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P R O C E E D I N G S

November 1, 2013

(Open court, Defendant present.)

THE BAILIFF: Rise for the jury.

(Jury enters courtroom.)

THE COURT: Be seated, please.

Good morning.

JURORS: Good morning.

THE COURT: Mr. Gonzalez, you may proceed.

MR. GONZALEZ: Thank you, Your Honor.

RICHARD RODRIGUEZ,

having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. GONZALEZ:

Q. Good morning. How are you doing?

A. Good. How about yourself?

Q. Pretty good. Pretty good. Now, Sergeant Rodriguez, you testified yesterday.

THE COURT: Oh, I'm sorry. I apologize, Mr. Gonzalez.

MR. GONZALEZ: I'm sorry, Your Honor.

May I proceed, Your Honor?

THE COURT: Yes.

Q. (BY MR. GONZALEZ) Sergeant Rodriguez, you testified yesterday that you interviewed Ms. Elida

1 Herrera; is that correct?

2 A. Yes.

3 Q. You also said that she was not in custody,
4 right?

5 A. Correct.

6 Q. She was there at the police station, but she
7 wasn't being detained?

8 A. Correct.

9 Q. She was free to go if she wanted to leave; is
10 that correct?

11 A. Correct.

12 Q. She was under no obligation to talk to you; is
13 that correct?

14 A. Correct.

15 Q. Because and you told her all that so that she
16 could feel comfortable that if she chose to stay, she
17 could stay; or if she wanted to leave, she could leave;
18 is that correct?

19 A. I didn't tell her that myself, I believe it was
20 Sergeant Rohling that told her that because I came in to
21 assist him.

22 Q. But, nonetheless, even though you didn't tell
23 her, it was your understanding that she was there
24 voluntarily?

25 A. Correct.

1 Q. And that she was willing to cooperate?

2 A. Correct.

3 Q. In the division that you are, you're in
4 homicide now?

5 A. Correct.

6 Q. You do a lot of interviews; is that correct?

7 A. Correct.

8 Q. I mean, a bunch of them?

9 A. Every case that we get, yes.

10 Q. And so what, what kind of -- well, where did
11 you learn, did you have to go to a class to learn how to
12 interview people?

13 A. Yes, we -- to get in the homicide, you have to
14 have a basic skill level to begin, you have to apply.
15 Once you're there, you take a whole list of classes and
16 training to go through.

17 Q. And part of that training is trying to, part of
18 that training is trying to get you to develop a rapport
19 with the person you're interviewing; is that correct?

20 A. Yes.

21 Q. And then part of those classes that you go to
22 is techniques to allow you to try to get more info out
23 of the person you're interviewing; is that correct?

24 A. Yes.

25 Q. Now, as part of those classes that you went to,

1 and I don't mean it in a derogatory form or anything
2 like that, part of the technique that y'all use is a
3 little bit of deception to be able to get more info out
4 the interviewee; is that correct?

5 A. Yes.

6 Q. In other words, you use, you might make up some
7 stuff to try to get them to open up?

8 A. Yes.

9 Q. And by making up, it's stuff that's not true,
10 but you're saying it as if it were true to try to get
11 the person to open up?

12 A. Yes.

13 Q. But yesterday we went through a long interview
14 between you and Ms. Herrera. It was a long interview;
15 is that correct?

16 A. Yes, it was.

17 Q. About how long timewise?

18 A. It was about an hour and a half.

19 Q. And during the interview you made her feel
20 comfortable?

21 A. Yeah, you offer them water, do you need food?
22 You need to use the restroom?

23 Q. Okay. And you made those offerings and either
24 she accepted them or denied them?

25 A. Yes.

1 Q. Now -- now, when you said yesterday when you
2 were asked what her demeanor was and you said it was
3 flat?

4 A. Yes.

5 Q. Could it be by flat, could it also include
6 being in shock?

7 A. I didn't take her as being in shock. There was
8 just very little emotions there.

9 Q. But would you agree with me that it could be
10 shock?

11 MS. THOMAS: Judge, that calls for
12 speculation.

13 THE COURT: Sustained.

14 Q. (BY MR. GONZALEZ) Now, as far as those classes
15 that you went to or those seminars to try to get you to
16 learn better techniques about interviewing, how many of
17 those classes dealt specifically with interviewing
18 children?

19 A. Well, I took two specific courses for
20 interviewing and interrogation; and in both of those
21 courses, they touched a little bit on interviewing
22 juveniles.

23 Q. But most of the classes, you would agree with
24 me, were dealing with adults?

25 A. Sure.

1 Q. And would you agree with me, Sergeant
2 Rodriguez, that in interviewing juveniles it's a
3 different technique because of their emotions and such?

