

1 (Open court, defendant present)

2 MR. SOMERS: May I proceed, your Honor?

3 THE COURT: Yes, sir.

4 MR. SOMERS: The State calls Agent Mark
5 Schmidt.

6 MARK SCHMIDT,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SOMERS

10 Q Agent Schmidt, could you spell your name for
11 purposes of the record, please?

12 A S-C-H-M-I-D-T.

13 Q Also for purposes of the record, will you spell
14 your first name?

15 A M-A-R-K.

16 Q Agent Schmidt, how are you presently employed?

17 A I'm a special agent with Drug Enforcement
18 Agency.

19 Q Very briefly, what are your duties and
20 responsibilities there?

21 A I'm assigned as a criminal investigator. My
22 job is to investigate federal and state drug trafficking
23 crimes.

24 Q How long have you held that position?

25 A Since January 1991.

1 Q We're here today on State of Texas versus Oscar
2 Davila. Are you familiar with that investigation?

3 A Yes, sir.

4 Q Tell us how it is that you're familiar with
5 that investigation.

6 A I was the DEA case agent for that
7 investigation. I worked with the Harris County deputies
8 in that investigation.

9 Q In your investigation, did you work with a
10 confidential informant?

11 A Yes.

12 Q And very briefly, tell us, have you found this
13 confidential informant to be credible, reliable and
14 trustworthy?

15 A Yes, sir.

16 Q Why is that?

17 A I've been working with this confidential
18 informant since approximately June of 2011. I've worked
19 multiple cases with that individual and information has
20 been independently corroborated and it's been found to
21 be reliable.

22 Q Has this individual assisted you in several
23 investigations?

24 A Yes, sir, he has.

25 Q And have those investigations proven to be

1 fruitful?

2 A They have.

3 Q To your knowledge, does this confidential
4 informant have any criminal history?

5 A The confidential informant has no previous
6 felony conviction. I believe the confidential informant
7 has pled guilty to a federal drug case and is awaiting
8 sentence on that.

9 Q Regarding this case, let me turn your attention
10 to October 6 of 2011. Did the confidential informant
11 provide you with information regarding a drug
12 transaction involving Oscar Davila?

13 A Yes, sir, he did.

14 Q Tell us about that investigation.

15 A The cooperating source, the individual we're
16 talking about, had contact with Mr. Davila and at our
17 direction had ordered up two kilograms of cocaine.

18 Q And did the confidential informant, to your
19 knowledge, meet with Mr. Davila at his residence located
20 4139 Willow Beach?

21 A Yes, on the 6th of October and other times.

22 Q For the record, is that in the City of Houston,
23 Harris County, Texas?

24 A Yes, sir.

25 Q Tell us about that transaction. What was your

1 role in this?

2 A I was the DEA agent in charge of our part of
3 the investigation. I provided the informant -- we
4 equipped the informant with a concealed recording
5 device.

6 Q Were you able to listen to any conversations
7 that the informant had?

8 A Yes. We also had a transmitter on his person.

9 Q Tell us where the informant went.

10 A The informant went to the residence that you
11 mentioned at 4139 and entered the residence -- well, he
12 arrived at approximately 8:45 p.m. on the 6th of
13 October, 2011.

14 Q Did he drive himself there?

15 A He did.

16 Q Were you monitoring the residence during this
17 transaction?

18 A Other members of my team had visual
19 surveillance on the residence.

20 Q Describe the street for us.

21 A It's a narrow residential street. The houses
22 are packed pretty close on either side of it. There are
23 primarily single family residences along in there.
24 There are vehicles parked in the street, so it's kind of
25 crowded as you go through there.

1 Q You said he was wearing a wire. What other
2 people were present when he went inside 4139 Willow
3 Beach?

4 A You mean at the residence?

5 Q Correct.

6 A People that were subsequently identified as
7 Arturo Lopez, Vanessa Benitez. (spelled phonetically) I
8 believe there were minor children present. I don't know
9 their names.

10 Q Was there traffic outside of that residence on
11 that street?

12 A There were vehicles driving up and down the
13 street, yes. I believe there were people out on the
14 street, on other parts of the street.

15 Q What observations did your team make with
16 regards to Mr. Lopez and Ms. Benitez?

17 A Surveillance team reported that -- I think it
18 was Lopez and Mr. Davila were, I believe, sitting on the
19 bed of the truck drinking probably beer. I believe
20 Ms. Benitez was inside the cab of the truck. It was tan
21 in color.

