

Brent Parker - July 14, 2015
Direct Examination by Mr. Vazquez

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BRENT PARKER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. VAZQUEZ:

Q. Good afternoon, Officer Parker. Will you please introduce yourself and spell your name for the record, please?

A. I'm Officer Brent Parker, B-r-e-n-t; Parker, P-a-r-k-e-r.

Q. And you are a police officer?

A. Yes, sir.

Q. And what agency are you employed with?

A. I'm employed by the Houston Police Department.

Q. Are you a certified Texas police officer?

A. Yes, sir.

Q. How long have you been certified as a Texas police officer?

A. I've been certified for two years and approximately a month.

Q. Would you move the mic just a little bit closer to you? Thank you.

Did you have to undergo extensive training to become a police officer?

A. I went through a six-month academy, followed by an F.T.O. program and three months more of probation.

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1 So a full year of training.

2 Q. Okay. And what is your current assignment?

3 A. My current assignment is at north patrol, off
4 of Shepherd, and I work nights.

5 Q. And what's the purpose of your assignment?

6 A. The purpose of my assignment is run calls for
7 service. I perform duties such as traffic control,
8 assaults, disturbances, just run calls for service.

9 Q. And as part of your assignment, are you trained
10 to enforce traffic laws?

11 A. Yes, sir.

12 Q. And have you had any specialized training
13 pertaining to intoxicated drivers?

14 A. We had some specialized training at the
15 academy.

16 Q. And about how long training did you have at the
17 academy?

18 A. It was approximately, I believe, a week long.

19 Q. Have you done any outside training, in field
20 training?

21 A. For intoxicated --

22 Q. For intoxicated drivers.

23 A. No, sir.

24 Q. Are you certified to administer field sobriety
25 tests?

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1 A. Yes, sir.

2 Q. Are you certified to spot intoxicated drivers?

3 A. Yes, sir.

4 Q. And what are some signs of intoxication?

5 A. Red, bloodshot eyes, strong odor of alcoholic
6 beverage on one's breath, poor balance.

7 Q. Now, let me direct your attention to the
8 morning of January 18, 2015. Were you on duty that day?

9 A. Yes, sir.

10 Q. What shift were you working?

11 A. I was working night shift.

12 Q. Did you come into contact with the name of --
13 someone by the name of Jose Garcia?

14 A. Yes, sir, I did.

15 Q. Do you see that person in the courtroom today?

16 A. Yes, sir, I do.

17 Q. Can you please point him out?

18 A. Yes, sir. He's sitting right there
19 (indicating).

20 Q. And can you identify the article of clothing
21 that he's wearing?

22 A. He's got a black jacket on with a striped tie,
23 and he's wearing glasses.

24 Q. Okay. Thank you.

25 MR. VAZQUEZ: Your Honor, I don't think I

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1 need to do it again; but may the record reflect that
2 he's identified the witness?

3 THE COURT: It will reflect that.

4 Q. (BY MR. VAZQUEZ) How did you first come in
5 contact with the defendant?

6 A. We were dispatched to a call up on the north
7 freeway. I believe it was an accident. And Officer
8 Carroll was the primary unit, and me and my partner also
9 checked by on the scene for traffic control.

10 Q. And why would you check on the scene?

11 A. For traffic control, because that time of night
12 or that morning it is dangerous on the freeway, for
13 officer safety.

14 Q. And when you arrived on scene, where was the
15 defendant?

16 A. The defendant was in the back of Officer
17 Carroll's patrol car.

18 Q. And at that point had he been detained?

19 A. He had been detained, yes, sir.

20 Q. What happened once you arrived on scene?

21 A. Once we arrived on scene, my partner, Officer
22 Gillham, got him out of the patrol car. We ended up
23 taking primary on this call because my partner has more
24 specialization in D.W.I. And I observed the defendant
25 getting out of the vehicle and smelling a strong odor of

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1 alcoholic beverage on him, whenever close to him. He
2 had bloodshot eyes. He had slurred speech, and his
3 balance was poor.

