

1 MR. CORNELIUS: No.

2 THE COURT: Okay. You may step
3 down. You're free to go, ma'am.

4 State, call your next.

5 MS. MAGNESS: Judge, may I step out
6 in the hallway to see which of these individuals has
7 arrived?

8 THE COURT: Certainly.

9 Does anybody on the jury need a
10 break? Nope? Good?

11 *(Brief pause.)*

12 MS. MAGNESS: State calls Officer
13 Ridel.

14 THE COURT: All right.

15 Come up, Officer. Please raise
16 your right hand.

17 *(Witness sworn.)*

18 THE COURT: Have a seat, please.

19 You may proceed.

20 MS. MAGNESS: Thank you, Judge.

21 **J. RIDEL,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MS. MAGNESS:**

25 Q. Can you introduce yourself to the jury,

1 please?

2 A. My name is Officer Ridel. I've been
3 with the Houston Police Department for six years. I
4 am currently assigned to the Investigative First
5 Responder Division. Pretty much that is if you have
6 a burglary, your car is broken into, your house is
7 broken into, and there's a good lead, I'll get the
8 case and you only deal with me instead of getting
9 the patrol officer doing the report, sending it to
10 the concerned division and you being contacted at an
11 unknown time. So it's supposed to cut down on it
12 from beginning to end.

13 Q. So, as part of your job duties, are you
14 dispatched to crimes in progress?

15 A. Yes, ma'am.

16 Q. Back in November of 2011, what division
17 were you assigned to?

18 A. The same division, the Investigative
19 First Responder Division.

20 Q. And what area were you responsible for
21 patrolling?

22 A. The southeast side of Houston, 13, 14
23 District. Our main streets there are Martin Luther
24 King, Cullen, Scott, Telephone Road, Airport.

25 Q. And were you riding a single-man unit or

1 did you have a partner?

2 A. I had a partner that day.

3 Q. And what was your partner's name?

4 A. Officer Robles.

5 Q. Let me --

6 MS. MAGNESS: May I approach,
7 Judge?

8 THE COURT: Yes, ma'am.

9 Q. (By Ms. Magness) Obviously that's your
10 district, that's the area you were responsible for
11 patrolling?

12 A. Yes, ma'am.

13 Q. So you are familiar -- you're familiar
14 with the area?

15 A. Yes, ma'am. I trained in that area. I
16 went to West Side and then came back for when I
17 joined IFR.

18 Q. Then I'm going to show you State's
19 Exhibit No. 54. It is a map. And does State's
20 Exhibit 54 depict an area within your district?

21 A. Yes, ma'am.

22 Q. And --

23 A. That is -- yes, ma'am, that's Selinsky
24 and Panay. And Selinsky is an east/west street,
25 which crosses into Martin Luther King. I believe

1 that's 14 Dan 40s Beat.

2 Q. Now, on November the 3rd, were you
3 dispatched to 11403 Panay?

4 A. We were dispatched to that area. We
5 were dispatched to the park, which is just east of
6 that residence.

7 Q. Okay.

8 A. For a suspicious person with a weapon.

9 MS. MAGNESS: I'm going to tender
10 State's Exhibit 54 to opposing counsel.

11 (State's Exhibit No. 54, Map,
12 offered.)

13 MR. CORNELIUS: No objection.

14 THE COURT: All right.

15 (State's Exhibit No. 54 admitted.)

16 Q. (By Ms. Magness) Dispatched to a park,
17 suspicious person with a weapon?

18 A. Yes, ma'am.

19 Q. Did you -- did the dispatch information
20 provide you with a weapon description?

21 A. It just said males with guns in a
22 backpack.

23 Q. Okay. So do you -- you didn't have how
24 many males, just more than one?

25 A. If I remember -- if I remember

1 correctly, it was more than one, though.

2 Q. Okay. And were you given the ethnicity
3 of your potential suspects?

4 A. Yes, ma'am.

5 Q. And what ethnicity were you provided?

6 A. Black males.

7 Q. And I guess the only other additional
8 information besides guns was that somebody had a
9 backpack?

10 A. Yes, ma'am.

11 Q. Okay. Now, the park that you're
12 referring to, if we look here on State's Exhibit
13 No. 54, are you talking about Crestmont Park?

