

1 **THE COURT:** Thank you.

2 **LES MCMULLEN,**

3 having been first duly sworn, testified as follows:

4 **DIRECT EXAMINATION**

5 **Q.** **(BY MR. BATARSE)** Sergeant, would you please
6 state your full name for the record?

7 A. It is Les McMullen, L-E-S. Last name is
8 McMullen, M-C-M-U-L-L-E-N.

9 **Q.** And, sergeant, who do you work for?

10 A. Houston Police Department.

11 **Q.** How long have you worked for HPD?

12 A. Seventeen years.

13 **Q.** What are some of the jobs or duties that
14 you had while you have been employed with HPD?

15 A. I worked patrol for four years, various
16 tactical positions, vice division, and supervisor in
17 a gang division.

18 **Q.** What did you become -- is there a
19 difference between an officer and a sergeant?

20 A. Yes, there is.

21 **Q.** What is the difference?

22 A. I'm a supervisor of a small squad of
23 officers that work undercover operations.

24 **Q.** When did you become a sergeant?

25 A. 2007.

1 Q. Okay. Now, you said that you supervise
2 undercover officers?

3 A. Correct.

4 Q. And what type of investigations?

5 A. Any type of investigations committed by
6 gang members, whether it be narcotics, robberies,
7 burglaries. That is mainly what we deal with right
8 now, actually.

9 Q. So, Gang Task Force?

10 A. Yes.

11 Q. Okay. Do you also assist other divisions?

12 A. Yes, I do.

13 Q. All right. And, sergeant, just so the jury
14 can know a little bit about you, are you from the
15 Houston area?

16 A. Yes, I am.

17 Q. Do you have -- you grew up here?

18 A. Yes.

19 Q. Where did you go to school?

20 A. Actually, on the east side near Lake
21 Houston.

22 Q. Lake Houston. Do you have family here?

23 A. Yes.

24 Q. Wife? Kids?

25 A. Yes.

1 Q. How many kids?

2 A. Two. Two daughters.

3 Q. How old are they?

4 A. Six and 4.

5 Q. Six and 4. Okay. So, they are hyper.

6 A. Oh, yeah.

7 Q. Okay. Sergeant, I'm going to draw your
8 attention to -- I want to talk about June 14, 2012.
9 Okay?

10 A. Okay.

11 Q. All right. So, June 14th, were you on duty
12 at that time?

13 A. Yes, I was.

14 Q. All right. What division were you in at
15 that time?

16 A. Central gang unit.

17 Q. All right. And were you a sergeant at that
18 time, as well?

19 A. Yes, I was.

20 Q. All right. Who were you riding with?

21 A. Officer Gary Rodgers.

22 Q. What were y'all doing?

23 A. That particular day we were on the east
24 side of town, just north of downtown, just working in
25 conjunction with narcotics division and just

1 conducting narcotic surveillance and narcotic
2 investigations.

3 Q. And we have been over some of the details
4 with the jury. I don't want to get too repetitive,
5 but were you in an unmarked or marked unit?

6 A. That particular day we were in a marked
7 unit and uniform.

8 Q. Who was driving, you or Rodgers?

9 A. I was driving.

10 Q. Is that because you're the sergeant?

11 A. Yes.

12 Q. Okay. Now, sergeant, do all HPD vehicles
13 have a video camera on them?

14 A. Not all of them.

15 Q. Okay. Do all y'all's vehicles have cameras
16 on them?

17 A. No, they do not.

18 Q. Okay. Is that a decision you make, or is
19 that a decision that HPD makes?

20 A. City council. It's a money issue.

21 Q. City council. Okay.

22 So, do you determine which car you
23 drive?

24 A. Yes, I do.

25 Q. Okay. So, do you get to choose or --

1 A. Yes. We have three -- three marked cars
2 assigned to our unit.

3 Q. Okay. So, you have three cars. And are
4 any of them with video cameras in them?

5 A. No, they are not.

6 Q. Okay. All right, sergeant. What was
7 y'all's job that day?

8 A. We were what you would call like the marked
9 patrol for the narcotic guys. They are riding around
10 in plain clothes in unmarked vehicles. Once they
11 spotted any type of narcotic investigation, we were
12 the uniformed support.

