

Terrance O'Neill - August 26, 2014
Direct Examination by Ms. Gaido

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TERRANCE O'NEILL,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

Q. (BY MS. GAIDO) Good morning.

A. Morning, ma'am.

Q. Would you please introduce yourself to our jury?

A. Terrance O'Neill.

Q. And, Officer O'Neill, where are you from originally?

A. Originally from -- in the department?

Q. No, in life.

A. From outside Boston, Massachusetts.

Q. Did you go to school up there?

A. Yes, ma'am, I did.

Q. How did you get down here to Houston?

A. I just moved down for the job.

Q. What job would that be?

A. With the Houston Police Department.

Q. When did you join the Houston Police Department?

A. Approximately five and a half years ago.

Q. What does it mean to join the Houston Police Department? What do you have to do?

A. Our main responsibilities in patrol capacity

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1 are to respond to calls for service, 9-1-1 calls. We
2 take care of all traffic accidents on city roads and
3 basically just respond to any kind of disturbance that
4 may be happening in the area we patrol.

5 Q. The duties that you are describing, are those
6 for someone that is assigned to the Patrol Division?

7 A. Yes, ma'am, that's correct.

8 Q. Before you're assigned to the Patrol Division,
9 is there any sort of training that goes along with being
10 a Houston Police Department officer?

11 A. Yes, ma'am. We go through a six-and-a-half-
12 month police academy.

13 Q. And after the academy, are you put into patrol
14 or some -- another division?

15 A. Usually it's patrol. I started off at the
16 patrol level, yes, ma'am.

17 Q. How long were you on patrol?

18 A. Approximately three and a half years.

19 Q. Can you tell the jury what part of town you
20 patrol?

21 A. I patrol the Sharpstown area, southwest
22 Houston.

23 Q. After finishing your time in patrol, did you
24 go someplace else?

25 A. Yes, ma'am. I'm currently assigned to the

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1 Midwest Divisional Gang Unit.

2 Q. When you say "Midwest," can you tell the jury
3 about what part of town you are looking into?

4 A. That's the Sharpstown area, 59 corridor,
5 Beltway 8, 610 loop, just all in that area.

6 Q. How long have you been with that particular
7 division?

8 A. Approximately a year and a half now.

9 Q. Were you a Houston Police Department officer
10 in that capacity on April 11, 2013?

11 A. Not at that time, I was not. I was still
12 assigned to Midwest Patrol, but I was riding with the
13 Westside Divisional Gang Unit.

14 Q. How long after April 11th did you transfer to
15 that division?

16 A. Less than a month.

17 Q. Is that common to do ride-alongs with the
18 places that you might be interested in or might be about
19 to transfer to?

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

21 Q. Sort of on-the-job training?

22 A. Absolutely, yes, ma'am.

23 Q. Do you recall on April 11, 2013, coming into
24 contact with someone that you now know is named William
25 Columbus Horhn?

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1 A. Yes, ma'am.

2 Q. Do you see that person here in the courtroom
3 today?

4 A. I do.

5 Q. Can you please identify him by an article of
6 clothing that he's wearing?

7 A. He's the gentleman sitting to my right wearing
8 the red shirt.

9 MS. GAIDO: Your Honor, may the record
10 reflect that the witness has identified the defendant?

11 THE COURT: The record will reflect.

12 Q. (BY MS. GAIDO) How did you come into contact
13 with Mr. Horhn that day?

14 A. I was riding in a marked HPD police car and we
15 were advised by Sergeant Wood who was over --

16 MS. MEADOR: Objection as to hearsay.

17 THE COURT: Sustained.

18 Q. (BY MS. GAIDO) Without saying specifically
19 what anyone told you, what was your reason for going
20 to -- well, let me rephrase.

21 Were you dispatched to a location that day?

22 A. No, we weren't, ma'am.

23 Q. Were you called to a location?

24 A. Yes, we were.

25 Q. Would you explain to the jury the difference

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1 between dispatch and being called out?

2 A. Dispatch is through radio communication. It's
3 the 9-1-1 operator. And calls to location can be from
4 another officer.

5 Q. And in this case, you were called?

6 A. Yes, ma'am.

7 Q. Where did you go?

8 A. It was the 3800 block of South Dairy Ashford.

9 Q. What is at that location?

10 A. It's a convenience store/gas station.

11 Q. Is that a location here in Harris County,
12 Texas?

13 A. Yes, it is.

14 Q. What happened when you arrived? What did you
15 see on the scene?

16 A. I observed the defendant with two other males
17 standing in the parking lot of the convenience store.

18 Q. Where were they -- were they standing in
19 relation to anything else?

20 A. They were standing by a vehicle.

21 Q. Do you remember anything about the vehicle?

22 A. I don't recall, no, ma'am.

23 Q. Were they at this point being detained by any
24 law enforcement?

25 A. No, ma'am.

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1 Q. Who was with you when you arrived?

