

1 put on or allude to any other offenses unless the
2 Court has approved the matter at the Bench before
3 it's alluded to.

4 THE COURT: Yes, sir.

5 MS. LOGAN: I will approach before I
6 go into any of that. I'll admonish my witness.

7 MR. MCCULLOUGH: That went by me so
8 fast I didn't hear it. I wanted to make sure what
9 you alluded to.

10 THE COURT: I heard it. Okay.

11 MS. LOGAN: Thank you.

12 (Open court. Defendant and jury present.)

13 THE COURT: Be seated, please.

14 Call your next witness.

15 MS. LOGAN: State calls Sergeant
16 Ryza.

17 DAVID RYZA,

18 having been previously sworn, testified as follows:

19 THE COURT: You may proceed.

20 MS. LOGAN: Thank you, Judge

21 DIRECT EXAMINATION

22 BY MS. LOGAN:

23 Q. Sir, please introduce yourself to the
24 ladies and gentlemen of the jury and spell your last
25 name for the court reporter?

1 A. Sergeant David Ryza. R-Y-Z-A. Houston
2 Police Department, Robbery Division.

3 Q. How long have you been a robbery detective
4 with HPD?

5 A. About 28 years.

6 Q. Do you specialize in a certain type of
7 robbery now in your career?

8 A. I'm assigned to the FBI Task Force Robbery
9 Force where I investigate bank robberies.

10 Q. Tell us a little bit about that task force?

11 A. It is comprised of two HPD detectives, one
12 Harris County detective and two FBI agents. And we
13 investigate all bank robberies in Harris County,
14 Texas.

15 Q. Now, you said FBI. Are some bank robberies
16 prosecuted federally?

17 A. Yes, ma'am.

18 Q. And some prosecuted in the State level?

19 A. That's correct.

20 Q. But not both?

21 A. That's correct.

22 Q. Tell us a little bit about your experience
23 and training that qualifies you as a robbery
24 detective?

25 A. I've been doing it for 28 years. Trained

1 by other officers plus in service schools that we
2 attend, different schools that are put on by the
3 Houston Police Department for interrogations,
4 investigations, those type things.

5 Q. Can you tell us about how many robbery
6 investigations you've been involved in over those
7 years?

8 A. In 28 years?

9 Q. Can you give us a guess?

10 A. Sure it's going to be well over a
11 thousand.

12 Q. And can you tell us do bank robberies tend
13 to be serial in nature?

14 A. Quite a few of them are, yes, ma'am.

15 Q. Is that one of the reasons why there is a
16 specialized task force that has been developed to
17 investigate these kinds of crimes?

18 A. Yes, ma'am, in order to capture all
19 robberies across different jurisdictions in Harris
20 County we also network with surrounding counties and
21 states. Also since we're with the FBI we're able to
22 network with all the different states in the United
23 States.

24 Q. What are some of the things that you look
25 for as a robbery investigator to connect crimes and

1 solve crimes and develop evidence?

2 A. We look for suspect description, the
3 methods in which they commit the robberies, the types
4 of banks, the location of the banks, those types of
5 things.

6 Q. In your experience have you investigated
7 cases that take place at banks that are inside of
8 grocery stores?

9 A. Yes, ma'am.

10 Q. And, in fact, is that a fairly common
11 target?

12 A. Yes, ma'am.

13 Q. Can you explain to us what the particular
14 dangers are of having a bank inside of a grocery
15 store that gets robbed?

16 A. The amount of customers that are in a bank
17 where you have the innocent victims or witnesses.
18 Just the amount of who would be in a grocery store at
19 any time.

20 Q. In your experience as a robbery detective
21 is the person that's responsible for committing the
22 crime always captured there at the scene?

23 A. No, ma'am.

24 Q. And, in fact, do these investigations often
25 take many months if not years to try to develop

1 suspects?

2 A. Yes, ma'am, that is correct.

3 Q. And do some even go unsolved?

4 A. Yes, ma'am.

5 Q. Tell us what the procedure is for you once
6 a robbery takes place and the person who committed it
7 is not captured at the scene?

8 A. I begin to follow up on any leads that may
9 have resulted at the initial scene investigation and
10 also look for any new robberies that occur to see if
11 there is any related basis which would form a serial
12 case.

