

Paulo Oliveira - July 15, 2014  
Direct Examination by MS. LONGORIA

1                                   **PAULO OLIVEIRA,**

2       having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4       **BY MS. LONGORIA:**

5           Q       Good afternoon, Deputy.

6           A       Good afternoon.

7           Q       Could you please introduce yourself to the jury?

8           A       Good afternoon. I'm Harris County Deputy Paulo  
9       Oliveira.

10          Q       How are you employed, sir?

11          A       I'm working deputy for Harris County Precinct 5.

12          Q       How long have you held that employment?

13          A       For 16 years 11 months.

14          Q       And what have some of your assignments been with  
15       your precinct throughout the course of your employment?

16          A       Harris County Precinct Patrol through the  
17       divisions of patrol, of course, and the parks division.  
18       Which gives me more direct contact with the public by  
19       patrolling, bicycle patrol and ATV patrols, you know,  
20       patrolling the parks and direct contact with the public.

21          Q       And where is Precinct 5 in Harris County, Texas?  
22       What area of the county are we talking about?

23          A       Precinct 5 is one of the largest areas of Harris  
24       County. We patrol from southwest, west, and northwest of  
25       the county.

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1 Q And are you actually a different entity than the  
2 Harris County Sheriff's Department?

3 A Yes, we are.

4 Q Do you however sometimes have the occasion to  
5 cross paths in working investigations?

6 A Yes, we do.

7 MS. LONGORIA: May I approach the witness,  
8 Your Honor?

9 THE COURT: Yes, ma'am, you may.

10 Q (By Ms. Longoria) I'll show you what has been  
11 marked as Petitioner's Exhibit 142 and ask you if you  
12 recognize that map and the appending photographs?

13 A Yes, I do.

14 Q And that Petitioner's Exhibit 142, do both the  
15 map and two photographs fairly and accurately represent  
16 the location we are going to be talking about your  
17 testimony today?

18 A Absolutely.

19 MS. LONGORIA: Your Honor, Petitioner  
20 tenders Petitioner's Exhibit 142 to defense counsel and  
21 offer into evidence.

22 (Petitioner's Exhibit No. 142 offered)

23 MR. HALPERT: No objection to 142, Your  
24 Honor.

25 THE COURT: 142 admitted without objection.

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1 (Petitioner's Exhibit No. 142 admitted)

2 MS. LONGORIA: Permission to publish copies  
3 to the jury, Your Honor.

4 THE COURT: Yes, ma'am, you may.

5 Q (By Ms. Longoria) Deputy Oliveira, directing  
6 your attention to Petitioner's Exhibit 142, what is the  
7 red location that we see in the center of the map marked  
8 with the bubble, for lack of a better word.

9 A Okay. On the block that is the 7600 Groeschke  
10 would be location where I came in view with the vehicle.

11 Q Okay. And if I could have you pull that  
12 microphone just a little bit closer to you.

13 Now, you said the name of a street  
14 very fast. And I'm I going to ask you to spell it  
15 because I can't pronounce it myself. What is the  
16 name of the street?

17 A Groeschke Road.

18 Q And is that how it appears on the map?  
19 G-R-O-E-S-C-H-K-E?

20 A It is.

21 Q Near that location -- what is near that  
22 location?

23 A It is one of the small airports that we have in  
24 Houston.

25 Q It's not Bush Intercontinental, it's not Houston

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1 Hobby, correct?

2 A That's correct, it is not.

3 Q Would it be characterized as a regional airport?

4 A I would say so.

5 Q And the photographs we see starting with the top  
6 left of Petitioner's Exhibit 142, what are we looking at  
7 in that photograph?

8 A You are looking directly on the northbound.

9 Q And if you continue northbound in that  
10 photograph, which way does the road turn? To your left or  
11 to your right?

12 A It's going -- at this location, it's going to  
13 turn to your right towards Highway 6.

14 Q And if you take the photograph in the bottom of  
15 Petitioner's Exhibit 142, is that a reverse angle?

16 A Yes.

17 Q Okay. Can you see which way the road turns in  
18 that bottom right picture?

19 A Yes.

20 Q And, again, are these reverse photographs of the  
21 same location?

22 A Yes, they are.

23 Q And can you describe to the jury what the road  
24 does? Is it a straight road at this location?

25 A No. That road is -- has -- I would call it a

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1 45-degree angle turn when they meet. It's the same road,  
2 however, it's a straight path that makes a very tight turn  
3 in front of the airport, at the corner of the airport. It  
4 is a 45-degree angle. It's very narrow, very tight.

5 Q And I would like to direct your attention now to  
6 October 20th of 2013 in the midmorning hours of that  
7 Sunday. Were you on patrol?

8 A Yes, I was.

9 Q And where were you patrolling?

10 A Yes, I was.

11 Q Where were you patrolling?

12 A I was on patrol on the north, northwest area.  
13 Which means, I do the complete patrol of the surrounding  
14 areas around the airport, around the parks of Highway 6, et  
15 cetera.

