

1 **THE COURT:** Uh-huh (affirmative.)

2 **MR. BATARSE:** Okay. State calls
3 Officer Rodgers to the stand.

4 **THE COURT:** Thank you.

5 **THE BAILIFF:** Your Honor, this witness
6 needs to be sworn in.

7 **THE COURT:** Thank you.

8 Hello, Officer.

9 **THE WITNESS:** Hello.

10 **THE COURT:** Come around on that side
11 of the court reporter. And if you will turn and face
12 the jury, I will give you the oath. Raise your right
13 hand, please.

14 **(Witness Duly Sworn)**

15 **THE COURT:** Thank you. Please have a
16 seat.

17 **MR. BATARSE:** May I proceed, Judge?

18 **THE COURT:** Yes, sir.

19 **GARY RODGERS,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **Q.** **(BY MR. BATARSE)** Officer, would you please
23 introduce yourself to the jury?

24 **A.** Gary Rodgers.

25 **Q.** And could you please spell your last name

1 for the record?

2 A. It's R-O-D-G-E-R-S.

3 Q. What do you do for a living?

4 A. Police officer for the City of Houston.

5 Q. How long have you been a Houston police
6 officer?

7 A. For five years.

8 Q. Tell us a little bit about what kind of job
9 you have had while employed by HPD.

10 A. I was a patrol officer for several years,
11 and I have been on a gang unit for the past year and
12 a half.

13 Q. Okay. So, since when?

14 A. February, 2012.

15 Q. What type of training did you receive as
16 part of you becoming an officer?

17 A. I have received -- gone through the
18 six-month academy, which teaches, you know, basic
19 laws; gone through firearms training; driving
20 training; gone to several gang conferences; narcotics
21 schools; tactical schools; undercover schools.

22 Q. Officer, are you from around this area?

23 A. I'm from Cypress.

24 Q. Cypress?

25 A. Yes.

1 Q. Okay. Do you have family here?

2 A. I do.

3 Q. Wife? Kids?

4 A. Yes, I have a wife and a daughter.

5 Q. How old is your daughter?

6 A. She is 2 years. Two years old.

7 Q. Okay. Now, Officer, you say that you used
8 to work patrol, right?

9 A. Correct.

10 Q. What do you do for the gang division that
11 you're a part of now?

12 A. We usually do proactive work in high gang
13 areas. We do narcotics investigations, gang
14 investigations. We do a lot of follow-up
15 investigations on gang crimes and so forth.

16 Q. Explain to the jury what proactive
17 investigation is. What do you mean by that?

18 A. "Proactive" means -- I'm like a call for
19 service loop. I can basically go out and proactively
20 look for people committing crimes. I'm not waiting
21 on someone to call the police.

22 Q. Because that's what patrol does?

23 A. Correct.

24 Q. And, Officer, in June -- on June 14, 2012,
25 were you a part of this gang division?

1 A. I was.

2 Q. And what were -- well, were you working on
3 that day?

4 A. I was, yes.

5 Q. And who were you working with?

6 A. I was working with my supervisor, Sergeant
7 McMullen.

8 Q. And let me ask you this: You're dressed in
9 your uniform right now, correct?

10 A. Yes.

11 Q. Are you an undercover officer or marked
12 officer?

13 A. On that particular day, I was a marked
14 officer.

15 Q. And Sergeant McMullen -- you and Sergeant
16 McMullen were working together?

17 A. Yes.

18 Q. Who was driving?

19 A. He was.

20 Q. And what were y'all driving?

21 A. Marked HPD patrol vehicle.

22 Q. So, had the lights, sirens, everything?

23 A. Yes, sir.

24 Q. Were you -- what were y'all doing that day?

25 A. That day we were working a joint operation

1 with an undercover narcotics officer, and we were
2 basically looking -- investigating narcotic activity
3 in the immediate area.

4 Q. Who were you working with?

5 A. We were working with an officer named
6 Officer Lara. He works narcotics.

7 Q. And when you say "working with," what is it
8 that y'all were doing physically?

9 A. He was doing surveillance, and we were on
10 back streets. And he would -- basically, he was in
11 an undercover vehicle, in plain clothes; and he would
12 be in high-crime, high-narcotics areas and just
13 looking for suspicious activity. If he saw anything,
14 he would call us in.

15 Q. Why -- why weren't y'all in the same area
16 as him?

17 A. We were -- we were a few blocks away, just
18 so he could keep his undercover; and we stay out of
19 the area. And that way he would see, you know, any
20 criminal activity and that way we wouldn't, you know,
21 be in the way.

22 Q. This may sound kind of silly. What would
23 have happened if you parked your marked unit in the
24 open?

25 A. If we did that, really people would go

1 inside. They wouldn't stay outside. And most
2 likely, you know, they wouldn't commit any crimes
3 while we're there.