22 Q You said you were listening to this
23 conversation?

24 A Yes. I could hear part of it. Some of it was
25 obscured, but we also had a digital recorder so we have

1 the recording of the conversation also.

2 Q Did you hear Mr. Davila talk on that recording?

3 A Yes, I did.

4 Q What did you understand the nature of the deal
5 to be inside of that residence?

6 A My understanding was that Davila and Lopez
7 accompanied the cooperating source inside the residence,
8 that they showed the cooperating source a portion of the
9 cocaine. And that there was subsequent discussion using
10 Mr. Davila's minor child as far as negotiation of the
11 price for the cocaine.

12 Q And you said using Mr. Davila's child. What do
13 you mean by that?

14 A The child translated some of the conversation
15 between Davila and the cooperating source.

16 Q And to be clear, who was buying the drugs and
17 who was selling the drugs?

18 A Mr. Lopez and Mr. Davila were selling the drugs
19 and the cooperating source was presenting himself as the
20 person that was going to buy them.

21 Q Once the deal was finalized, what did the
22 cooperating source do next?

23 A The cooperating source asked to see the
24 remainder of the cocaine. Mr. Lopez went out to his
25 truck, retrieved the second kilogram of cocaine, brought

1 it inside, showed it to the cooperating source. Then
2 there was the conversation I mentioned about the price,
3 Davila and the CS, using the child as the translator.

4 After that was completed, the cooperating
5 source left the residence. That was about, I think my
6 notes said 8:53 PM. And the cooperating source got into
7 his vehicle and departed.

8 Q What did your team do next?

9 A I spoke with the cooperating source on the
10 telephone, confirmed what we had heard to make sure the
11 drugs were present. Then I relayed that to the team.
12 At that point we approached the residence, identified
13 ourselves, secured the residence.

14 Q When you say you secured the residence, what
15 did your team do?

16 A We detained the individuals present at the
17 residence. Members of the team went through the house
18 to make sure that there was no other security issues, no
19 one else in the residence, and to make sure no other
20 evidence was being destroyed. They came out of the
21 house and we waited outside.

22 Q So to be perfectly clear, your team went into
23 the residence without a warrant but you had reasons for
24 doing that?

25 A Yes, sir.

1 Q To be clear on the record, tell us what those
2 reasons were.

3 A We had issues of security that we had to make
4 sure we had everybody involved in this secure so they
5 wouldn't be a threat at the scene. Also concerned that
6 the drugs or other evidence might be destroyed.

7 Q And you've obviously done undercover narcotics
8 operations before. Based on your experience, why were
9 you concerned about security in this situation?

10 A We had numerous people inside that were moving
11 around the residence. We did not know who else was
12 inside the residence. And since we had to wait outside
13 to do our investigation, we didn't want anyone inside
14 that could possibly be a threat to the team. We had to
15 make sure there wasn't anybody in there that could cause
16 a problem to my team.

17 Q Having dealt with undercover narcotics before,
18 why were you concerned that the drugs might be moved or
19 destroyed or altered in some way?

20 A We knew Davila had other associates along the
21 street, neighbors and people that he knew along there.
22 We were concerned that the drugs might be removed from
23 the residence and stored somewhere else or that the
24 drugs themselves might be destroyed.

25 Q And you said that your team entered the house.

1 What did your team do inside of that residence prior to
2 the warrant being obtained?

3 A Well, I noted, I believe it was Mr. Lopez tried
4 to run back inside the residence, so the team had to
5 stop him and secure him. Then the team swept through
6 the various rooms in the residence and out into the
7 backyard to make sure there wasn't anybody in there that
8 could be either destroying evidence or a threat to the
9 team. When that was completed and we were secure the
10 house was not occupied, we brought everybody back out
11 and waited in front of the house in the front yard.

12 Q After the sweep was completed and also during
13 the sweep, at any point did anyone on your team look in
14 cabinets, underneath items in the house, anywhere in the
15 backyard, et cetera?

16 A Other than to scan the area for people, no.

17 Q So nothing was, quote, unquote, searched for?

18 A No, not in my opinion.

19 Q It was merely to control the individuals inside
20 that house and to prevent the destruction of evidence?

21 A Yes.

22 Q Very briefly, I want to show you what I've
23 premarked State's 1. Have you seen this document
24 before?

25 A Yes.

1 Q And what is this document?

2 A Based on my understanding, this is a copy of
3 the search warrant that we obtained for 4139 Willow
4 Beach, and I believe the return and receipt for the
5 items taken.

