

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.

1 Q Did you get a call for service to Lucas Street
2 that night?

3 A Yes.

4 Q And who was the primary on that call?

5 A Officer Greenhaw was primary.

6 Q So what was your role in responding to that call?

7 A I was the one that got there first because I was
8 close to the scene.

9 Q The screen to your immediate left, you can
10 interact with it. If you double tap the bottom left it
11 clears the marks. If you drag your finger on it it makes
12 those pink marks. Would you clear the screen?

13 I'm going to put State's 14. I'm going to
14 zoom in on State's 14 so you can kind of see the streets.
15 Please show the jury, kind of drag your finger, the route
16 that you took to get to 2219 Lucas.

17 A If I am not mistaken, I took Liberty to Lucas.

18 Q All right. And as you drove down Lucas, what did
19 you observe?

20 A I observed a male like I think it was blue shorts
21 with no T shirt flagging me down.

22 Q Okay. What did you do?

23 A I stopped and asked him what's going on. And he
24 was just -- he seemed kind of like wet and his eyes were
25 like red and he had some red marks on his body.

1 Q Describe his emotional state, what you observed to
2 the jury.

3 A He was kind of acting like a shocked stage.

4 Q What did that look like? What was he doing?

5 A He was just mumbling and he was pointing toward
6 the end of the street and he was just saying help me, help
7 me, I had to run away. And I am like calm down, sir, tell
8 me what's going on. When he couldn't stop like being like
9 real agitated so he pointed and I went towards where he
10 was pointing at and he followed me there.

11 Q When you got out of your patrol car -- I'm going
12 to put another exhibit here. Go ahead and clear the
13 screen for me. Showing you State's 2. The address there,
14 Lucas Street. I want you to indicate what you observed as
15 far as vehicles when you arrived.

16 A When I arrived I went to where the house was at.
17 There was a pickup truck on the middle of the street and
18 there was an SUV on the --

19 Q If you would, with your finger kind of draw a box
20 to kind of mark the SUV vs. the pickup truck.

21 A Okay. If I am not mistaken, truck, and so this is
22 facing Quitman, right, I guess. And I think the SUV was
23 right here.

24 Q Which one is the SUV?

25 A This one.

1 Q Okay. Which direction is the pickup truck facing?

2 A The pickup truck is facing southbound.

3 Q All right. So I guess kind of maybe draw a
4 headlight on the pickup truck on your -- so is it facing
5 towards the audience, towards you?

6 A Yes, I'm thinking southbound is going that way,
7 northbound going there.

8 Q Okay. What else did you observe besides the
9 vehicles as far as people?

10 A There was two persons, both of them were leaning I
11 guess, I guess the tailgate of the truck.

12 Q Okay. Did you encounter the defendant, Jose
13 Carapia that night?

14 A Yes.

15 Q Where was he when you arrived?

16 A I don't know where, what side, but there was 2, he
17 was on one of the, he was one of them in --

18 Q When you are saying one of the 2, where exactly
19 are you talking about?

20 A Where the tailgate is at, there were like clean
21 leaning against the tailgate.

22 Q So they were resting on the tailgate of which
23 vehicle?

24 A The pickup truck.

25 Q What was their demeanor when you arrived?

1 A When I got there they were calm. They were not
2 arguing. They were not being aggressive. They were just
3 sitting there like nothing had happened.

4 Q As you got out of your patrol car, was Mario
5 Villa-Gomez, the shirtless person, was he still around?

6 A Yes, he was -- I think he was right next to the
7 other truck, the SUV.

8 Q What was he doing at this point?

9 A He was kind of being aggressive, kind of go
10 towards where they were at.

11 Q Describe to the jury what that looked like.

12 A He was like trying to walk where they were at so I
13 tried to hold him back and he wouldn't listen, so, for his
14 safety and my safety, I had to put him in handcuffs
15 because he was the one being aggressive.

16 Q What was the response of the defendant to that?

17 A They were like they were acting like they didn't
18 do anything, like they were calm, like what was going on,
19 we didn't know what was going on.