14 A. Yes, ma'am.

15 Q. Did you go first to the park area --
16 tell me what you did after you got the dispatch.

17 A. When I got the call, I heard over the
18 air that the original officer that got dispatched
19 was actually checking by with another officer, that
20 they had the suspects at 11403 Panay. So we drove
21 there and we saw four -- four suspects. They told
22 me one went back inside the house and then there was
23 also the backpack but there was only ammunition
24 inside the backpack, no guns.

25 Q. Okay. About what time of day did this

1 happen?

2 A. It was the evening time.

3 Q. Okay. So...

4 All right. There are other officers on
5 the scene when you arrive?

6 A. Yes, ma'am.

7 Q. And can you identify what other officer
8 was -- was working this call?

9 A. It was Officer Turner and Officer
10 Wallace.

11 Q. Okay. And had Officer Wallace detained
12 the suspects?

13 A. Yes, ma'am. There was, I believe, four
14 males detained on the driveway -- in the driveway
15 and they were all separated and they told me one
16 male was inside the residence.

17 Q. Okay. You see a backpack and it's
18 holding ammunition?

19 A. Yes, ma'am.

20 Q. Do you recall what kind of ammunition
21 was in the backpack?

22 A. I wrote that in my report and Supplement
23 No. -- Supplement No. 6.

24 Q. Uh-huh.

25 A. It said -- I stated, "I was advised by

1 Officer Turner that Darryl Reed had a backpack that
2 contained a notebook" --

3 MR. CORNELIUS: That calls for
4 hearsay, Judge, and we object to it.

5 THE COURT: Sustained.

6 Q. (By Ms. Magness) You can't read your --
7 out of your report. But did you note what type of
8 ammunition was in the backpack?

9 A. Yes, ma'am, .45 caliber bullets.

10 Q. Okay. Now, at this point you've got
11 four males, a backpack, and some live ammunition.
12 What do you do with that information?

13 A. When I saw that there were -- there was
14 the ammunition, I said ammunition involves guns. So
15 after the scene was secured, everybody was --
16 everybody was safe, I went back to the park to go
17 search for the weapons in case they were thrown in a
18 trash can, in the ditch, because this is a park
19 where children frequent.

20 Q. After searching the park area, did you
21 find any weapons?

22 A. No, ma'am. But I was approached by
23 multiple people at the park about the four -- the
24 five individuals with the guns and saying had they
25 been arrested, and I asked what they were doing.

1 Q. Okay. So -- so there were actually
2 people in the park who had seen these males with
3 guns and had come up to talk to you about it?

4 MR. CORNELIUS: Objection to the
5 leading nature of the question and the hearsay that
6 is injected into the question.

7 THE COURT: Overruled.

8 THE WITNESS: Oh, I can answer?

9 Q. (By Ms. Magness) Yes, you can answer.

10 A. Okay. They said --

11 Q. No. No.

12 MR. CORNELIUS: Objection to
13 hearsay.

14 Q. (By Ms. Magness) You can't tell me what
15 they said.

16 A. Oh.

17 Q. My question is: When you went to the
18 park, did concerned citizens come up and talk to
19 you --

20 A. Yes, ma'am.

21 Q. -- about the information that you had
22 already received in your dispatch?

23 A. Yes, ma'am.

24 Q. Okay. So you don't find any guns at the
25 park?

1 A. No, ma'am.

2 Q. Where do you go?

3 A. I go back to the residence and I'm still
4 going with bullets, there's guns, so I'm still
5 looking for the guns.

6 Q. And when you say the residence, are you
7 talking about the residence that's located at 11403
8 Panay?

9 A. Yes, ma'am.

10 Q. All right. So do you have a suspicion
11 that somewhere there's some guns?

12 A. Yes, ma'am.

13 Q. And what do you do with that
14 information?

15 A. When I get back to the residence, the
16 residents -- one of the residents came home on her
17 bike and I explained why we were there and she
18 invited me into the house to talk about it.