6 Q And do you know who provided the probable cause
7 for the search warrant?

8 A Investigator Ben Katrib, to my understanding.

9 Q He's present here today to testify?

10 A Yes, he is. He's outside.

11 Q And do you know which judge signed that search
12 warrant?

13 A It looks like it's Eric Hagstette.

14 Q To your knowledge, is he a judge in this
15 county?

16 A Based on what I read, he is.

17 MR. SOMERS: At this time I offer State's
18 1, the search warrant in this case. And I'll tender to
19 opposing counsel for any objection.

20 MR. SANTOS: Judge, I have an objection to
21 the exhibit.

22 Your Honor, I thought he was going to have
23 a certified copy of this warrant, and it's not a
24 certified copy. I think it's hearsay. I don't think it
25 is admissible unless it is a certified copy.

1 MR. SOMERS: He's testified that is the
2 same document. It's a fair and accurate copy of the
3 search warrant and information is that which --

4 THE COURT: It's overruled. Admitted.

5 Q (By MR. SOMERS) Agent Schmidt, I want to talk
6 about Exhibit 1, realizing that Deputy Katrib was the
7 primary source of information regarding that warrant,
8 what was the scope of that search warrant?

9 A The warrant was for the residence at --

10 MR. SANTOS: I think the warrant speaks
11 for itself, your Honor. I don't think he can talk about
12 the scope of the warrant. The warrant already speaks
13 for itself.

14 THE COURT: Overruled.

15 Q (By MR. SOMERS) Agent Schmidt, tell us what the
16 scope of that warrant was.

17 A My understanding, the scope of the warrant was
18 the residence and the vehicle, 1996 tan Chevy pickup
19 truck parked in front of the residence.

20 Q Did the warrant include the entire residence?
21 And when I ask you that question, did that include the
22 backyard?

23 A Yes, sir. My understanding was it included the
24 entire premises and the yard along with that vehicle I
25 mentioned.

1 Q Did you execute this search warrant?

2 A I was part of the team that did, yes. I
3 believe Deputy Katrib was the one that actually did all
4 the paperwork as far as that goes, with the return and
5 everything.

6 Q At the time that Deputy Katrib and your team
7 with the DEA executed that warrant, did you believe it
8 to be valid?

9 A Yes.

10 Q Tell us about the search that was conducted
11 once you obtained this warrant.

12 THE COURT: Stop for a second. So we have
13 a dog that does a hit on the vehicle in the driveway.
14 Is that what we've got?

15 THE WITNESS: Yes, sir.

16 THE COURT: That was before the warrant?

17 MR. SANTOS: Before the warrant.

18 THE COURT: And the vehicle was on the
19 private property.

20 MR. SOMERS: I guess.

21 THE WITNESS: It was in the driveway in
22 front of it, yes, sir.

23 THE COURT: And once that hit occurred,
24 what happened next?

25 THE WITNESS: That -- I believe at that

1 point I went and interviewed the cooperating source, got
2 specific details and provided them to Deputy Katrib, and
3 he took all that information together and relayed it to
4 Deputy Ortiz who I think actually physically obtained
5 the warrant.

6 THE COURT: Before the warrant was
7 obtained you did a sweep of the house?

8 THE WITNESS: Yes, sir your Honor. When
9 we originally arrived at the residence we detained
10 everyone that was there. As I said, Mr. Lopez went into
11 the garage. My team got him out of that.

12 THE COURT: Is this before or after the
13 warrant?

14 THE WITNESS: Before the warrant. They
15 proceeded through the house to sweep it.

16 THE COURT: Now, you stopped who first?

17 THE WITNESS: The first people contacted,
18 I believe, were Davila and Benitez, and some of the
19 children.

20 THE COURT: Where were they located?

21 THE WITNESS: In front of the residence by
22 the vehicle.

23 THE COURT: And you detained them because
24 the dog took a hit on the car?

25 THE WITNESS: No, sir. We detained them

1 because we knew had -- we knew they negotiated -- Davila
2 and Lopez had negotiated with the CI and supposedly had
3 had two kilos of cocaine in their possession. Benitez
4 was detained because she came in the vehicle with
5 Mr. Lopez. And the other individuals were detained
6 pending investigation. Lopez for the same reason I
7 mentioned and .