13 Q. And do you just sit next to the unmarked
14 car, or where did y'all sit?

15 A. No. We generally sit anywhere from two to
16 four blocks out of the way, out of the area, because
17 we don't want to have a marked unit in the area, you
18 know, their investigation.

19 Q. And who was the undercover officer working
20 that day?

21 A. Officer Lara.

22 Q. Okay. Now, were you in communication while
23 he was doing surveillance?

24 A. Yes. We were on the HPD radio.

25 Q. And did he communicate to you what he

1 observed at the gas station?

2 A. Yes.

3 Q. Okay. What did he communicate to y'all?

4 A. He communicated that he had seen a vehicle
5 come into the parking lot, meet with several males,
6 and pull out and then go northbound on Elysian.

7 Q. All right. And, sergeant, I'm going to ask
8 you, what is it that you're referring to in front of
9 you?

10 A. This is our police report here.

11 Q. Okay. And is that a copy of the police
12 report?

13 A. Yes, it is.

14 Q. And who wrote the police report?

15 A. Officer Lara.

16 Q. Okay. I just wanted them to know what you
17 had in front of you.

18 A. Okay.

19 Q. All right. So, sergeant -- so, he is doing
20 surveillance; and he describes what?

21 A. He said that he saw a vehicle come through
22 the parking lot, did not enter the store, did not
23 purchase gas, drove through the parking lot, met with
24 several males. They came up to him, he had a small
25 conversation with them, and then they exited without

1 making any purchases and went northbound on Elysian.

2 Q. All right. And did you observe that, or
3 did Lara?

4 A. Lara did.

5 Q. Did he inform you about that?

6 A. Yes, he did, over the radio.

7 Q. And did he inform you that he followed that
8 same car?

9 A. Yes, he did.

10 Q. What did he observe then?

11 A. He observed it go northbound on Elysian.
12 He was waiting for it basically to make a traffic
13 infraction, which it changed lanes without making a
14 turn signal. He then asked for uniform support to
15 pull the vehicle over, conduct a traffic stop.

16 Q. And who is the uniformed support?

17 A. Myself and Officer Rodgers.

18 Q. So, did y'all do that?

19 A. Yes, we did.

20 Q. All right. How did y'all do that?

21 A. We got behind the vehicle, ran the plate
22 just to make sure that it wasn't stolen or anything.
23 Once the plate came back clear, we activated
24 emergency equipment, lights, and sirens.

25 Q. Based on the information that Officer Lara

1 had given you?

2 A. Yes.

3 Q. Okay. So, after you initiated the stop,
4 did Officer Lara tell you anything else?

5 A. As a precaution, because we never know who
6 we're driving up on or walking up on, generally --
7 while we get behind the suspects, generally,
8 undercovers will get in a position next to the
9 vehicles that we try to pull over so they can have an
10 advantage of seeing what's going on inside the
11 vehicle.

12 As we were activating our equipment,
13 because we also can't see what's going on in the
14 vehicle, he stated that the driver was going towards
15 the center console and looked very nervous as we were
16 trying to pull him over.

17 Q. Did he say that the passengers were doing
18 that, too?

19 A. No.

20 Q. Did the defendant pull over?

21 A. Yes, he did.

22 Q. And did y'all approach his car?

23 A. Yes.

24 Q. And who approached which side?

25 A. I approached the driver's side. Generally,

1 you want to approach the same side as you are in your
2 patrol car. So, I approached the driver's side.
3 Officer Rodgers approached the passenger.

4 Q. And what did you observe, if anything, the
5 defendant doing inside the car?

6 A. Looked as if he was fumbling with his
7 center console.

8 Q. Okay. So, what did y'all do?

9 A. Well, just for safety reasons, I asked him
10 to step out -- asked him for his license, insurance,
11 asked him to step out of the vehicle. Officer
12 Rodgers then had the occupant -- the passengers step
13 out, as well.

14 Q. Okay. So, all three of them were taken out
15 of the vehicle?

16 A. Correct.

17 Q. Did you have an opportunity to briefly talk
18 to the defendant?

19 A. Small talk, asked him for his driver's
20 license and insurance, informed him why he was being
21 pulled over for the traffic infraction. That was
22 about it.