13 Q. And as far as looking for sources of
14 possible evidence at a robbery scene, tells us what
15 sorts of things you focus on?

16 A. Someone got a license number off a vehicle.
17 Of course, any forensic evidence such as
18 fingerprints, DNA, those types things. And also
19 surveillance videos.

20 Q. How was it that you came to be involved in
21 the case here that we're here about today involving
22 Christopher Starks?

23 A. I originally made the scene of the
24 robbery. We were notified and I went to the scene to
25 interview witnesses and assisted in the scene

1 investigation.

2 Q. Who did you go out there with? Or what
3 other robbery detectives were present?

4 A. I believe Schobey was there. Officer
5 Michael. I don't recall who else was there.

6 Q. And what's the purpose of going out there
7 to take statements from the witnesses so close in
8 time to the robbery?

9 A. We attempt to get more in-depth interviews
10 with the witnesses, calm them down, rather than the
11 responding uniformed officer. To try to get more
12 in-depth one-on-one interviews with each person.

13 Q. And just if you can enlighten us a little
14 bit about let's say a convenience store robbery that
15 happens and that type of investigation versus a bank
16 robbery where we actually have robbery detectives
17 that do bank robberies dispatched out to the scene?

18 A. All bank robbery detectives who are part of
19 the task force are dispatched to the scene to conduct
20 the scene investigations. So we try to gather any
21 information, follow up on any leads as quickly as
22 possible and to do the in-depth interview with the
23 witnesses.

24 Q. As opposed to like a convenience store
25 robbery, who would conduct that initial interview

1 with the complainant?

2 A. The responding patrol officer would.

3 Q. Whoever it was that happened to be on
4 patrol that picked up that call, they would be
5 responsible for the first interaction with the
6 complainant?

7 A. That's correct.

8 Q. And would that patrol officer usually have
9 the kind of training and experience that you have in
10 taking statements?

11 A. Most likely not.

12 Q. And then in the instance of a convenience
13 store robbery would a robbery detective probably be
14 sent out to talk to the complainant later on?

15 A. It's possible. Just depends on the
16 solvability factors for that particular case.

17 Q. What?

18 A. The solvability factors on that case.

19 Q. What do you mean when you say that?

20 A. If there were any leads in the case to
21 begin with. Where as in a bank robbery whether there
22 is a lead or not we investigate them.

23 Q. So you're dispatched out to the scene. And
24 that happened on July 23, 2010?

25 A. Yes, ma'am.

1 Q. Was the bank you went out to located in
2 Harris County, Texas?

3 A. Yes, ma'am, it was.

4 Q. Did you have an opportunity to meet with a
5 lady by the name of Amber Kelly?

6 A. Yes, ma'am.

7 Q. Did you take her statement?

8 A. Yes, ma'am.

9 Q. Was she able to provide you with details
10 about not only the robbery, but the person who did
11 the robbery?

12 A. Yes, ma'am.

13 Q. Did you take down all that information?

14 A. Yes, ma'am, I did.

15 Q. After you did that portion of your
16 investigation what did you do next?

17 A. I interviewed another witness.

18 Q. And after you took statements from the
19 witnesses that were there on the scene what happened
20 next in the investigation?

21 A. We returned to the office and typed
22 everything up on different forms and started putting
23 things together, looking at videos and releasing
24 pictures to the news media, those types things.

25 Q. What was the purpose of releasing pictures

1 to the news media?

2 A. In hopes that somebody would contact Crime
3 Stoppers, the FBI or our office with the identity of
4 the person who committed the robbery.

5 Q. Did that happen in this case?

6 A. No, ma'am.

7 Q. Let's fast forward several months.

8 Do you later develop information of a
9 possible suspect for this case?

10 A. Yes, ma'am, I do.

11 Q. Without telling us how that came known to
12 you, what did you do as a part of your investigation?

13 A. I created a photospread.

14 Q. Why did you do that?

15 A. In order to show photos to the witnesses in
16 the robbery to see if they could identify that
17 individual as the person who robbed them.

18 Q. Was that your first choice in
19 identification procedure?

20 A. No, ma'am.

21 Q. Tell us what your first choice is?

22 A. Present a live line up.

23 Q. Explain to us what the difference is
24 between a live line up and a photospread is?

25 A. A live line up would have been conducted at

1 a facility that has a line up room in it and have
2 been other bodies in the line up, live bodies, who
3 closely resemble the person of interest in the case.
4 And the witness would have been brought in, been able
5 to view the entire person in person through a glass
6 partition and likely heard them speak and seen all
7 four sides of them.

