

1 THE COURT: Sustained.

2 MS. REDDI: Pass the witness, Your Honor.

3 THE COURT: Ms. Roberts?

4 MS. ROBERTS: No further questions, Your
5 Honor.

6 THE COURT: All right. Thank you, ma'am.
7 You may step down and step outside.

8 Call your next witness please.

9 MS. ROBERTS: Your Honor, the State calls
10 Officer Shorten.

11 MS. ROBERTS: Your Honor, may this
12 witness be excused?

13 THE COURT: Ms. Reddi, will you need this
14 witness any more?

15 MS. REDDI: No, sir.

16 THE COURT: All right. She may be
17 excused.

18 Ms. Roberts?

19 MS. ROBERTS: Thank you, Your Honor.

20 DARCUS SHORTEN,
21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ROBERTS:

24 Q. Officer Shorten, can you please introduce
25 yourself to the jury?

1 A. Yes. My name is Darcus Shorten. And I'm an
2 investigator with the Houston Police Department.

3 Q. Okay. How long have you been with the HPD?

4 A. About 26 and a half years now.

5 Q. All right. So, what kind of training did you
6 have to go through to become an HPD officer?

7 A. I went through the Houston Police Academy.
8 Once I completed that and graduated, obviously, we went
9 to our field training. And from field training I went
10 to South Central, which is a Third Ward area where I
11 was a patrol officer. And obviously, we take 40 hours
12 a year. So, we continue with our training and
13 different parts of investigative titles.

14 Q. Okay. And so, what title do you hold right
15 now?

16 A. I am a detective investigator with the Houston
17 Police Department Homicide Division right now.

18 Q. Okay. And let me talk to you about December
19 of '09. Where were you in that time?

20 A. At that time I was an investigator with the
21 Sex Crimes Unit.

22 Q. Okay. Now, with HPD is it common to move
23 around like that, have different titles after a few
24 years?

25 A. Yes, it is.

1 Q. Okay. And now to be with the Sex Crimes Unit,
2 what type of specific training did you have to go
3 through?

4 A. Well, you have to learn the basic elements of
5 what determines a sexual assault. From there, we learn
6 about how to interview and interrogate and also what to
7 look for in regards to talking to our victims,
8 interviewing them and trying to determine exactly what
9 occurred.

10 Q. Okay. And did you complete the training
11 before going to the Sex Crimes Unit?

12 A. Yes, I did.

13 Q. All right. How long were you in the Sex
14 Crimes Unit?

15 A. From '09 for about five years, I was there,
16 yes, ma'am.

17 Q. And, I guess, earlier I said in December of
18 '09 were you there. But really -- I don't know -- you
19 didn't get this case then, did you --

20 A. No.

21 Q. -- the one that you're here about today?

22 A. No.

23 Q. All right. So -- but over that time you were
24 in the Sex Crimes Unit?

25 A. Yes, I was.

1 Q. All right. So, I want to talk to you about
2 the reason you're here today. Can you tell us when you
3 received this case?

4 A. I received it March the 25th, 2010.

5 Q. Okay. And just to be clear, do you know what
6 is the offense date on the one we're talking about?

7 A. The offense date here is carrying December the
8 8th, 2009.

9 Q. And just for purposes so we know what we're
10 talking about the right case, where -- what is the
11 address of that location?

12 A. 3510 Askew, A-s-k-e-w.

13 Q. All right. And so, when you receive a case
14 like this, obviously you're doing follow up on it,
15 right?

16 A. Correct.

17 Q. Okay. So, what kind of things do you do?

18 A. Well, you -- No. 1, you read and try to
19 familiarize yourself with the case -- with the elements
20 of the case, what happened, when did it happen, who did
21 it occur against. Once you gather all of that, then
22 the first thing that I would do is contact the
23 complainant to try to establish a good information as
24 -- from her or him what may have occurred.

25 Q. Okay. And who is the complainant in this

1 case?

2 A. In this case her name is Natalie, last name
3 Pineda, P-i-n-e-d-a.

4 Q. Okay. And so, in this case did you make
5 contact with Natalie?

6 A. Yes, I did.

7 Q. All right. And so, once you kind of have the
8 case opened to you, what happened next in this case for
9 you?

10 A. Well, it was passed on and I reviewed it. And
11 what I'm looking for is to try to determine whether or
12 not I see anything that's different that could be --
13 could have been done. And also just to determine
14 whether or not there was any additional information
15 that I could use to try to solve the crime.

16 Q. Okay. So, in this particular case, at some
17 point did you develop a suspect?

18 A. Yes, I did.

19 Q. Okay. And how did you do that?

20 A. Through DNA.

21 Q. All right. And so, once you got this person's
22 name, what did you do?

23 A. I researched the person and I also placed him
24 inside a photo spread.

25 Q. Okay. When did you do that for this case?

1 A. The photo spread was introduced 12/17 of 2012.

2 Q. Okay. And when did you actually figure out or
3 develop a suspect in this case?

4 A. It was developed 9/9 of 2000 -- I'm sorry --
5 10/23 of 2012. I'm sorry.

6 Q. Okay. So, you said that once you received the
7 name -- and in this case what's the name or the suspect
8 that you actually developed?