23 Q. Okay. So, what happened next?

24 A. Quickly patted him down just on the outside
25 of their pockets, didn't go inside their pockets or

1 anything. I patted down to make sure they didn't
2 have any weapons.

3 Q. And did he have any weapons on him?

4 A. No, he did not.

5 Q. And what happened next?

6 A. Officer Rodgers gathered ID from all three
7 occupants, and Officer Rodgers had them sit on the --
8 right there on the curb on the side of the street
9 while he ran him for warrants, and I was able to just
10 look inside the console just to make sure there
11 wasn't a weapon that he placed in the console.

12 Q. Okay. So, you physically looked inside the
13 console?

14 A. Yes, I did.

15 Q. Okay. What did you find inside the
16 console?

17 A. Appeared to be like some prescription --
18 prescription -- like pharmacy pads or whatever, the
19 prescription pads.

20 Q. Okay. Officer -- pardon me.

21 Sergeant, I want you to take a moment
22 to go through State's Exhibits 1 through 15. Just
23 briefly thumb through them.

24 A. Okay.

25 Q. And tell us if these are the papers that

1 you found in the center console.

2 A. Yes, they are.

3 Q. Okay. You can go through all of them.

4 A. All right.

5 Yeah, this is all of them.

6 Q. Okay. And were these all found together?

7 How did you find them?

8 A. They were just strewn in the center
9 console, actually.

10 Q. Okay. And did you determine whether or not
11 this was, in fact, the defendant's vehicle?

12 A. Yes, it was his vehicle.

13 Q. He is the driver. It's his car; and you
14 find them in the center console, correct?

15 A. Correct.

16 Q. Is that where he had been reaching?

17 A. Yes.

18 Q. Okay. What did you do after that?

19 A. I'm not real familiar with the new laws
20 concerning pharmacy, pharmaceutical, any type of
21 crimes dealing with that. So, I had Officer Lara
22 come to the scene.

23 Q. Officer Lara -- had he left at that point
24 then?

25 A. He was within a block away. He had -- once

1 we had made the traffic stop, he saw that we were
2 okay for our safety. He made the block and parked
3 and waited to see what happened with our
4 investigation.

5 Q. Okay. Did he walk back, or did he drive
6 back?

7 A. He parked about a block away and walked
8 onto our scene.

9 Q. Okay. And did he talk to the defendant?

10 A. Yes, he did.

11 Q. Did y'all have an opportunity to talk to
12 the people who were in the car?

13 A. Yes, I believe he talked to all of them.

14 Q. Did you talk to the defendant and some of
15 the people in the car, too?

16 A. No.

17 Q. Okay. And these prescriptions or
18 prescription forms, did you notice whether or not
19 they are written out to the defendant?

20 A. No. They were different -- various names,
21 and some of them weren't even filled out completely.

22 Q. Okay.

23 A. Actually, some of these aren't even filled
24 out to a name at all, except for the pills.

25 Q. Okay. And there are how many people in the

1 car?

2 A. Three.

3 Q. All right. And were any of their names on
4 any of these scripts? I will show you this one in a
5 second.

6 A. No.

7 Q. And what about here on this receipt? I
8 guess it's not a receipt.

9 A. Right.

10 Q. Pharmacist told us that this is the label.

11 A. A label.

12 Q. Whose name is on this label?

13 A. Michael Jermaine Williams.

14 Q. The defendant, right?

15 A. Right.

16 Q. Okay.

17 A. Yeah, all four.

18 Q. All right. And for purposes of clarity, do
19 you see the defendant in the courtroom today?

20 A. Yes.

21 Q. Could you please identify him by an article
22 of clothing?

23 A. The gentleman in the white shirt
24 (indicating.)

25 **MR. BATARSE:** May the record reflect

1 the witness has identified the defendant?

2 **THE COURT:** Yes, sir.

3 **(Defendant Identified)**

4 **MR. BATARSE:** Pass the witness, Your
5 Honor.

6 **THE COURT:** Thank you.

7 Mr. Ligon?

8 **MR. LIGON:** Thank you, Judge.

