

1 **DUANE STERLING,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. MERIWETHER:

5 Q. Good afternoon, sir. Could you introduce
6 yourself to our jury?

7 A. Yes, I'm Officer Sterling with the Houston
8 Police Department.

9 Q. And how long have you been with the Houston
10 Police Department?

11 A. 18 years.

12 Q. Are you assigned to any particular division?

13 A. Yes, I'm assigned to the forensic audio/video
14 unit.

15 Q. And how long have you been with that division?

16 A. Nine years.

17 Q. And what kind of training or experience do you
18 have to do that job?

19 A. I've been trained; we went to LEEVA, which is
20 Law Enforcement Emergency Video Association. And that's
21 where we get our training and also our certification,
22 which I'm a certified tech. I'm also going to NTIA,
23 which is National Technical Investigator's Association,
24 and I take numerous classes there, also. And I'm
25 constantly going to classes every year.

1 Q. What are your primary job duties?

2 A. Primary job duties are pulling video from
3 convenient stores, houses, anything like that from DVR
4 systems and then bringing that back and working on it if
5 it has a speed problem, it's too fast, the video is,
6 then I go ahead and slow it down. I also capture still
7 images as frames and make still photos for cases. And
8 then also if there is any kind of problems with lighting
9 or anything, we can also enhance that, which is like
10 turning a light switch on and off.

11 Q. Now, I know that we have a lot of gas stations
12 in the City of Houston. Do they all use the same
13 equipment?

14 A. No, you have a lot of different, like, houses,
15 convenient stores, just different places; they all have
16 different DVR systems.

17 Q. And how do you know what to do when you get a
18 DVR system? How do you know what to do to pull the
19 videos?

20 A. Well, from my training we have to go and check
21 the DVRs and try to see if the dates and times are on
22 them. But then also we go, we'll figure out the best
23 technical -- the best technical way to pull the video
24 without uncompressed video, which is what you want, and
25 the best video and the quality that you get from it.

1 So, sometimes we use flash drives. Sometimes we'll use
2 different equipment that we have, hard drives.
3 Sometimes we can put it on CDs or DVDs and pull it from
4 there. Also, we have to use equipment sometimes to pull
5 it like a DVD recorder.

6 Q. And I assume that these machines that gas
7 stations use vary in terms of their quality of video
8 that they're able to produce?

9 A. That's true. Some of them are high quality,
10 and some are low quality.

11 Q. I watch *CSI* and oftentimes those videos are
12 super good and you can do a lot of zooming in and facial
13 recognition; is that reality?

14 A. No, that's not reality. There's no *CSI* button
15 to push. What you get is what you see on there most of
16 the time. It's just how it is. It's how the camera is
17 picking up the person and then sending it to the DVR
18 system and how the DVR system, how good it is.

19 Q. Were you contacted on December 31st of 2010
20 regarding a robbery that had occurred at a gas station?

21 A. Yes, I was.

22 Q. And who contacted you about that?

23 A. Command center and then it was Officer Robles
24 called me.

25 Q. And what did Officer Robles want you to do?

1 A. He wanted me to come out there and pull video,
2 but he had called me, like, 2300, I think, hours; and he
3 was saying that -- I asked him to just go ahead and pull
4 the DVR. They were afraid to pull the DVR because they
5 didn't know the passwords or anything to it. So, then
6 we made arrangements the next day for me to meet with
7 them.

8 Q. So, on January 1st, 2010, were you able to go
9 out to a location and recover video -- I'm sorry, 2011?
10 January 1st of 2011, were you able to go out to a
11 location and recover video?

12 A. Yes, I was. I went to 5699 Beechnut.

13 Q. And is that a location in Harris County, Texas?

14 A. Yes, ma'am, it is.

15 Q. And what did you do upon arrival?

16 A. Upon arrival I met with the convenient store
17 nephew, who knew a little bit about the DVR. And we
18 also met with Robles, he was there. And Sergeant Blaine
19 and me were the ones that arrived there. Robles was
20 already there. We went and talked to the nephew. I
21 also noticed that the time was off on the DVR. The date
22 was correct.

23 Q. Let me talk to you about that. You said that
24 you noticed that the time was off. Is there a
25 particular place within the store that you were able to

1 go and look at the system?

