

1 THE BAILIFF: The witness needs to be sworn
2 in, Judge.

3 THE COURT: All right, thank you. Come
4 forward, sir. Please raise your right hand.

5 (Whereupon the witness is sworn by the
6 Court.)

7 THE COURT: You may proceed when you're
8 ready.

9 **OFFICER ROBERT TARVER,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MS. BRAUN:

13 Q. Officer, would you please state and spell your
14 name for the record?

15 A. Okay. I'm Officer Robert Tarver. R-o-b-e-r-t,
16 T-a-r-v-e-r.

17 Q. Officer, where are you currently employed?

18 A. With the Houston Police Department, Northeast
19 Patrol, evening shift when this incident happened.

20 Q. And how long have been with HPD?

21 A. For 16 years; it will be 17 next month.

22 Q. Have you been a patrol officer for all almost
23 17 years?

24 A. Yes, ma'am.

25 Q. And what did you do before you were with HPD in

1 patrol?

2 A. I worked for the Texas Department of Criminal
3 Justice Institutional Division, TDC.

4 Q. So, prison?

5 A. Prison.

6 Q. What were you doing working for the prison?

7 A. When I left, I was a supervisor. I was a
8 sergeant, and before that I was a corrections officer.

9 Q. And, so, obviously, a lot of experience in law
10 enforcement?

11 A. Yes, ma'am.

12 Q. And when -- what are your typical kind of
13 duties as a patrol officer?

14 A. Respond to calls for service. Mainly, calls
15 for service out there.

16 Q. On October 31st, 2012, did you respond to a
17 call for service?

18 A. Yes, ma'am.

19 Q. And was that at the Ralston Liquor Store?

20 A. Yes, ma'am.

21 Q. Was -- do you remember that address to be 3316
22 Lyons?

23 A. Yes, ma'am.

24 Q. Is that in Houston, Harris County, Texas?

25 A. Yes, it is.

1 Q. And did you come into contact with someone on
2 that date?

3 A. Yes, ma'am.

4 Q. And who did you come into contact with at the
5 Ralston?

6 A. The defendant, Kelvin Clark.

7 Q. Okay.

8 A. Not at the Ralston. At the Ralston I came into
9 contact with Officer Glover.

10 Q. Was Officer Glover the primary officer at that
11 point?

12 A. Yes, ma'am.

13 Q. And reporting to what? What were you reporting
14 in reference to?

15 A. Weapons disturbance, I believe.

16 Q. Did you know what kind of weapon?

17 A. I didn't until I got there and Officer Glover
18 told me the suspect had a knife.

19 Q. So, based on that information that you and
20 Glover had at that time, did you do anything?

21 A. Yes. I left where Glover was -- Officer Glover
22 was, and I went to look for the suspect in the
23 neighborhood.

24 Q. And did you ever come into contact with the
25 defendant?

1 A. Yes, ma'am.

2 Q. And was that at 3300 Market Street?

3 A. Actually, it was 1100 Greg at the bus stop, the
4 Metro bus stop.

5 Q. And is that bus stop located in Houston, Harris
6 County, Texas?

7 A. Yes.

8 Q. