

1 THE COURT: You may proceed.

2 MR. RAMIREZ: Thank you, Your Honor.

3 **MIKE MILLER,**

4 having been first duly sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 **BY MR. RAMIREZ:**

7 Q. Good morning, sir.

8 A. Good morning.

9 Q. Would you introduce yourself to the jury,
10 please?

11 A. Officer Mike Miller, Houston Police Department
12 Homicide Division.

13 Q. Are you a homicide investigator?

14 A. I am.

15 Q. And a police officer?

16 A. I am.

17 Q. How long have you been a police officer?

18 A. For 19 years.

19 Q. And has that been with the City of Houston
20 exclusively or were you in law enforcement elsewhere?

21 A. It has been with the City of Houston.

22 Q. Prior to going to work for the Houston Police
23 Department, were you in the military?

24 A. I was in the armed forces, yes.

25 Q. What branch did you serve?

1 A. The Army.

2 Q. How long were you in the Army?

3 A. For about seven years.

4 Q. Did you do any police work in the Army?

5 A. No, I did not.

6 Q. And when did you start with the Houston Police
7 Department, the academy?

8 A. 1993.

9 Q. Following your graduation from the academy and
10 probationary period, where were you assigned?

11 A. I was assigned to radio patrol answering
12 citizen calls for service for the first four years of my
13 career before transferring to the Homicide Division
14 where I spent the remainder in one capacity or another.

15 Q. What part of the city did you work on patrol?

16 A. The southwest side and the northwest side.

17 Q. All right. And you've been in Homicide since
18 then?

19 A. That's correct.

20 Q. As an investigator in Homicide, do you work
21 alone or with a partner?

22 A. Work with a partner.

23 Q. Back in April of 2009, were you investigating
24 homicide cases?

25 A. Yes, I was.

1 Q. When we say you investigated homicides, what
2 types of cases does this include?

3 A. Pretty much any death investigation, whether it
4 be natural, unnatural, suspicious, suicides. If there's
5 any question about the manner in which a person passed
6 away, they'll send homicide investigators to ultimately
7 determine what caused their death.

8 Q. Have you worked few or many homicides in your
9 career?

10 A. Unfortunately, many.

11 Q. Back in April of 2009, did you have a partner?

12 A. I did.

13 Q. Who was it?

14 A. Todd Miller.

15 Q. Todd Miller and Mike Miller. Is Todd any
16 relation to you?

17 A. He is. He's my brother.

18 Q. How long have you and your brother been
19 partners?

20 A. We were partners for about two years.

21 Q. Okay. And did that work out all right?

22 A. It did.

23 Q. Let me direct your attention to the time period
24 around April 8th, 2009. Did you get assigned to
25 investigate a shooting that had taken place at the Black

1 Widow Tattoo Parlor on Mangum?

2 A. Yes, we did.

3 Q. Were you the initial homicide investigators to
4 work the case or not?

5 A. No, we weren't. Another pair had been sent out
6 there initially and we were coincidentally called to a
7 separate homicide the same night. After we arrived to
8 the first homicide scene, the individuals involved in
9 our initial homicide scene -- not to be confusing --
10 were Spanish speaking. We swapped cases with some other
11 homicide investigators so we didn't have to work a
12 Spanish speaking case and we ended up with Black Widow.

13 Q. Who were the initial pair of investigators who
14 went to the Black Widow?

15 A. Chavez, Officer Chavez, and Sergeant Carillo.

16 Q. All right. Now, that pair of investigators
17 made the initial scene and spoke to the witnesses
18 initially. Is that correct?

19 A. That's correct.

20 Q. Did you and your partner, Todd Miller, get to
21 make that scene initially?

22 A. No, we did not.

23 Q. Was it your understanding the shooting had
24 taken place just after midnight on April the 8th?

25 A. That's correct.

1 Q. When did you and your partner, Todd Miller, get
2 assigned to work the case?

3 A. It was about 6:00 o'clock in the morning, 6:00
4 or 7:00 o'clock in the morning.

5 Q. Would that have been on April 8th, the same
6 morning?

7 A. Yes.

8 Q. When you got the assignment and the cases were
9 swapped, what did you and your brother Todd do?

10 A. We decided to drive out to where this occurred
11 at and just take a look around.

12 Q. When you arrived at the scene, was the initial
13 scene investigation still going on or not?

14 A. No, it was not.

15 Q. What did you find when you arrived at the scene
16 on Mangum?

17 A. We found a gathering of individuals outside the
18 tattoo parlor that were sort of just hanging around.

19 Q. What was the mood amongst this gathering of
20 people outside?

21 A. Very somber. Lot of emotions.

22 Q. Was the business open at that time or not?

23 A. No, it was not.

24 Q. Was it locked up?

25 A. Yes.

1 Q. Did you see anything outside near the front
2 entrance to the tattoo parlor?

3 A. I believe there was a mem -- flowers, candles,
4 things of that nature that were outside.

5 Q. Did you have a conversation with any of the
6 people that had gathered?

7 A. Brief conversations.

8 Q. Did you learn a little bit of the background of
9 Steve Robbins?

10 A. Yes, I did.

11 Q. While you were there outside the Black Widow
12 and unable to get in, did you make a note of the
13 surroundings?

14 A. I did.

15 Q. Was there anything that you found of interest
16 in your work as an investigator?

17 A. Yes, there is -- yes, there was.

18 Q. What was there?

19 A. In the same strip shopping center was a massage
20 parlor named Sapphire Massage Parlor. Outside of the
21 Sapphire Massage Parlor were two cameras that were sort
22 of in the parking lot to, mainly for their purposes,
23 record who was coming into their massage parlor.

24 Q. And seeing the two cameras there outside that
25 business, what did you then do?

1 A. Immediately began talking to the owners of
2 the -- operators, I should say, of Sapphire Massage in
3 an attempt to gather the footage or to see what they
4 could see through their cameras.

5 Q. Did you go inside the business?

6 A. Yes, we did.

7 Q. Did you meet with cooperation once you went
8 inside?

9 A. Yes, we did.

10 Q. Okay. Did they let you take a look at what had
11 been recorded on the cameras?

12 A. Yes, they did.

13 Q. Did you see anything of interest?

14 A. Yes, we did.

15 Q. What did you see?

16 A. A vehicle passing by slowly and then returning
17 once more before backing into a parking spot just a
18 little bit down from the Black Widow Tattoo Parlor.

19 Q. Did you make an effort to get a copy of that
20 recording made from that camera system?

21 A. Yes, we did.

22 Q. Were you successful initially?

23 A. Not initially, no.

24 Q. Why not?

25 A. The operators -- and sometimes we deal with,

1 well, private companies. Getting cooperation with
2 technological devices in this instance, they didn't know
3 how to get the footage from the camera to provide us.
4 They didn't know how to burn a disk.

5 Q. Okay. And were you eventually able to get a
6 copy of the recording?

7 A. Yes, we were.

8 Q. Did it take some effort?

9 A. Yes, it did.

10 Q. What did you have to do in order to get it?

11 A. Insist.

12 Q. And did you basically just park yourself inside
13 this message parlor?

14 A. Yes. It disrupted business for a short time
15 for a while.

16 Q. They eventually came around and gave you a
17 copy?

18 A. They did find someone who could operate it and
19 make a copy.

20 MR. RAMIREZ: May I approach the witness,
21 Your Honor?

22 THE COURT: You may.

23 Q. (By Mr. Ramirez) Let me show you what's been
24 marked for identification purposes as State's Exhibit
25 No. 267. Do you recognize what this shows (indicating)?

1 A. Yes, I do.

2 Q. Does it show the location of the Black Widow
3 Tattoo Parlor when it existed back in April of 2009?

4 A. Yes, it does.

5 Q. Is this an updated photo that shows it's got a
6 different name now?

7 A. It does.

8 Q. Does this photo also show the massage parlor
9 where you said you saw the surveillance cameras?

10 A. I believe it does, yes.

11 Q. And has the name of the massage parlor also
12 changed?

13 A. Yes, it has.

14 Q. With those caveats, is the layout still the
15 same? By layout I mean the positioning of the cameras
16 and the location of the tattoo studio where the shooting
17 occurred?

18 A. Yes, it is.

19 Q. To that extent, does it fairly and accurately
20 show the location of the cameras in relation to the
21 tattoo parlor where the shooting occurred?

22 A. Yes, it does.

23 MR. RAMIREZ: Move to introduce State's
24 Exhibit No. 267, Your Honor.

25 (State's Exhibit No. 267 Offered)

1 MR. GAISER: No objection, Your Honor.

2 THE COURT: Admitted without objection.

3 **(State's Exhibit No. 267 Admitted)**

4 MR. RAMIREZ: May I publish 267 on the
5 television, Your Honor?

6 THE COURT: You may.

7 Q. (By Mr. Ramirez) This photograph is taken in
8 the parking lot, is it not (indicating)?

9 A. Yes, it is.

10 Q. Facing both the massage parlor or the location
11 of it at that time and the location of the Black Widow;
12 is that correct?

13 A. Yes, that's correct.

14 Q. Where in the photograph is the front door to
15 the tattoo parlor?

16 A. Off to the right of the photograph.

17 Q. If you touch that screen, can you circle it
18 with your hand?

19 A. (Witness complies).

20 Q. And touch it again for me.

21 A. (Witness complies).

22 Q. Is that a zoomed-in shot of the entrance to
23 that business?

24 A. Yes, it is.

25 Q. Does it possibly -- well, let me scratch that

1 and move to the other side of the photograph. Does this
2 show the entrance to the massage parlor (indicating)?

3 A. Yes, it does.

4 Q. Can you see the location of the cameras here?

5 A. Yes, you can.

6 Q. Where are they?

7 A. The first camera and the second camera to the
8 left, as you're facing the picture, of the door
9 (indicating).

10 Q. Let me try to zoom in on it and you tell me if
11 I've got the locations here. Is one of the surveillance
12 cameras up in the upper left-hand portion of the screen
13 now (indicating)?

14 A. That's correct.

15 Q. I'll zoom into a different portion now. Does
16 this show the location of the other surveillance camera
17 (indicating)?

18 A. Yes, it does.

19 Q. Did both surveillance cameras pick up some
20 activity outside the tattoo parlor near the time of the
21 shooting?

22 A. Yes, they did.

23 MR. GAISER: Your Honor, I object to that.
24 There's no showing of the actual taking of it, whether
25 it's accurate. There's absolutely no foundation for him

1 to testify as to what's on this video without some
2 showing of its authentication.

3 MR. RAMIREZ: May I ask additional
4 questions, Your Honor?

5 THE COURT: Sustained. You may.

6 Q. (By Mr. Ramirez) All right. Mr. Miller, have
7 you obtained in your work before videos recorded from
8 surveillance cameras?

9 A. Yes, we have.

10 Q. On few or many occasions?

11 A. Many occasions.

12 Q. Have you been able to see a variety of
13 recordings made from a variety of different surveillance
14 camera systems?

15 A. Yes, I have.

16 Q. From viewing the recordings made on this
17 particular system at the massage parlor, were you able
18 to tell whether or not the camera was working?

19 A. I was.

20 Q. Is this the type of camera that would make a
21 continuous recording?

22 A. No, it was not.

23 Q. What type of camera was it?

24 A. Motion activated.

25 Q. In other words, when would the camera come on?

1 A. When the camera detected any type of motion to
2 its front, it would awaken and start recording at that
3 point.

4 Q. Does the particular camera in question capture
5 sound?

6 A. No, it does not.

7 Q. So, it's strictly a video recorder?

8 A. That's correct.

9 Q. And your testimony is from viewing the
10 recordings you could tell the system was operating
11 properly?

12 A. I could.

13 Q. And the copy that you obtained, was it an exact
14 copy of what you had seen with your own eyes there
15 inside the business?