20 Q When you put handcuffs on him did you smell
21 anything?

22 A I smelled like gasoline odor, gasoline.

23 Q Where was that coming from?

24 A Over all his body. He was like wet.

25 Q Okay. What did you do with him?

1 A When I put him in handcuffs, I took him -- I took
2 him next to my shop and that's when the other units
3 arrived. That were arriving.

4 Q What were the names of the other units and if you
5 would tell us when they got there?

6 A If I am not mistaken, Greenhaw got there first.
7 Then it was I think Vargas. Officer Vargas and Officer
8 Delbroccolo. I can't remember in what order but if I
9 remember, Greenhaw and Vargas and Delbroccolo.

10 Q Okay. As they arrived, what did your role become
11 on the scene?

12 A Trying to control the screen, make sure that
13 nobody, I guess, went out of control like try to keeping
14 charge of where the complainant was at and try to make
15 sure that complainant didn't go to where the two suspects
16 were at.

17 Q When you say complainant, who do you mean?

18 A Mr. -- the one full of fuel.

19 Q Okay. The one that you handcuffed. The
20 complainant, did you get a good look at him?

21 A Yes, I did.

22 Q Did you observe any visible injuries?

23 A He had some marks on his body, like chest, I think
24 arms. His eyes were like real red, like real, real red.

25 Q Did you see a welt on his back?

1 MR. TURNER: Object to leading, Your
2 Honor.

3 THE COURT: Sustained. Please don't lead.

4 Q (BY MR. VOLKMER) Did you observe any injuries on
5 him other than the ones you described?

6 A Not that I remember.

7 Q Okay. What happened next?

8 A After that, I stayed with the complainant and the
9 other officers were working the scene.

10 Q Okay. What did you observe -- which officer was
11 primary?

12 A Officer Greenhaw.

13 Q What did you observe him do when he arrived?

14 A When he arrived, I don't know. He was getting
15 statements from I guess the people around.

16 Q Okay. Whose handcuffs were on Mario Villa-Gomez?

17 A I can't remember.

18 Q Okay. When you arrived on the scene and someone
19 was being aggressive, did you put someone in handcuffs?

20 A Yes. The complainant.

21 Q Okay. Whose handcuffs were those?

22 A They were my handcuffs.

23 Q All right. Who took those handcuffs off?

24 A I can't remember.

25 Q Okay.

1 A I can't remember.

2 Q What was your role at the scene after Greenhaw is
3 taking statements?

4 A Just control the scene, make sure nobody else
5 happens between them and the family I guess or the
6 complainant and the family of the suspect.

7 Q Did you take part in the statements that they were
8 giving to the officers?

9 A No, sir.

10 Q Did you take part in collecting the evidence?

11 A No, sir.

12 MR. VOLKMER: Pass the witness.

13 THE COURT: Thank you. Cross examination?

14 MR. TURNER: Thank you.

15

16 CROSS EXAMINATION

17 BY MR. TURNER:

18 Q Officer, what time did you arrive?

19 A Can I look at the report?

20 MR. TURNER: May I approach? Forgot
21 almost to ask.

22 THE COURT: Yes.

23 Q (BY MR. TURNER) I don't know if you can tell it
24 from this or not.

25 A I don't know if it's going to be here. It doesn't

1 have it.

2 Q Did you prepare a report on your own on this?

3 A No, I didn't do a report.

4 Q Do you have any notes or anything to indicate what
5 time you arrived?

6 A My work card.

7 Q I'm sorry?

8 A My work card.

9 Q Work card?

10 A Yes, where we write all the calls that we take and
11 time that we arrive, we got dispatched and we cleared.

12 Q And do you have access to that now?

13 A Not now.

14 Q You got there before Greenhaw, correct?

15 A Yes, I got there first.

16 Q Can you tell by this report what time Greenhaw got
17 there?

18 A I can tell. Can I -- he wrote that where he
19 arrived, I could tell if he did it. Well, not exactly,
20 but it's going to be before him.