9 A. First name Roy, last name Vasquez.

10 Q. Okay. And so, once you figured out who he
11 was, you said you did a photo spread.

12 A. Correct.

13 Q. All right. And so, can you tell us a little
14 bit about how a photo spread is put together?

15 A. Sure. You -- once you identify a particular
16 individual, your purposes are try to gain five other
17 individuals with some similarities. You're talking
18 hair color and eye color, obviously race and sex. Any
19 other identifiers that you can use as what we call as
20 fill-ins.

21 Q. Okay. And so, once you get those -- I guess
22 it's a total of six people, what do you do?

23 A. You put him in an array and you randomize them
24 and then you present it.

25 Q. All right. And are you -- do you choose the

1 order or does somebody else?

2 A. Someone else.

3 Q. Okay. And so, you said an array. Is it like
4 six photographs, one per page? Can you describe it for
5 us?

6 A. No. What we normally do is place them in
7 little boxes. So, you have three at the top and you
8 have three at the bottom.

9 Q. Okay. And so, you gave a date of December
10 17th, 2012. What happened on that day?

11 A. I produced a photo spread and presented it.

12 Q. Presented it to who?

13 A. To the complainant, Natalie.

14 Q. Okay.

15 MS. ROBERTS: Your Honor, may I approach
16 the witness?

17 THE COURT: Yes, ma'am.

18 Q. (BY MS. ROBERTS) All right. Officer Shorten,
19 I'm going to show you what's been previously marked as
20 State's Exhibit No. 21 and 22.

21 A. Okay.

22 Q. All right. Do you recognize these two items?

23 A. Yeah. These are the photo spreads that were
24 presented.

25 Q. Okay. And how do we know that these are the

1 same ones?

2 A. From the back I see where it's been identified
3 and also with the acknowledgement.

4 Q. Okay. And so, sorry -- we're going to go --
5 for State's Exhibit No. 22, just for clarity's sake,
6 that's where it's written on the back. And State's
7 Exhibit No. 25 you called an admonishment?

8 A. That's correct.

9 Q. And so, on the admonishment, are there any
10 like identifiers --

11 THE COURT: 25?

12 MS. ROBERTS: Sorry?

13 THE COURT: You said State's 25.

14 MS. ROBERTS: Oh, I'm sorry. State's 21,
15 Your Honor.

16 Q. (BY MS. ROBERTS) Are there any numbers that
17 let you know that this is the case it goes to?

18 A. What we have is an HPD incident number. And
19 these are the numbers that we attach to every report.
20 And in this case that -- my case number is attached to
21 that.

22 Q. Okay. And so, are these fair and accurate
23 representations for the exact admonishment and photo
24 array that you showed to Natalie Pineda on 12/17 of
25 '12?

1 A. Yes, it is.

2 Q. Okay.

3 MS. ROBERTS: Your Honor, at this time
4 I'm going to tender State's 21 and 22 to opposing
5 counsel and offer them into evidence.

6 MS. REDDI: No objections, Your Honor.

7 THE COURT: All right. State's 21 and 22
8 will be admitted.

9 MS. ROBERTS: And, Your Honor, may I
10 publish these to the jury?

11 THE COURT: Yes, ma'am.

12 MS. ROBERTS: Thank you.

13 Q. (BY MS. ROBERTS) All right. So, I want to
14 talk to you a little bit more about this witness
15 admonishment, which is State's Exhibit No. 21.

16 A. Okay.

17 Q. Okay. So, we can see it here on the overhead.
18 That HPD incident number you were talking about, is
19 that what you see up here on the very top right hand of
20 the page?

21 A. Yes, it is.

22 Q. Okay. And then underneath it we can see it
23 says date and time. Can you please tell us what the
24 date and time is on in actual admonishment?

25 A. 12/17 2012 at 10:24 p.m.

1 Q. All right. Sorry. Is that p.m.?

2 A. 10:24 a.m. I'm sorry.

3 Q. A.m. Okay.

4 And we see at the top it says my name is
5 and then it's printed Natalie M. Pineda. Did you write
6 that or did she?

7 A. She wrote that.

8 Q. Okay. And so, it's filled out here with
9 initials and then we see it again at the bottom with
10 her name. We see that there are admonishments, 10 of
11 them specifically, in between. Who read them? Did you
12 read them to Natalie or did she read them to herself?

13 A. She read it herself.

14 Q. All right. Can you just tell us quickly, what
15 do these admonishments -- like what's the purpose of
16 them?

17 A. Well, you want the person who is viewing it to
18 understand what they're doing, what are they actually
19 looking at. And at the end you want them to understand
20 that they're not required or forced to -- to try to
21 pick someone out. That the investigation is going to
22 continue to occur as they go.

23 Q. Okay. And so, when giving this to her, did
24 she make it clear that she understood the
25 admonishments?

1 A. Yes, she did.

2 Q. Okay. And then after you presented these
3 admonishments, what did you do?

4 A. Then we present the actual photo spread.

5 Q. Okay. So, is that what we see here in State's
6 Exhibit No. 22?

7 Is that the photo spread?

8 A. Yes, it is.

9 Q. Okay. And so, when she has the photo spread
10 in front of her, are you in any way suggesting to her
11 which numbers to choose?