16 A. Yes, it was.

17 Q. And did it capture the time period around which
18 it was your understanding the shooting had occurred?

19 A. Yes, I believe it did.

20 Q. And did you make an attempt to capture not only
21 the point where the crime occurred but some before and
22 then some after?

23 A. Yes, we did.

24 Q. So that you got a feel for what happened
25 before, during, and after the crime --

1 A. That's correct.

2 Q. -- in the parking lot?

3 MR. RAMIREZ: May I approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 Q. (By Mr. Ramirez) And by the way -- there should
7 be a way to clear that screen.

8 Mr. Miller, let me ask you a couple more
9 questions here. I want to show you what's been marked
10 for identification as State's Exhibit 268. And this is
11 a CD; is that right (indicating)?

12 A. Yes, it is.

13 Q. Do you recognize this?

14 A. I do.

15 Q. Does it contain a copy of a recording made off
16 one of those surveillance video cameras?

17 A. Yes, it does.

18 Q. How do you recognize this disk?

19 A. My initials are written on the front part of
20 it.

21 Q. Does that signify that you watched it?

22 A. Yes, it does.

23 Q. I'll ask you the same questions about what's
24 been marked State's Exhibit No. 269, another CD. Have
25 you seen what's on this (indicating)?

1 A. Yes, I have.

2 Q. This has your initials as well?

3 A. As well.

4 Q. Is this an exact copy of the recording you made
5 from one of the other surveillance video cameras at the
6 massage parlor?

7 A. Yes, it does.

8 Q. Do both of these exhibits, 268 and 269, contain
9 a recording of what transpired in the parking lot
10 before, during, and after the crime?

11 A. Yes, they do.

12 Q. Can you tell from watching 268 and 269 that the
13 camera system was, in fact, working properly?

14 A. Yes, I can.

15 Q. There are no voices heard on this?

16 A. No.

17 Q. So, no voices to be identified?

18 A. No.

19 MR. RAMIREZ: Move to introduce State's
20 Exhibits 268 and 269, Your Honor.

21 **(State's Exhibit No. 268 and 269 Offered)**

22 MR. GAISER: No objections.

23 THE COURT: Admitted without objection.

24 **(State's Exhibit No. 268 and 269 Admitted)**

25 MR. RAMIREZ: I'd like to publish them,

1 Your Honor, but we'll have to clear the marks off the
2 screen. Would the Court like to take a scheduled break?

3 THE COURT: We'll take an indoor plumbing
4 break.

5 (Recess)

6 (Open court, jury and defendant present)

7 MR. RAMIREZ: All right. Your Honor, at
8 this time, I'd like to publish surveillance video number
9 two, which is State's Exhibit No. 269. May I do that,
10 Your Honor?

11 THE COURT: You may.

12 (Exhibit published)

13 Q. (By Mr. Ramirez) Investigator Miller, what are
14 we looking at here as we start the video (indicating)?

15 A. The parking lot looking directly away from the
16 strip shopping center.

17 Q. Are we looking in the direction of the tattoo
18 shop or not?

19 A. No, you're not.

20 Q. Is there a street that is beyond the parking
21 lot within view?

22 A. Yes, there is.

23 Q. What street is that?

24 A. Mangum.

25 Q. All right. Beyond Mangum, do you know if

1 there's a major freeway that you can see in the
2 daylight?

3 A. 290.

4 Q. Are there a number of entrances into the
5 parking lot of the stripcenter off of Mangum?

6 A. There are.

7 Q. As we open this video, can you tell the members
8 of the jury what the time is where it starts?

9 A. The time currently, 00:40 and 20 seconds; 40
10 minutes past midnight.

11 Q. Does it have the date listed on the camera
12 view?

13 A. April 8th, 2009.

14 Q. Did it appear to you to the best of your
15 knowledge that the camera was basically accurate as far
16 as where it starts in terms of the time?

17 A. Yes, it did.

18 (Exhibit published)

19 Q. (By Mr. Ramirez) Now you testified that this
20 video recording system was motion-activated?

21 A. Correct.

22 Q. As we watch this, does it appear at times that
23 things just appear out of thin air and start moving?

24 A. Yes, it does.

25 Q. Why is that?

1 A. Sometimes bugs will activate the camera. Other
2 times, it takes a moment for the camera to catch up with
3 whatever action has caused it to reawaken.

4 Q. All right. Where I paused it here, do we now
5 see a vehicle moving in the background there in the
6 parking lot?

7 A. Yes, you do.

8 Q. What time is it?

9 A. 00:40:35.

10 Q. How would you describe, just from looking at
11 here, the vehicle that has just driven into view?

12 A. A four-door sedan.

13 Q. The vehicle has gone out of view. Is that
14 right?

15 A. That's right.

16 Q. I'll pause it now. What do we see now?

17 A. The vehicle backed-in view.

18 Q. What is the time on the surveillance camera?

19 A. 00:41:02.

20 Q. Do we see the video -- I'm sorry -- the vehicle
21 in view again?

22 A. Yes, you do.

23 Q. Where is it now?

24 A. The very top left of the screen.

25 Q. And what is the time?

1 A. 00:41:29.

2 Q. Where is the vehicle headed now?

3 A. Looks out onto Mangum.

4 Q. As the vehicle exits the parking lot, what is
5 the time?

6 A. 00:41:36.

7 Q. Continuing, do we see what appears to be a pair
8 of headlights shining towards the camera?

9 A. Yes, you do.

10 Q. Does it appear to be the same sedan?

11 A. It does.

12 Q. What is the time on the camera now?

13 A. 00:45:37.

14 Q. Has the vehicle driven back into view now?

15 A. It has.

16 Q. The last reading on the time was 45:37. What
17 is it reading now?

18 A. 00:50:56.

19 Q. So, approximately five minutes and 20 seconds
20 have passed?

21 A. That's correct.

22 Q. What does the vehicle do?

23 A. It's speeding out onto Mangum.

24 Q. Is that the last we see of that vehicle in this
25 camera view?

1 A. Yes, it is.

2 Q. Do you see a vehicle pulling in the parking lot
3 now?

4 A. Yes, you do.

5 Q. What is the time stamp?

6 A. 00:56:04.

7 Q. So, have about six minutes, five to six minutes
8 passed?

9 A. Correct.

10 Q. What type of vehicle is it?

11 A. A pickup truck.

12 Q. Does it appear the pickup truck returns?

13 A. It does.

14 Q. What time is it now on the clock?

15 A. 00:59:27.

16 Q. Does it appear an ambulance has passed by on
17 Mangum?

18 A. Yes, it does.

19 Q. What is the time?

20 A. 1:00 in the morning, 00:46 seconds.

21 Q. And do we see a fire engine, a fire truck
22 passing on Mangum now?

23 A. Yes, you do.

24 Q. Does it appear the fire truck is entering the
25 parking lot now?

1 A. Yes, it does.

2 Q. What is the time stamp?

3 A. 1:02 a.m. and 55 seconds.

4 Q. Has the fire truck now been followed by an
5 ambulance coming into the parking lot?

6 A. Yes, it has.

7 Q. What's the time?

8 A. 1:03:22 a.m.

9 Q. And do you see a woman, a passing view there on
10 the sidewalk?

11 A. Yes, you do.

12 Q. All right. I'm going to go ahead and stop the
13 video right here.

14 MR. RAMIREZ: Judge, may I publish State's
15 268, the other recording?

16 THE COURT: You may.

17 (Exhibit published)

18 Q. (By Mr. Ramirez) Can you tell the jury what
19 view we have from this angle?

20 A. The other camera from Sapphire Massage Parlor.
21 Like, the Black Widow Tattoo Parlor would be off to the
22 left of this camera, a little bit further down the strip
23 shopping center.

24 Q. And as this recording begins, what is the time?

25 A. 00:40:19.

1 Q. Do we see the same sedan you had described in
2 the earlier recording come into view?

3 A. Yes, you do.

4 Q. What is the time?

5 A. 00:40:43.

6 Q. Describe us for the record what the vehicle is
7 doing?

8 A. It's making a slow pass by the tattoo parlor
9 once again.

10 Q. Do we see it driving off in the distance there?

11 A. Yes, we do.

12 Q. Do we see it come into view again now?

13 A. Yes, we do.

14 Q. What is the time?

15 A. 00:45:37.

16 Q. What is the vehicle doing for the record?

17 A. Backing into a spot so it's facing out.

18 Q. Approximately where in relation to the front of
19 the tattoo parlor is the car backing?

20 A. The car is just a little to the right of the
21 tattoo parlor.

22 Q. And what time is it now?

23 A. 00:45:52.

24 Q. Does it come to a stop?

25 A. It does.

1 Q. What is the approximate time?

2 A. 00:46:03.

3 Q. Has the front passenger door opened?

4 A. It has.

5 Q. What is the time?

6 A. 00:48:51.

7 Q. From the earlier time you just read off, does
8 it appear that the occupants of the car sat in the car
9 motionless for a couple of minutes?

10 A. Yes, it does.

11 Q. Before this individual gets out?

12 A. That's correct.

13 Q. You said this was 48:51?

14 A. Correct.

15 Q. Can you tell at this point how many individuals
16 have gotten out of the car?

17 A. It appears three.

18 Q. We've seen the one on the passenger side. How
19 many on the driver's side?

20 A. Two.

21 Q. Does it appear in addition to the driver on the
22 other side there is a passenger behind the driver in the
23 back seat?

24 A. That's correct.

25 Q. And where are they walking at this point?

1 A. Into the Black Widow Tattoo Parlor.

2 Q. What is the time?

3 A. 00:49:00.

4 Q. Do they go out of view?

5 A. They do.

6 Q. Has the individual come back into view on the
7 passenger side?

8 A. Yes, he has.

9 Q. What is the time?

10 A. 00:50:48.

11 Q. So, if the earlier reading when they walk out
12 view is 49 and now when they come back into view, or at
13 least individual, it's 50:48, about how much time has
14 passed?

15 A. Less than two minutes.

16 Q. Less than two minutes.

17 Now, in this view, would you agree with me
18 that we can only see one individual --

19 A. That's correct.

20 Q. -- getting in on the passenger side?

21 A. That's true.

22 Q. What does he do?

23 A. Gets in the front right passenger.

24 Q. What has happened to the vehicle?

25 A. It's started, the vehicle has started, the

1 engine.

2 Q. Do we ever get a good view of the other two on
3 the driver's side getting back in?

4 A. No, you do not.

5 Q. Does it lead you to believe that when you see
6 the passenger get in on the passenger side the other two
7 occupants are already in the car?

8 A. Yes, it does.

9 Q. Now, looking at the sedan right here, the
10 vehicle that the occupants arrived in, was there
11 anything you noticed about it that drew your interest?

12 A. Yes, there is.

13 Q. What is that?

14 A. When describing a vehicle, we refer to the
15 driver's side or the passenger side. On this vehicle,
16 the passenger side rear tire, the one you're facing on
17 the left-hand side, is missing a center hubcap, piece to
18 the hubcap where it looks like the rest of the remainder
19 are intact.

20 Q. Was that important to you?

21 A. Yes, it is.

22 Q. Why?

23 A. Something to go off of. Something, perhaps,
24 that would cause that vehicle to stand out to us.

25 Q. Okay. Before you had obtained this recording

1 and watched it, did you have any suspect information?

2 A. No, we did not.

3 Q. Did you even have a vehicle description from
4 the people who were inside the tattoo parlor at the time
5 of the shooting?

6 A. No, we did not.

7 Q. So, at this point you have one clue?

8 A. That's correct.

9 Q. As I stop it here, has a truck come into view?

10 A. Yes, it has.

11 Q. Does it appear to be the same truck that we saw
12 in the other camera angle?

13 A. Yes, it does.

14 Q. What is the time here?

15 A. 00:56:12.

16 Q. So, had roughly about six minutes passed
17 between the time the sedan leaves out of the parking lot
18 and we see this truck?