19 Q. And who was that person?

20 A. Her name was Karen Wilson.

21 Q. And you say that she invited you to come
22 into the residence. So she gave you consent. This
23 wasn't a search situation. She told you to come in?

24 A. Yes, ma'am.

25 Q. Did you -- did you talk to her and tell

1 her any information about what you were
2 investigating?

3 A. Yes, ma'am, I explained why we were at
4 her residence.

5 Q. Did -- was there anybody else at that
6 residence?

7 A. Yes, her mother.

8 Q. And of the individuals -- well, let me
9 put it this way. Did you make contact with Lonnie
10 Wilson?

11 A. Yes, ma'am.

12 Q. All right. Is Lonnie the son of -- I
13 believe you said it was Karen?

14 A. Yes, ma'am.

15 Q. Okay. How is it that you came in
16 contact with Lonnie?

17 A. He started -- he walked out of the
18 residence whenever I arrived back after searching
19 the park.

20 Q. Okay. So I want to make sure I have the
21 sequence correct. You first encounter Lonnie, then
22 his mom comes home?

23 A. On the bike, yes, ma'am.

24 Q. On the bike, and she invites you inside
25 the residence?

1 A. Yes, ma'am.

2 Q. And so at that point is it you, Lonnie
3 and Lonnie's grandmother inside the residence?

4 A. Yes. Yes, ma'am.

5 Q. Okay. Up to this point has Lonnie
6 provided any information?

7 A. No, ma'am.

8 Q. Without -- without saying what Lonnie
9 said because you can't do that --

10 A. Uh-huh.

11 Q. -- but describe for the jury how he was
12 acting.

13 A. He was acting like he needed to tell me
14 something. He was -- he was very general when I did
15 start asking him questions and he was just like he
16 wanted -- he wanted to tell me something, like
17 something -- he wanted to say something but he would
18 only say, I felt, if it was a confidential.

19 Q. Okay. When -- when he first started
20 talking to you, was he -- was he outside of the
21 residence where the other males that were
22 detained --

23 A. Yes, ma'am.

24 Q. -- could see him?

25 A. Yes, ma'am.

1 Q. Once you got him inside the residence,
2 did he open up?

3 A. Yes, ma'am, he did.

4 Q. And did he provide you information? Did
5 he provide you information about weapons?

6 A. Yes, ma'am.

7 Q. Now, when he provided you the
8 information about the weapons, were his mother and
9 grandmother there present and listening to the
10 conversation?

11 A. Yes, ma'am.

12 Q. And did you ask Lonnie to direct you to
13 where the weapons were located?

14 A. After his grandma gave us permission to
15 go find guns -- and because she stated there should
16 be only one gun in that residence, which was her
17 deceased husband's.

18 Q. Okay. And what kind of gun was that?

19 A. Well, at first I found a BB gun that
20 Lonnie told me was underneath his mattress.

21 MR. CORNELIUS: Judge, I'm going to
22 object to the hearsay.

23 THE COURT: Sustained.

24 Q. (By Ms. Magness) No. I'm -- what I'm
25 trying to do is Lonnie's grandmother said there

1 should only be one gun in this house?

2 A. Yes, ma'am.

3 Q. And that gun belonged to her deceased
4 husband?

5 A. Yes, ma'am.

6 Q. So what I'm asking is was that a handgun
7 or was it a rifle, shotgun?

8 A. It was a shotgun.

9 Q. Okay. So she gives you -- I take it
10 it's her house?

11 A. Yes, ma'am.

12 Q. She gives you permission to search the
13 house?

14 A. Yes, ma'am.

15 Q. Did you search the house?

16 A. Yes, ma'am.

17 Q. And while you were searching the house,
18 did Lonnie direct you anywhere within the house to
19 look?

20 A. Yes, ma'am. He directed us to the
21 nightstand on the right side of his bed.

22 Q. And when you searched that nightstand,
23 did you find weapons?

24 A. Yes, ma'am, we found three guns.

25 MS. MAGNESS: May I approach,

1 Judge?

2 THE COURT: You may.

3 Q. (By Ms. Magness) I'm going to show you
4 first what's marked as State's Exhibit No. 53 (51).
5 Do you recognize this item?