4 Q. What is D.W.I.? Please explain to the jury.

5 A. Driving while intoxicated.

6 Q. Thank you. So, you noticed that he evidenced
7 red, bloodshot eyes?

8 A. Yes, sir.

9 Q. Did you notice anything else about his person?

10 A. He also appear to have urinated on his shirt
11 and pants.

12 Q. Did the defendant tell you if he had been
13 drinking?

14 A. He stated that he hadn't been drinking.

15 Q. That he had not?

16 A. That he had not been drinking.

17 Q. Did you ask him whether he had any medical
18 conditions?

19 A. I didn't, but my partner did.

20 Q. And what -- okay. Now, Officer Parker, I want
21 to show you what has been previously admitted State's
22 Exhibit 5. What is that a picture of?

23 A. That is a picture of the Defendant Jose Garcia.

24 Q. On that picture do you notice any signs of
25 injury to his face?

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1 A. I do not observe any signs of injury to his
2 face.

3 Q. Any signs of trauma to his head?

4 A. No, sir.

5 Q. Anything to his nose, mouth, lips?

6 A. No, sir. No signs of trauma on any part of his
7 face.

8 Q. Did you ask the defendant if he had been
9 injured in the accident?

10 A. I did not.

11 Q. If he had been injured in the accident, what,
12 as a police officer, would you have done?

13 MR. GUERRA: Speculation, Your Honor.

14 THE COURT: Overruled.

15 A. I would have -- we would have asked to get an
16 H.F.D. ambulance medic out to the scene to provide
17 medical treatment to the defendant.

18 Q. (BY MR. VAZQUEZ) Okay. Now, you stayed with
19 the defendant the rest of the investigation, correct?

20 A. Yes, sir.

21 Q. And you and your partner were the ones that
22 transported him to the Central Intox?

23 A. Yes, sir, we did.

24 Q. Why did you transport him to Central Intox?

25 A. We transported him to Central Intox to give him

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1 the S.F.S.T.s.

2 Q. What are S.F.S.T.s?

3 A. Standardized field sobriety tests.

4 Q. Did you administer the standardized field
5 sobriety tests?

6 A. I did not.

7 Q. Why not?

8 A. My partner has more -- has more arrests with
9 D.W.I.s, so he performed S.F.S.T.s and Officer Morales
10 also came in and performed some S.F.S.T.s.

11 Q. At any point during your time with the
12 Defendant, did he tell you he needed medical attention?

13 A. No, sir, at no point.

14 Q. At any point did he tell you he had a medical
15 condition?

16 A. He didn't tell me, but I believe he told my
17 partner.

18 Q. At any point did he tell you he was on
19 medication?

20 A. I don't recall.

21 MR. VAZQUEZ: Nothing further, Your Honor.

22 THE COURT: Mr. Guerra.

23 MR. GUERRA: Thank you, Your Honor.

24 **CROSS-EXAMINATION**

25 **BY MR. GUERRA:**

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1 Q. Good afternoon, Officer Parker.

2 A. Good afternoon, sir.

3 Q. Let me ask you a couple of questions, okay?

4 A. Yes, sir.

5 Q. Let me start with your observations. First,
6 you observed, according to your testimony, an odor of
7 alcohol?

8 A. Yes, sir.

9 Q. Along with an odor of urine, correct?

10 A. I observed -- I smelled an odor of urine and
11 observed what appeared to be urine.

12 Q. So smell and observed alcohol and urine?

13 A. Yes, sir.

14 Q. At the same time?

15 A. Not at the same time but a combination of the
16 two.

17 Q. So, it was a combination of the two. You also
18 testified about slurred speech?

19 A. Yes, sir.

20 Q. Before this evening or this early morning, had
21 you ever met Mr. Garcia?

22 A. No, sir, I had never met Mr. Garcia.

23 Q. You had never talked to Mr. Garcia?

24 A. Never talked to Mr. Garcia.

25 Q. You are not familiar with the way he speaks

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1 naturally?

