

1 MS. MARTINEZ: Could we have a few minutes? It  
2 is going to be the fingerprint expert, Your Honor. Can we have  
3 a few minutes so that they can come from the other building.

4 THE COURT: Okay. Thank you, again, ladies and  
5 gentlemen. I told you it wouldn't be a difficult time. It  
6 would be a rewarding time. And, ladies and gentlemen, if you  
7 would like, why don't y'all come into my office back here.

8 All right. We are back on the record. The jury  
9 has been dismissed and allowed to leave. We are now to the  
10 second phase of the trial, the punishment phase.

11 Ms. Martinez, please call your first witness.

12 MS. MARTINEZ: Yes, Your Honor. Before the  
13 State calls its first witness, we would like to offer all the  
14 evidence entered during the guilt or innocence phase.

15 THE COURT: Any objection?

16 (Evidence Reoffer)

17 MR. ISBELL: No objection, Your Honor.

18 THE COURT: It is admitted without objection.

19 (Evidence Readmitted)

20 MS. MARTINEZ: The State calls Deputy Payavla.

21 DEPUTY PAYAVLA,

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MARTINEZ:**

25 Q. Good afternoon, deputy. Would you state your name

1 for the record.

2 A. My name is Demetre (phonetic) Payavla

3 Q. Can you spell your last name?

4 A. It's P-A-Y-A-V-L-A.

5 Q. And how are you employed?

6 A. I work for the Harris County Sheriff's Office.

7 Q. How long have you worked with the sheriff's office?

8 A. Approximately 22 years.

9 Q. What is your current assignment?

10 A. I work in the crime scene unit at the Lazer printing  
11 exam room.

12 Q. And what are your duties in that assignment?

13 A. Daily duties is to evaluate prints, Lazer prints,  
14 that come in and do comparisons as well as enter the prints  
15 into the system.

16 Q. As far as comparisons of prints, have you done that  
17 comparison in few or many occasions?

18 A. Many.

19 Q. What training and educational background do you have  
20 that allows you to do that type of work?

21 A. I attended the basic FBI Academy, and basic  
22 fingerprints, as well as numerous schools at  
23 Sam Houston State University in the areas of Lazer print  
24 examination, complex Lazer print, as well as palm print and  
25 laden photography.

1 Q. Is it possible to take an unknown fingerprint and  
2 compare it to a known-inked fingerprint to make a positive  
3 identification?

4 A. Yes.

5 Q. Have you ever known two people to have identical  
6 fingerprints?

7 A. No.

8 Q. Did you have an opportunity to take the fingerprints  
9 of an individual here in the courtroom today?

10 A. Yes.

11 Q. Do you see that person in the courtroom?

12 A. Yes, I do.

13 MS. MARTINEZ: Can you, please, point and  
14 identify him by a piece of clothing he is wearing.

15 THE WITNESS: He is sitting to my right, wearing  
16 a gray striped shirt.

17 MS. MARTINEZ: Let the record reflect the  
18 witness has identified the defendant.

19 THE COURT: Would you be more specific?

20 THE WITNESS: A collared, gray, long T-shirt.

21 THE COURT: What race is he?

22 THE WITNESS: He is a black male.

23 THE COURT: Okay. The record will reflect he  
24 has identified Mr. Demetrius Williams.

25 MS. MARTINEZ: May I approach the witness, Your

1 Honor.

2 THE COURT: You may.

3 MS. MARTINEZ: Deputy, I am showing you what has  
4 been premarked as State's Exhibit No, 16.

5 Q. (BY MS. MARTINEZ) Do you recognize this?

6 A. Yes.

7 Q. And what is it?

8 A. It is an ink print that I earlier was able to lift  
9 off the defendant.

10 Q. And since you took that print, do you still see it in  
11 the same or similar circumstance as it was when you first took  
12 the print from the defendant?

13 A. Yes.

14 MS. MARTINEZ: At this time I am tendering to  
15 opposing counsel for any objection, and I will offer it into  
16 evidence.