12 A. No, ma'am.

13 Q. Okay. And do you tell her she has to choose a
14 number?

15 A. No, ma'am.

16 Q. So, when she's looking at it, are you present
17 in the room with her?

18 A. Yes.

19 Q. All right. And so, what happened during this
20 instance?

21 A. In this instance, the photo spread was inside
22 of an envelope. And I gave it to her. She opened it
23 up and she reviewed it.

24 Q. Okay. Do you remember how long she reviewed
25 it?

1 A. It wasn't that long. I mean, she looked at
2 several pictures.

3 Q. And when you say several pictures --

4 A. Several photos. I'm sorry.

5 Q. All right. And when you say that, it's just
6 of --

7 A. That -- of that six, correct.

8 Q. Make sure I finish first. Okay?

9 A. Um-hum.

10 Q. So, it's just only the six on the page. There
11 are no other photos in the room?

12 A. No.

13 Q. Now, when she reviewed this, did she pick
14 anybody out?

15 A. Yes, she did.

16 Q. Okay. Did she pick out one person, more than
17 one? Was it positive? What did she do?

18 A. More than one.

19 Q. Okay. And so, how do we document that?

20 A. What we have her to do is to sign and initial
21 or initial and date on the back of each photo.

22 Q. So, if we turn State's Exhibit No. 22 over, is
23 that what we see here?

24 A. Yes.

25 Q. Okay. And so, does she write the same thing

1 in two different places?

2 A. Yes.

3 Q. All right. And is that her handwriting that
4 says: Out of all six since 2009, Picture 2 and 4 are
5 the closest. It's been so long, I don't remember?

6 A. That's her writing.

7 Q. Okay. And that's behind Pictures No. 2 and 4;
8 is that correct?

9 A. That's correct.

10 Q. And is that her signature above and below the
11 two parts?

12 A. Yes, it is.

13 Q. Okay. Now, looking at State's Exhibits No.
14 -- State's Exhibit No. 22, can you please tell us the
15 person that you developed the name of, Roy Vasquez, is
16 he anywhere in this photo spread?

17 A. Yes, he is.

18 Q. What position is he?

19 A. He is number -- raise it up -- I'm sorry -- a
20 little bit.

21 Q. Sorry. This way?

22 A. Yes, ma'am.

23 One, two, three -- he's No. 1.

24 Q. He's here?

25 A. No. He's No. 4.

1 Q. Here?

2 A. Yes, ma'am.

3 Q. Okay. So, sorry. You said No. 1.

4 A. Yeah. I'm looking at -- yeah, No. 4.

5 Q. All right. So, the No. 4 is above his head?

6 A. Yes.

7 Q. Okay. So, when she said it's either 2 or 4,
8 she's talking about one of these two. And Roy Vasquez
9 is actually in this position?

10 A. Yes, he is.

11 Q. Okay. After the photo spread, what did you do
12 next?

13 A. Well, with that information, I went and
14 established a search warrant now for Roy Vasquez.

15 Q. Okay. Did you execute that search warrant?

16 A. No.

17 Q. Okay. Why not?

18 A. Could not find him.

19 Q. Okay. And so, at some later time did you meet
20 up with a person you knew as Roy Vasquez?

21 A. Yes, I did.

22 Q. All right. And how did you identify him?

23 A. I identified him through his armband, his
24 name, his identification.

25 Q. And do you see that person here in the

1 courtroom today?

2 A. Yes, ma'am.

3 Q. Can you please point to him and identify him
4 by an article of clothing?

5 A. Roy Vasquez, with his shirt and tie.

6 Q. Okay. When you say with his shirt and tie,
7 can you please give a description of the color of the
8 shirt?

9 A. Yes, ma'am. It's a blue -- and looks like a
10 black polka dot tie.

11 MS. ROBERTS: Your Honor, at this time
12 I'd like the record to reflect that she's identified
13 the defendant as Roy Vasquez.

14 THE COURT: It will.

15 Q. (BY MS. ROBERTS) Okay. And so, you said --
16 what date did you actually have -- see him in person?

17 A. September the 7th, 2013.

18 Q. All right. And on that date, were you able to
19 discuss with him the possibility of getting what we
20 call a buccal swab?

21 A. That's correct.

22 Q. All right. Can you tell us, what is a buccal
23 swab?

24 A. It's actually a Q-tip basically. I have a
25 sample if you want me to show the jury or -- it's just

1 a Q-tip. It's about that long. And you use it to take
2 a sample of saliva on the inside of the cheek.

3 Q. Okay. Yeah, if you have one.

4 A. Um-hum.

5 MS. ROBERTS: May I approach the witness,
6 Your Honor?

7 THE COURT: Yes, ma'am.

8 Q. (BY MS. ROBERTS) All right. So, what we see
9 here -- you've pulled out kind of an envelope.

10 A. Yes, ma'am.

11 Q. And then are -- is this what you call a buccal
12 swab?

13 A. That's correct.

14 Q. Okay. So, it comes kind of in a sealed
15 package.

16 A. Yes, it does.

17 Q. All right. And are these something -- where
18 do you get these?

19 A. We get them supplied through our inventory.

20 Q. Okay. So, do you just go out to CVS and buy
21 them?

22 A. No.

23 Q. All right. When you have one of these and
24 you're going to do a buccal swab, do you just do it
25 with bare hands?