16 Q And as you were driving around the airport  
17 depicted in Petitioner's Exhibit 142, what did you see?

18 A Well, I saw a vehicle that was off the road. It  
19 was off of a ditch into, near by a fence. It seems to me  
20 there was an accident at first.

21 Q And what did you do?

22 A Well, thinking it was an accident, I pulled over  
23 and I checked for a passenger or a driver in the vehicle to  
24 see if he was hurt or what kind of an accident he might  
25 have gotten into.

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1 Q Did you find any passengers in that vehicle?

2 A No. There was no one inside of it.

3 MS. LONGORIA: May I approach the exhibits,  
4 Your Honor?

5 THE COURT: Yes, ma'am.

6 Q (By Ms. Longoria) I will show you what's already  
7 been admitted into evidence as Petitioner's Exhibit 126,  
8 127, 128, 129, and 130, if you can review those  
9 photographs (complies).

10 Do those photographs fairly and  
11 accurately represent the vehicle that you found in  
12 the ditch that morning?

13 A Yes, it does.

14 Q And can you describe to the jury the roadway  
15 that curves at that angle? What's on either side of the  
16 roadway?

17 A Well, on the -- the way it appeared, they were  
18 coming eastbound on the road, attempting to make a  
19 northbound. So, on the left side is the open ground for  
20 the airport, on the ride side is a ditch and a fence that  
21 follows around with the curve going northbound.

22 Q Is that a chain-link fence at that location?

23 A That is a chain-link fence.

24 Q Was that vehicle that appears in Petitioner's  
25 126 in the ditch almost touching the chain-link fence?

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1 A Yes, it was. Yes, it is.

2 Q And when you found there were no passengers in  
3 that vehicle, what did you do next?

4 A When I didn't see anybody around, I tried this  
5 one door to see if it was any kind of blood or anything  
6 like that inside the vehicle in case somebody had actually  
7 caused an accident and were injured, of course, and tried  
8 to walk away to try to get help having no access to a cell  
9 phone.

10 Q And what did you find?

11 A I found there was no blood signs of any kind.  
12 So, I went back to my vehicle.

13 Q And what did you do next?

14 A I went ahead and checked the license plate of the  
15 vehicle.

16 Q And when you checked the license plate to the  
17 vehicle, what did you find?

18 A The check on the vehicle returned -- showed that  
19 it, the vehicle, had been stolen on an ag robbery.

20 Q Now, when you see that kind of display, you find  
21 a vehicle that's been stolen, can you tell what agency had  
22 reported that vehicle stolen?

23 A Yes. It was reported by the sheriff's office.  
24 The Sheriff's Department office. They had reported the  
25 vehicle stolen.

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1 Q And what happened next?

2 A Well, in such situation, is the first thing we do  
3 is another agency, we hold the scene and contact the  
4 immediate supervisor who is in direct investigation with  
5 the robbery that is taking place and the stolen vehicle  
6 which had been reported.

7 Q So, normally, in the course of things, when a  
8 patrol officer responds to an aggravated robbery, it's  
9 assigned to a detective to follow up; is that accurate?

10 A That's accurate.

11 Q And in this case, was there a detective that was  
12 contacted to investigate the aggravated robbery?

13 A I'm sure it was, but it wasn't by me.

14 Q Did a Harris County Sheriff's Deputy respond to  
15 your location?

16 A Yes, they did.

17 Q And was the vehicle recovered and towed from the  
18 scene?

19 A Yes, they did. Yes, it was.

20 Q Did you have the occasion to open the vehicle  
21 and look at any of the contents?

22 A Yes. When I opened the door to see if I could  
23 see any blood or anything, signs of somebody being hurt, I  
24 notice the vehicle had clothes everywhere, old food, empty  
25 bottles -- water bottles that is.



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1 Q Would it be fair to say that the vehicle  
2 appeared in a bit of disarray?

3 A Complete. Complete disarray.

4 Q Complete disarray?

5 A Yes.

6 Q Did the vehicle have any odor to it as you  
7 recall?

8 A I'm sorry?

9 Q Did the vehicle have any odor to it as you  
10 recall?

11 A No. Not any odor specific than mildew. The area  
12 they were at seemed to be a little -- the ground was still  
13 wet and you know the heat had been on it afterwards, but  
14 nothing.

15 MS. LONGORIA: Pass the witness, Your  
16 Honor.

17 THE COURT: Thank you. Cross?

18 MR. HALPERT: I have no questions for  
19 Deputy Oliveira. Thank you for coming down.

20 THE COURT: Can he be excused?

21 MS. LONGORIA: Yes, sir.

22 THE COURT: Thank you Deputy. You're  
23 excused. Call your next.

24 MR. McLEAREN: State calls Deputy Milstead.

25 THE COURT: Milstead?

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1 MR. McLEAREN: Yes, sir.

2 THE COURT: Deputy Milstead.

3 MS. LONGORIA: May we approach the Bench?

4 THE COURT: Yes, ma'am. Uh-huh.

5 (Bench conference, sotto voce discussion)

6 MS. LONGORIA: Judge, Deputy Milstead is  
7 one of the deputies that responded to the -- one of the  
8 deputies that responded to the vacant burglary location.  
9 I expect, pretty quickly, with this testimony, we will be  
10 getting into an extraneous which is the location where  
11 they are arrested.