9 **CROSS-EXAMINATION**

10 **Q.** **(BY MR. LIGON)** Sergeant?

11 **A.** Yes, sir.

12 **Q.** So, let me get this straight.

13 **A.** Uh-huh (affirmative.)

14 **Q.** So, I guess -- I guess the vehicles that
15 you choose to drive, all three of them, none of them
16 have surveillance equipment in them?

17 **A.** Right.

18 **Q.** Okay. Do they have microphones or anything
19 like that in them?

20 **A.** No, they do not.

21 **Q.** Okay. So, I -- so, there is no way to -- I
22 guess there is no way to record or get independent
23 evidence of actions that you're doing?

24 **A.** Correct.

25 **Q.** Okay. So, it's just kind of a trust and

1 believe the officers on this one?

2 A. Pretty much.

3 Q. Okay. So, now, you were working with
4 Officer Lara; am I right?

5 A. Correct.

6 Q. Okay. So, until Officer Lara called you
7 and gave you information in relation to my client,
8 you had not seen my client?

9 A. Correct.

10 Q. Okay. And you hadn't seen him do anything
11 wrong?

12 A. No.

13 Q. All right. Now, is it -- is it illegal to,
14 I guess, drive and stop and talk to people?

15 A. No, it's not.

16 Q. Okay. And matter of fact, in this country
17 you have a right to talk to as many people as you
18 want to; am I right?

19 A. Correct.

20 Q. Okay. Now, in any of this information that
21 was being radioed to you, did you get any information
22 about my client doing hand-to-hand transactions?

23 A. No.

24 Q. Okay. And normally when people are, I
25 guess, investigating narcotics, narcotics or

1 narcotics dealings, that's one of the things that
2 they're looking for; am I right?

3 A. Correct.

4 Q. Okay. But you didn't have that. You
5 didn't have that or any information.

6 A. No. He just said that he met with several
7 men. That was it.

8 Q. Okay. And you will agree with me that
9 that's not illegal?

10 A. Right.

11 Q. And would you agree with me that that's not
12 suspicious either?

13 A. It's suspicious.

14 Q. Now, is it that your position is that if
15 you talk to several people on the street, that that
16 arouses their suspicion, Police Department?

17 A. This particular area, it is. It's a
18 high-crime area; and the fact that he didn't make any
19 purchases or anything, just happened to just stroll
20 up and talk to several men, at this particular corner
21 where it's very, very high-narcotic area, very
22 high-gang area, it would raise our suspicions. But
23 it's not illegal, but it would raise our suspicion.

24 Q. Okay. So, you will agree it just depends
25 on what area you're in?

1 A. In a way, yeah. When it comes to the
2 suspicion, yes.

3 Q. Okay. And -- fair enough.

4 So, now, you guys conduct traffic
5 stops?

6 A. Right.

7 Q. Okay. Now, you didn't see these traffic
8 violations. I guess Officer Lara communicated those
9 traffic violations to you?

10 A. Right.

11 Q. Okay. So, if he was incorrect about those
12 violations, you don't know that, do you?

13 A. No.

14 Q. Okay. So, now, when you get out of the
15 car, you approach my client; am I right?

16 A. Yes.

17 Q. Okay. Now, you noticed this report -- you
18 don't -- well, let me say it this way: Did you ask
19 him, "Hey, show me your hands"?

20 A. He was already -- he had his hands up. So,
21 I didn't see any need to see them.

22 Q. Okay. So, he had his hands up. So, you
23 didn't need to see them?

24 A. Correct.

25 Q. Okay. And so, you walked up to him and

1 asked him to step out of the car?

2 A. Correct.

3 Q. Okay. Now, did you handcuff him?

4 A. No.

5 Q. Okay. So, when you got him out of the car,
6 you patted him down; am I right?

7 A. Right.

8 Q. Okay. And you're doing that for officer
9 safety?

10 A. Correct.

11 Q. And you were also doing that, in theory, to
12 separate him from what I guess Officer Lara told you
13 that he was -- may or may not be reaching for?

14 A. Okay.

15 Q. Okay. So, you will agree with me, sir,
16 when you pull him out of the car, at that time
17 officer safety -- and you patted him down, and he had
18 no weapons. You know, that satisfies officer safety.