8 THE COURT: So, in other words, the CI
9 comes back, says there is cocaine in the house and for
10 that reason you then moved in and detained the people
11 that were associated with the vehicle and the home?

12 THE WITNESS: Yes, sir.

13 THE COURT: While you waited for a search
14 warrant?

15 VENIREPERSON: Yes, sir.

16 THE COURT: So you entered on the property
17 before you had a search warrant?

18 THE WITNESS: We did, sir.

19 Q (By MR. SOMERS) To be clear, Agent Schmidt,
20 tell us about this dog hit on the vehicle.

21 A I don't believe I was present when that
22 happened. I can tell you what I heard, which was a
23 trained canine had indicated the positive on odor for
24 controlled substances on the vehicle I mentioned, 1996
25 tan Chevy truck. That's what I was told.

1 Q To your knowledge, Deputy Katrib is familiar
2 with that portion of this event?

3 A Yes, we discussed it.

4 Q Okay. And regarding the dog hit being on the
5 vehicle, did that vehicle have any connection to the
6 house and the drug transaction?

7 A Yes. That is the vehicle that Lopez and
8 Benetiz were driving, that they had arrived in. That is
9 also the vehicle that the cooperating source told me
10 both kilograms of cocaine had been removed from during
11 his meeting with Lopez and Davila.

12 Q And regarding your familiar -- the degree to
13 which you're familiar with this neighborhood, tell us
14 how the houses are located and why you might be
15 concerned that drugs would move from one house to
16 another.

17 A It's a tightly packed residential neighborhood.
18 They are not very big lots. The houses are very close
19 together. There is also a lot of traffic, foot and
20 vehicle traffic up and down the block of the street. I
21 knew from talking to the CS that Mr. Davila had
22 neighbors and associates on the street. One of the
23 things we had discussed prior to this was the
24 possibility that Davila could take the drugs after the
25 CS saw them and remove them from the residence. We were

1 concerned that that would happen. So we decided that we
2 would secure the residence.

3 Q As this is going on, were other people going
4 into and out of the home?

5 A There was definitely movement from some of the
6 people that were there. After the CS left a vehicle
7 containing Davila's wife and some additional
8 individuals -- I think they were small children --
9 arrive at the residence also.

10 Q Did that create a concern for you?

11 A Yes because all of a sudden we've got a
12 significantly larger number of people at the situation
13 and everybody is moving around. The vantage point from
14 my closest surveillance unit, they would see at the end
15 of the truck and the edge of the house; couldn't see --
16 they didn't have a full view of the house. They
17 couldn't tell me if the drugs were being moved or
18 anything like that.

19 THE COURT: When your agents went into the
20 house, did they actually see the kilos of cocaine.

21 THE WITNESS: No, sir.

22 THE COURT: Could you have gotten the
23 warrant, in your opinion, based solely on the CI's
24 information he had provided?

25 THE WITNESS: I believe we could.

1 *THE COURT:* So it really comes down as to
2 whether or not they had a right to illegally search the
3 vehicle based on the dog going into the yard and whether
4 or not they had a right to detain anyone in the house
5 prior to the warrant. I think that's where we are right
6 now. Have I missed the point?

7 *MR. SANTOS:* I think our position is that
8 they did the search waiting for the warrant. And the
9 scope of the warrant is, basically just said they were
10 supposed to search the car and the residence, which they
11 describe as a house. But they very specifically defined
12 what the residence is, a one-story house and dwelling
13 and all that, and they -- the focus of the search --

14 *THE COURT:* It says residence and vehicle.
15 So I don't have a problem with that issue. It says they
16 can search the residence and vehicle located at that
17 particular residence. So the issue, again, is whether
18 or not they exceeded the scope of the illegal search of
19 both the vehicle and did a walk-through on the house
20 prior to the warrant being issued.

21 *MR. SOMERS:* Your Honor, I'm attempting to
22 elicit all this through Agent Schmidt.

23 *THE COURT:* That calls for a legal
24 conclusion, not a factual conclusion.

25 *MR. SOMERS:* First off, I think the

1 protective sweep is completely legal and justified given
2 the fact that we're talking about a large amount of
3 drugs.

