

Bosilio Reyes - July 15, 2014  
Cross-Examination by MR. HALPERT

1 Deputy Sobota, Your Honor.

2 THE COURT: Deputy Sobota. Thank you, Pat.  
3 All right. Deputy, take a chair there and write your name  
4 on that white piece of paper and talk loud enough so they  
5 can hear you all the way in the back.

6 THE WITNESS: All right, sir.

7 THE COURT: Okay.

8 MS. LONGORIA: May it please the Court?

9 THE COURT: Yes, ma'am.

10 **ANDREW SOBOTA,**

11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 **BY MS. LONGORIA:**

14 Q Deputy Sobota, can you please introduce yourself  
15 to the jury?

16 A Yes, ma'am. My name is Andrew Sobota.

17 Q And how are you employed, sir?

18 A Deputy with the Harris County Sheriff's Office.

19 Q And how long have you held that employment?

20 A Almost ten years.

21 Q Can you tell the jury a little bit about your  
22 course of employment? What areas of the Sheriff's  
23 Department have you worked in?

24 A I worked in the jail when I first started for  
25 about a year and a half and then went to the Academy and

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1 then I went straight to patrol.

2 Q And when you saying you went to the Academy, was  
3 that to receive your peace officer training?

4 A Yes, ma'am.

5 Q And how long is that Academy?

6 A About six months.

7 Q And did you successfully complete that?

8 A Yes.

9 Q And are you a certified peace officer in the  
10 State of Texas?

11 A Yes.

12 Q What area of Harris County do you routinely  
13 work?

14 A West side, District 4. So, around the Katy area.

15 Q Does that include the area of the Marshalls  
16 located at 6565 North Highway 6?

17 A Yes, ma'am.

18 Q And does that also include a residence located  
19 at 6007 Plantation Crest Court?

20 A Yes.

21 Q And both of those locations are in Harris  
22 County, Texas?

23 A Correct.

24 Q I would like to direct your attention back to a  
25 Sunday afternoon, October 20th of 2013, were you on patrol

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1 that day?

2 A Yes.

3 Q And where were you working?

4 A I was working in the Villages of Bear Creek  
5 contract. It's a contract located off of Fry and West  
6 Little York.

7 Q Now, when you saying a contract, what does that  
8 mean?

9 A Contract is like a subdivision who -- they pay  
10 for deputies to patrol the area.

11 Q And so, you're actually on duty with the  
12 Sheriff's Department receiving your normal pay through the  
13 Sheriff's Department?

14 A Right. Yes, ma'am.

15 Q And were you in full uniform in a police vehicle  
16 that day?

17 A Yes.

18 Q Did you receive a call approximately 5:50 that  
19 Sunday evening?

20 A Yes.

21 Q And what was the location that you were being  
22 called to?

23 A I believe it was 6007 Plantation Crest.

24 Q Was that a location that was known to you at  
25 that time?

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1 A Yes. It's in the contract.

2 Q And had you been called to that particular  
3 residence before?

4 A No.

5 Q Did you know exactly where that residence was?

6 A No.

7 Q How long did it take you to arrive at that  
8 location when you first received the call for service?

9 A I don't remember how long. Probably a couple of  
10 minutes. I know there is some confusion about the  
11 location.

12 Q Was that residence right next door to a Walmart  
13 Super Center?

14 A It's behind a Walmart. Yes, ma'am.

15 Q And is there a brick wall dividing that Walmart  
16 Super Center from the residence?

17 A Right. The residence is right next to a brick  
18 wall by Walmart.

19 Q Is that residence one of two that faces that  
20 direction on Plantation Crest Court?

21 A Right. Correct.

22 MS. LONGORIA: May I approach the witness,  
23 Your Honor?

24 THE COURT: Yes, ma'am, you may.

25 Q (By Ms. Longoria) Show you what's been admitted

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1 into evidence as Petitioner's Exhibit No. 114. Do you  
2 recognize this location?