6 A. Yes, it's the backpack.

7 Q. And who was in possession of this
8 backpack on November the 3rd?

9 MR. CORNELIUS: Objection. And I
10 don't know this is developed through hearsay or what
11 he actually knows. If it's hearsay, I object to it.
12 If it's what he knows, I don't object to it.

13 THE COURT: Overruled.

14 A. Okay. I knew it was Lonnie's because --
15 not Lonnie's, excuse me -- Darryl's because it had
16 his personal belongings inside it.

17 MS. MAGNESS: I'm going to
18 tender --

19 Q. (By Ms. Magness) When you say personal
20 belongings, like what?

21 A. Composition notebook, phone charger; and
22 when we had our -- when I interviewed him in the
23 station, he told me.

24 MS. MAGNESS: Okay. Tendering
25 State's Exhibit 53 (51) to opposing counsel.

1 (State's Exhibit No. 53 (51),
2 Backpack, offered.)

3 MR. CORNELIUS: Can we approach the
4 bench?

5 THE COURT: Yes.

6 (*Bench proceedings.*)

7 MR. CORNELIUS: I'm not trying to
8 delay the trial; but I can't just agree to let this
9 in because the foundation for it is based on
10 hearsay, conversations with the Defendant, which he
11 was probably in custody at the time that this -- I
12 didn't know this guy interviewed him; but at the
13 time this officer interviewed him, based on hearsay
14 and the custodial interrogation, I object to the
15 admissibility.

16 MS. MAGNESS: Yeah, I'm not -- I'm
17 not going to go into the Defendant's statements
18 during his interview with this officer. He does
19 give a statement, but I'm -- I'm not touching that
20 at all. What I am going to do or what I'm seeking
21 to do is to introduce the other two weapons that
22 this officer recovered from the nightstand, from
23 Lonnie's nightstand.

24 THE COURT: Okay.

25 MR. CORNELIUS: The one weapon's

1 already in, right?

2 MS. MAGNESS: Yes, but here's
3 the --

4 THE COURT: Okay. Let's excuse the
5 jury because I'm not --

6 *(Bench proceedings concluded.)*

7 THE COURT: All right. Let's do
8 this. We're going to take a quick break. We're
9 going to send you back to the jury room for a few
10 minutes. We'll come get you when we're ready.

11 THE BAILIFF: All rise for the
12 jury.

13 *(Jury retired.)*

14 THE COURT: Actually,
15 Mr. Cornelius, right before you made the objection,
16 I was going back and looking at the realtime
17 because, Ms. Magness, you kind of lost me, too. So
18 I was -- while the jury is out, if you would please,
19 Ms. Magness, lay the foundation again as you did for
20 the backpack of the Defendant.

21 MR. CORNELIUS: Before she does
22 that, can I just say something on the record?

23 THE COURT: Yes, sir.

24 MR. CORNELIUS: I don't want to
25 lose my opportunity.

1 I'm going to object to the
2 statement that the officer made concerning a
3 conversation he had with the Defendant. First of
4 all, it was a nonresponsive answer. And, secondly,
5 I don't know if that -- if -- if it was even a
6 responsive answer to a proper question, if it would
7 be admissible because we haven't had any hearing on
8 that conversation, if it ever existed, and whether
9 or not the Defendant was in custody, whether he had
10 his warnings, whether it was recorded, whether it
11 even comes under 38.22 and 38.23, I don't know
12 because I'm -- I didn't know he was going to say
13 that when she asked the question.

14 So I have an objection to that
15 first. Maybe it's admissible. Maybe we can find
16 that out. I don't know. But as it stands right now
17 I don't think that's a proper answer that he gave,
18 and I'm objecting to it.