4 *THE COURT:* No. No. No. There is no
5 protective sweep unless they have a right to be there to
6 begin with. The question is, is the cart before the
7 horse. We can go on with this for a little bit but
8 we've already got to the issue and the issue, whether or
9 not they had a right to, one, have the dog enter on the
10 property to smell the vehicle, check out the vehicle and
11 once there is a hit, even if they say the dog can go on
12 private property for that purpose, that is sufficient
13 thing to move and detain people, walk through their
14 home. To me, that is kind of scary. It seemed like at
15 that point before they did any of that they could have
16 stopped and got a warrant. I know drugs can move around
17 but then I think from -- my recollection, is that
18 sufficient to say we don't need a warrant, we can go in.

19 *MR. SOMERS:* Judge, I can pull a case,
20 contact appellate. One point that I think is important
21 is that even if you find that this protective sweep was
22 illegal, and I believe it was legal, but if you find
23 it's illegal, that doesn't mean that the evidence
24 obtained should be suppressed because there is no
25 evidence obtained in that sweep. It's merely a

1 protective sweep to make sure.

2 THE COURT: Well, that's the issue.

3 MR. SOMERS: Which brings us to the
4 validity of the warrant. It's -- my position is even if
5 you say that protective sweep is bad, this warrant is a
6 good warrant.

7 THE COURT: I know. That's what I want to
8 look at. Let's take about ten minutes.

9 MR. SANTOS: I think they could have got
10 the warrant by searching with the dog.

11 THE COURT: If the drugs were already
12 known prior to the time any of that occurred, so that's
13 what I've got to look at. Give me ten minutes.

14 MR. SANTOS: Can I be excused for 30
15 minutes?

16 THE COURT: Okay, counsel.
17 And you need to get me appellate on the
18 phone, please.

19 MR. SOMERS: Okay. Thank you.

20 (Recess)

21 THE COURT: All right. Let's continue,
22 please.

23 BY MR. SOMERS

24 Q Agent Schmidt, I'm almost done with my
25 questions for you this morning.

1 In this circumstance, in this case, what
2 is it that made you concerned that the drugs, the
3 evidence, would be destroyed or moved or lost or what
4 have you?

5 A Well, as I said, we had talked to the CI
6 before, plus my own observation of the movement on the
7 street. Both those things made me think that the drugs
8 needed to be removed or would be destroyed by somebody
9 in the residence.

10 THE COURT: What is the purpose of a
11 warrant if you can just walk into somebody's house?

12 THE WITNESS: Your Honor, the warrant is
13 for the search.

14 THE COURT: You tell me law enforcement
15 can just walk into somebody's house without a warrant
16 and without consent? Do you really think that's what
17 the law is?

18 THE WITNESS: Of course not, your Honor.

19 THE COURT: I've had enough of that. I
20 think I've got the succinct point I'm interested in,
21 unless you have something else.

22 Q (By MR. SOMERS) To be absolutely clear, in any
23 way did that sweep contribute to the information for the
24 affidavit in the warrant?

25 A No.

1 Q Is the warrant independent of anything that
2 occurred in that sweep?

3 A Yes.

4 Q And regarding this warrant, it authorized you
5 to search the house and that specifically and is that
6 what you limited your search to?

7 A And the vehicle, yes, sir.

8 Q And where were the drugs ultimately located?

9 A In the back yard underneath a pile of
10 construction debris, wood and stuff like that.

11 Q And that was after the warrant was obtained?

12 A Yes.

13 MR. SOMERS: Pass the witness.

14 CROSS-EXAMINATION

15 BY MR. SANTOS

16 Q Mr. Schmidt, you told the Judge that the CI
17 went in about, you said, 8:45.

18 A That's approximate time.

19 Q And he was there like five minutes --

20 A It was about 8:53 on my notes.

21 Q Okay. So you told the Judge you had a team out
22 there doing the monitoring, that monitored,
23 surveillance, monitoring when the CI was in. You were
24 not at the location at that time, right?

25 A I was right around the corner.

1 Q So earlier you told the Judge you didn't see
2 any of the search done with the dog outside searching
3 the cars and that stuff. You told him you were not
4 in -- you didn't see that; is that correct?

5 A I think that took place when I had left the
6 scene.

7 Q Okay. If the warrant said that happened at
8 9:40, so between 8:50 and 9:40 you really were not
9 there; is that correct?