17 (State's Exhibit 16 offered)

18 MR. ISBELL: I have no objections to that, Your  
19 Honor.

20 THE COURT: Okay. Then it is admitted without  
21 objection.

22 (State's Exhibit 16 admitted)

23 MS. MARTINEZ: Now Officer or Deputy, I am  
24 showing you State's Exhibit Nos. 12, 13, 14, and 15.

25 Q. (BY MS. MARTINEZ) Do you recognize those exhibits?

1 A. Yes.

2 Q. And what are they?

3 A. 12 and 13 are two pen packets, and 14 and 15 are  
4 judgment and sentencing.

5 Q. Do all exhibits 12, 13, 14 and 15 have fingerprints  
6 on them?

7 A. Yes.

8 Q. And were you able to compare that fingerprint, those  
9 fingerprints, found in those exhibits 12, 13, 14 and 15 with  
10 the fingerprint from the defendant reflected on  
11 State's Exhibit No. 16?

12 A. Yes, I was.

13 Q. And based on the comparison on the fingerprints that  
14 you did, were you able to form an opinion whose fingerprints  
15 are the one's on State's Exhibit 12 through 15?

16 A. Yes, I have.

17 Q. What is your opinion?

18 A. They are the same as the defendants.

19 MS. MARTINEZ: Your Honor, at this time I would  
20 like to offer State's Exhibit Nos. 12 through 15. I am  
21 tendering to opposing counsel for any objections.

22 MR. ISBELL: No objection to 13, Your Honor.

23 THE COURT: 13 is admitted without objection.

24 MR. ISBELL: No objection to No. 12, Your Honor.

25 THE COURT: Number 12 is admitted without

1 objection.

2 MR. ISBELL: No objection to 14, Your Honor.

3 THE COURT: State's Exhibit 14 is admitted  
4 without objection. Is that all you had, three?

5 MS. MARTINEZ: One more, Your Honor.

6 MR. ISBELL: I have an objection to part of  
7 Exhibit 15, Your Honor. Attached to this judgment is a copy of  
8 petition to revoke probation. Signed by the district attorney  
9 in Wharton, Texas. I object to that portion in Exhibit 15.

10 THE COURT: Okay.

11 MS. MARTINEZ: And, Your Honor, it is part of  
12 the public record as it is issued by the clerk of that county.  
13 So as a public record, it itself is admitting to evidence, I  
14 guess.

15 THE COURT: Okay. Then, your objection is  
16 overruled. And No. 14 is admitted over objection.

17 MR. ISBELL: It's 15. The last two pages of 15  
18 called "Petition to Revoke Probation," which is an exhibit  
19 attached to the judgment. And I'm objecting to that petition  
20 being in there.

21 MS. MARTINEZ: And just for the record, the  
22 petition does have those pages, does have the stamp from the  
23 district clerk from Wharton, Texas, which makes the document a  
24 public document.

25 THE COURT: Okay. Then, it is admitted.

1 MS. MARTINEZ: Permission to publish the  
2 documents to the Court, Your Honor.

3 THE COURT: Okay. Since you are going to, why  
4 don't you just hand it to me here.

5 MR. ISBELL: Your Honor, just to be on the safe  
6 side to all those exhibits, I didn't see a certified copy -- I  
7 mean, a certification by the district clerk. I see file marks  
8 in which they were filed with the clerk, but I didn't see any  
9 certification. I object to -- what numbers were those?

10 MS. MARTINEZ: 14 and 15?

11 MR. ISBELL: Just three of them?

12 MS. MARTINEZ: It's two judgments, 14 and 15.  
13 And then the pin packets, 12 and 13.

14 MR. ISBELL: On all of those that didn't have  
15 the certification from the district clerk's office that came  
16 from Wharton, Texas, I object to that for lack of  
17 certification.

18 MS. MARTINEZ: It's on the back.

19 THE COURT: There is the location there:  
20 District Clerk of Wharton County on the back of both of those  
21 judgments.

22 MS. MARTINEZ: I pass the witness, Your Honor.

23 THE COURT: All right. Mr. Isbell.

24 MR. ISBELL: I have no questions for him.

25 THE COURT: Okay. Well, thank you very much,