21 Q Right. You got there sometime before he did.

22 A Uh-huh. He arrived on scene 2345.

23 Q And in English what is that?

24 A 11:45.

25 Q P.m.?

1 A Yes.

2 Q Thank you. Do you have any idea how long you were
3 there before Greenhaw arrived?

4 A I have no idea.

5 Q Did you already have Mario Villa-Gomez in cuffs by
6 that time?

7 A I had the complainant.

8 Q Right, that's the complainant. So that would have
9 taken you a minute or two to get all that decision-making
10 made and to cuff him, correct?

11 A A minute.

12 Q Where is it that you first saw the complainant?
13 Could you show it on there?

14 A He was at the intersection of Lucas and I think it
15 was Liberty.

16 Q So that's one door down from the house?

17 A Yeah, I think it was one or two houses down.

18 Q Okay. And then as you drove up he walked on back
19 and came up to where the SUV is, is that what happened?

20 A When I got there, I got out and asked him what was
21 going on. So he started pointing towards where the
22 defendant was at. And parked over there, he walked over
23 there.

24 Q So he walked along the car?

25 A Uh-huh.

1 Q For the length of the house next door?

2 A Yes.

3 Q Okay. Was he arguing with the defendant and his
4 brother when you got there?

5 MR. VOLKMER: Objection, call for hearsay.

6 THE COURT: He meaning?

7 Q (BY MR. TURNER) Was Mario Villa-Gomez, the
8 complainant, arguing with -- were they having a
9 confrontation when you got there, with the defendant and
10 his brother?

11 THE COURT: Overruled as to that phrasing.
12 You may answer it.

13 THE WITNESS: No, he wasn't arguing like
14 directly with them. He was just arguing, he was just
15 saying words.

16 Q (BY MR. TURNER) Okay. Did you -- so you didn't
17 have to separate the three when you got there.

18 A No.

19 Q Did you tell Officer Greenhaw that you had to
20 separate the three of them when you got there?

21 MR. VOLKMER: Objection, calls for
22 hearsay.

23 MR. TURNER: It's impeachment.

24 THE COURT: You may answer. Overruled.

25 Q (BY MR. TURNER) The question is did you tell

1 Officer Greenhaw that you had to separate the complainant,
2 Mr. Villa-Gomez, from the defendant and his brother at the
3 time you arrived because they were arguing?

4 A I can't remember. I know I had to keep him away
5 from the defendants.

6 MR. TURNER: I pass the witness.

7 THE COURT: Thank you. Any redirect?

8 MR. VOLKMER: No, Your Honor.

9 THE COURT: Thank you so much. Is this
10 witness excused for all purposes or do you need him on
11 call?

12 MR. VOLKMER: State can excuse him.

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

14 THE COURT: All right. You are released
15 as a witness. Thank you very much.

16 MR. VOLKMER: State calls Officer
17 Delbroccolo.

18 THE BAILIFF: Judge, this witness has been
19 sworn.

20 THE COURT: Hello, Officer, come on up to
21 the witness stand, please.

22

23

24

25

1 V. M. DELBROCCOLO,
2 the witness, having first been duly sworn, testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. VOLKMER:

6 Q Officer, could you spell that last name for the
7 court reporter?

8 A D-E-L-B-R-O-C-C-O-L-O. It's just like broccoli
9 with an O.

10 Q And could you introduce yourself to the jury?

11 A Officer Delbroccolo. I have been with the
12 department approximately two years including training. I
13 love what I do. Went to school, Sam Houston State
14 criminal justice degree. Minor in business.

15 Q What is your -- what is your assignment at the
16 department currently?

17 A Northeast patrol. Night shift with Lakeside.

18 Q What is your responsibility?

19 A Just respond to calls for service. Serve the
20 community, any -- take reports nor burglaries, assaults,
21 basically, answer calls for service.

22 Q I want to turn you back to June 9, 2013.

23 A Yes, sir.

24 Q How long had you been on the force at that time?

25 A Including training, about a year and a half.