1 A. No.

2 Q. Okay. What's your procedure?

3 A. We will take a sterile plastic glove and put
4 it on. This is the little sterile carton that it goes
5 in.

6 Q. So, does it come in the sterile carton?

7 A. No, it doesn't.

8 Q. Okay.

9 A. Once it's folded, you typically open it up.
10 You remove it.

11 Q. Just make sure you speak into the microphone.

12 A. And you remove it.

13 Q. Okay.

14 A. And that's when you collect your sample. And
15 you collect a sample from the other side of your cheek.
16 Place it in the sterile -- close it up. It remains in
17 the care, custody and control of it until it's time to
18 tag it.

19 Q. May I see the box? I'm going to go ahead and
20 just -- the box and the Q-tips are no longer going to
21 be used for anything else?

22 A. No, ma'am.

23 Q. Okay. Then I'm going to go ahead and mark it
24 for demonstrative purposes as State's Exhibit No. 26.

25 So, we're watching you do that. At any

1 point do you ever touch the cotton part of the Q-tip?

2 A. No, ma'am.

3 Q. Okay. And is that what you do in every case
4 where you're taking a buccal swab?

5 A. That's correct.

6 Q. All right. Now, you said that you did not
7 execute the search warrant for this case. What did you
8 do instead?

9 A. What do you mean?

10 Q. If you don't have a search warrant, do you
11 have to have consent?

12 A. Yes, you do.

13 Q. Okay.

14 A. You have to have consent, correct.

15 MS. ROBERTS: Your Honor, may I approach
16 the witness?

17 THE COURT: Yes, ma'am.

18 Q. (BY MS. ROBERTS) All right. I'm going to
19 show you what's been marked as State's Exhibit No. 23.
20 Do you recognize this?

21 A. Yes.

22 Q. Okay. How do you recognize it?

23 A. I recognize -- this is what was presented to
24 Roy Vasquez, a voluntary consent to obtain buccal swab.

25 Q. All right. And then, how do you know this is

1 the same one?

2 A. I see the signatures and I recognize the cause
3 number on it.

4 Q. All right. And did you -- is your signature
5 on this sheet?

6 A. Yes, it is.

7 Q. Okay. And so, at the bottom -- is it down
8 here where it says witness and then there's signatures?

9 A. Correct.

10 Q. All right. So, is this a fair and accurate
11 representation of what this sheet of paper was on
12 September 5th, 2013 when it was obtained?

13 A. Yes.

14 MS. ROBERTS: Your Honor, at this time
15 I'm going to tender State's Exhibit No. 23 to opposing
16 counsel and offer it into evidence.

17 MS. REDDI: No objections, Your Honor.

18 THE COURT: All right. State's 23 will
19 be admitted.

20 MS. ROBERTS: Your Honor, may I publish
21 this to the jury?

22 THE COURT: Yes, ma'am.

23 MS. ROBERTS: Thank you.

24 Q. (BY MS. ROBERTS) So, we see that it says Roy
25 Vasquez at the top. And then you said that your

1 signature is down here. Is this the top or bottom of
2 the signature?

3 A. The bottom.

4 Q. And so, once a voluntary consent to obtain
5 buccal swab is obtained, then do you do the procedure
6 that you just talked to us about?

7 A. Yes.

8 Q. Okay. And did you do that in this case?

9 A. Yes, I did.

10 MS. ROBERTS: Your Honor, may I approach
11 the witness one more time?

12 THE COURT: Yes, ma'am.

13 Q. (BY MS. ROBERTS) All right. Officer Shorten,
14 do you recognize this bag?

15 A. Yes.

16 Q. How do you recognize it?

17 A. That was the evidence that was tagged in our
18 Houston Police Department Property Room.

19 Q. Okay. And does it have -- how do you know
20 what case it goes to?

21 A. My case number is on there.

22 Q. All right. And does it also have your name or
23 other identifiers on it?

24 A. Yes, it does.

25 Q. Okay. And so, we can see that it's been open

1 and has evidence tape on it. Other than that, is this
2 a fair and accurate representation of the last time you
3 saw it?

4 A. Yes, ma'am.

5 Q. All right. What was placed in this bag?

6 A. The buccal swabs.

7 Q. Okay. So, we can see that there is -- let's
8 see -- a box similar to what State's Exhibit 26, that
9 demonstrative is, inside the bag. Is this the same box
10 that you had?

11 A. Yes, that's it.

12 Q. Okay. And how can we identify it?

13 A. His name, Hispanic male and date of birth is
14 on there.

15 Q. Okay. Does it also have an incident number on
16 it?

17 A. Yes, it does.

18 Q. And are there any other identifiers on it?

19 A. The case number and my -- and his name.

20 Q. Okay. All right. Now, is this -- again,
21 other than the evidence tape on the edges, is this the
22 same condition or substantially same condition that you
23 saw it last?