2 A. No, sir.

3 Q. You testified about red eyes?

4 A. Yes, sir.

5 Q. Pointed them out in the picture?

6 A. Yes, sir.

7 Q. Now, before this night had you ever met
8 Mr. Garcia?

9 A. I never met Mr. Garcia before this night.

10 Q. So, you wouldn't be familiar with whether
11 Mr. Garcia naturally had some redness to his eyes?

12 A. No, sir, I would not be.

13 Q. Did Mr. Garcia wear glasses there in that
14 picture?

15 A. In that picture, no, sir, he was not.

16 Q. Is he wearing glasses here today?

17 A. Yes, sir, he is.

18 Q. Where were his glasses?

19 A. I don't know where his glasses were.

20 Q. Now, you -- let me move on to the vehicle
21 itself, okay? You were called out to a major accident,
22 correct?

23 A. Yes, sir.

24 Q. Standard protocol is that E.M.S. be called to
25 major accidents, correct?

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1 A. Yes, sir.

2 Q. They weren't called in this case, correct?

3 A. I don't recall if they were called. I know
4 there was an H.F.D. on scene, a pumper truck; and I
5 believe they can provide medical treatment.

6 Q. Did you observe them provide any treatment to
7 Mr. Garcia?

8 A. I don't recall if they did or not.

9 Q. Okay. So, let's continue on with the vehicle.
10 You observed major damage to the front of the vehicle?

11 A. Major damage to the front, yes, sir.

12 Q. To the side of the vehicle?

13 A. To the right side of the vehicle.

14 Q. Airbags were deployed?

15 A. Yes, sir.

16 Q. And you didn't ask Mr. Garcia if he wanted
17 medical attention?

18 A. No, sir, I didn't ask him. My partner had
19 already asked him.

20 Q. Okay. You didn't ask Mr. Garcia if he had any
21 current medical conditions, correct?

22 A. No, sir, I didn't.

23 Q. You didn't ask him if he was on any
24 prescription or medication, correct?

25 A. No, sir, I didn't.

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1 Q. Now, you've investigated a number of accidents,
2 correct?

3 A. Yes, sir, I have.

4 Q. Major accidents?

5 A. Yes, sir.

6 Q. People who were involved with investigations
7 with the same or even more damage than you saw with
8 Mr. Garcia, correct?

9 A. Yes, sir.

10 Q. Now, have you -- you've investigated those
11 accidents where people suffer concussions, correct?

12 A. I'm not a medical person, but I have worked
13 accidents where they have been injured.

14 Q. Okay.

15 A. I don't know the extent of their injuries
16 but --

17 Q. Sure. Sure. But in those cases, in your
18 discussion, some people after an accident, they are a
19 little groggy, correct?

20 A. Yes, sir.

21 Q. They are unsteady on their feet, correct?

22 A. Yes, sir.

23 Q. Which is the same thing that you observed here
24 with Mr. Garcia, correct?

25 A. Yes, sir.

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1 Q. When you get to the scene, Mr. Garcia is
2 already in the back of Officer Carroll's car, correct?

3 A. Yes, sir.

4 Q. And he was at that time being detained for
5 suspicion, correct?

6 A. Suspicion of intoxication, yes, sir.

7 Q. And his detention was based primarily on
8 Officer Carroll, correct?

9 A. Yes, sir.

10 Q. How soon after Officer Carroll arrived did you
11 and your partner, Officer Gillham, arrive?

12 A. How long did we arrive?

13 Q. Correct.

14 A. I'm going to refer to my report. I don't know
15 the exact time that we arrived. At 2:34 in the morning,
16 but I don't know what time he got there. I'm sure it
17 was just within a few minutes.

18 Q. And it was you and Officer Gillham that
19 transported Jose down to the police station, correct?

20 A. To Central Intox, yes, sir.

21 Q. And no standardized field sobriety tests were
22 performed there at the scene, correct?

23 A. I don't believe they were yet, sir, no, sir.

24 Q. And to be fair to you, you don't have much
25 experience in those kind of tests, correct?

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1 A. I haven't done -- myself, I have not done
2 numerous intoxication tests, no, sir.

3 Q. You've done some before?

4 A. I've done some before, yes, sir.

5 Q. You are familiar with standardized field
6 sobriety tests?

7 A. Yes, sir.

8 Q. Are you aware that these tests could be
9 affected by medical conditions?

10 A. Yes, sir.

11 Q. Are you aware that these tests could be
12 affected by concussions?

13 A. Yes, sir.

14 Q. Are you aware that these tests could be
15 affected by recent head injury?

16 A. Yes, sir.

17 Q. And you are aware that these tests could be
18 affected by -- I will withdraw the question. I already
19 asked you that.