12 THE COURT: What do you say?

13 MR. HALPERT: Deputy Milstead?

14 THE COURT: He responded to the burglary?

15 MR. HALPERT: Right.

16 MS. LONGORIA: He gets the call.

17 MR. McLEAREN: He was the initial  
18 responding.

19 THE COURT: I can't hear, Steve.

20 MR. HALPERT: Trying to figure out how far  
21 they are going into questioning him. Are you allowing  
22 limited purposes to --

23 THE COURT: I haven't seen otherwise why it  
24 should not come in.

25 MR. HALPERT: Here is the case law right

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1 here --

2 THE COURT: 404(b).

3 MR. HALPERT: -- clearly, we made it an  
4 issue in this case. I think that's very clear. So, in  
5 this case right here in Harris County, Burton v. State --

6 THE COURT: I can't hear you, Steve.

7 MR. HALPERT: Sorry, Judge. Burton v.  
8 State, which is still good law, it talks about if  
9 indemnity becomes an issue, extraneous cases come in only  
10 if they are identical. In other words, a signature  
11 offense, which is detailed right here, that's the only  
12 time an extraneous offense comes in to challenge indemnity  
13 or anything else. Specifically signature, all indemnities  
14 are clearly, none of these are related.

15 THE COURT: It just says extraneous  
16 offenses are so settled, but the offense demonstrates the  
17 offense only in a criminal acts.

18 MR. HALPERT: Right. And in this case, the  
19 guy did another bank robbery that said, I'll use the same  
20 mask and teller and went up to the female. In our case,  
21 there is no similarity in this case right here.

22 MS. LONGORIA: Judge, the Petitioner's  
23 position is that this is the circumstance of his arrest in  
24 the offense evidence of the crime is discovered at that  
25 scene, so that's the relevance.

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1 MR. HALPERT: Well, Judge --

2 THE REPORTER: I can't hear.

3 MR. HALPERT: Sorry, I hate to talk in  
4 front of the jury. They can hear us. You don't have the  
5 white noise thing. That's fine.

6 THE COURT: Somebody hum over there.

7 (laughter)

8 MR. HALPERT: Play your music.

9 THE COURT: I could, but I don't want to do  
10 that.

11 MS. LONGORIA: That's a good idea.

12 THE COURT: It's instant -- it's instant to  
13 their arrest.

14 MR. HALPERT: I understand that. And I  
15 think that --they can talk about being arrested.

16 THE COURT: Why in the world could you not  
17 get that in?

18 MR. HALPERT: They can talk about the  
19 arrest, but as far as what's down at the house, there's no  
20 evidence he has anything to do with that, what's down at  
21 the house.

22 MS. LONGORIA: That's fair. And I don't  
23 intend at this point to go into the extraneous.

24 THE COURT: The underlying offense.

25 MS. LONGORIA: The fact that there is

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1 forced entry into the house is relevant because I think  
2 it's evading.

3 MR. HALPERT: But there is no proof he  
4 broke into the house, Judge. You're allowing them --  
5 that's --

6 THE COURT: State has said forced entry.

7 MR. HALPERT: There is no evidence there  
8 was any forced entry. This is a vacant home. Twenty  
9 people using the place, and it refers to him that he was  
10 somehow involved in that.

11 THE COURT: Do it this way: That's the  
12 place he is arrested, it's not his home, that type of  
13 stuff, that way they don't talk about the burglary of it.  
14 Nothing stolen or anything like that?

15 MR. McLEAREN: Judge, only one thing, the  
16 manner in which he was arrested.

17 THE COURT: The manner in which he was  
18 arrested?

19 MR. McLEAREN: Yes, Your Honor.

20 THE COURT: That's what he is talking  
21 about.

22 MR. HALPERT: No, that's not what he is  
23 talking about. He's talking about when they tried to  
24 pursue him and ran upstairs.

25 THE COURT: And ran in the closet. Well,

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1 you can talk about that.

2 MR. HALPERT: I understand.

3 THE COURT: That's the fact.

4 MR. HALPERT: Are you getting in -- I mean,  
5 the shotguns are found there and both shotguns.

6 MS. LONGORIA: The shotguns were there.

7 THE COURT: You can keep it.

8 MR. HALPERT: Make a copy?

9 THE COURT: No, I don't need it.

10 MR. HALPERT: Okay.

11 THE COURT: Deputy Milstead, did you sign  
12 your name for me?

13 THE WITNESS: Yes, sir.

14 THE COURT: Talk loud enough to hear you in  
15 the far back corner over there.

16 THE WITNESS: Yes, sir.

17 THE COURT: Thank you.

18 **GERALD MILSTEAD,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. MCLEAREN:**

22 Q Deputy Milstead, can you please introduce  
23 yourself to the jury?

24 A I'm Deputy Milstead with the Harris County  
25 Sheriff's Office.