10 A No, that is not correct.

11 Q Not correct?

12 A That's not correct.

13 Q So where were you when the CI went in?

14 A I was around the corner.

15 Q What do you mean by "around the corner?"

16 A Literally at the end of the street. I'm trying
17 to remember what the end street it. I don't recall, but
18 where the street crosses the next cross street, I was
19 literally at that corner.

20 Q Y'all had your recording and stuff, whatever
21 recording devices you had, you had in that vehicle?

22 A There was a recorder on the cooperating source,
23 and there was a transmitter that we were recording in my
24 vehicle. I think that's how it worked.

25 Q So most of the information you testified to the

1 Judge, basically, you got it from the other members that
2 were the ones that officially went in to secure the
3 place; is that correct?

4 A What is most?

5 Q I'm talking about whatever happened from the
6 time that they secured the place until the warrant was
7 issued.

8 A I was probably about the third unit on the
9 street, maybe the fourth, something like that, from my
10 end of the street. There were more units coming from
11 the other way. Everything was underway and I was
12 present up to that point. Then after the house was
13 swept, I came out. I left for a brief period of time to
14 go talk to the cooperating source, and I came back.

15 Q You went inside the house also?

16 A Yep.

17 Q And you had the dogs in there also?

18 A No, not then.

19 Q No?

20 A Not then.

21 Q Sir, in your opinion, Mr. Davila was not
22 arrested until after the drugs were found; is that
23 correct?

24 A He was detained. I had probably cause to
25 arrest him when he made the negotiation.

1 Q You had probable cause to arrest somebody
2 without finding the drugs?

3 A I had probable cause to find that he was
4 conspiring to distribute the controlled substances, yes.

5 Q You didn't do the arrest, did you?

6 A What do you mean by that?

7 Q You weren't the person that did the actual
8 arrest?

9 A He was arrested under State charges that were
10 specifically made.

11 Q So it's your belief that you can go into a
12 house simply because you are concerned that the drugs
13 may be moved or something?

14 A It's my belief that if I'm in the middle of a
15 drug deal and I have probable cause to believe that a
16 drug crime has happened and I've got potential for my
17 team to be injured by somebody that may be in that
18 residence, that there also may be danger that the
19 evidence that I know was present could be destroyed or
20 moved, that was my understanding, that we could sweep
21 the house, make sure there was nobody that could do any
22 of that, and we had to leave.

23 Q Your CI wasn't in there?

24 A Not to my knowledge.

25 Q None of your people were in there until you

1 decided to go and create --

2 A As I said, Mr. Lopez fled into the garage. The
3 garage leads into the house. He was detained, I
4 believe, before he got inside the house. I didn't know
5 that because I was just arriving, but he was removed
6 from inside of the residence.

7 Q A lot of your testimony was, I believe, I
8 think. Basically, a lot of your testimony is based on
9 what the other officers told you because you weren't
10 there, you were the third or fourth group that showed up?

11 A You're going to have to specify.

12 Q A lot of stuff you said happened at the time
13 that the sweep took place, you weren't really part of
14 it. You were the third group that showed up?

15 A No. You're misunderstanding. That is not the
16 case. As I said, this all took place pretty rapidly.
17 Lopez fled into the garage. My first two agents were
18 right after him. We followed in after them. They
19 secured Lopez. We proceeded into the rest of the house
20 to make sure there wasn't anybody else in there that
21 could cause us harm or destroy the evidence. I was part
22 of that group. After that part was done and the team
23 came out of the house, we detained everybody in the
24 front yard. I left the location for a brief period of
25 time to go talk to the cooperating source. Then I

1 returned. That's what happened.

2 MR. SANTOS: I have no other questions,
3 sir.

4 REDIRECT EXAMINATION

5 BY MR. SOMERS

6 Q Agent Schmidt, one question I forgot to ask
7 you. We've been discussing Oscar Davila. Do you see
8 him here in the courtroom?

9 A Yes, the gentleman in the orange jumpsuit to my
10 left.

11 MR. SOMERS: May the record reflect the
12 witness has identified the defendant?

13 THE COURT: The record will reflect.

14 Thank you. Appreciate your testimony.

15 Anything else?

16 MR. SOMERS: Deputy Ben Katrib.

17 THE COURT: All right.

18 **BEN KATRIB,**

19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SOMERS

22 Q Deputy Katrib, could you please state your full
23 name for the record?

24 A Ben Katrib.

25 Q Could you spell your last name for the court