

1 Mr. Rivon after he is done testifying here?

2 A. No.

3 MR. MULDRROW: Objection. Relevance.

4 THE COURT: Answer. Question overruled.

5 THE WITNESS: I don't know.

6 Q. (BY MR. TRENT) I'm guessing that you don't want any  
7 of these cases dismissed, do you?

8 A. No I don't.

9 MR. TRENT: No further questions.

10 MR. MULDRROW: Nothing further from the State.

11 THE COURT: All right. Thank you, sir. You may  
12 step down. Call your next witness.

13 MR. MULDRROW: At this time the State calls  
14 Deputy Rincon.

15 DEPUTY ROBERTO RINCON,  
16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. MULDRROW:**

19 Q. Can you introduce yourself to the ladies and  
20 gentlemen of the jury?

21 A. My name is Deputy Roberto Rincon.

22 THE REPORTER: Can you spell your name for the  
23 record, please.

24 A. R-I-N-C-O-N, Rincon, Roberto, first name.

25 Q. (BY MR. MULDRROW) How are you employed,

1 Deputy Rincon?

2 A. I'm a robbery investigator with Harris County  
3 Sheriff's Officer.

4 Q. How long have you been with the sheriff's office?

5 A. Going on 25 years.

6 Q. And you said you are a robbery investigator?

7 A. Yes, sir.

8 Q. What are your duties as a robbery investigator?

9 A. Basically, I get any cases that happen out there in  
10 the district where I work at District 3 that are on my case. I  
11 am the only investigator in the area.

12 So anytime there is a robbery, whether it be aggravated or  
13 just plain robbery, it will come to me; and I will be the one  
14 investigating it.

15 Q. Do you get any kind of training or experience as part  
16 of becoming a robbery investigator?

17 A. Yes, sir. They send us to classes for investigation,  
18 investigation classes.

19 Q. How long have you been a robbery investigator?

20 A. Three years.

21 Q. About how many cases do you handle on a monthly basis  
22 as an investigator?

23 A. Anywhere between on, a slow month I guess it would be  
24 about 25 -- between 25 to 60.

25 Q. Your general procedure original protocol original

1 facts when you first started investigating a robbery case?

2 A. Well, since I am the only investigator in the area, I  
3 try to get all my cases that have any type of evidence that I  
4 can follow up on, any suspect's information, just any leads  
5 that I might be able to follow up on.

6 Q. Were you a part a case involving Brandon Robinson?

7 A. Yes, I was.

8 Q. When you got that case, were there any leads for you  
9 to follow up on?

10 A. Yes, sir. I was actually on call on that night, and  
11 I received a telephone call that patrolman in District 3 had  
12 arrested three individuals from a robbery.

13 Q. You said you were on call that night; what does on  
14 call mean?

15 A. That means that anything that happens after  
16 4:00 p.m. till 6:00 a.m. in the following morning for a week, I  
17 am on call and anything that happens, there's a robbery that  
18 needs to be -- normally, if anybody needs to be investigated,  
19 if they have got suspects that need to be interviewed or stuff  
20 like that, I'll be called out.

21 Q. In the case involving Mr. Robinson referred to you,  
22 what needed to be done on that case?

23 A. Basically, I needed to talk to the complainant and  
24 talk to the suspects who were in custody. I -- if a report has  
25 not been generated already, it's a matter of just trying to see

1 what information I can get from the suspects.

2 Q. Did you conduct an interview with the complainant on  
3 this case?

4 A. I did, but I didn't do a recorded interview with --  
5 did you say the complainant?

6 Q. Yes, with the complainant.

7 A. Yes. I spoke for him; I met with him, but I did not  
8 record the interview.

9 Q. Was there a reason you didn't record it?

10 A. I got busy with the suspects and I never came back to  
11 it. I was suppose to come back and do a recorded interview.

12 Q. Did you do an interview with the suspects?

13 A. Yes, I did.

14 Q. Were you able to get an interview from Steven Cooper?

15 A. Yes, I was.

16 Q. Did he talk to you about what happened?

17 A. Yes, he did.

18 Q. During your investigation initially, how many  
19 suspects were there?

20 A. Three. Well, three in custody.

21 Q. Was there a fourth suspect?

22 A. Yes a fourth suspect that got away.

23 Q. Okay. Were you able to develop who that person  
24 was -- develop a lead on this case?

25 A. Yes.

1 Q. How did you do that?

2 A. I initially got a call from Baytown PD, and they  
3 informed me that they had gotten an anonymous tip on a suspect,  
4 fourth suspect.