2 A. Right, there was a monitor; and they took us to
3 where the DVR was located and the monitor.

4 Q. And on the monitor it has a date and time; is
5 that what you're saying?

6 A. Yes, ma'am.

7 Q. And how were you able to determine that it was
8 off, the time was off?

9 A. We looked at our phones and it showed that it
10 was 9:30 on our phones but it was 11 o'clock on the DVR
11 time.

12 Q. So, it was an hour and a half faster?

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

14 Q. So, after doing that step, what's the next part
15 of the process in terms of recovering video?

16 A. Then we went and we searched for the time.
17 They had already looked at it, Officer Robles and
18 Sergeant Blaine had already seen it the day before. So,
19 they pretty much knew where to go; but we went to 7:45
20 on 12/31/2010.

21 THE COURT: I'm sorry, the time again?

22 A. It was 7 -- we went to 7:45 p.m. just to view
23 from that start.

24 Q. In reality that was actually what time?
25 Knowing that the hour and a half was off, what time did

1 it actually occur at?

2 A. That would be about 6:20.

3 Q. About 6:15, 6:20?

4 A. Yeah, 6:20. Well, if it was 6:15, it would be
5 about 6:20.

6 Q. About 6:20 on December 31st of 2010?

7 A. Right.

8 Q. And were you able to recover video from the
9 system?

10 A. Yes, I was. I tried a couple of methods, but
11 there wasn't anything, they only had a S-video cable and
12 an S-video plug in the back. So, I used an MC-10, which
13 is a DVD recorder, basically like your DVD recorder you
14 have at your house, what you see on the monitor and then
15 you record it to your DVD. This just records to a DVD
16 disk. So, I put it at the highest quality after I
17 hooked it up with an S-video cable from the DVR system
18 and to the DVD recorder. And then I played it; and as I
19 played it, it recorded it as it played in realtime.

20 Q. Were you able to determine how many cameras the
21 convenient store had?

22 A. The convenient store had a total of six working
23 cameras.

24 Q. And were you able to capture video from those
25 cameras and place them on a disk?

1 A. Yes, I was. The ones that Sergeant Blaine and
2 also -- we didn't capture all six, I don't think. I
3 think we recorded what we needed with the cameras.

4 Q. Okay. Now, after recording those videos, did
5 you also take a look at those videos and pull some, what
6 I call, still shots from the video?

7 A. Yes, ma'am.

8 Q. And can you explain to the jury what that
9 means?

10 A. Yes, ma'am. What I did is I put it into video
11 focus. And this video focus is, basically, you put it
12 in there and you can take your video and you can go
13 frame by frame by frame by frame and capture the still
14 images as frames and then export it as a tilt, which is
15 uncompressed. And that's how I got my still images.
16 And then after that, some of them were a little dark, so
17 I used curves. That's what I explained earlier, you
18 can, like, turning the light switch on and off so you
19 can give a little bit of lightness to it.

20 MS. MERIWETHER: Your Honor, may I approach
21 the witness?

22 THE COURT: You may.

23 Q. (BY MS. MERIWETHER) I'm going to show you
24 first State's Exhibits 1 and 2. Have you had an
25 opportunity to look at these?

1 A. Yes, I have. These are the ones that I pulled
2 from the DVR system.

3 Q. So this is the video footage from December 31st
4 of 2010?

5 A. Yes, ma'am, it is.

6 Q. And now I want to show you State's Exhibits 4
7 through 11, inclusive, and see if you can take a look at
8 those?

9 A. Okay. Those are all mine. They have my
10 initials and my payroll on them.

11 Q. And are these the still photographs that are
12 pulled from this video?

13 A. Correct, if you watch the video, you'll see
14 those frames in the video.

15 Q. And you've produced a number of these, is that
16 correct, this is just a small sampling of them?

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

18 MS. MERIWETHER: Your Honor, at this time I
19 move to offer State's Exhibits 1 and 2 and then 4
20 through 11, tender to Counsel for any objection?

21 (State's Exhibit Nos. 1, 2 and 4 through 11
22 offered.)

23 MR. ORTIZ: We have no objections to
24 State's 1 and 2 or 4 through 11, Your Honor.

25 THE COURT: State's Exhibits 1, 2 and 4

1 through 11 are admitted.

2 (State's Exhibit Nos. 1, 2 and 4 through 11
3 admitted.)

4 MS. MERIWETHER: Thank you, Your Honor.

5 Q. (BY MS. MERIWETHER) Now, before I publish
6 State's Exhibit No. 1, can you explain to the jury why
7 they may see the same thing multiple times?