24 A. Correct.

25 MS. ROBERTS: Your Honor, at this time

1 I'm going to tender State's Exhibit No. 24 to opposing
2 counsel and offer it into evidence.

3 MS. REDDI: No objections, Your Honor.

4 THE COURT: All right. State's 24 will
5 be admitted.

6 Q. (BY MS. ROBERTS) Now, once you get that
7 buccal swab, what happens to it?

8 A. I tag it into the Houston Police Department
9 Property Room and then make a submission for DNA
10 comparison.

11 Q. Okay. And so, at that point do you ever deal
12 with the buccal again?

13 A. No.

14 Q. All right. And it just gets put back in
15 property afterwards?

16 A. That's correct.

17 Q. Okay. And just to be clear, did you follow
18 all the procedures that you were required to follow
19 when obtaining a DNA buccal swab from anybody?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. ROBERTS: Your Honor, may I approach
23 the witness again?

24 THE COURT: Yes, ma'am.

25 Q. (BY MS. ROBERTS) Now, I'm showing you what's

1 been marked as State's Exhibit No. 25.

2 A. Okay.

3 Q. Do you recognize who's in the photograph?

4 A. That's Roy Vasquez.

5 Q. Okay. And is this a fair and accurate
6 depiction of what he looked like back in 2012 or 20 --
7 sorry -- 2013 when you obtained a buccal swab from him?

8 A. Yes.

9 Q. Okay. So, that's a fair and accurate
10 depiction of what he had --

11 A. Yes.

12 Q. -- looked like then?

13 A. Yes, ma'am.

14 Q. Has his appearance changed since now?

15 A. A little, but not that much.

16 MS. ROBERTS: Your Honor, at this time
17 State offers State's Exhibit No. 25 and tenders it to
18 opposing counsel.

19 MS. REDDI: No objections, Your Honor.

20 THE COURT: State's 25 will be admitted.

21 MS. ROBERTS: And, Your Honor, may I
22 publish it to the jury?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. ROBERTS) All right. So, this is what
25 he looked like back on that day when you met him for

1 the buccal swab?

2 A. Yes.

3 Q. Now, after you obtained the buccal swab and
4 submitted it to the DNA lab, did you do anything else
5 on the case?

6 A. No, ma'am. Just filing of the charges.

7 Q. Okay.

8 A. Yes.

9 Q. And so, you did not meet with the complainant
10 or have any other witness meetings or anything after
11 that?

12 A. No.

13 Q. Okay. Now, Officer, in your training and
14 experience through Houston Police Department, are you
15 familiar with deadly weapons?

16 A. Yes.

17 Q. Okay. Now, can a knife, whether it be a
18 pocketknife or a long knife, be a deadly weapon?

19 A. Yes.

20 Q. Okay. And so, with its use or intended use, I
21 mean, can somebody inflict serious bodily injury or
22 death with a knife?

23 MS. REDDI: Objection, calls for
24 speculation, Your Honor.

25 THE COURT: Overruled.

1 Q. (BY MS. ROBERTS) You can answer the question.

2 A. Yes.

3 MS. ROBERTS: Pass the witness, Your
4 Honor.

5 THE COURT: Ms. Reddi?

6 MS. REDDI: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. REDDI:

9 Q. Officer Shorten, you were assigned to the
10 Vasquez case or rather to the sexual assault case back
11 in March of 2010, correct?

12 A. Correct.

13 Q. And that was about three months after the
14 alleged incident?

15 A. Yes. The incident was December the 8th, 2009.

16 Q. Uh-huh. So, it was about three months
17 afterwards, correct?

18 A. Yes, ma'am. Uh-huh.

19 Q. And you said you then made contact with
20 Ms. Pineda's family?

21 A. Yes, I made contact.

22 Q. All right. And before you developed
23 Mr. Vasquez as the suspect in this case, was there a
24 yet another suspect that you looked at?

25 A. Yeah, there was.

1 Q. Okay. And specifically who was that?

2 A. Now, remember that was developed by the
3 original investigator.

4 Q. Okay. If it helps you, it's on Page 11 of
5 your offense report.

6 A. Okay. Thank you.

7 Oscar Jose Ramirez. Is that who you're
8 referring to?

9 Q. Okay.

10 A. Um-hum.

11 Q. And what -- how did you end up thinking that
12 this man was the suspect in this case?

13 A. Well, in this case I think he was in
14 possession of an item which was possibly identified in
15 a case.

16 Q. Okay. And -- and because of that, you
17 contacted Mr. Ramirez?

18 A. Well, let's go back. Because this individual
19 was interviewed by another detective.

20 Q. Okay.

21 A. And that detective brought it obviously to our
22 attention because we were looking at whoever may have
23 committed this crime. And based on that we were -- if
24 he was identified, we're going to look into it. That's
25 part of our investigative tool.

1 Q. Sure. And how tall was this Oscar Ramirez?

2 A. It says here from this investigator's
3 description of him, he was listed as five seven, 190.

4 Q. Okay. And how old was he?

5 A. It says here -- where do you see age at? I
6 see he's born 3/11 of 1986.

7 Q. All right. Is he a Hispanic male?

8 A. I would assume just based on the name.

9 Q. Okay. And the reason why he was arrested is
10 because he pawned an item from the Pineda home,
11 correct?

12 A. According to his report, yes.

13 Q. Okay. And so, this was a suspect that you had
14 before you arrested Mr. Vasquez?

15 A. Well, you know, yeah, suspect or person of
16 interest because obviously he was in possession of
17 something that was of concern.

18 Q. I understand.

19 And so, you said the way you got -- you
20 figured out that my client had something to do with
21 this case is because of DNA, correct?