5 Q. What was that person's name?

6 A. Deantre Williams (phonetic).

7 Q. Did you later do an interview with one of the people  
8 who was arrested that night, Mr. Rebuttal?

9 A. Yes, I did.

10 Q. Without going into what he told you, based on that  
11 interview, did you also develop Mr. Williams as a suspect?

12 A. Yes, correct.

13 Q. Once Mr. Williams developed as a suspect, what did  
14 you do?

15 A. I'm sorry.

16 Q. After he was developed as a suspect, what steps did  
17 you take based on that information?

18 A. I met with the complainant. I met with Mr. Rivon  
19 first and I presented him with a photo lineup displaying  
20 Mr. Williams and five other males with similar characteristics  
21 and after I did that, I did the same with the complainant.

22 Q. Okay. Was Mr. Rivon able to pick out Mr. Williams?

23 A. Yes, he was.

24 Q. When you showed it to the complainant, was he able to  
25 pick out the suspect?

1           A.    Yes.  He picked him out, but he wasn't 100 percent  
2  sure.

3                       MR. MULDROW:  Your Honor, may I approach the  
4  witness.

5                       THE COURT:  You may.

6           Q.    (BY MR. MULDROW)  I'm going to show you what's been  
7  marked as State's Exhibit 5 and No. 6:  Is that the lineup, and  
8  the admonishment form and the lineup that you showed to  
9  Mr. Rivon?

10          A.    Yes, it is.

11          Q.    I'm going to show you State's Exhibit No. 3 and  
12  No. 4:  Is that the lineup and the admonishment form that you  
13  showed to the complainant in this case?

14          A.    Yes, it is.

15                       MR. MULDROW:  Your Honor, at this time I offer  
16  State's Exhibit 3, 4, 5, and 6 into evidence and tender to  
17  opposing counsel.

18                       (State's Exhibit 3, 4, 5, 6 offered)

19                       MR. TRENT:  Judge, can I take the witness on  
20  voir dire just for a minute.

21                       THE COURT:  You may.

22                                       **VOIR DIRE EXAMINATION**

23  **BY MR. TRENT:**

24          Q.    (BY MR. TRENT)  Deputy Rincon, my name is Mike Trent.  
25  I just have a quick question.  State's Exhibit 4 is the second

1 photo spread that Vincent Victor looked at?

2 A. Correct.

3 Q. Do you have the first one he looked at?

4 A. That the complainant looked at?

5 Q. Yes. Or was it the same one?

6 A. I am trying to remember if I showed him one for  
7 Williams before.

8 Q. Would it refresh your recollection to look at an  
9 offense report?

10 MR. TRENT: Judge, if I could have just a  
11 minute. Okay. May I approach the witness?

12 THE COURT: You may.

13 MR. TRENT: Okay. I think I understand that  
14 State's Exhibit 6 and actually -- State's Exhibit 6 and State's  
15 Exhibit 4 are copies of the same photo spread, correct?

16 THE WITNESS: Yes.

17 Q. (BY MR. TRENT) And State's Exhibit 6 was shown to  
18 Paul Rivon, right?

19 A. Correct.

20 Q. And 4 was shown to Vincent Victor on April 15th,  
21 2011, right?

22 A. Right.

23 Q. Okay. This is my question. I am referring to your  
24 offense report supplement 9 where on September 15th, 2010, you  
25 showed Vincent Victor a copy of the photo lineup displaying

1 Deantre Williams (phonetic) in a No. 5 position, which would  
2 mean it's not one of those two; do we have that photo spread?

3 A. I should have it in my file, yes.

4 Q. Do you have it here so we can look at it?

5 A. Not with me. I should have it in my car.

6 Q. Okay. It's available?

7 A. Yes.

8 Q. Neither one of these is that one?

9 A. No. No. I think if recall correctly, what it was,  
10 there was an older photo, I think of -- I would have to check  
11 it again. I think it's a completely different mug shot on  
12 Mr. Williams.

13 MR. TRENT: I don't have any objection to this,  
14 judge. I just would ask that other photo spread be made  
15 available.

16 MR. MULDRROW: We will certainly do that.

17 THE COURT: State's 3, 4, 5 and 6 are admitted  
18 and the State is hereby ordered to make the first photo spread  
19 shown to the complainant in this case available to the defense  
20 and before admitted into evidence from the State.