8 A. Sergeant Blaine and Officer Robles requested
9 that I do a zoom in on all the different cameras that we
10 captured. So, that's why you'll see the same but you'll
11 see like a zoomed-in part and then you'll see like it
12 plays normally. And there was a zoom on the DVR that
13 you could push to zoom in on the area that they were
14 focusing on.

15 Q. And are there also multiple cameras contained
16 on the one disk?

17 A. Yes, there is. And we had to use two disks
18 basically because I had the high quality on the disk and
19 it eats up a lot of space on them, so we had to put it
20 to two.

21 Q. So, that's what's contained in State's
22 Exhibits 1 and 2 are the multiple cameras and some
23 zoom-in shots as well?

24 A. Yes, ma'am, it is.

25 Q. And then State's Exhibits 4 through 11, those

1 were still photos that are taken off of these videos; is
2 that correct?

3 A. Yes, it is.

4 MS. MERIWETHER: And we are going to
5 publish State's Exhibit 1 at this time, Your Honor.

6 (Publishing State's Exhibit 1.)

7 MS. MERIWETHER: At this time, we'll also
8 publish State's Exhibit No. 2.

9 THE COURT: All right.

10 (Publishing State's Exhibit No. 2.)

11 Q. (BY MS. MERIWETHER) Officer Sterling, before I
12 pass you, I want to just go through a couple of the
13 pictures that were taken off of the videos that we've
14 seen here. In particular, showing you State's Exhibit
15 No. 6, is this a photograph that you pulled from the
16 videos?

17 A. Yes, it is.

18 Q. And does it appear to show the three suspects
19 inside of the gas station?

20 A. Yes, it does.

21 Q. And I want to ask you about this information
22 that's over here at the top right-hand corner, is that
23 something that you put on; or has that been placed on by
24 the camera system?

25 A. The DVR system has that as a display on there.

1 Q. And if this jury wanted to look at this video
2 again, they can see exactly at what time the three
3 suspects come in and at what time they exit; is that
4 correct?

5 A. That's correct, but remember it's an hour an
6 30 minutes off.

7 Q. Sure. But in terms of the seconds that they're
8 actually in that store for, they could calculate that
9 with the times at the top, right?

10 A. Yes, ma'am, they could.

11 Q. And then also let me ask you this, while we see
12 the video playing in the speed that it is, is that
13 actual speed; or have you enhanced the speed one way or
14 another?

15 A. No, I haven't changed the speed at all, that's
16 how it played on there.

17 Q. So, the length of time that we see them in that
18 store for is exactly how long they were there for. The
19 only thing you've enhanced is the close-up of some of
20 the video views?

21 A. That's correct, just zooming in.

22 Q. I'm showing you State's Exhibit No. 7. Does
23 this appear to show two of the suspects in the store?

24 A. Yes, ma'am, it does.

25 Q. And showing you State's Exhibit No. 8, in this

1 one are we able to see two suspects here as well as a
2 third over here?

3 A. Yes, ma'am.

4 Q. And then a gentleman in a green shirt standing?

5 A. Yes, ma'am.

6 Q. And he doesn't appear to be wearing a mask or
7 all black in any way?

8 A. Doesn't appear that way.

9 Q. And then lastly I want to show you State's
10 Exhibit 10 out of the group of photos. What do we see
11 in this photograph?

12 A. Three gentleman at the front of the glass and
13 looks like the cashier in the back.

14 Q. And then lastly State's Exhibit No. 4, is this
15 a still shot that you pulled from an outside camera?

16 A. Yes, it is.

17 Q. And you've been able to watch this video a few
18 times now probably back in December of 2010 -- January
19 of 2011 and then again prior to testifying and with the
20 jury today, are these the same photos that you saw back
21 then?

22 A. Yes, ma'am, they are.

23 Q. And showing you this State's Exhibit 4, this
24 vehicle here, does this appear to be the same vehicle
25 that the suspects got out prior to entering the store?

1 A. It appears that it is.

2 Q. And is that why it's one of the pictures that
3 you pulled for the homicide officers?

4 A. That was the vehicle they concentrated on, yes,
5 ma'am.

6 MS. MERIWETHER: Pass the witness, Your
7 Honor.

8 MR. ORTIZ: May I proceed, Judge?

9 THE COURT: You may.

10 MR. ORTIZ: May I see that?

11 **CROSS-EXAMINATION**

12 BY MR. ORTIZ:

13 Q. Officer Sterling, with the photograph back up,
14 I'll put State's Exhibit 6 back up on the screen here
15 with regard to this system, was there -- did this system
16 have any type of audio recording capabilities?