19 A. From him, yes, but not from what he was
20 reaching for.

21 Q. Okay. But you will agree with me, sir,
22 that he is outside of the car with you?

23 A. Uh-huh (affirmative.)

24 Q. He can't just reach in and grab something
25 out of the center console?

1 A. Correct. That is why we had him exit the
2 vehicle, correct.

3 Q. Okay. And I'm just trying to make sure
4 we're on the same page.

5 A. Right.

6 Q. So, just so I'm straight, the officer
7 safety is complied when you separated him from the
8 inside of his car?

9 A. Yes.

10 Q. All right. Now -- so, license and
11 insurance, you asked for license and insurance?

12 A. Yes.

13 Q. Okay. Did he have his license and
14 insurance?

15 A. I believe so.

16 Q. Okay. Now, did he give you consent to
17 search his car?

18 A. We didn't search. We just looked in his
19 console where he was reaching for.

20 Q. Okay.

21 A. We didn't actually go through his vehicle,
22 no.

23 Q. Okay. So, you don't consider going through
24 the center console a search?

25 A. Well, search of his wing span; but we

1 didn't -- I just wanted to make it clear we didn't go
2 through his entire vehicle. We just looked where he
3 was reaching in his console.

4 Q. Okay. And you will admit to me, sir, you
5 didn't see him make any reaching towards the center
6 console, did you?

7 A. No. I did, as I was approaching; and it's
8 even in the report.

9 Q. Okay. But that is not what I asked. I'm
10 just asking -- you also stated that when he got close
11 to you, he raised his hands up.

12 A. He did. From his console, he raised his
13 hands. He had his hands up. I asked him to step
14 out.

15 Q. Okay. And you will agree with me, sir,
16 that he was compliant?

17 A. He was.

18 Q. Okay. Now, after -- when you searched the
19 car, did you find any narcotics in the car?

20 A. No.

21 Q. Any guns in the car?

22 A. No.

23 Q. Any money? Large sums of cash?

24 A. No.

25 Q. Okay. Matter of fact, when you were

1 following him, did he stop at any pharmacies?

2 A. No, he did not.

3 Q. Did he stop at any clinics?

4 A. No. He only went about four or five
5 blocks.

6 Q. Okay. So -- but I guess from your -- from
7 what you have seen --

8 A. Uh-huh (affirmative.)

9 Q. -- he hadn't done anything wrong other than
10 what was communicated to you by Officer Lara?

11 A. Correct.

12 Q. Now -- so, now -- and, also, let's talk a
13 little bit about a couple of other things.

14 A. Right.

15 Q. You didn't smell any marijuana or anything
16 like that, did you?

17 A. No.

18 Q. No strong odor of an alcoholic beverage on
19 his breath or anything like that?

20 A. I don't recall. No.

21 Q. Okay. And if you had, it would have been
22 in the report?

23 A. Right.

24 Q. You don't see anything like that in the
25 report, do you?

1 A. No.

2 Q. Okay. And we already discussed that there
3 was no weapons. There was nothing like that; am I
4 right?

5 A. Correct.

6 Q. Okay. So, basically, you will agree with
7 me, sir, that the purpose for my client being stopped
8 was because of the suspicious activity; am I right?

9 A. Correct.

10 Q. Okay. And the reality of it is that
11 Officer Lara wanted to -- wanted to investigate or
12 figure out why he was talking to those individuals?

13 A. I guess you can say he wanted to force the
14 stop to see exactly why he felt it was suspicious,
15 yeah.

16 Q. And just to be clear, sergeant --

17 A. Uh-huh (affirmative.)

18 Q. And you said he didn't search; but he
19 didn't give you permission to go inside of his
20 vehicle, did he?

21 A. No.

22 Q. Okay.

23 **MR. LIGON:** I'm going to pass the
24 witness, Judge.

25 **THE COURT:** Thank you.

1 Redirect?

2 **MR. BATARSE:** Yes, Your Honor.

3 **REDIRECT EXAMINATION**

4 **Q.** (**BY MR. BATARSE**) Officer, do you have to
5 have consent to search a vehicle?

6 **A.** Not within their wing span.