19 THE COURT: All right.

20 MS. MAGNESS: And, frankly, I did
21 not anticipate that the officer was going to say
22 that. The testimony I was seeking to elicit was
23 that the Defendant's personal items were in the
24 backpack. I had no intention of going into the
25 conversation with the Defendant.

1 To answer your question, I think
2 that that custodial interrogation could be
3 admissible; but I found out about it so late in the
4 game that I didn't have the opportunity to give you
5 any proper notice about it. So in fairness to you
6 and to your client, I just was not going to go
7 there.

8 MR. CORNELIUS: Well, then we'll
9 make that objection and your ruling would be to that
10 part of his answer?

11 THE COURT: It will be sustained.

12 MR. CORNELIUS: And then I'll ask
13 for a jury instruction, probably move for a
14 mistrial, but we can do that in front of the jury.

15 THE COURT: All right. Do you --
16 while we're on this topic of the statement, is --
17 I've sustained your objection, but at the same time
18 is there anything you would like to add to the
19 record as far as making any sort of bill as to it?
20 I know I've sustained your objection, but is there
21 anything you want to add to it?

22 MR. CORNELIUS: No, I don't.

23 THE COURT: Okay.

24 MR. CORNELIUS: I don't.

25 THE COURT: I didn't think so. I

1 just wanted to make sure before we moved on.

2 MR. CORNELIUS: No, I don't. And
3 just to try to get things moving along -- I feel
4 like I'm delaying the trial -- it may be that the
5 backpack can come in just based on him examining the
6 contents of the backpack.

7 THE COURT: Right.

8 MR. CORNELIUS: But the statement
9 that he offered unsolicited is the thing I'm most
10 concerned about.

11 THE COURT: Okay.

12 MR. CORNELIUS: So I'm not fighting
13 too hard about keeping this out. I'm just fighting
14 very hard about it coming in based on either hearsay
15 or a statement from the Defendant. To the extent
16 that he's testified that -- kind of testified that
17 he examined the backpack and could determine the
18 ownership from what was in it, that's probably
19 enough to get it in; but I need to --

20 MS. MAGNESS: And that's --

21 MR. CORNELIUS: -- get things
22 cleared up.

23 MS. MAGNESS: Right. And that is
24 the basis that I am seeking to admit it through is
25 that he visually inspected the contents of the

1 backpack; and the backpack had, in addition to .45
2 caliber ammunition, personal items of the Defendant.
3 I think that that makes it admissible and relevant.

4 The next step going further is he
5 recovers three guns. One of the guns is the .9
6 millimeter. There is also a .45 caliber and a .25
7 caliber. So, three guns. I'm seeking to -- the .9
8 millimeter has already been introduced, and I'm
9 seeking to introduce the other two weapons for two
10 reasons. One, I think the fact that he has .45
11 caliber ammunition in his backpack at least links
12 him in part to that .45 caliber weapon; but also in
13 anticipation of later introducing the Defendant's
14 statement, he talks about all three of those guns --

15 THE COURT: Right.

16 MS. MAGNESS: -- and puts those
17 guns in each individual's hands. And I think that
18 it's relevant under those circumstances because, I
19 mean, it's clear that the murder weapon was a .9
20 millimeter and he puts the .9 millimeter in his own
21 hand and himself as the shooter.

22 THE COURT: Okay. All right. That
23 makes more sense now that it's put in that context.
24 And I do remember from the hearing yesterday him
25 talking about the three guns and that sort of thing.

1 Okay.

2 MR. CORNELIUS: I don't object to
3 the search.

4 THE COURT: Okay.

5 MR. CORNELIUS: I think it's a
6 consensual search, and I don't think he has standing
7 to object to it anyway. Might have some standing to
8 object to his own backpack being searched, but I
9 can't think of -- I'm not sure how I can keep that
10 search out.

11 But I'm not objecting to the search
12 of the house or the recovery of the guns. I know
13 they're going to be linked up through his statement.
14 You've already ruled on it.

15 THE COURT: Uh-huh.

16 MR. CORNELIUS: So I guess the only
17 thing I'm standing up here complaining about is the
18 statement -- and no one's fussing at you, Officer.