19 A. That's correct.

20 Q. Did you see a female stepping out of that car
21 parked at the far right?

22 A. Yes, you did.

23 Q. And other individuals now exiting the truck?

24 A. Yes, you do.

25 Q. And the fire truck arriving?

1 A. Yes, you do.

2 Q. I'll go ahead and stop the recording there.

3 Officer Miller, at this point in your
4 investigation you had what facts to go on; the type of
5 vehicle, missing back hubcap?

6 A. Correct.

7 Q. Okay. Did you take any other steps at this
8 point in your investigation to find the perpetrators?

9 A. Yes, we did.

10 Q. What did you do?

11 A. Contacted the witnesses that were inside of the
12 Black Widow Tattoo Parlor.

13 Q. And talked to them?

14 A. Yes.

15 Q. All right. Is it important in an investigation
16 like this where property belonging to the victims has
17 been taken to use that information as a lead?

18 A. Yes, it is.

19 Q. What did you do in that regard?

20 A. Contact credit cards associated with one of the
21 witnesses, credit cards that were taken; contacted Bank
22 of America fraud department to determine if they were
23 used or not.

24 Q. What were the results of that effort?

25 A. They were -- they had been used.

1 Q. Can you tell the members of the jury what you
2 learned as far as when the credit card was used?

3 A. We learned through Bank of America the witness'
4 credit cards were used on April 7th, 8th, and again on
5 April 8th and again on April 8th at different times and
6 at different locations.

7 Q. Do you recall whose credit card it was?

8 A. It was Joshua Norsworthy's.

9 Q. And where did you determine that the first
10 attempt to use Joshua Norsworthy's credit card after the
11 crime had occurred?

12 A. The Raceway gas station on Kuykendahl.

13 Q. Are you familiar with where Kuykendahl is in
14 relation to the Black Widow on Mangum?

15 A. Further north.

16 Q. Is it quite a bit, quite a distance further
17 north?

18 A. Yes, it is.

19 Q. And when you found out that the card -- someone
20 had attempted to use the card at Raceway on Kuykendahl,
21 what did you do?

22 A. Drove to the Raceway gas station and met with
23 the owners to view the videotape they had.

24 Q. You requested to view the videotape?

25 A. Yes, I did.

1 Q. Did they cooperate with you?

2 A. They did.

3 Q. Were you able to find something on that Raceway
4 video surveillance system that got your attention?

5 A. I was.

6 Q. What was that?

7 A. The tan sedan with the missing passenger side
8 center hubcap.

9 Q. You saw that distinctive feature in the sedan
10 you saw on the surveillance video from the Raceway?

11 A. Yes.

12 Q. Did you ask for a copy of it?

13 A. I did.

14 MR. RAMIREZ: May I approach the witness,
15 Your Honor?

16 THE COURT: You may.

17 Q. (By Mr. Ramirez) Let me show you what's been
18 marked for identification purposes as State's Exhibit
19 No. 270, a CD. Do you recognize this (indicating)?

20 A. I do.

21 Q. Have you watched it?

22 A. I have.

23 Q. Does it contain a video recording on there?

24 A. It does.

25 Q. Is it a copy of one that you obtained from the

1 Raceway surveillance video camera dated April 8th, 2009?

2 A. That's correct, it is.

3 Q. Okay. And from your viewing of that recording,
4 were you able to tell that the surveillance system was
5 working?

6 A. Yes, I was and it was.

7 Q. Does it record audio or not?

8 A. No, it does not.

9 Q. So, there are no voices to be identified?

10 A. No, there are not.

11 Q. And is it of sufficient quality to see what is
12 going on in the business area, the gas pump area there
13 at the Raceway?

14 A. Yes, it is.

15 MR. RAMIREZ: Move to introduce State's
16 Exhibit No. 270, Your Honor.

17 **(State's Exhibit No. 270 Offered)**

18 MR. GAISER: No objection.

19 THE COURT: Admitted without objection.

20 **(State's Exhibit No. 270 Admitted)**

21 MR. RAMIREZ: May I publish it?

22 THE COURT: You may.

23 (Exhibit published)

24 Q. (By Mr. Ramirez) As the video begins, does this
25 recording also have the date and time stamp?

1 A. It does.

2 Q. What is the date shown?

3 A. April 8th, 2009.

4 Q. And what is the time shown?

5 A. 1:00 -- 1:28 a.m., 48 seconds.

6 Q. Has a vehicle just driven into view on the
7 left?

8 A. It has.

9 Q. I'll stop it here. Does this appear to be a
10 sedan like the one seen on the other surveillance video
11 cameras from the Black Widow?

12 A. That's correct, it does.

13 Q. Is there anything distinctive about this
14 vehicle as it passes in front?

15 A. Yes, there is.

16 Q. What is that?

17 A. The passenger side rear center hubcap is
18 missing.

19 Q. Did that lead you to believe that this is the
20 same car that was involved in the robbery/murder at the
21 Black Widow?

22 A. Yes, it did.

23 Q. And what is the time on the camera now?

24 A. 1:29 a.m., 21 seconds.

25 Q. And about how long would that be, how much time

1 would have passed from when we last saw -- assuming the
2 times on the cameras are relatively accurate, about how
3 much time had passed?

4 A. About an hour.

5 Q. Does a car drive up beside a gas pump?

6 A. Yes, it does.

7 Q. And is it partially obscured by an adjacent gas
8 pump?

9 A. It is.

10 Q. Do you see any movement?

11 A. Yes, you do.

12 Q. What do you see?

13 A. An individual exiting out of the vehicle.

14 Q. What part of the car does the individual get
15 out of?

16 A. Looked like the rear driver's side.

17 Q. Rear driver's side.

18 Okay. Can you tell anything about the way
19 this individual is dressed?

20 A. He appears to have a long white jacket or long
21 open shirt in the front, jacket.

22 Q. Now, does he have sort of a distinctive walk
23 there?

24 A. Very distinctive.

25 Q. How would you describe it?

1 A. Unusual, but very distinctive.

2 Q. Does he appear to be talking on the phone?

3 A. Yes, he does.

4 Q. On this particular recording, do you ever see
5 anyone else get out of that sedan?

6 A. No, you do not.

7 Q. Just this individual who's gotten out on the
8 driver's side in the back?

9 A. That's correct.

10 Q. What does he appear to be doing now that he's
11 gotten out of the car now?

12 A. Lifting the trash lid off to put something
13 inside.

14 Q. Does it appear that he deposited a bulky item
15 of some kind?

16 A. Yes, it did.

17 Q. Has another car driven into view?

18 A. It has.

19 Q. Can you make out the color of this vehicle?

20 A. It looks to be maroon or red.

21 Q. Do you now see some interaction between the
22 back driver's side passenger and the occupants of that
23 maroon car?

24 A. Yes, you do.

25 THE COURT: Approach the bench for a

1 minute.

2 MR. RAMIREZ: And I'll pause this.

3 (At the Bench, on the record)

4 THE COURT: How much longer do you have?

5 MR. RAMIREZ: I have awhile, so if you want
6 to take a break.

7 THE COURT: Awhile? All right. Well, the
8 jury is hungry. I can tell by their faces.

9 MR. RAMIREZ: That's fine.

10 (Open court, defendant and jury present)

11 THE COURT: All right. I'm going to let
12 you go eat. The same rules apply to this lunch as
13 applied to the last one. And, you know, if you like the
14 food, you thank me and if you don't, well...

15 (Laughter)

16 THE COURT: Please remember the
17 admonishments I gave you before.

18 (Lunch recess)

19 (Open court, defendant and jury present)

20 THE COURT: You may proceed.

21 Q. (By Mr. Ramirez) Investigator Miller, when we
22 broke off before lunch, we were viewing the surveillance
23 video from Raceway from the morning of April 8th, 2009,
24 the date of the offense. Is that right?

25 A. Yes, that's correct.

1 Q. And we left off right about here where the
2 individual got out of the back driver's side and is
3 interacting with these individuals in the maroon car.

4 A. That's correct.

5 Q. Now we'll pick it up here. And rather than
6 watch all of it, skip forward a little bit. Do you ever
7 see any other occupant of that sedan over on the far
8 right that's partially obscured, ever see any other
9 occupant get out of that car?

10 A. No, you do not.

11 Q. And here it started to move and I've stopped it
12 here. Do you notice anything distinctive about the
13 sedan at this point?

14 A. Yes. The passenger side rear wheel well, the
15 center cap is missing.

16 Q. And we don't see that car again in this
17 recording, do we?

18 A. That's correct.

19 Q. Now, having this information that this same car
20 had gone to the Raceway approximately in an hour,
21 according to your testimony, after the crime, did you
22 make any other requests of the clerk or the manager
23 there at the Raceway?

24 A. I did.

25 Q. What did you ask him?

1 A. I met with him while obtaining the video and
2 explained -- basically, brought them into the case.
3 Explained what I was doing, what I was looking for, and
4 that if that particular vehicle were to show back up
5 again could they please write down the license plate
6 number.

7 Q. Okay. Asked them to get a license plate if the
8 vehicle came back?

9 A. That's correct.

10 Q. Did you ever receive a call back from personnel
11 there at the Raceway?

12 A. I did.

13 Q. When was that?

14 A. Saturday morning.

15 Q. Okay. And who called you?

16 A. The manager operator of the Raceway gas
17 station.

18 Q. In response to that, did you go back out to the
19 Raceway?

20 A. Immediately.

21 Q. Did they have anything for you?

22 A. They did.

23 Q. What did they have for you?

24 A. A license plate to that vehicle and more video
25 footage.

1 Q. Did you obtain additional video footage?

2 A. Yes, I did.

3 Q. From what day?

4 A. It was from that Friday night.

5 Q. Would it have been April 11th?

6 A. Late Friday, early Saturday, yes.

7 Q. So, three days after the offense at the Black
8 Widow Tattoo Parlor, the car shows up again?

9 A. Yes.

10 Q. Did you get one or more recordings from that
11 surveillance system there at that time?

12 A. Yes, I did.

13 Q. You also mentioned that you got a license plate
14 number?

15 A. Yes, I did.

16 Q. What was that license plate number that you
17 got?

18 A. Paul, Zebra, William -- off my memory, I want
19 to make sure I don't -- Paul, Zebra, William, 289.

20 Q. PZW-289?

21 A. PZW-289, that's correct.

22 Q. Having that license plate number what did you
23 do with it?

24 A. Ran it in our database.

25 Q. What database are you talking about?

1 A. It's a vehicle search. When a police officer
2 puts in your license plate, we can tell who's registered
3 to the vehicle and if it's wanted or any other
4 information on it.

5 Q. After entering that license plate information,
6 what was the return?

7 A. That it belonged to an individual.

8 Q. Named?

9 A. Teddrick Batiste.

10 Q. Did you get an address on this Teddrick
11 Batiste?

12 A. Yes, I did.

13 Q. What was the address you got?

14 A. 13913 Ella Boulevard, Apartment 917.

15 Q. That address on Ella, can you tell the members
16 of the jury whether or not it would have been close to
17 the Raceway on Kuykendahl where you got the video?

18 A. Right around the corner, very close.

19 Q. Are there a lot of apartment complexes in that
20 particular part of the city?

21 A. There are.

22 Q. So, having the license plate number,
23 registration information, a name, what did you do then?

24 A. Drove to that apartment complex to see if the
25 vehicle happened to be parked there.

1 Q. What did you find?

2 A. That vehicle parked at that apartment complex.

3 Q. Okay. So, you find the vehicle, you believe?

4 A. Yes.

5 Q. Knowing that the vehicle was connected with
6 that address, what did you do at that point?

7 A. Backed off. Went and met with my partner and
8 discussed it with some other investigators about our
9 next course of action.

