrays today, is there a  
15 different policy, I guess, in place in the robbery  
16 division regarding giving photo arrays or letting people  
17 look at those?

18 A. The department's policy on showing photo arrays  
19 to complainants and witnesses in cases have changed after  
20 I had shown this photo array and had already left the  
21 robbery division. The policy has changed. There's a  
22 different policy now in effect.

23 Q. Is that policy to use blind administration?

24 A. There are, I believe, blind and blinded.  
25 There's a differentiation.

1 Q. Okay. But as of that date, the policy had not  
2 changed?

3 A. No, ma'am.

4 MS. MITCHELL: Pass the witness, Your  
5 Honor.

6 THE COURT: Cross?

7 MR. STILL: Thank you, Judge.

8 **CROSS-EXAMINATION**

9 BY MR. STILL:

10 Q. Sergeant Jenkins, you were mentioning a  
11 differentiation between blind and blinded. Will you  
12 explain that to us, please?

13 A. I can't explain it to you exactly the way the  
14 department policy reads because I -- I can't tell you  
15 exactly how they do that now. There's a procedure that  
16 they have set out, and I can't tell you what that  
17 procedure is because I haven't been in the robbery -- I  
18 haven't been in the investigation division since then. I  
19 can't tell you precisely what the procedure is.

20 Q. Let's talk generally then. Blind would mean  
21 that the person administering the photo array to the  
22 witness doesn't really know the position of the suspect in  
23 the array; is that correct?

24 MS. MITCHELL: Objection, Your Honor.  
25 Counsel is testifying.

1 THE COURT: I'm sorry, what's your  
2 objection?

3 MS. MITCHELL: Counsel is testifying.

4 THE COURT: Sustained. Restate your  
5 question, sir.

6 Q. (By Mr. Still) A blind administration means  
7 that the person administering the photo array doesn't know  
8 the position of the suspect in the array, correct?

9 MS. MITCHELL: Objection. Counsel is  
10 testifying.

11 THE COURT: I think it should be "does he,"  
12 and then the question is okay. Can you answer that?  
13 I will let you answer that. Go ahead.

14 A. Once again, I can't remember exactly what the  
15 procedure is. The idea behind the new photo array  
16 procedure -- one of the portions is that the person  
17 showing the array is not aware of the identity of the  
18 suspect within the array that's being shown. Whether  
19 that's blind or blinded, I can't remember how they  
20 differentiate.

21 THE COURT: I'll sustain the objection  
22 because the question, the way it's phrased, would  
23 assume that what you're saying is true. And nobody  
24 can testify as to what a blind array is.

25 Q. (By Mr. Still) A goal here is to avoid the

1 administrator giving away subconscious clues about where  
2 the suspect might be located; is that fair?

3 A. I believe that the goal of showing a blind  
4 array is to reduce the likelihood that the person showing  
5 the photo array would unduly influence the person to whom  
6 the array is shown.

7 Q. Thank you, Sergeant Jenkins.

8 MR. STILL: I'll pass the witness, Your  
9 Honor.

10 THE COURT: Anything else?

11 MS. MITCHELL: No, Your Honor.

12 THE COURT: Thank you, sir. You may step  
13 down.

14 Next witness, please.

15 MS. MITCHELL: The State calls Officer Song  
16 Nguyen.

17 THE COURT: Come forward, please.

18 THE BAILIFF: The witness has been sworn  
19 in.

20 THE COURT: All right. You may take the  
21 stand, sir.

22 You may proceed when you are ready.

23 **OFFICER SONG NGUYEN,**

24 having been first duly sworn, testified as follows:

25 **DIRECT EXAMINATION**