21 (State's Exhibits 3, 4, 5, 6 admitted).

22 **FURTHER DIRECT EXAMINATION**

23 **BY MR. MULDRROW:**

24 Q. (BY MR. MULDRROW) The admonishment forms that we  
25 introduced into evidence, can you tell us briefly what they



1 say?

2 A. Basically, that they will be shown a photo lineup and  
3 the fact that the lineup is being shown does not -- should  
4 not -- is not an indicator that the suspect is -- that they are  
5 not obligated to identify anyone and it's just as important to  
6 clear any innocent people as it is to find the person that  
7 committed the offense.

8 Q. The first time you showed the photo spread to the  
9 complainant Mr. Victor, was he able to identify Mr. Williams?

10 A. No, he was not.

11 Q. Was he able to identify him?

12 A. I'm sorry?

13 Q. Was he able to make any identification?

14 A. I'm sorry. I don't recall. I don't recall.

15 Q. Okay. The second time you showed him the photo  
16 spread, was he able identify Mr. Williams?

17 A. Yes, the second time, yes, he was.

18 Q. Was he sure or not sure?

19 A. The second time?

20 Q. Yes, sir?

21 A. He stated to me that it had been a while, that he was  
22 only about 70 percent sure that, that was the person, the  
23 fourth person.

24 Q. Okay. You said that you took a statement from the  
25 complainant on the day it happened; is that correct?

1 A. I spoke to the complainant.

2 Q. It wasn't a recorded statement, but you talked to him  
3 about the incident?

4 A. Right, exactly.

5 Q. During your investigation, did he ever change his  
6 story?

7 A. No, he did not.

8 MR. MULDRON: No further questions.

9 THE COURT: Mr. Trent.

10 **CROSS-EXAMINATION**

11 **BY TRENT:**

12 Q. Now, Detective Rincon, now, you were the follow-up  
13 investigator assigned to this case, right?

14 A. Well, I'm the investigator for the --

15 Q. Okay.

16 A. -- I follow up on what the deputies did, yes,  
17 correct.

18 Q. You never made the scene, did you?

19 A. No.

20 Q. At the scene on the night this incident happened, it  
21 was deputy Ellington in charge, correct?

22 A. I believe so.

23 Q. Okay. And he was one of the initial responding  
24 deputies who conducted the initial showups by which three of  
25 these suspects were identified, right?

1           A.    I'm not sure if he was the one that showed the -- I  
2 believe it was Deputy Elizondo maybe that took his flashlight  
3 and showed one of the suspects maybe.

4           Q.    If Elizondo testified that it was Ellington doing it,  
5 you are not going to dispute that?

6           A.    No. No. I wasn't there, so I can't dispute anything.

7           Q.    I just want to touch on this briefly; is  
8 Deputy Ellington here today?

9           A.    No.

10          Q.    He is no longer employed by the sheriff's department,  
11 is he?

12          A.    No.

13          Q.    He has been convicted of a federal crime under  
14 extortion under official coverup, right?

15                   MR. TRENT:  Objection to Relevance.

16                   THE COURT:  Overruled.

17          A.    I believe so, yes, sir.

18          Q.    (BY MR. TRENT)  And he is in prison right now?

19          A.    Yes.  As far as I know.

20          Q.    That's kind of complicated a couple of aspects with  
21 respect to this case because Ellington handled some of the  
22 evidence, right?

23          A.    Yes, he did.

24          Q.    At your request, did he assist in the processing of  
25 some fingerprints that were taken from the complainant's

1 vehicle?

2 A. Somebody did, I believe, maybe it was us. Somebody  
3 did, yes; That's correct.

4 Q. You requested it, right?

5 A. Yes.

6 Q. Because, I mean, if you can find somebody's  
7 fingerprints inside the complainant's vehicle, that might be  
8 helpful to proving they were in there, right?