10 Q. Okay. Did you attempt at that point to get any
11 sort of arrest warrant for any individual?

12 A. Yes, we did.

13 Q. What sort of arrest warrant did you try to
14 obtain?

15 A. We -- knowing the description of the suspects,
16 we have in the past --

17 MR. GAISER: I object as nonresponsive.

18 THE COURT: Sustained. Respond only to the
19 question that is asked.

20 Q. (By Mr. Ramirez) Did you try to obtain an
21 arrest warrant for an unnamed person with certain
22 physical descriptors?

23 A. Yes.

24 Q. Were you successful in that?

25 A. No, we were not.

1 Q. Okay. You were unable to get a judge to sign
2 that type of warrant?

3 A. That's correct.

4 Q. Having no success at this point in your
5 investigation getting a warrant, did you run any checks
6 on Mr. Batiste?

7 A. Yes, we did.

8 Q. What sort of check did you run on Mr. Batiste?

9 A. A criminal history check.

10 Q. Okay. Did the criminal history check on
11 Mr. Batiste turn up anything that led you further along
12 in your investigation?

13 A. Yes, it did.

14 Q. What was that?

15 A. An arrest.

16 Q. You found that Teddrick Batiste had been
17 arrested; is that correct?

18 A. Yes, that's correct.

19 Q. On what date?

20 A. The 11th, Saturday the 11th, April 11th.

21 Q. So, your criminal history check revealed he had
22 been arrested on April 11th?

23 A. That's correct.

24 Q. Would that have been the same day of the video
25 recordings, the second batch, that you got from the

1 Raceway?

2 A. That's correct.

3 Q. In looking at the arrest of Mr. Batiste dated
4 April 11th, did you learn whether or not any other
5 individuals had been arrested with him on that date,
6 April 11th?

7 A. I did.

8 Q. What did you learn?

9 A. Leon Thompson had been arrested with him.

10 Q. Did you further learn any other items had been
11 seized by the police during that arrest of Teddrick
12 Batiste and Leon Thompson on April 11th, 2009?

13 A. Yes, I did.

14 Q. What did you learn had been seized by the
15 arresting officer in that case?

16 A. A Steyr 9-millimeter pistol.

17 Q. Was that of interest to you?

18 A. It was.

19 Q. Why?

20 A. Initial ballistics reports we received back
21 from the Black Widow.

22 Q. Were you aware of what type of casings were
23 found at the scene of the Black Widow?

24 A. Yes, we were.

25 Q. What was your understanding about that?

1 A. That it was a 9-millimeter.

2 Q. So, knowing that Batiste and Thompson had been
3 arrested and during the course of that arrest a
4 9-millimeter pistol had been seized, what did you do?

5 A. Made arrangements to meet with Precinct 4 to
6 obtain the pistol.

7 Q. Did you get the pistol?

8 A. I did.

9 Q. Where did you find it?

10 A. In the custody of the Precinct 4 Constable's
11 Office.

12 Q. Did you then take custody of it, check it out
13 from the Precinct 4 Property Room?

14 A. I did.

15 Q. Then what did you do?

16 A. Submitted it to our latent lab for fingerprint
17 evidence.

18 Q. Did you request any further testing besides
19 latent fingerprint testing?

20 A. Yes, ballistics tests.

21 MR. RAMIREZ: Your Honor, may I have
22 something checked?

23 THE COURT: You may.

24 THE BAILIFF: Judge, the weapon is clear.

25 THE COURT: Thank you.

1 MR. RAMIREZ: May I approach the witness,
2 Your Honor?

3 THE COURT: You may.

4 Q. (By Mr. Ramirez) Investigator Miller, I want to
5 show you an article that is contained within a clear
6 plastic evidence bag. I'll ask you to look at this bag
7 and see if you recognize it (indicating).

8 A. I do.

9 Q. How do you recognize it?

10 A. It has my name on it. It's a Houston Police
11 Department inventory tag control number, evidence bag.

12 Q. Okay. Does it have an offense report number?

13 A. It does.

14 Q. Is this offense report number on it connected
15 with this case, the Black Widow robbery/murder?

16 A. Yes, it is.

17 Q. Okay. Is this the bag in which you obtained
18 the weapon from Precinct 4?

19 A. Yes. I believe it is, yes.

20 Q. Let me show you the back of it (indicating).

21 A. Okay.

22 Q. There is some other additional information
23 written on the back. Is that correct?

24 A. I'm sorry. There is an evidence marker with
25 indicators of the evidence and a chain of custody who I

1 received the evidence from.

2 Q. All right. And looking inside the bag, an
3 article marked State's 278. It also has an evidence tag
4 on it (indicating).

5 A. It does.

6 Q. Do you recognize this?

7 A. Yes, I do.

8 Q. Okay. Would this have been the 9-millimeter
9 pistol you got from the Precinct 4 Property Room?

10 A. Yes, it is.

11 Q. That you submitted to the HPD latent lab for
12 prints?

13 A. Yes, it is.

14 Q. Was it your hope at that time or later that
15 firearms testing would be conducted on this 9-millimeter
16 weapon?

17 A. Yes, it was.

18 Q. Now, the process by which a weapon is submitted
19 to the firearms lab for testing and that testing is done
20 and completed, is that a short process or a lengthy
21 process?

22 A. Pretty lengthy.

23 Q. And do you know whether or not that process
24 took days or weeks or months?

25 A. Weeks or months. I'm not sure.

1 Q. So, is it safe to say at the conclusion of your
2 investigation you -- either those tests had not been run
3 on that weapon or you were not aware of those results?

4 A. I was made aware of those results.

5 Q. Later?

6 A. Yes.

7 Q. All right. Going back to the Raceway
8 surveillance videos that you obtained on April 11th, did
9 you view those?

10 A. Yes, I did.

11 Q. Did you see the same vehicle with the center
12 missing out of the left or right rear hubcap, did you
13 see that?

14 A. Yes, you did.

15 Q. Let me show you two additional CDs marked 271
16 and 272 for identification purposes and ask you if you
17 recognize these (indicating)?

18 A. I do.

19 Q. How do you recognize these?

20 A. As surveillance videos from Racetrack {sic}.

21 Q. Have you put your initials on these CDs --

22 A. Yes.

23 Q. -- signifying you've reviewed these?

24 A. I have.

25 Q. Are these copies of the surveillance videos

1 that you recovered from the Raceway in the second batch?

2 A. They are.

3 Q. Could you tell from viewing them that
4 surveillance recording equipment was working properly?

5 A. Yes, I could and it was.

6 MR. RAMIREZ: Move to introduce State's
7 Exhibits 271 and 272, Your Honor.

8 **(State's Exhibit No. 271 and 272 Offered)**

9 MR. GAISER: I have no objection.

10 THE COURT: Admitted without objection.

11 **(State's Exhibit No. 271 and 272 Admitted)**

12 MR. RAMIREZ: May I publish 271?

13 THE COURT: You may.

14 (Exhibit published)

15 Q. (By Mr. Ramirez) As this particular recording
16 begins, can you tell the jury and for the record state
17 what the date and time is?

18 A. April 11th, 2009, 3 o'clock in the morning, 9
19 seconds.

20 Q. What are we looking at in the top center screen
21 (indicating)?

22 A. An individual standing outside of the vehicle.

23 Q. How is that individual dressed?

24 A. It looks like -- it appears from here to be
25 black.

1 Q. Is the individual walking in the foreground of
2 the screen?

3 A. Yes, he is.

4 Q. Is there another individual associated with
5 that same car in the top center of the screen?

6 A. Yes, there is.

7 Q. And did he appear to get out of the driver's
8 door?

9 A. Yes, he did.

10 Q. And is it safe to say there appears to be only
11 two occupants of that sedan at this point?

12 A. It does.

13 Q. Moving it forward a bit. As the vehicle pulls
14 away, do you notice anything distinctive about it?

15 A. Yes. The passenger side rear center hubcap is
16 missing.

17 Q. The other CD, State's Exhibit No. 272, did it
18 show another camera angle from this same time period
19 that we watched on State's 271?

20 A. That's correct, it does.

21 MR. RAMIREZ: May I publish that one to the
22 jury, Your Honor?

23 THE COURT: You may.

24 (Exhibit published)

25 Q. (By Mr. Ramirez) Does this shot show the first

1 individual who at the beginning of the other recording
2 dressed in all black walked towards the store?

3 A. It does.

4 MR. GAISER: Your Honor, I object to the
5 speculation unless this witness had some --

6 THE COURT: Sustained.

7 Q. (By Mr. Ramirez) Well, let me ask you: How are
8 you able to conclude that this is the same individual we
9 saw at the other angle?

10 A. The dress of the individual.

11 Q. What about the direction in which that
12 individual was walking in the first video?

13 A. He was walking in the direction of the store.

14 Q. What about the time that's shown on the first
15 video and the time shown on this video?

16 A. It correlates with the original time.

17 Q. As that first video progresses, do you see the
18 individual in the black clothing walking back to the
19 car?

20 A. Yes, you do.

21 Q. That concludes State's 272.

22 Officer Miller, after you were unsuccessful
23 in getting an arrest warrant for unnamed individuals,
24 did you come to find out a few days later that Teddrick
25 Batiste had been arrested yet again?

1 A. Yes, I did.

2 Q. And on what date was that?

3 A. Sunday, April 19th.

4 Q. On that date after Mr. Batiste's arrest, were
5 you able to meet with him?

6 A. Yes, I was.

7 Q. Where did you meet with him?

8 A. Harris County Homicide.

9 Q. Where was that --

10 MR. GAISER: Your Honor, may we approach
11 the bench?

12 THE COURT: You may.

13 (At the Bench, on the record)

14 MR. GAISER: Judge, I don't know this for a
15 fact, but I anticipate that the State will attempt to
16 show that after meeting with Mr. Batiste they go looking
17 for Mr. Thompson and that is indirectly going into
18 precisely what the argument was relative to statements
19 from Mr. Batiste leading to Mr. Thompson. And I am
20 very -- I object strenuously because it puts his
21 statement in front of the jury indirectly.

22 MR. RAMIREZ: I disagree. I'm not going to
23 get into what Batiste told him. I have been walking
24 this officer through his testimony chronologically from
25 the moment he was assigned the case to each step of

1 progress in the investigation. I anticipate that -- and
2 we're talking about Mr. Batiste because he is connected
3 to this crime and his name -- in all likelihood, there
4 will be a parties charge, we're going to ask for one.
5 I'm not going to get into what he told the officers, but
6 I can certainly talk about what the officer did
7 sequentially in his investigation.

8 I mean, it's unavoidable after this point
9 in his investigation. You know, Thompson was filed on,
10 there was an arrest warrant outstanding for him. He was
11 later arrested and charged. How do we avoid getting
12 into that? I mean, that's part of the case. So, no,
13 I'm not going to talk about what Batiste told the
14 officers, but I can certainly talk about what the
15 officers did in the course of the investigation.

16 MR. GAISER: Why is it necessary to show
17 that they talked to Batiste? Please explain that.

18 THE COURT: I'm sorry?

19 MR. GAISER: Why is it necessary to show
20 that they talked to Batiste?

21 THE COURT: Why?

22 MR. RAMIREZ: Well, it explains what he did
23 in his investigation. I'm not going to get in what they
24 said or what was told to them.

25 MR. GAISER: No, but the implication is he

1 said something about Thompson that leads him to Thompson
2 as opposed to identifying him.

3 MR. RAMIREZ: Not necessarily. At this
4 point he already knows that --

5 MR. GAISER: Can we have the jury taken
6 out, please?

7 (Open court, defendant and jury present)

8 THE COURT: Step back into the indoor
9 plumbing for a little bit.

10 (Open court, no jury, defendant present)

11 THE COURT: Okay.

12 MR. GAISER: Judge, my concern is that the
13 State is going to indirectly get into the very matter
14 that we discussed prior to trial; that is, statements of
15 Mr. Batiste that implicate Mr. Thompson. And by
16 allowing this officer to testify that he met with
17 Mr. Batiste and thereafter my client becomes a suspect
18 and they go look for my client indicates to the jury
19 that it was Mr. Batiste that implicated him, which is
20 the very thing that the Bruton (phonetic) case and
21 Crawford v. Washington are designed to protect against;
22 that by indirectly allowing them to show the jury that
23 in some manner Mr. Batiste implicated Mr. Thompson
24 violates his rights both as to hearsay and to the
25 confrontation of Mr. Batiste.