22 A. That's correct.

23 Q. All right. Now, when is it that you got that
24 DNA result in your hand that made you believe that my
25 client was a suspect?

1 A. That DNA report was back in October the 23rd,
2 2012.

3 Q. All right. And you've had this case, what,
4 since 2010, correct?

5 A. That's correct.

6 Q. All right. I want to talk to you a little bit
7 about the DNA testing. And if it helps you, if you
8 could go to Page 14 and 15 of your offense report.

9 A. Okay.

10 Q. When -- I'll let you get to it.

11 A. I'm sorry. Okay. Go ahead. I'm on 14.

12 Q. All right. When was the first -- obviously in
13 a sexual assault case where you don't have a suspect,
14 DNA evidence is extremely important, correct?

15 A. Yes, it is.

16 Q. All right. And when was the first request for
17 DNA made on this case?

18 A. It had to have been made at the beginning.
19 Because when the first investigator looked into this
20 case, I'm sure submission had to have been made.

21 MS. ROBERTS: Objection Your Honor. May
22 we approach?

23 THE COURT: Okay.

24 (Bench conference on the record).

25 MS. ROBERTS: Your Honor, we're getting

1 very close to talking about the CODIS hit. And I just
2 want to make sure that we're not going in that
3 direction because that could be prejudicial in front of
4 the jury. So, I just wanted to make sure that she's
5 aware that I have instructed my witness not to do it at
6 this point because she's getting close --

7 MS. CALLIGAN: She's implying that we
8 didn't try to test it. We didn't have it until he went
9 to state jail.

10 MS. ROBERTS: 'Cause she's implying that
11 we didn't try to test it. But we didn't have it until
12 he went to the state jail.

13 THE COURT: I'm not -- I don't know what
14 she's implying. But if she starts asking about it,
15 then y'all are going to be able to come back and clear
16 it up.

17 MS. ROBERTS: Okay.

18 THE COURT: So, I mean, see where it
19 goes.

20 MS. ROBERTS: Okay.

21 (End of conference).

22 MS. REDDI: Excuse me, Your Honor. If I
23 might have a minute?

24 THE COURT: Yes, ma'am.

25 (Brief pause).

1 THE COURT: Your last question was: When
2 was the first request for DNA made on this case, if
3 that helps you.

4 MS. REDDI: Yes, sir.

5 Q. (BY MS. REDDI) Ma'am, if you can look at Page
6 14 of your offense report?

7 A. Yes, ma'am.

8 Q. The bottom part?

9 A. Yes, ma'am.

10 Q. When was that first request made?

11 A. Now, looking -- if you look at Page 6, it says
12 here where --

13 Q. I was looking at --

14 A. -- analysis -- yeah. Are you saying the first
15 one? It looks as if he made that on Page 6.

16 See that screen where it says crime
17 laboratory request for analysis? Sent to LA, that's
18 like to LIMS. And it appears that that was sent on --
19 they entered 12/15 of 2009.

20 Q. Correct.

21 A. Right.

22 Q. But if you --

23 A. That's the first one.

24 THE COURT: One at a time, please.

25 Q. (BY MS. REDDI) I would like you to go to

1 Page 14 if you will, please, ma'am.

2 A. Yes, ma'am.

3 Okay. I'm here.

4 Q. And look at the bottom part of that page.

5 A. Okay. Where it says sexual assault
6 supplement?

7 Q. Yes, ma'am.

8 A. Uh-huh.

9 Q. And if you look at the very bottom, do you see
10 where it says status of sexual assault testing kit?

11 A. Um-hum. Yes.

12 Q. What did it say under other status?

13 A. Testing requested, but not yet conducted on
14 12/15/2009.

15 Q. Okay. And this was a few days after the
16 incident, correct?

17 A. Correct.

18 Q. And what does it say right under that?

19 A. Reason no test request is submitted under
20 notes.

21 Q. Okay. So, basically the first time somebody
22 requested it -- sent this kit in, they didn't request
23 that it be tested, correct?

24 A. No. It was requested. You may have to have
25 someone from DNA to explain that. But usually when we

1 send that LIMS request out -- now, what it may be
2 saying is that it had not been tested as of that date
3 that we're looking at. But that request looks like it
4 was sent.

5 Q. All right.

6 A. Yes, ma'am.

7 Q. So, under that -- basically you see three
8 different dates. I will -- then you show second
9 request made in 2012, correct?

10 A. You still on Page 14?

11 Q. Yes, ma'am.

12 A. Okay. It says assigned for screening 12/17
13 of '09 and 1/14/10, but not yet test -- conducted.
14 Then we have kit test requested second time 1/14/10.