2 A. I was with my partner, Officer Mishka.

3 Q. And what did you do upon arriving?

4 A. Upon arriving, we met with the defendant and
5 we detained him.

6 Q. Can you tell the jury why you detained him?

7 A. We detained him based upon knowledge that he
8 had outstanding warrants for his arrest.

9 Q. When you detain someone for outstanding
10 warrants, is there a policy that you need to verify
11 those warrants?

12 A. That is correct, yes, ma'am.

13 Q. Did you verify those warrants?

14 A. Yes, ma'am.

15 Q. And can you tell the jury exactly how you do
16 that?

17 A. In verifying warrants, our policy is we
18 contact the municipal locations that the warrants are
19 out of. In this case I believe they were out of
20 Montgomery County. But it's verified through our
21 computer system with our dispatcher.

22 Q. Did that happen in this case? Did you verify
23 them?

24 A. Yes, ma'am.

25 Q. Where was the defendant while you were

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1 verifying the warrants?

2 A. The defendant was standing outside our police
3 patrol car.

4 Q. Was he in handcuffs?

5 A. Yes, ma'am.

6 Q. What happened after you verified the warrants?

7 A. After I verified the warrants, I advised the
8 defendant that he was under arrest for the warrants and
9 I conducted a full systematic search of the defendant.

10 Q. Can you tell the jury if the Houston Police
11 Department has a policy regarding searching an
12 individual that has been arrested?

13 A. Yes, ma'am. Our policy states that you will
14 search the entirety of the person, including the
15 contents of pockets and articles found inside those
16 pockets.

17 Q. Who is the -- if you know, what is the
18 reasoning behind that policy?

19 A. The reasoning is to be sure that all the
20 contents inside of the person's clothing belong to he or
21 she.

22 Q. Is there ever a concern that there may be
23 weapons involved?

24 A. Absolutely, yes, ma'am.

25 Q. Could that be another reason for the policy?

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1 A. Yes, ma'am. We do search for, like I said, to
2 make sure that all the identifying information belongs
3 to the person who is under arrest and to be sure that
4 there aren't any weapons or contraband on the
5 individual.

6 Q. Did you search the defendant in this case?

7 A. Yes, ma'am, I did.

8 Q. Can you tell the jury about how you searched
9 him?

10 A. I searched him -- he had his hands behind his
11 back in handcuffs and I just do a full systematic
12 search, which means just go from the belts into the
13 pockets and you just make sure that all the contents
14 inside the pockets are accounted for.

15 Q. Did you in this case search the defendant --
16 well, did the defendant have a wallet on him?

17 A. Yes, ma'am. He had a wallet in his front
18 right pant pocket.

19 Q. Did you obtain that wallet?

20 A. I did, yes, ma'am.

21 Q. And did you search that wallet?

22 A. I did, yes, ma'am.

23 Q. Upon searching the wallet, what did you find,
24 if anything?

25 A. I found an identifier. It was a Visa credit

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1 card, belonging to -- the last name was Pimentel, in the
2 contents of the wallet.

3 MS. GAIDO: Your Honor, may I approach
4 the witness?

5 THE COURT: You may.

6 Q. (BY MS. GAIDO) Officer O'Neill, I'm showing
7 you what's already been marked as State's Exhibit No. 9.
8 Do you recognize State's Exhibit No. 9?

9 A. I do, yes, ma'am.

10 Q. What do you recognize it as?

11 A. I recognize it as the debit card that I found
12 inside the defendant's wallet.

13 Q. Is there writing on State's Exhibit No. 9?

14 A. Yes, ma'am, there is.

15 Q. Is that the same writing that was there
16 April 11, 2013?

17 A. Yes, ma'am.

18 Q. Has it changed in any way?

19 A. No, ma'am.

20 Q. Does it look like State's Exhibit 9 has been
21 altered in any way?

22 A. No, ma'am.

23 Q. What did you do with State's Exhibit No. 9
24 after you retrieved it from the defendant's wallet?

25 A. I went to my patrol car and we went to our

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1 computer system and within our computer system we're
2 able to verify whether or not a name like that is a
3 complainant in possibly a criminal case.

4 Q. We'll come back to that, but speaking
5 specifically about State's Exhibit No. 9.

6 A. Yes, ma'am.

7 Q. Eventually -- what was the end result of what
8 happened to State's Exhibit No. 9? Did you keep it?
9 Did you take it somewhere?

10 A. It was tagged into evidence, yes, ma'am.

11 Q. Can you tell the jury a little bit about
12 tagging into evidence?

13 A. Basically what we do is when we have a piece
14 of evidence that doesn't belong to an arrested party, we
15 have to call the authorizing division, which in this
16 case would be Burglary and Theft, and we tag it into the
17 HPD Property Room off of Washington Avenue.

18 Q. When it's tagged, is it put into a
19 particular -- how does one tag it?

20 A. We have to fill out a department paperwork
21 listing the item and describing it and then it's placed
22 into a sealed envelope in which I sign and date it.