3 A Yes.

4 Q And is this the residence that you responded to?

5 A Yes.

6 Q How many sheriff's deputies responded to this  
7 residence in the afternoon of October 20th, 2013?

8 A I believe there were six or seven of us.

9 Q Okay. And when you arrived at the location,  
10 where did you go?

11 A I took a tactical position close to the front of  
12 the residence by the front door so I could see anybody  
13 coming out of the front of the residence.

14 Q When you saying "the front of the residence", is  
15 that the door that appears just to the left of the address  
16 sign in Petitioner's Exhibit 114?

17 A Yes. That's the glass door, so you can see  
18 inside the house.

19 Q Which other officers were there in front of the  
20 house with you?

21 A Deputy Milstead.

22 Q And that will be Deputy Gerald Milstead that  
23 previously testified?

24 A Yes. Yes.

25 Q Where were the other officers positioned?

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1 A They went around to the back of the residence.

2 Q Did you ever go around to the back of the  
3 residence?

4 A No.

5 Q When you made -- did you make entry into this  
6 residence?

7 A I did, uh-huh.

8 Q And what happened when you made entry?

9 A We saw two individuals running in the house  
10 towards the stairs or -- came to the front door, saw me,  
11 turned around. Saw the other officers coming through the  
12 back door, one male got on the ground, another male ran  
13 upstairs. Took the male into custody that was on the  
14 ground, handcuffed him and brought him outside. The other  
15 two deputies arrested the suspect upstairs.

16 Q And I will show you Petitioner's 121 that's  
17 already been admitted into evidence. Is this the male  
18 that got on the floor that you took into custody?

19 A Yes.

20 Q Is this an individual that you identified on  
21 scene as Neiman Gasper?

22 A Yes.

23 Q Petitioner's Exhibit 120, is this the female  
24 that was inside the residence?

25 A Yes.

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1 Q And what did she do upon your entry?

2 A I believe she was already detained. I didn't  
3 focus on her. So, she was probably out in handcuffs, so --

4 Q Did you not take her into custody?

5 A No, ma'am.

6 Q And I will ask you if you see the individual,  
7 the third individual, in the courtroom that you said ran  
8 when you entered the house? Do you see that individual in  
9 the courtroom today?

10 A Yes.

11 Q Could you please point him out to the jury and  
12 describe an article of clothing that he is wearing?

13 A (Points) He is wearing a purple shirt.

14 MS. LONGORIA: Your Honor, if the record  
15 could reflect that this witness has identified the  
16 defendant?

17 THE COURT: Yes, ma'am, the record will so  
18 reflect.

19 Q (By Ms. Longoria) What did you hear as the  
20 respondent ran from the officers?

21 A Other officers were giving verbal commands to  
22 stop.

23 Q And where was that taking place in the house?

24 A It was right by the stairs, front of the stairs,  
25 you know, before they approaching upstairs.

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1 Q Did you see the respondent that ran upstairs?

2 A Yes.

3 Q And did you hear anything upstairs?

4 A Just loud commotion. I could not make out what  
5 it was.

6 Q What did you do next in order to clear the  
7 residence?

8 A I stayed outside with the male that was already  
9 detained, the male and the female, while the other deputies  
10 cleared the residence.

11 Q That would be Neiman Gasper and Brenda Flores?

12 A Yes.

13 Q At some point did Sergeant Scott Ashmore arrive  
14 on the scene?

15 A Yes, ma'am.

16 Q At what point did he arrive on scene?

17 A Shortly after we made entry, already had the two  
18 suspects outside, he arrived on scene.

19 Q After -- did you have the occasion to see the  
20 respondent after he was taken into custody?

21 A Yes.

22 Q And what did you observe about his physical  
23 appearance?

24 A He was brought outside. He had blood on his  
25 face, so --

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1 Q Did it appear that he had a bloody nose or was  
2 his nose cut in some way?