15 Q. All right. So, basically I guess the DNA
16 wasn't tested until 2012, correct?

17 A. I mean, he was placed -- well, yes.

18 Q. All right. Two and a half years later,
19 correct?

20 A. Correct.

21 Q. I want to talk to you a little bit about the
22 photo spread.

23 A. Yes, ma'am.

24 Q. You basically presented, you said, six
25 pictures to her?

1 A. Yes.

2 Q. All right. And she identified -- actually
3 would you call this an identification?

4 A. Yes, I would. I think that's -- yes.

5 Q. Okay. All right. If you would read out for
6 me what's written behind the photo spread, ma'am?

7 A. Yes, ma'am. Out of all six, since 2009,
8 Picture 2 and 4 are the closest. It's been so long, I
9 don't remember.

10 Q. Okay. It does say it's been so long, I don't
11 remember, correct?

12 A. That's correct.

13 Q. And she picked picks out two people?

14 A. Yes.

15 Q. And yet you would call that an identification?

16 A. Because you have other factors involved.

17 Q. All right. Did you by any chance put the
18 photograph of the other gentleman, Mr. Ramirez, also on
19 the photo spread, ma'am?

20 A. No.

21 Q. And Mr. Ramirez was found with some stolen
22 property that belonged to the Pineda house, correct?

23 A. That's correct.

24 Q. And as far as you know, Officer Shorten, what
25 were the properties that were taken from the Pineda

1 house the day of this alleged incident?

2 A. We have to look back to --

3 MS. ROBERTS: Objection, Your Honor. She
4 doesn't have personal knowledge to this.

5 THE COURT: Overruled. She can answer if
6 she knows.

7 Q. (BY MS. REDDI) Ma'am?

8 A. I'm sorry?

9 Q. Do you know what properties were taken?

10 A. No, ma'am.

11 Q. Were you party to that statement that she gave
12 at the police station?

13 A. No, ma'am.

14 Q. Okay. Now, Officer Shorten, how long have you
15 been in the Sex Crimes Unit?

16 A. I was there for about five years.

17 Q. Okay.

18 A. Yes, ma'am.

19 Q. And in your job as an investigator, would you
20 say you've seen a few or a lot of allegations of sexual
21 assault?

22 MS. ROBERTS: Objection, Your Honor,
23 relevance.

24 THE COURT: Overruled as to that
25 question.

1 But go ahead.

2 A. Now, repeat. I'm sorry.

3 Q. (BY MS. REDDI) In your job as an
4 investigator, have you seen few or a lot of allegations
5 of sexual assault?

6 A. A lot.

7 Q. Okay. So, you've -- I'm sure you've seen both
8 honest and dishonest victims, correct?

9 MS. ROBERTS: Objection, Your Honor, to
10 relevance.

11 THE COURT: Overruled. I'll let her
12 answer that.

13 A. Well, you know, I don't know whether that
14 would be honest or dishonest. I think you have to look
15 at each one individually as it's a lot entailed when
16 your investigating something as serious as a sexual
17 assault case.

18 Q. Sure. And you have seen false claims of
19 sexual assault too I'm sure, correct?

20 MS. ROBERTS: Objection, Your Honor,
21 relevance.

22 THE COURT: Sustained.

23 Q. (BY MS. REDDI) Specifically as it links to
24 this case, ma'am, you have no way of knowing what
25 happened on December 8th, 2009, if it was consensual

1 sex or rape, correct?

2 A. No.

3 Q. And other than knowing that there was DNA
4 results that belonged to my client or something like
5 that, all you have is an allegation, correct?

6 A. Well, I think we have more than just an
7 allegation. We have an offense that took place. You
8 look at it in its totality, you look at the whole
9 crime, you look at witness statements, you look at all
10 of your evidence and to -- to make that determination.

11 MS. REDDI: Objection, nonresponsive,
12 Judge.

13 THE COURT: Overruled.

14 Q. (BY MS. REDDI) Specifically in this
15 particular case, what you have is an allegation from
16 Ms. Pineda, correct?

17 A. Correct.

18 MS. ROBERTS: Objection, Your Honor,
19 asked and answered.

20 THE COURT: Overruled.

21 Q. (BY MS. REDDI) So, you cannot tell this jury
22 with any degree of certainty whether or not Ms. Pineda
23 knew Mr. Vasquez personally or not?

24 A. I asked her.

25 Q. But you don't know personally whether or not

1 they knew each other?

2 A. Well, I don't know whether I would say
3 personally. But I conducted the investigation on the
4 case and one of the questions that I asked --

5 Q. If you would answer my question, ma'am.

6 My question was a yes-or-no answer.

7 A. Under no uncertainty, no.

8 Q. Okay. And you do not know if Ms. Pineda let
9 Mr. Vasquez into his [sic] house or not?

10 A. Based on her statement, she didn't.

11 Q. Okay. But you personally -- my question is
12 personally --

13 A. No.

14 Q. You personally --

15 A. No.

16 Q. You do not know whether or not they had
17 consensual sex, correct?

18 MS. ROBERTS: Objection, Your Honor,
19 asked and answered.

20 THE COURT: Sustained.

21 Q. (BY MS. REDDI) Isn't it true, Officer
22 Shorten, you pretty much have to rely a lot of times on
23 what the victim tells you, correct?

24 A. Yes.

25 Q. Now, you did not ever find Mr. Vasquez to be

1 in possession of any of the alleged stolen items,
2 correct?

3 A. No.

4 Q. No cell phone?

5 A. No.

6 Q. No laptop?

7 A. No.

8 Q. No battery?

9 A. No.

10 Q. No ring?

11 A. No.

12 Q. Did Mr. Vasquez -- when you did that buccal
13 swab, which was part of State's Exhibit No. 23, he
14 voluntarily consented to the swab, did he not?