23 Q. Did you tag State's Exhibit No. 9?

24 A. Yes, ma'am, I did.

25 MS. GAIDO: Your Honor, State offers

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1 State's 9 into evidence and tenders to Defense Counsel
2 for objection.

3 MS. MEADOR: I urge my previous
4 objections during the hearing that we've had.

5 THE COURT: Overruled and 9 will be
6 admitted.

7 Q. (BY MS. GAIDO) You told us that after giving
8 State's Exhibit No. 9, you did what? You went back to
9 your vehicle?

10 A. Yes, ma'am.

11 Q. And how did you check -- without saying
12 anything that anyone said in particular, how did you
13 check to see if this card belonged to someone else?

14 A. Yes, ma'am. In our patrol car we have a
15 computer system that allows us to type in any
16 individual's name to verify whether or not that person
17 is a complainant, a witness, a suspect in certain cases.

18 Q. In this case, were you able to find contact
19 information for Marisol Pimentel?

20 A. Yes, ma'am. When I typed in Marisol Pimentel,
21 I observed that she was --

22 MS. MEADOR: Objection to hearsay,
23 anything that he read.

24 MS. GAIDO: Your Honor, without knowing
25 what he's --

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1 THE COURT: Approach for a minute.

2 (At the Bench, on the record.)

3 THE COURT: What exactly is the question
4 and how far are you getting into this?

5 MS. GAIDO: Not far, Your Honor, just
6 establishing that contact was made with an individual
7 and that based on that information, he moved forward.

8 THE COURT: I'll allow that with regard
9 to it.

10 (In open court.)

11 Q. (BY MS. GAIDO) Without saying what anyone
12 said, were you able to make contact with a Marisol
13 Pimentel?

14 A. I was, yes, ma'am.

15 Q. And based on that contact, did you then move
16 forward in your investigation?

17 A. Yes, ma'am, we did.

18 Q. What did you do after making contact with
19 Marisol Pimentel?

20 A. I advised the defendant that he was under
21 arrest.

22 Q. And did the defendant say anything to you?

23 A. No, ma'am.

24 Q. Who else was on the scene with you that day?

25 A. Sergeant Justin Wood, Officer Charles Flora,

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1 Officer Jason Mishka and I believe two or three other
2 members of the Westside Divisional Gang Unit.

3 Q. Did some of those officers continue to have
4 contact with the defendant after you arrested him based
5 on the possession of this card?

6 A. Yes, ma'am.

7 Q. And were you privy to that communication?

8 A. No, ma'am, I was not.

9 Q. And why not? Where were you in relation to
10 the defendant and the other officers?

11 A. I was inside, going inside and out of my
12 patrol vehicle while the defendant was outside of our
13 patrol cars.

14 Q. After tagging State's 9 into evidence, did
15 that conclude your investigation in this particular
16 case?

17 A. Yes, ma'am, it did.

18 MS. GAIDO: Pass the witness, Your Honor.

19 THE COURT: Ms. Meador.

20 MS. MEADOR: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 Q. (BY MS. MEADOR) Officer O'Neill, you said that
23 you are the one who searched Mr. Horhn.

24 A. Yes, ma'am, that's correct.

25 Q. And you found the wallet.

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1 A. Yes, ma'am.

2 Q. You did not find a phone on his person.

3 A. No, ma'am, I did not.

4 Q. And you tagged a card into evidence, right?

5 A. Correct, yes, ma'am.

6 Q. But no wallet has been tagged into evidence.

7 There is no wallet in evidence, correct?

8 A. No, ma'am.

9 Q. And that was released to one of the other
10 gentlemen that he was with that day.

11 A. Correct, yes, ma'am.

12 Q. You said that he was standing around a car?

13 A. Yes, ma'am.

14 Q. With two other people?

15 A. Yes, ma'am.

16 Q. And the car did not belong to him.

17 A. I'm not sure who the car belonged to.

18 Q. Did you run the car through your computer
19 system?

20 A. Yes, ma'am.

21 Q. And it didn't come back as being registered to
22 Mr. Horhn?

23 A. I don't recall who it was registered to.

24 Q. You searched him and said you found a wallet.

25 You did not find any weapons, though?

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1 A. No, ma'am, I did not.

2 MS. MEADOR: Nothing further.

3 THE COURT: Anything else?

4 MS. GAIDO: Not from the State, Your
5 Honor.

6 THE COURT: May this witness be excused?

7 MS. GAIDO: He may.

8 THE COURT: Call your next.

9 MS. GAIDO: Your Honor, the State calls
10 Officer Flora.

11 THE COURT: Ladies and gentlemen, this
12 witness has been sworn outside your presence.

13 **CHARLES FLORA,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 Q. (BY MS. GAIDO) Good morning.

17 A. Good morning.

18 Q. Would you please introduce yourself to the
19 ladies and gentlemen of our jury.

20 A. I'm Officer Charles Flora of the Houston
21 Police Department.

22 Q. Officer Flora, where are you from originally?

23 A. I'm originally from Indianapolis, Indiana.

24 Q. Did you go to high school up there?

25 A. I did, yes.