1 MR. RAMIREZ: I disagree -- sorry.

2 MR. GAISER: There are certainly other ways
3 to go about this. It's already before the jury that
4 Mr. Thompson was identified and that there's -- it
5 certainly serves no purpose to have them know that
6 Mr. Thompson made a statement or that he met with
7 Mr. Thompson and thereafter went out looking for
8 Mr. Thompson or anything of that nature that implies
9 that somehow Mr. Batiste implicated Mr. Thompson.

10 MR. RAMIREZ: I disagree with counsel. I
11 think maybe I can clear this up by asking the officer an
12 additional question or two. I think his testimony would
13 be that they were already interested in Leon Thompson.
14 They just didn't have him or know where he was. And it
15 so happens Mr. Batiste fell into their lap. I'm not
16 trying to suggest to the jury in any way that as a
17 result of what Mr. Batiste told the officers they
18 therefore went out and started looking for Mr. Thompson.

19 THE COURT: You're walking a tightrope,
20 aren't you?

21 MR. RAMIREZ: I think -- I agree. And I
22 think maybe it depends on how questions are phrased and
23 what is argued later in the case. I'm not going to
24 argue to this jury that based upon what Mr. Batiste told
25 the officers that they then went out and tried to arrest

1 Mr. Thompson. I think they were already interested in
2 him, but I think I'm certainly allowed to have the
3 officer testify as to what he did in his investigation
4 sequentially.

5 THE COURT: There's no doubt about that.

6 MR. RAMIREZ: As I've been doing
7 sequentially throughout his whole testimony.

8 THE COURT: Mr. Gaiser.

9 MR. RAMIREZ: Well, if I may propose maybe
10 a solution that would satisfy the defense. You know,
11 all I intend to elicit from the investigator is that he
12 met with Mr. Batiste. And then after that, he went over
13 to Ms. Solis' residence and obtained additional
14 property. And that following that, he filed charges
15 both on Mr. Batiste and the defendant. I mean, that's
16 unavoidable.

17 MR. GAISER: That's all been elicited. I
18 have no objection to that. He met with them and then
19 went to the apartment where Batiste claimed to live with
20 his girlfriend or common-law wife, whatever she was. I
21 have no objection to that.

22 MR. RAMIREZ: I'm not going to, for
23 instance, ask the question: As a result of what
24 Mr. Batiste told you, did you then go file a charge on
25 Mr. Thompson. Because I agree, if I phrased the

1 question that way, then it would imply that Batiste had
2 incriminated Thompson. So, I think I have to get into
3 this to make sense of it all, but my intent is not to
4 tell the jury indirectly that Batiste incriminated
5 Thompson in what he told them.

6 MR. GAISER: If that's all that's going to
7 happen, I have no objection.

8 THE COURT: Let's do it. All right.

9 (Open court, jury and defendant present)

10 THE COURT: Be seated, please.

11 You may proceed.

12 Q. (By Mr. Ramirez) Investigator Miller, I believe
13 where we left off was you had testified that after
14 Batiste had been arrested by another agency, you met
15 with him. Is that right?

16 A. That's correct.

17 Q. What was the other agency that arrested him?

18 A. Harris County Homicide.

19 Q. And so, you met with Batiste at Lockwood; is
20 that right?

21 A. That's correct.

22 Q. Following your meeting with Batiste at
23 Lockwood, did you then go visit any particular
24 residence?

25 A. Yes, we did.

1 Q. Whose residence did you go to?

2 A. Stephanie Solis' residence.

3 Q. And who did you understand Ms. Solis to be?

4 A. The girlfriend, common-law wife of Teddrick
5 Batiste.

6 Q. Why did you go there?

7 A. Because that's where he lived.

8 Q. Okay. When you got there, did you make any
9 requests of her?

10 A. Yes, I did.

11 Q. What did you ask her?

12 A. I asked her permission if we could look around
13 inside of her apartment.

14 Q. Was she willing to give you permission?

15 A. She was.

16 Q. Did you make it clear to Ms. Solis she was not
17 required to allow you to search her residence?

18 A. I did.

19 Q. Okay. And understanding that did she,
20 nonetheless, agree to let you search the premises?

21 A. She did.

22 Q. What were the premises, by the way?

23 A. It's an apartment complex on Ella.

24 MR. RAMIREZ: May I approach the witness,
25 Your Honor?

1 THE COURT: You may.

2 Q. (By Mr. Ramirez) I want to show you what's been
3 marked for identification purposes as State's Exhibit
4 No. 273. Do you recognize this (indicating)?

5 A. I do.

6 Q. What is 273?

7 A. It's a voluntary consent for search and seizure
8 document.

9 Q. Is it dated?

10 A. It is.

11 Q. What is the date?

12 A. April 19th, 2009, 7:40 p.m.

13 Q. Okay. Is this the document in which Ms. Solis
14 memorialized, so to speak, her permission for you to
15 search her residence?

16 A. Yes, it is.

17 Q. Was it witnessed by another officer?

18 A. Yes, it was.

19 MR. RAMIREZ: Move to introduce State's
20 Exhibit No. 273, Your Honor.

21 (State's Exhibit No. 273 Offered)

22 MR. GAISER: No objection other than my
23 previous motion.

24 THE COURT: Admitted.

25 (State's Exhibit No. 273 Admitted)

1 Q. (By Mr. Ramirez) Officer Miller, having gotten
2 Ms. Solis' consent to look inside the apartment, did you
3 then look around?

4 A. Yes, we did.

5 Q. Did you find anything that was of interest to
6 you?

7 A. Yes, we did.

8 Q. What did you find?

9 A. Two backpacks.

10 Q. Okay. And why were the backpacks of interest
11 to you?

12 A. She -- Ms. Solis -- told us they belonged to
13 the defendant.

14 Q. The defendant meaning?

15 A. Leon Thompson.

16 Q. Leon Thompson, the defendant in this case.

17 Okay. So, knowing that the backpacks
18 belonged to Leon Thompson, what did you do?

19 A. We picked them up and looked through them and
20 seized them.

21 Q. Did you do a detailed check-through of them
22 while you were there or a cursory check?

23 A. Just a cursory check.

24 Q. From your cursory check, what did most of the
25 contents of the backpack seem to be?

1 A. Clothing items, with miscellaneous pockets full
2 of other items.

3 Q. All right. Did you do a more full examination
4 elsewhere?

5 A. I did.

6 Q. Where was that?

7 A. Before we admitted it into the property room.

8 Q. When you did your fuller examination, did you
9 find anything of interest to you?

10 A. I did.

11 Q. What was that?

12 A. A photo storage card for a digital camera.

13 Q. A memory card?

14 A. Memory card.

15 Q. Okay. You found a memory card for a digital
16 camera. Did you find a digital camera in there or not?

17 A. No, we did not.

18 Q. What type of memory card was it, if you know?

19 A. I don't have the exact make of it.

20 Q. Okay. Nonetheless, did you have the capability
21 to check to see if there were any files on that memory
22 card?

23 A. Yes, I did.

24 Q. Where did you do that?

25 A. In my office.

1 Q. Okay. Were you able to look on the card or
2 download the files on the card?

3 A. I was.

4 Q. Okay. And when you did that, what were they?

5 A. Photos, multiple photos.

6 Q. Did you print out those photos?

7 A. I did.

8 Q. Did you later share those photos with the
9 district attorney's office?

10 A. Yes, I did.

11 Q. Did you see anyone in the photos that you
12 recognized?

13 A. Yes, I did.

14 Q. Who was that?

15 A. The defendant, Thompson.

16 Q. The defendant in this case?

17 A. Yes.

18 MR. RAMIREZ: May I approach the witness,
19 Your Honor?

20 THE COURT: You may.

21 Q. (By Mr. Ramirez) I want to hand you for
22 identification purposes a series of photographs marked
23 State's Exhibits 320, 321, 323, 324, 325, 326, 328, 329,
24 and 330. Do you recognize these photographs,
25 Investigator Miller (indicating)?

1 A. I do.

2 Q. How do you recognize them?

3 A. As photos on the memory card of the camera --
4 or the memory card.

5 Q. Okay. And do these fairly and accurately
6 depict -- are they exact copies, as best you can tell,
7 of the digital files on that memory card?

8 A. Yes, they are.

9 MR. RAMIREZ: Your Honor, at this time I
10 move to introduce State's Exhibit No. 320, 321, 323,
11 324, 325, 326, 328, 329, and 330, and tender to defense
12 counsel.

13 **(State's Exhibit No. 320, 321, 323 through**
14 **326, 328 through 330 Offered)**

15 MR. GAISER: Can we approach?

16 THE COURT: You may.

17 (At the Bench, on the record)

18 MR. GAISER: As to 320, 321, 323, 325, and
19 326, other than my previously laid objections, I have no
20 objection to those. As to 328, 329, 330 -- pardon me.
21 Let me start again.

22 324, 328, 329, and 330, I object under Rule
23 402 that they have no relevance to this case. And I
24 object under 403 that any probative value they might
25 have is outweighed by -- substantially outweighed by the

1 likelihood of prejudice.

2 THE COURT: May I see them?

3 MR. RAMIREZ: Certainly.

4 THE COURT: Explain the prejudicial value.

5 MR. GAISER: The latter ones that just show
6 an individual in a car are Mr. Batiste. You know, just
7 because my client is associated with Mr. Batiste, the
8 State intends to use that as some sort of incriminating
9 fact; that they have no probative value other than to
10 show he knew Batiste.

11 MR. RAMIREZ: Well, that is the probative
12 value in and of itself. This is a crime that the
13 defendant committed with Batiste. He has been in the
14 company of Mr. Batiste on numerous occasions and he is
15 taking pictures of Mr. Batiste using whatever camera he
16 obtained and they're on his memory card.

17 THE COURT: Admitted over objection.

18 MR. RAMIREZ: Now, Judge he did -- 24?

19 MR. GAISER: Yes.

20 MR. RAMIREZ: I'll withdraw this one. I'll
21 withdraw that.

22 (Open court, defendant and jury present)

23 MR. RAMIREZ: Judge, I'm withdrawing the
24 offer of State's 324.

25 So, for the record, 320, 321, 323, 325,

1 326, 328, 329, and 330 are admitted?

2 THE COURT: Admitted over objection.

3 (State's Exhibit No. 320, 321, 323, 325,
4 326, 328 through 330 Admitted)

5 Q. (By Mr. Ramirez) Let me ask you one additional
6 question pertaining to 328, 329, and 330. Do they show
7 an individual driving a particular car (indicating)?

8 A. Yes, it does.

9 Q. Who does that individual appear to be?

10 A. Teddrick Batiste.

11 MR. RAMIREZ: May I publish these
12 photographs on the screen for the jury, Your Honor?

13 THE COURT: You may.

14 Q. (By Mr. Ramirez) Looking first at State's
15 Exhibit No. 320, can you show the members of the jury
16 what this photograph depicts (indicating)?

17 A. The defendant, Leon Thompson, holding a pistol.

18 Q. The pistol that he's holding, does it appear to
19 be similar to the Steyr pistol that you had obtained
20 from the property room of Precinct 4?

21 A. Yes, it does.

22 Q. And that has been identified, but not admitted
23 at this point, as State's Exhibit No. 278?

24 A. Yes, it does.

25 Q. What type of weapon does this appear to be?

1 A. A 9-millimeter.

2 Q. In this photograph can you tell the members of
3 the jury -- describe for the record, because it's
4 obvious to the jury, does the defendant have anything
5 around his neck (indicating)?