3 A Bloody nose, I guess. Had blood on his face,  
4 nose.

5 Q Were paramedics called to assist him at the  
6 scene?

7 A Yes.

8 Q And did you have the occasion to look in the  
9 interior of this residence?

10 A Yes.

11 Q And in the garage, did you have the occasion to  
12 observe two vehicles?

13 A Yes.

14 MS. LONGORIA: May I approach the witness,  
15 Your Honor?

16 THE COURT: You may.

17 Q (By Ms. Longoria) Show you what's been marked as  
18 Petitioner's Exhibits 111, 112, and 113.

19 A Uh-huh.

20 Q Do these fairly and accurately represent the  
21 vehicles that were located in the garage of that  
22 residence?

23 A Yes.

24 Q And in Petitioner's 112, did you observe that  
25 object in the back seat of one of these vehicles?

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1 A Yes.

2 Q And was that actually located in the back seat  
3 of the vehicle that's contained in Petitioner's 113?

4 A Yes.

5 MS. LONGORIA: Your Honor, at this time I  
6 would tender Petitioner's 111, 112, and 113 to defense  
7 counsel and offer them into evidence.

8 (Petitioner's Exhibit Nos. 111, 112, and 113  
9 offered)

10 MR. HALPERT: No objection to 111, 11 --  
11 excuse me, 111, 112, and 113, Your Honor.

12 THE COURT: Those are admitted without  
13 objection.

14 (Petitioner's Exhibit Nos. 111, 112, and 113  
15 admitted)

16 THE COURT: Would you like them published?

17 MS. LONGORIA: Yes, sir, Your Honor.

18 Q (By Ms. Longoria) Deputy Sobota, at some point  
19 were you called upon to recover evidence in this  
20 residence?

21 A Yes.

22 Q Can you tell the jury a little bit about scene  
23 investigation and what it means to recover evidence?

24 A Yeah. Just any time there is evidence that might  
25 be related to a crime, just have to take care, custody, and

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1 control of the evidence, and collect evidence, and put it  
2 in it's proper places, tag it, and then submit it to the  
3 property room, or anywhere else it is going to go, for DNA  
4 testing and stuff like that.

5 Q And, generally, would one officer be tasked with  
6 the collection of evidence at a scene?

7 A Depends, could be multiple.

8 Q What about the transport of evidence? Were you  
9 the officer that was tasked with transporting and  
10 collecting evidence this day?

11 A Yes.

12 MS. LONGORIA: May I approach the witness,  
13 Your Honor?

14 THE COURT: Yes, ma'am.

15 Q (By Ms. Longoria) Deputy Sobota, I am going to  
16 show you what's been marked as Petitioner's Exhibit 53 --

17 A Uh-huh.

18 Q -- which is the plastic bag and it's contents;  
19 do you recognize this exhibit?

20 A Yes.

21 Q Are there distinguishing markers on the bag of  
22 Petitioner's Exhibit 53?

23 A Yes, ma'am.

24 Q Can you tell the jury what distinguishing marks  
25 appear on this bag?

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1           A     It's case number which is assigned to each  
2 individual report.

3           Q     And what is the case number in this case?

4           A     It's 13-145412.

5           Q     And did you generate this identifying sticker  
6 that appears on Petitioner's Exhibit 53?

7           A     Yes.

8           Q     Does your name actually appear on that sticker?

9           A     Yes.

10          Q     Now, Petitioner's Exhibit 53, the contents of  
11 that bag, when and where did you first see this exhibit?

12          A     I saw it in the back of the silver Honda Civic.

13          Q     Okay. Did you retrieve this item of evidence or  
14 did Sergeant Ashmore do that?

15          A     Sergeant Ashmore did. He took scene photographs  
16 and then collected it and gave it to me for submitting as  
17 evidence.

18          Q     And when he gave it to you, submitting it as  
19 evidence, did it have this zip tie around the shotgun?

20          A     No.

21                   MS. LONGORIA: Your Honor, at this time,  
22 for the purposes of demonstration, I ask to remove the zip  
23 tie.

24                   THE COURT: Okay.

25          Q     (By Ms. Longoria) Now, Deputy Sobota, is this

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1 the condition in which you found the shotgun or first  
2 observed the shotgun?