8 Q. And in your experience as a robbery
9 detective does that help to facilitate an
10 identification when the witness can see the entire
11 person, listen to them speak and watch how they move?

12 A. Yes, ma'am.

13 Q. Why is that?

14 A. They can see the individual's actions. The
15 little quirks any particular person may have. They
16 just look at a person one-on-one rather than a
17 photograph.

18 Q. So in this case did you make an attempt to
19 perform a line up including the suspect that you had
20 developed, Christopher Starks?

21 A. Yes, ma'am, I did.

22 Q. And when you did that were you able to
23 complete the line up procedure?

24 A. No, ma'am.

25 Q. Why not?

1 A. The suspect refused to cooperate.

2 Q. Now, in your experience as a robbery
3 detective do we as individuals have the right to
4 refuse to participate in a line up procedure?

5 A. Yes, ma'am.

6 Q. Do we have, however, an expectation of
7 privacy in the way that we look?

8 A. No, ma'am.

9 Q. So, in other words, there was nothing
10 legally impermissible about you requesting his
11 participation in a line up procedure?

12 A. That is correct.

13 Q. Can you tell us what the demeanor was of
14 the defendant and his actions with respect to not
15 participating in the line up?

16 A. He refused to come out of his cell.

17 Q. Now, let's talk about the photospread that
18 you put together.

19 How do you develop a photospread?

20 A. With the assistance of Sergeant Schobey we
21 used the Harris County computer system in order to
22 take the photograph of the defendant. And then we
23 searched the data base of the Harris County Sheriff's
24 Department for photos that resembled Mr. Starks.

25 Q. And as far as the position of the person of

1 interest in the photospread, do you choose that? Is
2 it randomly selected? How does that happen?

3 A. The computer randomly selects the position.

4 Q. What is your goal when you're creating a
5 photospread?

6 A. To get five fill-in photographs along with
7 the defendant that closely resembles the facial
8 characteristics or just the individual in
9 particular.

10 Q. Were you able to do that in this case?

11 A. Yes, ma'am.

12 Q. And when you created the photospread what
13 did you do with it?

14 A. The next day I went and showed the
15 photospread to the witnesses.

16 MS. LOGAN: May I approach the
17 witness, Your Honor?

18 THE COURT: You may.

19 Q. (BY MS. LOGAN) I show you what's been
20 marked as State's Exhibit Number Eight and what has
21 been entered into evidence as State's Exhibit Number
22 Seven and ask you whether or not you recognize those
23 two items?

24 A. Yes, ma'am, I do.

25 Q. What are they -- well, do they fairly and

1 accurately depict the photospreads and admonishments
2 that you showed the complainants in this case?

3 A. Yes, ma'am, they do.

4 MS. LOGAN: Offer State's Exhibit
5 Number Eight into evidence. At this time tendering
6 to defense counsel for objections.

7 MR. MCCULLOUGH: No, objections.

8 THE COURT: Admitted without
9 objection.

10 (State's Exhibit Eight received.)

11 Q. (BY MS. LOGAN) When you show a photospread
12 to the witnesses to a crime, do you show everybody
13 all in one room or do you do it separately?

14 A. They're separated and shown individually.

15 Q. Why do you do that?

16 A. So that one doesn't influence the other.

17 Q. And before you allow a witness to look at a
18 photospread do you give them a set of admonishments?

19 A. Yes, ma'am, I do.

20 Q. Are they the same admonishments in every
21 case where a photospread is shown by you?

22 A. Yes, ma'am.

23 Q. Are they written?

24 A. Yes, ma'am.

25 Q. How do you have the person indicate whether

1 or not they understand and agree to follow the set of
2 rules that you give them?

3 A. I have them sign a form.

4 Q. Do you also notate who showed the
5 photospread on the form?

6 A. Yes, ma'am.

7 MS. LOGAN: May I publish State's
8 Exhibit Eight to the jury, Your Honor?

9 THE COURT: You may.

10 Q. (BY MS. LOGAN) So we're looking at the top
11 page of State's Exhibit Number Eight and we can see a
12 list of numbered items here, one through five.