20 So, head injuries can affect field
21 sobriety tests, correct?

22 A. Yes, sir.

23 Q. They can affect someone's balance, correct?

24 A. Yes, sir.

25 Q. As well as prior medical conditions, right?

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1 A. Usually involving the brain, yes, sir.

2 Q. Now, the H.G.N. test, are you familiar with
3 that test?

4 A. Yes, sir.

5 Q. Part of that test -- now, that test could be
6 affected by -- specifically by medical conditions,
7 correct?

8 A. Yes, sir.

9 Q. It could be affected by recent head injuries,
10 correct?

11 A. Yes, sir.

12 Q. Now, these observations that you made on
13 Mr. Garcia, were you by yourself or were you with
14 Officer Gillham, your partner?

15 A. When we first showed up on scene --

16 Q. Yes, sir.

17 A. -- on the freeway? We were all pretty much in
18 the close proximity to each other. So he was near me
19 when he was handcuffing, swapping cuffs from Officer
20 Carroll to his cuffs. We were around together.

21 Q. Let me ask you specifically about that, okay --

22 A. Okay.

23 Q. -- about transporting Mr. Garcia from Officer
24 Carroll's vehicle to you-all's vehicle, all right? So,
25 you-all's vehicles were parked close to each other,

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1 correct?

2 A. We were in proximity, yes, sir.

3 Q. So the observations that you made along with
4 your partner were at the time period it took to
5 transport Mr. Garcia from Officer Carroll's vehicle to
6 your vehicle?

7 A. Yes, sir.

8 Q. A couple seconds, right?

9 A. A little more than a couple seconds. I would
10 think, more or less, a few minutes.

11 Q. It takes you a few minutes to transport
12 Mr. Garcia from one vehicle to another?

13 A. Well, by the time we unbelt him out of Officer
14 Carroll's vehicle, pull him out of the vehicle, then
15 place my partner's cuffs on him and take Officer
16 Carroll's off and then take him over to our vehicle or
17 seatbelt him in our vehicle, it takes about a few
18 minutes.

19 Q. So, a couple minutes; is that correct?

20 A. A few, give or take, yes, sir.

21 Q. All right. Now, how long have you been an
22 officer?

23 A. I've been an officer for two years,
24 approximately, and a month.

25 Q. Now, you obviously take pride in your work,

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1 correct?

2 A. Yes, sir.

3 Q. You pride yourself on being thorough?

4 A. Yes, sir.

5 Q. Being detailed?

6 A. Yes, sir.

7 Q. And being complete?

8 A. Yes, sir.

9 Q. All of the investigations that you do are
10 thorough? You're complete?

11 A. Yes, sir.

12 Q. And you're detailed?

13 A. Yes, sir.

14 Q. And your testimony here today is that you
15 observed Mr. Garcia for about two minutes when you
16 transported him from one vehicle to the other, correct?

17 A. Approximately, yes, sir.

18 MR. GUERRA: Pass the witness.

19 THE COURT: Mr. Vazquez.

20 MR. VAZQUEZ: Thank you, Your Honor.

21 **REDIRECT EXAMINATION**

22 **BY MR. VAZQUEZ:**

23 Q. Officer Carroll -- I'm sorry -- Officer Parker.
24 Wrong witness.

25 A. Yes, sir.

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1 Q. On cross-examination you stated you conducted
2 other accident investigations, correct?

3 A. Yes, sir.

4 Q. And in those accident investigations, you
5 stated that there were sometimes injuries that caused
6 people to appear groggy and off balance and such; is
7 that correct?

8 A. Yes, sir.

9 Q. In any of those investigations not involving a
10 suspected intoxicated driver, did you detect a strong
11 odor of alcohol on anybody's breath?

12 A. Wait. Could you repeat the question?

13 Q. Let me see if I can rephrase it.

14 In your other investigations where people
15 were off balance and such, did that cause -- the
16 accident cause them to have a strong odor of alcohol on
17 their breath?