15 A. Yes, he did.

16 Q. You did not have to go get a search warrant
17 for it, correct?

18 A. No.

19 Q. Did you ever actually interview my client?

20 A. No.

21 Q. Did you ever get a statement and get his side
22 of the story?

23 A. No.

24 Q. Do you think it might have been important to
25 do so, to hear what his side of the story might have

1 been?

2 A. Oh, yes, most definitely.

3 Q. But it was not done in this case, correct?

4 A. He had counsel, no.

5 MS. REDDI: Pass the witness, Your Honor.

6 THE COURT: Ms. Roberts?

7 MS. ROBERTS: Briefly, Your Honor.

8 May I have a moment?

9 REDIRECT EXAMINATION

10 BY MS. ROBERTS:

11 Q. Officer Shorten, when discussing the ability
12 to interview the defendant, Roy Vasquez, in this case,
13 did you try to, but you just didn't have the ability to
14 interview him?

15 A. He was with counsel.

16 Q. And so, I'm going to go back to a few other
17 thing you discussed with defense counsel?

18 A. Yes, ma'am.

19 Q. You guys talked about another suspect,
20 Mr. Ramirez.

21 A. Yes.

22 Q. Were you able to count him out or determine he
23 was not the person that did this offense?

24 A. Yes.

25 Q. How did you do that?

1 A. Through DNA.

2 Q. So, did he give a voluntary buccal as well?

3 A. Yes, he did.

4 Q. Okay. And so, you were able to determine that
5 was not the person in this case?

6 A. No, ma'am.

7 Q. And on the topic of DNA, is it clear that the
8 DNA was requested timely through your office?

9 A. Yes, it was.

10 Q. Okay. And that was what you were discussing
11 about the whole it was requested in 2009 then
12 re-requested in 2010?

13 A. Yes, ma'am.

14 Q. Okay.

15 MS. ROBERTS: Your Honor, I pass the
16 witness.

17 THE COURT: Ms. Reddi?

18 MS. REDDI: No further questions, Your
19 Honor.

20 THE COURT: All right. Thank you, ma'am.
21 You may step outside.

22 MS. ROBERTS: Your Honor, may the witness
23 be excused?

24 THE COURT: Do you need her anymore?

25 MS. REDDI: No, sir.

1 THE COURT: Okay. She may be excused
2 then. Thank you.

3 Call your next witness, please.

4 MS. ROBERTS: Yes, Your Honor.

5 The State calls Kristina Blackmon.

6 MS. REDDI: May I approach, Your Honor,
7 for a second?

8 THE COURT: Sure.

9 (Bench conference on the record).

10 MS. REDDI: Your Honor, I thought --

11 THE COURT: Hold on. Okay.

12 MS. REDDI: If I could have a minute to
13 visit with my client to see if he wants all of them to
14 come in and talk about the DNA or not. Because
15 initially, that's what he wanted me to do.

16 THE COURT: Okay. All right.

17 (End of conference).

18 THE COURT: Ladies and gentlemen, I'm
19 going to need to ask y'all to step to the back for a
20 few moments.

21 John, if you could take them out for a
22 minute, please.

23 (Jury out).

24 THE COURT: Do you need to talk to him in
25 the back?

1 MS. REDDI: Yes, Your Honor.

2 THE COURT: All right.

3 (Court recess).

4 THE COURT: For the purposes of the
5 record outside the presence of the jury, the State had
6 called its next witness who is part of the analysis and
7 chain of custody on the DNA evidence involved in this
8 case. They've just informed me they still intend on
9 calling that witness, but there are several other
10 witnesses between that witness and the ultimate analyst
11 in this case that are part of the chain of custody of
12 the DNA evidence.

13 The defense has just informed me that
14 they are waiving -- not requiring the State to call all
15 those chain of custody witnesses and are waiving their
16 right to confront and cross-examine those witnesses.
17 So, we can go straight into the DNA analysis itself.

18 Is that correct, Ms. Reddi?

19 MS. REDDI: Your Honor, it is.

20 THE COURT: Okay. I just wanted to put
21 that on the record. We will wait a few more minutes so
22 hopefully we won't have take another break between this
23 witness and your next witness.

24 MS. ROBERTS: Thank you, Your Honor, and
25 I'll see if she's on her way.

1 (Court recess).

2 THE COURT: All right. Let's go.

3 (Jury in).

4 THE COURT: All right. Be seated.

5 All right. Ladies and gentlemen, that
6 wasn't when I was planning on taking a scheduled break.
7 But I really don't plan on taking another one unless we
8 need to since that took a little bit longer. I do want
9 y'all to know that we haven't just been on a break out
10 here. We have been doing some work that I think you
11 will actually find will end up saving some time for
12 everybody. So, I think that's -- it was actually
13 probably a good productive break.

14 Call your next witness again, please.

15 MS. ROBERTS: Your Honor, the State calls
16 Kristina Blackmon.

17 THE COURT: Okay. Go ahead.

18 MS. ROBERTS: Thank you, Your Honor.

19 KRISTINA BLACKMON,
20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. ROBERTS:

23 Q. Can you please introduce yourself the jury?

24 A. My name is Kristina Blackmon. K-r-i-s-t-i-n-a,
25 B-l-a-c-k-m-o-n.