3 A Yes.

4 Q And as you observed this shotgun, did it appear  
5 to be in functioning condition?

6 A Yes.

7 Q In fact, what type of shotgun is this?

8 A It's a 20-gauge single shot shotgun.

9 Q And would this be known as a break-barrel  
10 shotgun?

11 A Yes.

12 Q And if you could, tell the jury how this shotgun  
13 actually functions.

14 A Put a single shell in the breach and then you  
15 close it.

16 Q And when you say a single shell in the breach,  
17 is this what we might call the back of the barrel; is this  
18 a breach?

19 A Yes.

20 Q And you said this is a single shell?

21 A Yes.

22 Q So, this will hold one shell ammunition?

23 A Yes.

24 Q And, of course, will hold 20-gauge ammunition?

25 A Yes.

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1 Q Or potentially a shotgun slug?

2 A Yes.

3 Q And when you found this, again, it was closed,  
4 correct?

5 A Yes.

6 Q In your training and experience, would this  
7 20-gauge shotgun be considered a firearm?

8 A Yes.

9 Q And would this firearm be a deadly weapon?

10 A Yes.

11 Q And what did you do with Petitioner's Exhibit 53  
12 once you retrieved it at the scene?

13 A It was taken to our substation, an evidence tag  
14 was made, and it was placed in a locked room for the  
15 property deputy to take it to the firearms lab.

16 Q And is this tag that we see here one that was  
17 prepared to tag this particular item of evidence?

18 A Just the one on the plastic thing.

19 Q Again, that's the one we refer to that has a bar  
20 code at the top?

21 A Right. Yes.

22 Q And did you leave this in a secure condition  
23 for your property custodian?

24 A Yes.

25 Q Did you first see this again this weekend in

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1 anticipation of trial today?

2 A Yes.

3 Q And that was in the office of the District  
4 Attorney, correct?

5 A Yes.

6 MS. LONGORIA: Your Honor, at this time,  
7 the Petitioner would tender Petitioner's Exhibit No. 53  
8 which is the bag and it's contents of the shotgun.

9 (Petitioner's Exhibit No. 53 offered)

10 MR. HALPERT: No objection, Your Honor.

11 THE COURT: 53 is admitted without  
12 objection.

13 (Petitioner's Exhibit No. 53 admitted)

14 MR. HALPERT: 53.

15 MS. LONGORIA: Your Honor, at this time I  
16 will tender it to the bailiff to make secure.

17 THE COURT: Okay.

18 MS. LONGORIA: May I approach the witness?

19 THE COURT: Yes.

20 Q (By Ms. Longoria) Deputy Sobota, I'll show  
21 you -- have I shown you Petitioner's Exhibits 119, 120 and  
22 121?

23 A I did see 119, yes, ma'am.

24 Q Okay. You previously viewed these in the office  
25 of the District Attorney, correct?

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1 A Yes.

2 Q Petitioner's Exhibit 119, is that the  
3 respondent, Mariano Sandoval?

4 A Yes.

5 Q And is that how he appeared the day that he was  
6 detained, October 20th, 2013?

7 A Yes, ma'am.

8 Q And Petitioner's Exhibit 120, was that Brenda  
9 Flores, who was also there at the scene?

10 A Yes.

11 Q And Petitioner's Exhibit 121, was he also  
12 present at the scene?

13 A Yes.

14 Q Did you have the occasion to hear these  
15 individuals interacting at the scene as far as verbally?

16 A Yes.

17 Q And did the three of them appear to know each  
18 other?

19 A Yes.

20 MS. LONGORIA: Pass the witness, Your  
21 Honor.

22 THE COURT: Thank you. Cross?

23 **CROSS-EXAMINATION**

24 **BY MR. HALPERT:**

25 Q Hi, Deputy Sobota.

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1 A Sir.

2 Q Was that shotgun that you just held, was that  
3 found unloaded?

4 A I didn't recover the firearm. So, when it was  
5 handed to me, it was recovered by Sergeant Ashmore in the  
6 back seat of the vehicle. And when it was given to me, it  
7 was unloaded, yes.