19 THE COURT: Right.

20 MR. CORNELIUS: It's the voluntary
21 statement that he --

22 THE COURT: All right. We'll go
23 ahead and bring the jury out and you can ask for
24 your instructions, Mr. Cornelius, and I will
25 instruct them and rule appropriately to the jury.

1 All right?

2 While the jury is out, do either of
3 you two need to run to the restroom or anything?

4 MR. CORNELIUS: No, sir.

5 THE COURT: Mr. Reed, do you need
6 to use the restroom?

7 THE DEFENDANT: No, sir.

8 THE COURT: Linda, are you good?

9 THE REPORTER: I'm good.

10 *(Brief pause.)*

11 THE BAILIFF: All rise for the
12 jury.

13 *(Jury seated.)*

14 THE COURT: All right. Y'all may
15 be seated.

16 All right. Mr. Cornelius.

17 MR. CORNELIUS: We are objecting to
18 the statement this officer made concerning a
19 conversation he had with the Defendant.

20 THE COURT: Okay. That is
21 sustained.

22 MR. CORNELIUS: Ask for a jury
23 instruction.

24 THE COURT: You are not to consider
25 any statement that the Defendant may have made to

1 this officer. Nothing has been put in front of you
2 in evidence otherwise, and so disregard any
3 testimony as to any statement from Mr. Reed to this
4 officer.

5 MR. CORNELIUS: Move for mistrial.

6 THE COURT: That's denied. All
7 right.

8 MS. MAGNESS: May I proceed?

9 THE COURT: Yes, ma'am.

10 MS. MAGNESS: For purposes of the
11 record -- and I apologize to the Court and to the
12 jury -- I misidentified this exhibit. Previously I
13 referred to it as State's Exhibit 53. It is
14 actually State's Exhibit 51, and I'm talking
15 specifically about the backpack.

16 (State's Exhibit No. 51, Backpack,
17 offered.)

18 THE COURT: Okay. Is there any
19 objection to State's Exhibit 51, the backpack?

20 MR. CORNELIUS: No, sir.

21 THE COURT: Okay. 51 is admitted.
22 And so we're clear, there are no contents in the
23 backpack. It's just the backpack?

24 MS. MAGNESS: No.

25 THE COURT: Okay. It's admitted.

1 (State's Exhibit No. 51 admitted.)

2 **DIRECT EXAMINATION CONTINUED**

3 **BY MS. MAGNESS:**

4 Q. (By Ms. Magness) And this is the
5 backpack that you're referring to?

6 A. Yes, ma'am.

7 Q. Okay. Contained within this backpack I
8 believe that you testified that there were .45
9 caliber ammunition?

10 A. Yes, ma'am.

11 Q. Was it in a box or loose or do you
12 recall?

13 A. It was in a -- it was in a box.

14 MS. MAGNESS: May I approach the
15 witness, Judge?

16 THE COURT: Yes, ma'am.

17 Q. (By Ms. Magness) All right. When you
18 went to Lonnie's nightstand, how many guns did you
19 recover?

20 A. Three.

21 Q. What caliber weapons did you recover?

22 A. A .45, a .9 millimeter and a .25
23 caliber.

24 Q. Okay. So let's start -- I'm going to
25 show you what has already been introduced, State's

1 Exhibit 40, and then I am showing you what has been
2 marked for identification purposes as State's
3 Exhibits 41 and 42. Do you recognize State's
4 Exhibits 41 and 42?

5 A. Yes, ma'am.

6 Q. And where do you recognize it from?

7 A. It was the magazine and the bullets I
8 recovered.

9 Q. And when you recovered State's Exhibit
10 40, the .9 millimeter, was the magazine loaded into
11 the gun?

12 A. Yes, ma'am.

13 Q. And the ammunition that we've marked
14 here as State's Exhibit No. 42, was it loose or was
15 it loaded in the magazine?

16 A. It was loaded in the magazine and there
17 was one in the chamber.

18 Q. Okay. Now, I'm going to show you what's
19 been marked for identification as State's Exhibit
20 No. 56 and State's Exhibit No. 57. Do you recognize
21 those items?