17 A. Not that I can think of, sir. I'm not aware of
18 any.

19 Q. When you downloaded the video, was there an
20 indication whether or not that system captures audio or
21 not?

22 A. I don't recall. I can't say.

23 Q. Okay. Is it possible that that system does
24 record audio as well as video?

25 A. It's possible, I can't remember, sir. I'm

1 sorry.

2 Q. If it did record audio as well, would that have
3 been, is that a different file?

4 A. It would be a wave file.

5 Q. It would be a wave file?

6 A. Yes, sir.

7 Q. Which is kind of the extension --

8 A. Which would be an audio file, yes, sir.

9 Q. And that would be separate from a video file;
10 is that correct?

11 A. Yes, sir, but it will play at the same time,
12 sir.

13 Q. I'm sorry?

14 A. It will play at the same time.

15 Q. And to your knowledge there was no audio that
16 you downloaded, any separate wave file or anything?

17 A. I didn't download any audio, sir.

18 Q. Were you asked -- I've got one more photograph
19 I'd like to show you. State's Exhibit No. 10, here,
20 does it appear, Officer Sterling, in State's Exhibit 10,
21 this still shot here that the third suspect here on the
22 right that appears to have a blue and white mask or
23 hoodie or whatever you want to call it, it appears you
24 can only see the eyes or very limited exposure of the
25 face?

1 MS. MERIWETHER: Objection, calls for
2 speculation.

3 THE COURT: He may testify to what he can
4 see.

5 Q. (BY MR. ORTIZ) Does that appear accurate?

6 A. You can't see his face.

7 Q. And I want to move over to the furthest suspect
8 on the other side, if you're going left to right, No. 1
9 here, does it appear from the photograph that a majority
10 of the face is exposed from whatever is pulled over his
11 head or covering his face?

12 A. It appears like from his nose to his forehead.

13 Q. Did -- were you asked in any way, let me put
14 State's Exhibit No. 11 up, see if you can see him
15 better, does it appear as though there may be more
16 exposure than just the nose, it may go below the nose
17 maybe even towards the mouth from that angle?

18 A. You can't really tell. I mean, the pixels are,
19 didn't really pixelate it.

20 Q. Were you asked in any way, here is State's
21 Exhibit No. 9, another shot, it appears to be the same
22 here on the right. Were you asked in any way by
23 detectives or anyone with HPD to see if you could
24 enhance or send it off to either the FBI or anyone else
25 to see if you can enhance the face or the person here

1 that can be seen?

2 A. They may ask me to look at it, but I couldn't
3 do anything with it. It wasn't enough pixels in the
4 face.

5 Q. And to your knowledge this clip or this
6 photograph was not forwarded on to some other government
7 agency that may have better equipment or better --

8 A. As far as I know, no.

9 Q. Other than downloading the video and making
10 copies of that video as well as making prints, did you
11 have any other involvement in this case?

12 A. That was it.

13 Q. You weren't ever shown any photographs of
14 suspects or potential suspects or anything like that,
15 were you?

16 A. No.

17 MR. ORTIZ: Pass the witness, Judge.

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

20 THE COURT: This witness may be excused.
21 Stand down, sir.

22 MR. ORTIZ: No objection.

23 THE COURT: Stand down, sir.

24 We're going to take a short break. This is
25 just a restroom break, five, six, seven minutes. If you

1 would please stand up and go with the deputy. Jury may
2 stand up, and you'll have to at least go in the hallway.

3 (Jury exits courtroom.)

4 THE COURT: Are they ready?

5 (A recess was taken.)

6 (Open court, Defendant present.)

7 THE COURT: Raise your right hand to be
8 sworn.

9 (Witness sworn.)

10 THE COURT: Have a seat. Bring them in.

11 THE BAILIFF: All rise for the jury.

12 (Jury enters courtroom.)

13 THE COURT: Please be seated. Call your
14 next, please.

15 MS. MERIWETHER: Thank you. Your Honor,
16 the State would call Sarfraj Maknojia.

17 THE COURT: Ladies and gentlemen, this
18 witness has previously been sworn.

19 Proceed, please.

20 MS. MERIWETHER: Thank you, Your Honor.

21 **SARFRAJ MAKNOJIA,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MS. MERIWETHER:

25 Q. Sarfraj, do you also go by -- do you have a