8 Q As part of the evidence gathering, is it your  
9 responsibility to submit a firearm to the Harris County  
10 Regional Firearms Lab?

11 A Yes.

12 Q And was that done in this case?

13 A Our property deputy did that, yes.

14 Q So, your testimony is that you believe that  
15 shotgun was submitted for testing with the Harris County  
16 Regional Firearms Lab?

17 A Yes.

18 Q And if it was submitted for testing, they, in  
19 your experience, they create a report, correct?

20 A Right.

21 Q They do a function statement, test it, and we  
22 would have something like that, right?

23 A Right.

24 Q Let me ask you a question, Deputy. And you've  
25 had a lot of training with weapons and shotguns, so I kind

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1 of need you to take off your cop hat --

2 A Sure.

3 Q -- be a layman.

4 A Right.

5 Q And let's say you saw this shotgun -- where is  
6 it at -- let's say you saw this shotgun for two to three  
7 seconds in the dark.

8 A Uh-huh.

9 Q In that lighting condition right there (points).

10 A Uh-huh.

11 Q Okay?

12 A Yes.

13 Q You're sitting in a car and you see a portion of  
14 this gun for two to three seconds. All right? And then  
15 you don't see it again for nine months.

16 A Uh-huh.

17 Q Do you think it's possible you could have seen  
18 this gun? You've already spent more time in two or three  
19 seconds studying it.

20 A Uh-huh.

21 Q Two to three seconds in the dark, is it possible  
22 it could have been this gun?

23 A I wasn't looking down the barrel of it, so --

24 Q That's even harder to tell when you're looking  
25 down the barrel of a gun, isn't it?

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1 A Well, that barrel is a lot bigger.

2 Q Right. Are you paying attention to that in two  
3 to three seconds, in the dark?

4 A That's not the point. It's not pointed at my  
5 face. If it was, I would probably wouldn't be looking at  
6 the barrel of it.

7 Q Is it possible, you think? They're not terribly  
8 different, are they? Wood base.

9 A It's possible.

10 MR. HALPERT: Nothing further of this  
11 witness.

12 THE COURT: Thank you. Redirect?

13 MS. LONGORIA: I have nothing further of  
14 this witness, Your Honor.

15 THE COURT: Thank you. May he be excused?

16 MR. HALPERT: Yes, Your Honor.

17 MS. LONGORIA: Subject to recall.

18 THE COURT: Thank you, Officer. Go about  
19 your business. Call your next.

20 MS. LONGORIA: May we approach, Your Honor?

21 THE COURT: Yes, ma'am.

22 (Bench conference, off the record)

23 THE COURT: Not a real problem. We have --  
24 the Sergeant is on I-10, headed this direction. He had  
25 some calls. And I am told that there are only three

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1 witnesses left for the State, the Sergeant and a couple of  
2 others. I feel as though we will never finish tonight  
3 anyway. So, if I let you all go now, it's 4:30-ish.  
4 Might meet a little traffic, not much, and then if we  
5 start up at 9:00 a.m. sharp, we will finish, I feel as  
6 though mid-afternoon you will have the case, at the latest  
7 and, you know, whenever.

8           So, give me a nod if you want -- we wait for the  
9 Sergeant, I have no problem doing that or let you all go,  
10 with the State's assurances there is only three witnesses  
11 left for the State. I don't know what defense is going to  
12 put on. They don't have to tell me. So, general  
13 consensus? I've got two young ladies shaking their heads,  
14 and everybody is pointing to the door.

15           A JUROR: No, I'm not.

16           THE COURT: Let me remind you, do not  
17 discuss this case amongst yourselves or with anyone else,  
18 including but not limited to your spouse, who is going to  
19 ask you all kinds of questions about it, don't talk about  
20 it. Don't form any opinions until the case is finally  
21 submitted to you.

22           I will see you bright and early at 9:00 a.m. I  
23 promise you, I will pull you out at the 9:00. He will be  
24 standing at the door. If they don't have their witness,  
25 we will go on. Thank you. Have a good evening.