22 A. Yes, ma'am. That's the .45 caliber with
23 the magazine.

24 Q. And when you recovered that .45 caliber,
25 was the magazine in the gun?

1 A. Yes, ma'am.

2 Q. But was the gun unloaded?

3 A. The gun -- I believe the gun was loaded.

4 Q. Okay.

5 A. I believe all the guns were loaded.

6 Q. Okay. And, finally, State's Exhibits
7 No. 58, 59 and 60. Starting with State's Exhibit
8 No. 58, what is that item?

9 A. That's the .25 caliber.

10 Q. Firearm?

11 A. Yes, ma'am.

12 Q. And State's Exhibit No. 59, that is
13 what?

14 A. The magazine.

15 Q. That fits within State's Exhibit 58?

16 A. Yes, ma'am.

17 Q. And State's Exhibit No. 60, what are
18 those items?

19 A. The ammunition that goes with the
20 weapon.

21 MR. CORNELIUS: It's already in,
22 right?

23 MS. MAGNESS: 40 is. 41 and 42,
24 the clip and ammunition, is not yet.

25 MR. CORNELIUS: And now you're

1 offering -- are you offering 41 and 42?

2 MS. MAGNESS: I am.

3 (State's Exhibits No. 41 and 42,
4 Magazine and .9 millimeter ammunition, offered.)

5 MR. CORNELIUS: No objection.

6 THE COURT: Okay. So 41 and 42 are
7 admitted.

8 (State's Exhibits No. 41 and 42
9 admitted.)

10 MS. MAGNESS: Tendering State's
11 Exhibits 58, 59 and 60.

12 (State's Exhibits No. 58, 59 and
13 60, .25 caliber weapon, magazine and .25 caliber
14 ammunition, offered.)

15 MR. CORNELIUS: No objection.

16 THE COURT: 58, 59 and 60 are
17 admitted.

18 (State's Exhibits No. 58, 59 and 60
19 admitted.)

20 MS. MAGNESS: And tendering to
21 opposing counsel State's Exhibits 56 and 57.

22 (State's Exhibits No. 56 and 57,
23 .45 caliber weapon and magazine, offered.)

24 MR. CORNELIUS: No objection.

25 THE COURT: 56 and 57 are admitted.

1 You may publish.

2 (State's Exhibits No. 56 and 57
3 admitted.)

4 MS. MAGNESS: Thank you.

5 Q. (By Ms. Magness) All right. State's
6 Exhibit No. 40, that is a .9 millimeter, correct?

7 A. Yes, ma'am.

8 Q. And when that weapon is fired, are the
9 casings from the bullets ejected from it?

10 A. Yes, ma'am.

11 Q. State's Exhibit No. 56, now that's a .45
12 caliber firearm, correct?

13 A. Yes, ma'am.

14 Q. And when that weapon is fired, are the
15 shell casings ejected?

16 A. Yes, ma'am.

17 Q. And same thing with State's Exhibit
18 No. 58, that is a .25 caliber firearm, correct?

19 A. Yes, ma'am.

20 Q. And does it operate the same way? Will
21 it eject the shell casing when it's fired?

22 A. Yes, ma'am.

23 Q. Now, of these three weapons -- let me
24 ask you a different way.

25 The .9 millimeter, can you only use .9

1 millimeter ammunition in that gun?