13 Are those the admonishments that you're
14 talking about?

15 A. Yes, ma'am.

16 Q. And here we can see a signature, printed
17 name, date and time; is that correct?

18 A. That's correct.

19 Q. And see your name here at the very bottom?

20 A. Yes, ma'am.

21 Q. When you show the photospread to the
22 witness are there any marks or notations anywhere on
23 the photospreads?

24 A. Not when I show it.

25 Q. In other words, it's blank when you first

1 present it to them?

2 A. That is correct.

3 Q. After they have had a chance to view the
4 photospread what do you ask them to do?

5 A. I ask them to circle and initial the photo
6 that they identify.

7 Q. Do you indicate in any way which one they
8 should choose?

9 A. No, ma'am.

10 Q. In State's Exhibit Number Eight can you
11 tell us who it was that Mayra Cardenas identified as
12 a person who did the aggravated robbery?

13 A. The person in number four position, which
14 is the defendant.

15 Q. And State's Exhibit Number Seven, this was
16 Amber Kelly's photospread.

17 Did she make that same identification?

18 A. Yes, ma'am, she did.

19 Q. Did you show the photospread to any other
20 people that were present at the time of the robbery?

21 A. Yes, I did.

22 Q. What were those people's names, if you
23 recall?

24 A. Erika Lafiton and Ruben Flores, I believe
25 it is.

1 Q. Were those people able to make an
2 identification in this case?

3 A. Not of the defendant.

4 Q. So, in other words, they picked the wrong
5 person out?

6 A. That is correct.

7 Q. Did they each pick the same person or did
8 they pick different people?

9 A. I don't recall that.

10 Q. But based on your investigation who did you
11 believe was able to make an identification in the
12 case that represented the defendant in the aggravated
13 robbery?

14 MR. MCCULLOUGH: Object to what he
15 believes, Your Honor.

16 THE COURT: I'm sorry?

17 MR. MCCULLOUGH: Object to what he
18 believes was the --

19 THE COURT: Sustained.

20 Q. (BY MS. LOGAN) Did you develop an opinion
21 about the identification that was made in this case?

22 A. Yes, I did.

23 Q. And the two people that were able to
24 identify the robber, were they the people that had
25 the most or the least interaction with the defendant?

1 A. The most.

2 Q. What sorts of things effect a person's
3 ability to make an identification in a crime?

4 A. Could have been position where they were
5 standing, how far away from the suspect, their
6 emotional state of mind after the events.

7 Q. And are some people just better about faces
8 than others?

9 A. I believe so, yes, ma'am.

10 Q. After you had a positive identification
11 from the two witnesses that had the most interaction
12 with the suspect, what did you do in this case?

13 A. I filed charges on the defendant.

14 Q. What kind of charge did you file?

15 A. Aggravated robbery with a deadly weapon.

16 Q. Why did you file aggravated robbery with a
17 deadly weapon charges?

18 A. At the scene of the robbery when we first
19 went there the witnesses told us that the --

20 MR. MCCULLOUGH: Object to what the
21 witnesses said, Your Honor.

22 THE COURT: Sustained.

23 Q. (BY MS. LOGAN) Based on the information
24 that was provided to you -- that's the Hearsay Rule.
25 We're not allowed to say what anybody else said.

1 Nobody is trying to hide anything from the jury.

2 But based on the information that you
3 collected on the scene, did you believe that there
4 was a deadly weapon used during the robbery?

5 MR. MCCULLOUGH: Object to what he
6 believed, Your Honor.

7 THE COURT: Overruled.

8 Q. (BY MS. LOGAN) Did you believe that there
9 was a deadly weapon used?

10 A. Yes, ma'am.

11 Q. Is that why you filed aggravated robbery
12 charges in this case?

13 A. Yes, ma'am.

14 Q. Short of completing a supplement to the
15 offense report in this investigation, did you have
16 any other involvement in this portion?

17 A. No, ma'am.

18 MS. LOGAN: Pass the witness.

19 MR. MCCULLOUGH: No questions of this
20 witness, Your Honor.

21 THE COURT: You don't have any
22 questions.

23 May this witness be excused?

24 MR. MCCULLOUGH: Yes, sir.

25 MS. LOGAN: Yes, sir.