6 A. He does.

7 Q. What is that?

8 A. A blue bandana.

9 Q. Are there a number of tattoos on the
10 defendant's body?

11 A. There are.

12 Q. And focusing in on this one that is on his
13 right arm, can you make that out (indicating)?

14 A. I can.

15 Q. What is it?

16 A. L-E and the number three, Le Three.

17 Q. Is that your understanding what his nickname
18 was, Le Three?

19 A. Yes, it is.

20 Q. Looking next at State's Exhibit No. 321, what
21 is shown in this photograph (indicating)?

22 A. The defendant Thompson with the same handgun,
23 arm extended pointing the handgun.

24 Q. And, again, does he have the blue bandana
25 around his neck?

1 A. Yes, he does.

2 Q. Does that appear to be the same weapon that
3 he's holding in his hand that we saw in 320?

4 A. It does.

5 Q. And that you recovered from the Precinct 4
6 property room?

7 A. It does.

8 Q. Looking at 323, what is shown in this photo
9 (indicating)?

10 A. The defendant Thompson with a blue bandana
11 posed over a table with a handgun on top of the table.

12 Q. Are there any other items on top of the table
13 next to the handgun?

14 A. Yes. Cash and a cup of Teddy Grahams and a
15 lighter.

16 Q. Looking at this weapon, what type of weapon
17 does it appear to be (indicating)?

18 A. Looks like a -- to me looks like a .38
19 revolver.

20 Q. A revolver as opposed to a semiautomatic?

21 A. That's correct.

22 Q. Looking at State's Exhibit No. 325, again, one
23 of the photos that was found on the SD card in
24 Mr. Thompson's belongings, right (indicating)?

25 A. Yes.

1 Q. What is seen here (indicating)?

2 A. Baseball cap, Teddy Grahams, 100-dollar bills,
3 a number of them, the revolver that appears to be a .38,
4 and it appears to be the 9-millimeter pistol
5 semiautomatic.

6 Q. Moving to State's 326. What is shown in this
7 photograph (indicating)?

8 A. The 9-millimeter pistol on its side.

9 Q. State's Exhibit No. 328 shows what individual
10 (indicating)?

11 A. Teddrick Batiste.

12 Q. What is Batiste doing in this photograph?

13 A. He appears to be indicating with his left hand
14 and I believe that's a cell phone in his right hand.

15 Q. Where is he seated?

16 A. In the driver's side of his vehicle.

17 Q. Looking at the interior of this vehicle, does
18 it appear to be consistent with the vehicle you
19 described as being used in the offense and later seen at
20 the Raceway?

21 A. Yes, it does.

22 Q. Looking at 329, who is this individual
23 (indicating)?

24 A. Teddrick Batiste.

25 Q. And 330 (indicating)?

1 A. Teddrick Batiste.

2 Q. Now, Investigator Miller, having arrested
3 Teddrick Batiste, were you wanting to see if any of the
4 witnesses from the Black Widow offense would be able to
5 recognize Teddrick Batiste?

6 A. Yes, we were.

7 Q. So, what did you do in order to find that out?

8 A. Conducted a live lineup.

9 Q. What is a live lineup?

10 A. We have individuals stand and it's actually in
11 person behind -- similar to what they do in the
12 movies -- behind a window and they view the individuals
13 that walk out in front of them to see if they can
14 identify anybody they saw from the robbery/homicide.

15 Q. Where was this lineup conducted?

16 A. 49 Jacinto.

17 Q. A facility run by the Harris County Sheriff's
18 Department?

19 A. Yes, it is.

20 Q. Did you participate in selecting the
21 individuals to stand in the lineup with Mr. Batiste?

22 A. Yes, I did.

23 Q. When you select individuals to stand with a
24 suspect that you have, what considerations do you have?

25 A. Of course similar height, weight, and race,

1 very important. Just overall characteristics. Nobody
2 that sticks out. Everybody has to look the same.

3 Q. Why do you want the other individuals standing
4 with the suspect to have the same general
5 characteristics?

6 A. To give a witness an option. If they're at all
7 uncomfortable with selecting one person over another for
8 fear of picking the wrong person, they won't. We want a
9 positive I.D.

10 Q. Do you also try not to make it obvious to a
11 particular witness who you suspect might have been
12 involved in an offense?

13 A. Of course.

14 Q. And so, the lineup held with Mr. Batiste, who
15 was present to view the lineup on that day?

16 A. Christie Ingram, Anthony Moore.

17 Q. By the way, what day was the lineup held?

18 A. Monday, April 20th.

19 Q. This would have been the day after Mr. Batiste
20 was arrested?

21 A. That's correct.

22 Q. And did you give any instructions to Mr. Moore
23 and Ms. Ingram as they were to view the lineup?

24 A. Yes, I did.

25 Q. What were the instructions that you gave them?

1 A. It's the standard admonishment that I provide
2 telling the person the individual present in the robbery
3 may or may not be in the lineup and they're under no
4 obligation to select any one person. If they don't see
5 the person that was there, to not select anybody.

6 Q. To the best of your knowledge, did they follow
7 those instructions?

8 A. Yes, they did.

9 Q. Where were you physically as Ms. Ingram and
10 Mr. Moore were watching the lineup?

11 A. In the room with Ms. Ingram and Mr. Moore.

12 Q. So, you were there with them?

13 A. Yes, I was.

14 Q. Did you verify, in fact, that they followed
15 your instructions?

16 A. Yes, I did.

17 Q. Did they communicate at all between themselves
18 while they watched this?

19 A. No, they did.

20 Q. At the conclusion of the lineup, what did you
21 do?

22 A. Pulled one out individually and asked -- I
23 believe it was Ms. Ingram first -- if she did, in fact,
24 identify anybody. After she was done, then I dealt with
25 Mr. Moore.

1 Q. With respect to Ms. Ingram, was she able to
2 make any identification out of the lineup?

3 A. She was.

4 Q. Who did she identify?

5 A. Teddrick Batiste.

6 Q. And then you spoke to Mr. Moore separately?

7 A. Yes, I did.

8 Q. With respect to Mr. Moore, was he able to
9 identify anybody out of the lineup?

10 A. Yes, he was.

11 Q. Who was that?

12 A. Teddrick Batiste.

13 Q. Now, you obviously had Teddrick Batiste in
14 custody and you were able to put him in a live lineup
15 with live bodies. At that point, on April 20th, did you
16 know where Leon Thompson was or not?

17 A. No, we did.

18 Q. Okay. Were you wanting to show his photograph
19 at least to the witnesses in the case to see if they
20 would be able to recognize him from the offense?

21 A. Yes, we were.

22 Q. So, what did you do in order to facilitate
23 that?

24 A. We constructed, when a person is not in
25 custody, what we call a six-pack; three photos on the

1 top, three photos on the bottom with the defendant
2 Thompson in one of the photos and present it to the
3 witnesses.

4 Q. And typically -- typically -- not in all cases,
5 but, typically, where do you get the photographs of the
6 people that you want to put in a photospread?

7 A. Where do we get the photographs?

8 Q. Yes.

9 A. From a standard database.

10 Q. Okay. Do they sometimes include driver's
11 license photos?

12 A. Yes, they do.

13 Q. Booking photos?

14 A. That's correct.

15 Q. What considerations go into you selecting other
16 photos to put in the photospread with a suspect?

17 A. We deal with, once again, the issue of race;
18 make sure that everybody is of the same race and their
19 physical facial characteristics are the same. We don't
20 want anybody to stick out or anybody's eyes to be drawn
21 to one person in particular.

22 Q. Okay. Would you put a photospread together
23 with one guy with a big bushy beard and the others
24 clean-shaven?

25 A. No, you would not.

1 Q. Do you try to make it so they all have the same
2 general characteristics?

3 A. That's correct.

4 Q. In the photo you had or were using at that time
5 of Mr. Thompson, did he have any markings on his face?

6 A. He did.

7 Q. What markings did he have on his face in the
8 photo that you used?

9 A. Teardrops.

10 Q. Okay. Teardrop --

11 A. Above his left eye.

12 Q. Okay. And so, knowing that, did that -- did
13 that guide you in selecting other photographs to put in
14 the photospread?

15 A. Certainly. We had to find other photos with
16 individuals appearing similar to him with teardrops
17 above the same eye.

18 Q. So, is it safe to say that the other
19 individuals in the photospread you put together of
20 Mr. Thompson were African-American males such as he?

21 A. Yes, that's correct.

22 Q. With tattoos near his eyes?

23 A. That's correct.

24 Q. Teardrop tattoos?

25 A. Correct.

1 Q. Having put the photospread together, did you
2 show it to Mr. Moore and Ms. Ingram separately?

3 A. I did.

4 Q. Did you give them the same type of instructions
5 you had given them for the lineup?

6 A. Absolutely the same admonishments.

7 Q. Did you talk to them separately after they
8 viewed it?

9 A. Yes, I did.

10 Q. With respect to Ms. Ingram, was she able to
11 make an identification of anyone in that set of
12 photographs that contained Mr. Thompson's photograph?

13 A. No, she was not.

14 Q. With respect to Mr. Moore, was he able to make
15 any identifications out of that set of photographs that
16 contained Mr. Thompson's photographs?

17 A. No, he was not.

18 Q. Now, we've been talking about Mr. Moore and
19 Ms. Ingram. Was Joshua Norsworthy available on that
20 same date to participate in the lineup?

21 A. No, he was not.

22 Q. So, what did you do so that you could later
23 show him the same individuals that were in the lineup?

24 A. Videotaped the lineup to display it to him
25 later.

1 Q. Did you get to show Mr. Norsworthy the
2 videotape of the lineup at some point?

3 A. I did on Friday the 24th.

4 Q. So, about four days later after the live lineup
5 was held --

6 A. That's correct.

7 Q. -- he came in and met with you?

8 A. He did.

9 Q. How did you show him the videotape of the
10 lineup?

11 A. Provided him a seat in front of my laptop
12 computer and inserted the video of the live lineup.

13 Q. All right. With respect to Mr. Norsworthy, did
14 you give him any instructions?

15 A. The exact same admonishments, yes.

16 Q. In other words, he was not to assume that the
17 suspect was in the lineup?

18 A. That's correct.

19 Q. He was not under any obligation to identify
20 anyone; is that right?

21 A. That's correct.

22 Q. And when you showed Mr. Norsworthy the lineup,
23 did you notice any reactions as he watched it?

24 A. I did. He made an unusual noise when viewing
25 Mr. Batiste.

1 Q. What do you mean by that?

2 A. He made like a grunt.

3 Q. Did he make that noise when viewing any of the
4 other individuals in the lineup?

5 A. No, he did not.

6 Q. So, after you went -- had gone through the
7 lineup once or watched the lineup once with
8 Mr. Norsworthy, did he have any requests of you?

9 A. He wanted to watch it a second time.

10 Q. And as he watched it the second time, did you
11 notice whether he had any reactions as he watched it?

12 A. Almost the exact same reaction when Mr. Batiste
13 was center-stage, he grunted once more.

14 Q. After he viewed it a second time, did he view
15 it again at all or not?

16 A. No, he did not.

17 Q. At that point, what did you ask him?

18 A. If he recognized anybody in the video.

19 Q. What did he tell you?

20 A. He selected Mr. Batiste.

21 Q. Did he say anything about his identification of
22 Mr. Batiste?

23 A. I believe he just said it was the person in the
24 number two order and that was Mr. Batiste.

25 Q. Okay. Now, having shown him the live -- or the

1 videotape of the lineup, did you want to show him the
2 same set of photographs you had shown Christie Ingram
3 and Anthony Moore?