4 A. You're going to handle them differently because
5 they are juveniles.

6 Q. Now, the goal of the interview -- well, when
7 you have let's say a suspect that you're interviewing,
8 your goal is to try to get them to confess to the wrong
9 they did; is that correct?

10 A. My goal in the interview is to find the truth,
11 that's my goal.

12 Q. Okay. And so at the end of the interview,
13 using your techniques and different ways to interview a
14 person, at the end of the interview, you reach the
15 truth, right?

16 A. Not always, but we try to. Like I said, that's
17 our goal.

18 Q. Okay. At any time during that hour and a half
19 that you were interviewing Ms. Herrera, did she tell you
20 that she wanted to stop talking to you?

21 A. No.

22 Q. At any time in the hour and a half that you
23 talked to Ms. Herrera, did she tell you she wanted to
24 leave?

25 A. No.

1 Q. As a matter of fact, what happened to Ms.
2 Herrera after you were done with the interview, if you
3 know?

4 A. She stayed there in the room. Before we left,
5 we asked her if she needed anything else; and she stayed
6 in the room.

7 Q. And that was about what time, Sergeant?

8 A. That was probably around 7:30 or so, somewhere
9 around there.

10 Q. 7:30 in the evening?

11 A. I believe so.

12 Q. And that's on June the 3rd of 2011?

13 A. I'm not exactly sure what day, but that sounds
14 about right.

15 Q. On the day the child died?

16 A. Yes.

17 Q. So, were you aware that -- well, if the
18 interview ended at 7:30, you probably started the
19 interview at about 6:00?

20 A. No, I believe the interview started right
21 before 5:00. I'm sorry, so I could be wrong, about 6:30
22 is when it ended, since it was about an hour and a half.

23 Q. And I'm not asking for exact times but ballpark
24 figure?

25 A. Around there.

1 Q. Okay. Now, you were made aware before you went
2 into the interview room that Ms. Herrera had already
3 given some interviews to Sergeant Hanslik?

4 A. I was told that they spoke out on the scene.

5 Q. Okay. And then was it your understanding that
6 she was asked to come to the police station, and she was
7 brought to the police station from the scene?

8 A. Correct.

9 Q. Now, after the interview that you had with Ms.
10 Herrera, was she allowed to go home?

11 A. Yes.

12 Q. And, in fact, she went home; isn't that true?

13 A. Yes.

14 Q. And you said you interviewed her son, also?

15 A. Correct.

16 Q. And was he allowed to go home?

17 A. I believe they went home together.

18 Q. Now, did you have occasion to interview Ms.
19 Herrera again?

20 A. No.

21 Q. Well, would it be correct in saying that was
22 your end of your dealings with this case after you
23 finished interviewing Ms. Herrera; or did you have some
24 other role?

25 A. No, that was it.

1 Q. So, basically, my understanding is that you
2 were asked to come in for the interview?

3 A. Correct.

4 Q. And in the interview room, it was you and
5 Sergeant Rohling?

6 A. Correct.

7 Q. There weren't, just so we can be clear, y'all
8 didn't have guns out or anything like that?

9 A. I don't remember specifically if I had my gun
10 on or not. A lot of times we take them off. So, on
11 this specific occasion, I can't recall if I had my
12 weapon displayed or not.

13 Q. But you don't recall pulling out a gun during
14 the interview?

15 A. No, no.

16 Q. In other words, it was a voluntary interview
17 given by Ms. Herrera to you; is that correct?

18 A. Yes.

19 Q. No coercion of any sort?

20 A. No.

21 MR. GONZALEZ: I'll pass the witness, Your
22 Honor.

23 THE COURT: All right. Thank you, Mr.
24 Gonzalez.

25 Anything further?

1 MS. THOMAS: No, ma'am.

2 THE COURT: May Sergeant Rodriguez be
3 excused?

4 MS. THOMAS: No objection.

5 MR. GONZALEZ: No objection.

6 THE COURT: All right. Thank you,
7 Sergeant. You are excused.

8 Call your next witness.

9 MS. SPENCE: Sergeant J. C. Padilla.

10 THE BAILIFF: This witness has already been
11 sworn.

12 THE COURT: Good morning.

13 Ms. Spence, you may proceed.

14 MS. SPENCE: Thank you.

15 **J.C. PADILLA,**
16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. SPENCE:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. Will you, please, introduce yourself to the
22 Court?

23 A. Good morning. My name is J.C. Padilla, and
24 currently I'm a sergeant with the Houston Police
25 Department and have been so for, well, December will