18 A. No, sir, it didn't.

19 MR. GUERRA: I'm going to object to
20 relevance, Your Honor.

21 THE COURT: Sustained.

22 Q. (BY MR. VAZQUEZ) Are you certified to conduct
23 the H.G.N.?

24 A. Yes, sir.

25 Q. And what is the H.G.N.?

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1 A. The H.G.N. is the horizontal gaze nystagmus
2 test.

3 Q. And defense counsel asked you if head injuries
4 affect the H.G.N.

5 A. Yes, sir, it did -- yes, sir, they do.

6 Q. Now, in the way an H.G.N. is conducted, are
7 there ways to determine if somebody has a head injury?

8 A. Yes, sir.

9 Q. Would the defendant not wearing his glasses
10 affect H.G.N.?

11 A. If he didn't have his glasses on, no, it would
12 not affect his H.G.N. test.

13 MR. VAZQUEZ: Can we have a moment, Your
14 Honor?

15 THE COURT: Yes.

16 Q. (BY MR. VAZQUEZ) Officer Parker, going back to
17 your previous accident investigations, if somebody
18 appeared to be groggy --

19 MR. GUERRA: Object to relevance, Your
20 Honor.

21 THE COURT: Let him finish his question.

22 Q. (BY MR. VAZQUEZ) If someone appeared to be
23 groggy, disoriented, would you immediately detain them
24 for suspicion of intoxication?

25 MR. GUERRA: Objection, relevance.

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1 THE COURT: Overruled. You can go ahead
2 and answer that.

3 A. No, sir, I wouldn't.

4 MR. VAZQUEZ: Nothing further, Your Honor.

5 THE COURT: Mr. Guerra.

6 MR. GUERRA: Just a quick second.

7 Pass the witness, Your Honor.

8 THE COURT: All right. May this witness
9 be excused? Any objections from the State?

10 MR. VAZQUEZ: No, Your Honor.

11 THE COURT: Any from the Defense?

12 MR. GUERRA: No, Your Honor.

13 THE COURT: You are excused. Thank you
14 for coming down.

15 State, call your next witness.

16 MR. VAZQUEZ: State calls Officer Morales.

17 THE COURT: Officer Morales.

18 Good afternoon, Officer Morales. Please
19 raise your right hand.

20 (Oath administered)

21 THE COURT: Thank you, sir. Have a seat.

22 MR. VAZQUEZ: May I proceed, Your Honor?

23 THE COURT: You may proceed.

24 MR. VAZQUEZ: Thank you.
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C. R. MORALES,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. VAZQUEZ:

Q. Good afternoon, Officer Morales.

A. Good afternoon.

Q. Can you please state your name and spell it for the record, please?

A. Christopher Rey Morales, C-h-r-i-s-t-o-p-h-e-r, R-e-y, M-o-r-a-l-e-s.

Q. Thank you. And you are a police officer, correct?

A. Yes, sir, with the City of Houston.

Q. Thank you. And are you certified in the State of Texas?

A. Yes, I am.

Q. How long have you been certified as a police officer?

A. For 13 years now.

Q. And what kind of training did you undergo to become a police officer?

A. We had Houston police academy. Was approximately six months, I believe.

Q. Okay. And what is your current assignment?

A. I am currently assigned to Kingwood Patrol

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1 Station.

2 Q. At the time of the incident what was your
3 assignment?

4 A. I was assigned to the D.W.I. Task Force.

5 Q. And how do you become a member of the D.W.I.
6 Task Force?

7 A. They have an interview process; and once you
8 are selected through the interview, then you will be
9 selected to go to that group.

10 Q. Have you received any specialized training
11 pertaining to intoxicated drivers?

12 A. Yes. While we are at the academy, we get -- we
13 have standardized field sobriety tests that we get
14 trained and certified on.

15 Q. Okay. How about as a member of the D.W.I. Task
16 Force?

17 A. We have continued training while we are there
18 on the Task Force.

19 Q. About how many D.W.I. investigations have you
20 been a part of?

21 A. Over a hundred.

22 Q. And when you detect an intoxicated driver, are
23 you trained to conduct field sobriety evaluations?

24 A. Yes, sir, I am.

25 Q. Are you certified to conduct those evaluations?