4 A. Yes, I did.

5 Q. So, did you show him the same exact
6 photospread?

7 A. I did.

8 Q. And did you give him instructions regarding
9 viewing the photospread?

10 A. The exact same admonishments, yes, I did.

11 Q. Okay. You told him there was no need to pick
12 anybody out unless he recognized someone?

13 A. That's correct.

14 Q. And he wasn't under any obligation to pick
15 anyone out?

16 A. That's correct.

17 Q. And after viewing the photospread, did you ask
18 him anything?

19 A. Yes. I asked him if he recognized anybody in
20 the photospread.

21 Q. What did Joshua Norsworthy tell you after
22 viewing the photospread?

23 A. He selected the individual in the number three
24 frame, the defendant Thompson, and said: That's him.
25 He's sure it's him.

1 Q. And so, Mr. Norsworthy identified the
2 defendant, Leon Thompson, or a photograph of the
3 defendant, Leon Thompson, in the photospread?

4 A. The photograph of defendant Thompson.

5 Q. Photograph.

6 And did he make a positive identification
7 of the defendant in that photospread?

8 A. Yes, he did.

9 MR. RAMIREZ: May I approach the witness,
10 Your Honor?

11 THE COURT: You may.

12 Q. (By Mr. Ramirez) Let me show you what's been
13 marked for identification purposes as State's Exhibit
14 No. 379. I'll ask you if you recognize that
15 (indicating).

16 A. I do.

17 Q. How do you recognize it?

18 A. It's the photo array we constructed.

19 Q. Including the photograph of the defendant, Leon
20 Thompson?

21 A. Including the photograph of Leon Thompson,
22 that's correct, in the number-three slot.

23 Q. In the number-three position.

24 Looking at the second page stapled to this
25 top page, what is on the second page (indicating)?

1 A. I ask witnesses to print their name. Joshua
2 Norsworthy printed his name, signed underneath it, and
3 dated it underneath that.

4 Q. Signifying that he had identified which number?

5 A. The number-three position as the person
6 involved in the robbery.

7 MR. RAMIREZ: Move to introduce State's
8 Exhibit No. 379.

9 **(State's Exhibit No. 379 Offered)**

10 MR. GAISER: No objection.

11 THE COURT: Admitted.

12 **(State's Exhibit No. 379 Admitted)**

13 MR. RAMIREZ: May I publish this, Your
14 Honor?

15 THE COURT: You may.

16 (Pause)

17 MR. RAMIREZ: Well, I'll publish it by
18 showing the jury, Your Honor.

19 THE COURT: You may.

20 Q. (By Mr. Ramirez) And your testimony is that
21 Mr. Thompson's photograph is in the number-three
22 position in the upper right-hand corner as you look?

23 A. That's correct.

24 (Exhibit published)

25 Q. (By Mr. Ramirez) And looking at the second page

1 beside the number three, has Mr. Norsworthy -- is this
2 showing that he printed his name, signed it, and dated
3 it?

4 A. Yes, it does.

5 MR. RAMIREZ: May I approach the witness,
6 Your Honor?

7 THE COURT: You may.

8 Q. (By Mr. Ramirez) Investigator Miller, let me
9 show you just a few more photographs starting with
10 No. 277, 274, 275, and 276 (indicating).

11 A. Okay.

12 Q. Regarding 276, 275, and 274, do you recognize
13 these photographs (indicating)?

14 A. I do, as Teddrick Batiste's vehicle.

15 Q. Would that be the vehicle you've identified by
16 license plate that had the center part of the hubcap
17 missing on the back passenger side?

18 A. That's correct.

19 MR. RAMIREZ: Move to introduce 274, 275
20 and 276, Your Honor; tender to defense counsel.

21 **(State's Exhibit No. 274 through 276**
22 **Offered)**

23 MR. GAISER: I have no objection, Your
24 Honor.

25 THE COURT: Admitted without objection.

1 **(State's Exhibit No. 274 through 276**
2 **Admitted)**

3 MR. RAMIREZ: Your Honor, may I show the
4 jury 274 and 276?

5 THE COURT: You may.

6 Q. (By Mr. Ramirez) What does 274 show
7 (indicating)?

8 A. Teddrick Batiste's vehicle, the front portion
9 of it.

10 Q. With the license plate?

11 A. Clearly visible, yes.

12 Q. And 276 (indicating).

13 A. The center hubcap that we constantly saw in the
14 videos missing.

15 Q. These appeared to be taken after the vehicle
16 was impounded?

17 A. Yes, that's correct.

18 Q. Earlier we talked about backpacks that you
19 recovered from Ms. Solis' apartment belonging to the
20 defendant, Leon Thompson. You said most of the contents
21 were clothing. Is that right?

22 A. Yes.

23 Q. Can you tell the members of the jury whether
24 any of the clothing in those backpacks was similar to
25 any of the clothing you had seen on the Black Widow

1 surveillance video that showed the car backed in?

2 A. Yes, they were.

3 Q. In what way?

4 A. Similar in color and type of material.

5 Q. The individual that is seen getting into the
6 passenger side, getting in and out of the passenger side
7 when the car is backed in in front of the Black Widow
8 Tattoo Parlor, how was that individual dressed?

9 A. Black short-sleeved shirt, denim pants.

10 Q. Within Mr. Thompson's backpacks, did you find a
11 black T-shirt --

12 A. Yes.

13 Q. -- that looked similar to that one?

14 A. Yes, we did.

15 Q. And did you find some denim pants that looked
16 similar in color to that?

17 A. Yes, I did.

18 Q. Is there any way from the surveillance video to
19 tell whether or not, in fact, they were the same
20 clothing?

21 A. One hundred percent, no.

22 Q. Were they consistent, however?

23 A. Yes, they were.

24 MR. RAMIREZ: I pass the witness, Your
25 Honor.

1 MR. GAISER: Do you want me to start,
2 Judge?

3 THE COURT: Do y'all need a break? No?
4 You may proceed.

5 Oh, she needs a break. If y'all would go
6 back to jury room for a few minutes.

7 (Recess)

8 (Open court, defendant and jury present)

9 THE COURT: Mr. Gaiser, you may proceed.

10 MR. GAISER: Thank you.

11 **CROSS-EXAMINATION**

12 **BY MR. GAISER:**

13 Q. Should I call you Detective Miller,
14 Investigator Miller?

15 A. Officer is fine.

16 Q. So, you and your brother, Todd, were assigned
17 to this case about 6:00 a.m. on the 8th of April, 2009?

18 A. That's correct.

19 Q. So, when you arrived at the scene, I take it
20 that -- with your brother that the Crime Scene Unit had
21 done most of their work or was completed by the time you
22 arrived there?

23 A. Yes, completed and they were gone from the
24 scene.

25 Q. And Detectives Chavez and Carillo had already

1 departed the scene; is that --

2 A. That's correct.

3 Q. You wanted to get a general idea of what the
4 scene was like, I assume?

5 A. That's correct.

6 Q. Did you meet any of the people that had been
7 there or arrived there immediately after the shooting?

8 A. Not at that time, no.

9 Q. Okay. At 6:00 a.m., I assume nothing in that
10 center was open or very little?

11 A. I believe just the massage parlor. I think
12 they're 24 hours.

13 Q. I notice now that center is almost completely
14 deserted. Was it that way back then?

15 A. No. I want to say there was more businesses
16 there back then.

17 Q. And so, you noticed the cameras there at the
18 massage parlor, I take it?

19 A. Yes, sir.

20 Q. And immediately went over there to try to
21 secure whatever evidence they might have; is that right?

22 A. That's correct. Todd Miller went into the
23 massage parlor and talked to them.

24 Q. And you said you had some problems at first?

25 A. That's correct.

1 Q. Had to kind of insist that they turned it over
2 to you or at least started working on it?

3 A. They allowed us to view the footage, but they
4 wouldn't provide us a copy.

5 Q. When you reviewed the footage, did you see the
6 footage from both cameras the first time you looked at
7 it or the first several times, I guess I should say?

8 A. I believe we did.

9 Q. Was it immediately apparent about the matter of
10 the missing hubcap part, was that immediately apparent
11 to you?

12 A. It was.

13 Q. That was something that stood out?

14 A. It did.

15 Q. When was it that you determined that credit
16 cards taken in the robbery had been used at this Raceway
17 station?

18 A. Friday, April 10th.

19 Q. So, it took that long to get the information
20 from the credit card company --

21 A. That's right.

22 Q. -- is that right?

23 And so, you first went out there to the
24 Raceway on that date --

25 A. I did.

1 Q. -- on the 10th and returned and secured the
2 footage that the jury has already seen?

3 A. Yes.

4 Q. The first set?

5 A. That's correct.

6 Q. Received a call the next day that that same
7 vehicle was back at the Raceway?

8 A. That's correct.

9 Q. Okay. And at that time you recovered the
10 second set of footage that the jury has seen?

11 A. That's correct.

12 Q. Along with the footage of this individual
13 wearing a black shirt and denim pants, right? That was
14 the second trip, correct?

15 A. I'm not sure.

16 Q. Okay. The person going up to what looks like a
17 cashier in one of the videos that was shown to the jury,
18 does that -- do you remember that?

19 A. I do.

20 Q. Was that the individual wearing the black
21 T-shirt?

22 A. I believe he was wearing a black T-shirt, yes.

23 Q. And the sort of denim pants?

24 A. I believe so.

25 Q. So, you believed that to be my client,

1 Mr. Thompson?

2 A. Did I identify your client?

3 Q. No. My question is: Do you believe that to
4 have been my client, Mr. Thompson?

5 A. At the Raceway video?

6 Q. Yes, sir.

7 A. I can't really tell who that is.

8 Q. Okay. And that filling station is out on
9 Kuykendahl?

10 A. That's correct.

11 Q. How long a trip is it from the Black Widow
12 Tattoo Parlor out there to the Raceway on Kuykendahl?

13 A. I would guess probably without traffic, 30
14 minutes, give or take.

15 Q. And when you went back the following day to
16 secure that second set of footage from the Raceway --

17 A. Uh-huh.

18 Q. -- that would be when the -- I take it you were
19 supplied with the license plate number?

20 A. The 11th, that's correct.

21 Q. And on that date you, I assume, fairly
22 immediately made an attempt to determine who owned that
23 vehicle or who it was registered to?

24 A. Immediately.

25 Q. Okay. And you then immediately knew who it

1 belonged to or who it was registered to and had an
2 address that same day, correct?

3 A. The last part, I couldn't hear.

4 Q. The same day you obtained the information about
5 the license plate number, you determined who the owner
6 was or who the registered owner was?

7 A. That's correct.

8 Q. And determined an address from that registered
9 owner?

10 A. Yes, that's correct.

11 Q. And set up on that address on the same day?

12 A. I wouldn't say set up on it, no. Went by it,
13 yes.

14 Q. You went by and saw the vehicle?

15 A. Yes, that's correct.

16 Q. At that point, you suspected -- and I take it
17 you saw, when you went by to look at it, that it was
18 missing that hubcap?

19 A. That's correct.

20 Q. And verified your suspicions that that was the
21 vehicle?

22 A. Yes, that's correct.

23 Q. So, you knew the vehicle that you suspected had
24 been used in this homicide was located at that address
25 at that point in time?

1 A. That's correct.

2 Q. Did you keep it under surveillance?

3 A. No, we did not.

4 Q. When did you next see that vehicle?

5 A. When? The very next time I saw the vehicle?

6 Q. Yes, sir.

7 A. Was when we installed a device on it.

8 Q. When was that?

9 A. On April 15th.

10 Q. Is that contained in your report?

11 A. It is.

12 Q. When was that placed in your report?

13 A. We had the order signed on the 14th and the
14 device was placed on the vehicle the night of the 14th
15 late at night, officially the 15th morning.

16 Q. What does that device do?

17 A. Tracks a vehicle.

18 Q. What, with GPS?

19 A. Yes, sir.

20 Q. Satellite tracking?

21 A. That's correct.

22 Q. And you were there when it was installed on the
23 vehicle?

24 A. I was.

25 Q. Who monitored the whereabouts of that vehicle

1 after that point?