7 **Q.** Okay. And if you have probable cause to
8 search a vehicle -- in other words, for the jury to
9 understand, if you have probable cause to believe
10 that a crime is being committed or that this is
11 evidence of a crime, are you allowed to search a
12 vehicle?

13 **A.** Yes.

14 **MR. LIGON:** Judge, I'm going to
15 object. I think that may be a province for the Judge
16 or jury, Judge.

17 **THE COURT:** Well, that's true; but
18 there has been so much discussion, I find that the
19 door has been opened.

20 **MR. LIGON:** Yes, ma'am.

21 **THE COURT:** Thank you.

22 **MR. BATARSE:** Okay.

23 **THE COURT:** Otherwise, it would be a
24 good objection.

25 **Q.** (**BY MR. BATARSE**) Okay. So, basically, the

1 fact that he didn't -- well, let me ask you this: On
2 a normal stop -- you know, let's change the facts.

3 A. Okay.

4 Q. You're stopping somebody else. Is the only
5 time that you're able to stop, you know, a person
6 suspected of criminal activity, the only time you're
7 able to search is when they say, "Sure. Go ahead and
8 search"?

9 A. No one would agree to search their vehicle.

10 Q. Right. But are you still able to search?

11 A. Yes.

12 Q. Okay. And what do you need in order to
13 search a car?

14 A. Probable cause.

15 Q. Probable cause that what?

16 A. A crime was or has occurred.

17 Q. Okay. Or there is evidence that a crime
18 has been committed; is that fair?

19 A. Uh-huh (affirmative.)

20 Q. Okay. So, this idea that you need consent
21 to search, is that accurate?

22 A. No.

23 Q. Is it -- is it nice if someone gives
24 consent? Are you able to search?

25 A. Yes.

1 Q. Okay. But do you need that?

2 A. No.

3 Q. I was actually confused that you told them
4 the defendant had his hands up when you walked up
5 because you said he was fidgeting. Can you explain
6 that to the jury?

7 A. Sure. As I'm walking up, he was fidgeting.
8 As I got to the window and asked him to open the
9 door, he had his hands up.

10 Q. Show us. Pretend that -- I mean, pretend
11 you're in his driver's seat --

12 A. Okay.

13 Q. -- and that side is the window --

14 A. Right.

15 Q. -- and that side --

16 A. I mean, as -- just for safety reasons, when
17 you approach the vehicle, like I said, you don't know
18 what you are walking up on. So, you're constantly
19 scanning the area at an angle; and I could see that
20 he was fidgeting with his -- and a lot of times it
21 could be anything. It could be -- you can be
22 grabbing for your insurance card. That's where most
23 people keep the insurance. So, it's nothing to be
24 alarmed at, but it is something to take note of what
25 they are doing.

1 So, I'm keying in on what he is doing.
2 And as I approach him, you know, he had done fidgeted
3 and he turned towards me and he had his hands up.
4 So, I mean, as I'm at his door, no, he is not going
5 through fumbling. Nobody would let you do that.
6 That is just not safe. But as I get up to him, he
7 raises his hands.

8 Q. Okay. So, then as you -- so, I mean,
9 actually draw me -- can you step down?

10 A. Sure.

11 Q. Okay. Let's say --

12 A. This is the driver.

13 Q. This is the driver's seat?

14 A. All right.

15 Q. This is the passenger seat.

16 A. Right.

17 Q. Okay. When he is fidgeting, you're coming
18 up on which side?

19 A. I'm coming up on the driver. Of course,
20 when you're approaching, you're not going to approach
21 directly behind because you can't see until you get
22 right here. I mean, they teach you that in the basic
23 academy. You're going to come out a little further
24 so you have a better angle and you're able to see
25 inside the vehicle.

1 And as I'm approaching about -- I'd
2 say about right here (indicating), you can see that
3 he was turning and fidgeting, I guess, up to his
4 window. And now I'm about right here (indicating),
5 almost even.

6 Q. Let's move that.

7 A. He has his hands towards me. But, yeah,
8 you want to approach a little further out at an angle
9 so that you have a better angle to see what's going
10 on in the vehicle. Because if you approach right up
11 next to the vehicle, you really can't see them until
12 you're about right here (indicating.) Well, now
13 you're too close.