4 Q. Okay. Now, Officer, explain to us what
5 happened. You're sitting there waiting?

6 A. Yes, sir.

7 Q. Okay. Explain to us what happened.

8 A. Basically, we're on a back street. We hear
9 Officer Lara say that he has a vehicle circling the
10 block of a known, you know, high-crime,
11 high-narcotics area. He basically sees them circling
12 several times.

13 MR. LIGON: Judge, I'm going to object
14 to hearsay at this time.

15 THE COURT: Well, you know, for
16 probable cause, hearsay is admissible. Are you still
17 desiring to go into probable cause?

18 MR. LIGON: Yes, Judge.

19 THE COURT: Okay. Then that's
20 overruled. Thank you.

21 Q. (BY MR. BATARSE) You can continue.

22 A. Okay. Again, he sees the vehicle circling
23 several times. He sees -- basically, he told us that
24 he sees several groups of people flagging this
25 particular vehicle down. Vehicle stops and talks

1 with these people, several groups of people. And
2 then finally he leaves going northbound on Elysian.
3 While the vehicle is northbound on Elysian --

4 Q. Let me apologize.

5 A. Okay.

6 Q. I have to break it down into question and
7 answer.

8 A. Okay.

9 Q. So, while he is doing surveillance, he is
10 communicating with y'all?

11 A. Correct.

12 Q. All right. Now, tell the jury what happens
13 when the defendant turns on Elysian?

14 A. When he turned on Elysian, he began to
15 change lanes without signaling at that point.

16 Q. Did you see that?

17 A. No, I did not.

18 Q. Who saw that?

19 A. Officer Lara.

20 Q. And did he communicate that to y'all?

21 A. He did.

22 Q. So, what did y'all do?

23 A. After that we came around, got behind the
24 vehicle. As it was northbound on Elysian, Officer
25 Lara, you know, requested for us to go and pull the

1 vehicle over.

2 Q. Okay. So, how did you do that?

3 A. We turned on our emergency lights and
4 sirens and got behind the vehicle.

5 Q. And what happened next?

6 A. At that point he began to slow down.
7 Officer Lara, who was still tailing him in the
8 undercover car, he drove next to the vehicle, next to
9 the person's vehicle. At that time he started
10 relaying what he was seeing in the vehicle.

11 Q. And what did he communicate to you?

12 A. He basically said that the driver began to
13 panic. He was doing a lot of movement within the
14 vehicle, and particularly he said he was opening up
15 the center console and getting in there.

16 Q. And at that point how did y'all respond?

17 A. We went ahead and pulled the vehicle --
18 which he pulled over; and, again, you know, we both
19 confirmed that -- as he was pulling over, we actually
20 saw him doing a lot of the movement ourselves. He
21 was doing a lot of movement in the center console in
22 and around the seat, just a lot more movement than
23 usual.

24 Q. Officer, did you see how many people were
25 in the car?

1 A. Yes, there were three total.

2 Q. And did y'all actually get out and approach
3 the car?

4 A. Yes.

5 Q. Okay. Who approached where? What does
6 Sergeant McMullen do?

7 A. Sergeant McMullen -- he was the driver of
8 our car. So, he approached on the driver's side of
9 the vehicle. I approached on the passenger's side.

10 **MR. BATARSE:** Your Honor?

11 **THE COURT:** Yes, sir.

12 **MR. BATARSE:** At this time do you want
13 us to continue? This is getting into the search.

14 **THE COURT:** I think this would be a
15 good stopping point for lunch then.

16 Members of the jury, you should not
17 discuss the case during the breaks. You shouldn't
18 talk about it even among yourselves until
19 deliberations begin after final argument. It's
20 probably going to take about an hour and 15 minutes
21 to hear these other matters. So, when you finish
22 your lunch, if you want to walk around the
23 courthouse, you may. If would you just be back about
24 1:05. Thank you.

25 All rise, please, for the jury.

1 **(Jury released)**

2 **(Recess taken)**

3 **(AFTERNOON SESSION)**

4 **(Jury enters the courtroom)**

5 **THE COURT:** Thank you.

6 Members of the jury, by agreement of
7 the parties -- pardon me -- the next witness will be
8 called out of order.

9 Who will be your next witness?

10 **MR. BATARSE:** The State's witness is
11 Dr. Emordi, Your Honor.

12 **THE COURT:** Thank you.

13 **THE BAILIFF:** Judge, this witness has
14 not been sworn.

15 **THE COURT:** Come over this way,
16 Doctor, around the court reporter. If you would turn
17 and face the jury and raise your right hand to take
18 the oath.

19 **(Witness Duly Sworn)**

20 **THE COURT:** Thank you. Please have a
21 seat.

22 **MR. BATARSE:** May I proceed, Your
23 Honor?

24 **THE COURT:** Yes, sir.
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