2 A. After it was installed?

3 Q. Yes, sir.

4 A. I did.

5 Q. How did you go about monitoring it?

6 A. Laptop computer.

7 Q. Was that a 24-hour day type of --

8 A. Whenever the vehicle moved, we would be
9 notified it was moving.

10 Q. So, on the 19th was the vehicle moving --

11 A. It was.

12 Q. -- on April 19th?

13 And that's the day Mr. Batiste was arrested
14 the second time, correct?

15 A. Yes.

16 Q. He had been arrested with Mr. Thompson back on
17 the 12th, I believe it was?

18 A. The 11th.

19 Q. The 11th?

20 A. Yes, sir.

21 Q. Sorry. Pardon me.

22 He was arrested with my client,
23 Mr. Thompson, on the 11th. And then Mr. Batiste was
24 arrested again on the 19th.

25 A. Yes, that's correct.

1 Q. Were you notified by your computer that the
2 vehicle was on the move on that date?

3 A. Yes, we were.

4 Q. And was somebody following that vehicle?

5 A. Only by the laptop. Not physically.

6 Q. Okay. So, that was the day Mr. Batiste was
7 arrested?

8 A. Yes, that's correct.

9 MR. RAMIREZ: Mr. Gaiser. At this point,
10 can we approach, Your Honor?

11 THE COURT: Sure.

12 (At the Bench, on the record)

13 MR. RAMIREZ: Do you intend to get into
14 what he was arrested for?

15 MR. GAISER: Probably.

16 MR. RAMIREZ: I've ask him if he intends to
17 get into what he was arrested for and I'm not sure
18 that's relevant. So, at this point --

19 MR. GAISER: Well, all the time that
20 Mr. Batiste is doing something with my client is
21 relevant. So, why is it not relevant when Mr. Batiste
22 goes out and commits a crime not with my client, commits
23 a capital murder not with my client?

24 MR. RAMIREZ: Well, was your guy in custody
25 at the time?

1 MR. GAISER: Yeah.

2 MR. RAMIREZ: Well --

3 MR. GAISER: That just proves that
4 Mr. Batiste is totally capable of doing this whole crime
5 by himself.

6 MR. RAMIREZ: That's not an issue whether
7 or not Mr. Batiste can commit a crime without the
8 defendant present, but, you know, if his client was in
9 custody at the time Mr. Batiste's later actions
10 occurred --

11 THE COURT: Where are you going?

12 MR. GAISER: I believe he got out the same
13 day. I'm not sure he was in custody, if the Court will
14 recall.

15 MR. RAMIREZ: Mr. Batiste was arrested in
16 the early morning hours on the 19th is the -- you know,
17 Thompson could not, in all likelihood, be released any
18 sooner.

19 THE COURT: What are you getting at?

20 MR. RAMIREZ: I would urge a motion in
21 limine because I don't think what Batiste was arrested
22 for is relevant.

23 THE COURT: You don't think what's
24 relevant?

25 MR. RAMIREZ: It's a separate offense.

1 THE COURT: It may well be.

2 MR. GAISER: I don't see why it's not
3 relevant.

4 THE COURT: What makes it irrelevant?

5 MR. RAMIREZ: The fact that it doesn't go
6 to answer any issue in this lawsuit, in this offense.

7 MR. GAISER: That Batiste can act alone in
8 committing -- I mean, who was the shooter at this time?

9 MR. RAMIREZ: If that's the point you're
10 trying to make, Batiste was not alone when he committed
11 that other offense. There was another individual with
12 him.

13 MR. GAISER: Who was the other individual?

14 THE COURT: I don't see it. He can ask.

15 MR. RAMIREZ: All right.

16 (Open court, defendant and jury present)

17 THE COURT: All right. You may proceed.

18 Q. (By Mr. Gaiser) And was Mr. Batiste alone or
19 was he with someone when he was arrested on the 19th?

20 A. He was with somebody.

21 Q. Do you know the name of that person?

22 A. No, I do not.

23 Q. Was it officers of the Houston Police
24 Department that arrested him?

25 A. No, it was not.

1 Q. Who arrested him?

2 A. Harris County Sheriff's Department.

3 Q. Was that done at your direction?

4 A. When Batiste was arrested on the 19th?

5 Q. Yes.

6 A. No, it was not.

7 Q. Do you happen to have a photo -- well, let me
8 ask you this. Let me show you what I have marked as
9 Defendant's Exhibit No. 1. It's the only photo I have
10 of Teddrick Batiste shown with a couple of other people.
11 I'll ask you if you recognize this (indicating)?

12 A. It appears to be the same individual I know as
13 Teddrick Batiste, yes.

14 Q. Okay. I've circled it to distinguish it. This
15 is the only photo I have, is what I'm trying to say.
16 Does it fairly and accurately depict Mr. Batiste?

17 A. Yes, there are similarities that are consistent
18 with the photo I have of Teddrick Batiste.

19 **(Defense Exhibit No. 1 Offered)**

20 MR. RAMIREZ: I've seen it, Your Honor. I
21 have no objection.

22 THE COURT: Admitted without objection.

23 **(Defense Exhibit No. 1 Admitted)**

24 MR. GAISER: Thank you.

25 Q. (By Mr. Gaiser) Now, do you know whether or

1 not, say, Christie Ingram ever saw my client in person
2 in a live lineup or some sort of photo demonstration
3 where she would -- might have picked him out or picked
4 someone else out, or was she only shown a photospread?

5 A. I'm sorry. I don't understand.

6 Q. Was my client ever placed in a live lineup?

7 A. Live lineup?

8 Q. Yes, sir.

9 A. No, sir, he was not.

10 Q. Okay. So, the identification that was made of
11 my client was made from a photospread?

12 A. That's correct.

13 Q. And the photospread that's in evidence is
14 State's Exhibit No. 379; is that right?

15 A. That's correct.

16 Q. It was never placed in live lineup for
17 Mr. Norsworthy or Ms. Moore or Mr. Moore?

18 A. That's correct.

19 Q. Now, when you took over the case back on the
20 morning of the 8th, would part of your duties be to
21 determine whether there had been some sort of
22 description given of the robbers?

23 A. Yes, it would.

24 Q. How would you go about doing that?

25 A. Reviewing the witness statements that were

1 collected.

2 Q. And did you do that?

3 A. Yes, I did.

4 Q. Did you have some sort of general description
5 of people?

6 A. Yes, we did.

7 Q. What was the description?

8 A. General was three black males.

9 Q. Was there any description of what they were
10 wearing?

11 A. Certainly. And depending on who you talked to
12 depended on their description of the suspect.

13 Q. How did that go?

14 A. The description provided by Ingram?

15 Q. Yes, sir.

16 A. She described an individual, she said appeared
17 to be about 19 years of age, 5-9 to 5-10, 140 pounds,
18 skinny smooth complexion, black baseball cap, black
19 jumpsuit.

20 Q. Okay. That's one of the -- or does that
21 describe all of them?

22 A. That's one of the individuals she saw.

23 Q. Okay. Did she describe anyone else?

24 A. She did. She described a second male, 19 to
25 20, about 5-9 to 5-10, 155 pounds. She said the second

1 male was of lighter complexion than the first, also with
2 a handgun.

3 Q. Okay. And the third description?

4 A. She didn't provide a third, but Anthony Moore
5 did.

6 Q. What did Mr. Moore say?

7 A. A tall suspect, shorter suspect, bandanas over
8 their face. Second person, black male 5-7 to 5-9, 18 to
9 22 years of age. He guessed 160 to 165 pounds. Again,
10 a black baseball cap. And a black male 17 to 18 years
11 of age, 5-7, 150. He described caramel skin. And a
12 third person -- I'm sorry. I combined, apparently. The
13 third person more described as a black male, 6-1,
14 170 pounds, thin, 21 to 22 years of age with a do-rag
15 covering their face.

16 Q. And Mr. Norsworthy, did he give a description?

17 A. Yes, he did. I'll have to find it. I don't
18 have it at my fingertips.

19 Q. Take your time.

20 MR. GAISER: May I approach the witness,
21 Your Honor?

22 THE COURT: You may.

23 Q. (By Mr. Gaiser) Officer, maybe I can help.

24 A. Page number.

25 Q. The first is 249 at the bottom. And the other

1 one is 274. Assuming your pages are the same as mine.

2 A. 249?

3 Q. Yeah.

4 A. Okay.

5 Q. For the record.

6 A. Mr. Norsworthy described the suspects, all
7 black males. He said they were not real tall. The
8 tallest being possibly 5-8. Norsworthy went on to say
9 he believed the suspects were either teenagers or
10 persons in their early twenties. Said the suspects were
11 wearing all black and two of them had white
12 handkerchiefs covering the area of the face below their
13 nose. One individual was not wearing a handkerchief.
14 Norsworthy stated the uncovered individual appeared to
15 be the leader and was more aggressive than the other
16 suspects. Norsworthy said the first gunshot seemed to
17 startle the suspect near him. I believe that covers the
18 description, unless there's more.

19 Q. I think there's more on the second page.

20 A. Oh, there certainly is.

21 Norsworthy went on to say the suspects
22 appeared to be skinny, two athletic builds. Stated all
23 the suspects were armed with black semiautomatic
24 pistols. The two covered suspects were wearing hoodies
25 or something over their heads. Norsworthy stated the

1 only items he was missing was his phone and his wallet.

2 That's it for his description.

3 Q. All right. Thank you.

4 A. Thank you.

5 Q. So, those are the descriptions you were

6 given --

7 A. That's correct.

8 Q. -- at the time or close after the robbery?

9 A. That's correct.

10 Q. And I believe you tape-recorded your interviews

11 with these witnesses?

12 A. I didn't actually take them. When the scene
13 came in, other investigators that were assigned the
14 primary scene assigned other investigators to interview
15 them.

16 Q. I think Detective McStravick maybe is the one
17 that tape-recorded them.

18 A. He's one of them that took a statement for us.

19 Q. Now, have you worked in the gang squad at all?

20 A. No, I have not.

21 Q. Are you familiar with some of the things that
22 gangs do in pursuit of their criminal activity?

23 A. Yes, I am.

24 Q. Now, these -- these weapons that were found in
25 investigating this case, the 9-millimeter is kind of the

1 choice of the street robberies these days, isn't it?

2 A. It's a very common weapon, yes.

3 Q. Okay. And they circulate among various gangs
4 in the city, don't they?

5 A. They oftentimes do, yes.

6 Q. Now, you, in compiling this photospread, I take
7 it, had no trouble finding six people with tattoos on
8 their face?

9 A. No, it was a little difficult.

10 Q. But that's not an uncommon thing, is it?

11 A. That tattoo specifically, no, it's not that
12 uncommon.

13 Q. Were you ever able to determine where the
14 photos that were found on this memory card, where those
15 photos were taken?

16 A. No, I was not.

17 Q. Would they have been in Ms. Solis' apartment?
18 Did they appear to have been taken there?

19 A. It didn't appear so, no.

20 Q. Did you look to see if that was the case?

21 A. I did.

22 Q. Did you go back to Ms. Solis' apartment?

23 A. We had been in her apartment, yes.

24 Q. Did you go back there after the one time you
25 were there?

1 A. No, I did not.

2 Q. Okay. Now, I may have one more question.

3 (Pause)

4 MR. GAISER: No, I don't. I'll pass the
5 witness, Judge.

6 THE COURT: All right.

7 MR. RAMIREZ: No additional questions at
8 this time, Your Honor.

9 THE COURT: All right. You may step down.
10 Thank you, Officer.

11 Call your next witness.

12 MR. RAMIREZ: State calls Deputy Michael
13 Jones.

14 (Witness sworn)

15 MR. RAMIREZ: May I proceed, Judge?

16 THE COURT: You may.

17 **MICHAEL JONES,**

18 having been first duly sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. RAMIREZ:**

21 Q. Good afternoon, sir. Would you introduce
22 yourself to the jury, please?

23 A. Deputy Michael Jones with Precinct 4 Harris
24 County Constable's Office.

25 Q. Can you pull that microphone down just a little