14 Q. Okay. So, by the time you get to him
15 sitting right here (indicating), he puts his hand up
16 when you get up there?

17 A. Right.

18 Q. Okay. And then at that point, did you ask
19 him to step out?

20 A. Yes.

21 Q. Okay. And at that point, did you have all
22 the information that Officer Lara had communicated to
23 you and Officer Rodgers?

24 A. Yes.

25 Q. Okay. And you can have a seat now.

1 A. (Witness complies.)

2 Q. You brought up a good point a little bit
3 earlier. Taken alone, somebody talking to random
4 people in a gas station, is -- in and of itself, is
5 that illegal?

6 A. No.

7 Q. Okay. Taken alone, in and of itself
8 without any other facts, someone reaching towards the
9 center console, is that illegal?

10 A. No.

11 Q. Okay. So, let me ask you this: When
12 you're determining your officer safety or when you're
13 determining what you're going to do in a situation,
14 do you look at each fact in isolation; or do you take
15 all the facts and put them together?

16 A. You put all the facts together, you know.

17 Q. Why?

18 A. Well, like I said, I mean, anybody reaching
19 in that console, they can just be reaching for the
20 insurance card. But you take everything together and
21 make the best decision you can make at the time, you
22 know; where you're at, what time it is, you know,
23 what you can see, what you know, who you're dealing
24 with, where you're working. I mean, there's many
25 factors to deal together.

1 Q. What are you trained to look for when you
2 approach a car?

3 A. Any type of suspicious movement.

4 Q. Okay. How many people are in the vehicle?
5 You know, what -- what specifically -- on the person
6 that you're approaching, what specific body part are
7 you looking for?

8 A. Hands.

9 Q. Okay. And why do you look for hands?

10 A. Because that's what can access weapons.

11 Q. Okay. Did you do that in this case?

12 A. Yes.

13 Q. And when you originally approached the car
14 with Officer Rodgers, did he approach, as well?

15 A. Yes, he did.

16 Q. He was on the other side?

17 A. Yes.

18 Q. Okay. When you approached, did you know
19 what was in that center console?

20 A. No, I did not.

21 Q. Did you know whether or not there were
22 weapons in the center console?

23 A. No.

24 Q. Did you know whether or not there were
25 pills?

1 A. No.

2 Q. Did you know whether or not that you were
3 going to find these prescription forms in the center
4 console?

5 A. No.

6 Q. All right. So, you pulled him out of the
7 car?

8 A. Yes.

9 Q. And you found these?

10 A. Yes.

11 Q. Okay.

12 **MR. BATARSE:** Pass the witness.

13 **THE COURT:** Thank you.

14 Any cross?

15 **MR. LIGON:** Briefly, Judge.

16 **THE COURT:** Okay.

17 **REXCROSS-EXAMINATION**

18 Q. **(BY MR. LIGON)** Now, sir, you're not telling
19 this jury that on every traffic stop you have the
20 right to go inside their car and search their car or
21 their wing span; or is that what you are telling this
22 jury?

23 A. Any traffic stop that I see a person
24 reaching, whether they are reaching under the seat,
25 whether they are reaching in the glove box, for

1 safety reasons I'm going to ask them to exit out and
2 I want to see what they're shoving around the seat or
3 I will tell them what they are shoving. But, no, I'm
4 not going to tell them, "Get out of the vehicle. I'm
5 going to search the vehicle from front to back." I
6 just want to know what he is trying to hide from me.

7 Q. Okay. But you also stated that in some
8 cases, you know, somebody reaching for their center
9 console is not alarming because they keep insurance
10 and licenses there most time -- well, sometimes; am I
11 right?

12 A. Right.

13 Q. And the reaching, the reaching towards the
14 center console, is not evidence of a crime, a crime
15 is being committed, is it?

16 A. No.

17 Q. Okay. So --

18 **MR. LIGON:** I pass the witness, Judge.

19 **THE COURT:** Thank you.

20 Anything else?

21 **MR. BATARSE:** No further questions,
22 Your Honor.

23 **THE COURT:** Thank you.

24 May the sergeant be excused?

25 **MR. BATARSE:** Yes, Your Honor.