9 A. Correct.

10 Q. Was Brandon Robinson's fingerprints located in the  
11 complainant's vehicle?

12 A. I don't believe they were.

13 Q. You would know if they were?

14 A. Yes.

15 Q. In fact, were anybody's fingerprints found in that  
16 vehicle other than Mr. Victor's?

17 A. No.

18 Q. Do you have, for the jury's consideration, tagged  
19 into evidence a weapon in this case?

20 A. No, we don't.

21 Q. Never able to locate that?

22 A. No.

23 Q. Do you have the gold chain or any other property that  
24 was taken from the complainant in this case?

25 A. No, we don't.

1 Q. What, if anything, what if any other physical  
2 evidence do you have to bring to the jury?

3 A. At this point none, other than what's been presented  
4 already, no.

5 Q. Which is pictures?

6 A. Correct.

7 Q. Are you aware of anything, other than testimony,  
8 linking Mr. Robinson to the commission of this crime?

9 A. Other than testimony, no.

10 Q. Now, you do have three other suspects that have been  
11 charged with this robbery, right?

12 A. Correct.

13 Q. I mean, and with respect to two of those suspects, I  
14 think it was Cooper and Rivon, their cell phones are in  
15 evidence, correct?

16 A. Yes.

17 Q. Is there any electronic evidence, I mean, evidence of  
18 phone calls between Mr. Robinson and either of those guys that  
19 would indicate a linkage?

20 A. I didn't check the phones; I didn't subpoena the  
21 phone records.

22 Q. Okay. And you could do that a couple of different  
23 ways. You could subpoena phone records, right?

24 A. Right.

25 Q. Or you could actually get a search warrant issued for

1 the phone themselves and go in and see if there are any text  
2 messages or other things that are incriminating, right?

3 A. Could.

4 Q. Were though things done?

5 A. I didn't do them.

6 Q. And no one did it to your knowledge, right?

7 A. Well, I didn't do them.

8 Q. Are you aware of any kind of evidence of that nature  
9 in this case, any electronic?

10 A. Not at this time, no.

11 Q. As far as other types of evidence, I mean, were any  
12 DNA swabs taken in connection with this case?

13 A. Oh, it might have been, but I don't have any returns  
14 on that answer.

15 Q. Okay. You don't have any DNA evidence linking.

16 Mr. Robinson to this offense?

17 A. No, I don't.

18 Q. There are no videos or surveillance videos anywhere  
19 that you can play for the jury that show the commission of this  
20 offense or the immediate aftermath?

21 A. Correct.

22 Q. Again, it's just testimony?

23 A. Yes.

24 Q. Now, the prosecutor was asking you about some of your  
25 interaction with Paul Rivon and Paul Rivon is a charged

1 co-defendant in this case, correct?

2 A. Correct.

3 Q. The fact is you actually interviewed him three times  
4 now, right?

5 A. Yes.

6 Q. And without going into what he said since I  
7 anticipate he is going to be a witness and can say that for  
8 himself, but without going into what he said, in your opinion,  
9 was he forthcoming with you on the first two interviews?

10 A. No.

11 Q. Is it fair to say you think he lied?

12 A. Yes.

13 Q. Okay. But at the final interview which was conducted  
14 with his attorney, he gave, I guess, more helpful information,  
15 in your opinion, right?

16 A. Correct.

17 Q. Are you aware over any agreements between Mr. Rivon  
18 and the State of Texas about what will happen to his case if he  
19 testifies against Brandon Robinson?

20 A. No. I've never been told about it.

21 Q. Have you talked about it with the prosecutor at all?

22 A. No.

23 MR. TRENT: I'll pass this witness.

24 MR. MULDRON: No questions from the State.

25 THE COURT: Okay. May this witness be excused?

1 MR. MULDRROW: No objections.

2 MR. TRENT: Just subject to recall, Judge and  
3 subject to what we talked about earlier with the photo spread.

4 MR. MULDRROW: Absolutely.

5 THE COURT: Detective, you are excused except  
6 for purposes of determining the photo spread. I guess we are  
7 going to have to do that tomorrow.

8 MR. MULDRROW: It will be done today.

9 THE COURT: All right. Do you have another  
10 witness available?

11 MR. MULDRROW: Not available right now.

12 THE COURT: How long is it going to take you to  
13 get to your vehicle to retrieve the photo spread?

14 THE WITNESS: About 15-20 minutes.

15 THE COURT: Ladies and gentlemen, we are going  
16 to take a 15-minute recess, let you take a break and come back.  
17 We will resume in 15 minutes.

18 (Break taken)

19 THE COURT: You may proceed.

20 MR. MULDRROW: May I approach the witness?

21 THE COURT: You may.

22 **REDIRECT EXAMINATION (cont)**

23 **BY MULDRROW:**

24 Q. During the break did you have a chance to retrieve  
25 that photo spread from your car?