2 A. Yes, ma'am.

3 Q. So, in other words, you couldn't take
4 the .45 caliber ammunition and use it in that .9
5 millimeter firearm?

6 A. No, ma'am.

7 MS. MAGNESS: I'll pass this
8 witness, Judge.

9 THE COURT: Mr. Cornelius?

10 MR. CORNELIUS: I don't have any
11 questions at this time, Judge.

12 THE COURT: All right. May this
13 witness be excused?

14 MR. CORNELIUS: I don't know if I
15 may have any further questions later or not.

16 THE COURT: Okay. Officer, you may
17 step down, but you are subject to recall.

18 THE WITNESS: Yes, sir.

19 THE COURT: Just make sure we can
20 get ahold of you.

21 THE WITNESS: Yes, sir.

22 THE COURT: State, call your next.

23 MS. MAGNESS: State calls Sergeant
24 Meeler.

25 *(Brief pause.)*

1 MS. MAGNESS: Judge, I think
2 Sergeant Meeler is en route.

3 THE COURT: Okay.

4 MS. MAGNESS: Could you give me a
5 moment to make a phone call to figure out what his
6 status is?

7 THE COURT: Sure.

8 Do y'all want to hang out here or
9 do y'all want to duck back in the jury room? I'll
10 leave it up to y'all. You good? You good? You
11 want to go back? No? Good. All right.

12 (*Brief pause.*)

13 MS. MAGNESS: Judge, he's 15
14 minutes away. I don't know if you want to take a
15 break or do you want me to try to call somebody else
16 out of order.

17 THE COURT: If you have somebody
18 else to call.

19 MS. MAGNESS: I can.

20 THE COURT: Okay.

21 MS. MAGNESS: I call Gina Nellons.

22 THE COURT: Gina Nellons? Okay.

23 MS. MAGNESS: Judge, may we
24 approach?

25 THE COURT: Yes, ma'am.

1 (*Bench proceedings.*)

2 MS. MAGNESS: We have a little bit
3 of confusion over which of the family members is
4 going to testify because I designated a witness list
5 to Gina Nellons who is his aunt and she's now
6 telling me that it is the sister who wants to
7 testify and I need a minute to sort this out because
8 this has caught me by surprise.

9 MR. CORNELIUS: Okay. I'm glad
10 we're up here. If this is going to be victim impact
11 testimony, I'm going to object to it.

12 MS. MAGNESS: No, I just need
13 somebody to identify the complainant, link up the
14 fact that -- I mean, get a live picture of him.

15 MR. CORNELIUS: Okay.

16 MS. MAGNESS: The fact that his
17 name is Phillip Little, also Phillip Little, Jr.,
18 and establish his date of birth. That's all this
19 was supposed to be.

20 THE COURT: Are you going to object
21 to calling this other witness?

22 MR. CORNELIUS: Not to that.

23 THE COURT: As to those reasons,
24 that's okay.

25 MS. MAGNESS: I don't know the

1 other witness' name. That's what I'm saying. I
2 can't call her to the stand. I don't know her name.

3 THE COURT: Gotcha. We'll take a
4 break.

5 *(Bench proceedings concluded.)*

6 THE COURT: All right. We're going
7 to take a quick break and send y'all back to the
8 jury room for a few minutes.

9 THE BAILIFF: All rise for the
10 jury.

11 *(Jury retired.)*

12 *(Brief recess.)*

13 THE BAILIFF: All rise for the
14 jury.

15 *(Jury seated.)*

16 THE COURT: Y'all may be seated.

17 While you were out I also talked to
18 the attorneys. I believe we have two, maybe
19 three -- probably just two more witnesses today.
20 Things are moving a lot faster than anyone thought
21 for us. So we'll probably be getting out earlier
22 than 5:00 o'clock today.

23 Call your next.

24 MS. MAGNESS: The State calls Gina
25 Nellons.

1 THE BAILIFF: She's not been sworn,
2 Your Honor.

3 THE COURT: All right. Come up,
4 please. Please raise your right hand.

5 (*Witness sworn.*)

6 THE COURT: Have a seat, please.

7 All right. You may proceed.

8 MS. MAGNESS: Thank you.

9 **GINA NELLONS,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 **BY MS. MAGNESS:**

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. Will you tell the jury your name,
16 please?

17 A. Gina Nellons.

18 Q. And, Ms. Nellons, what was your
19 relationship with Phillip Little?

20 A. Phillip Little is my nephew.

21 Q. And can you tell the jury, did he go by
22 any other name besides Phillip Little?

23 A. Phillip Little, Jr.

24 Q. And what was his date of birth?

25 A. 6-16 -- I mean, 6-6-71.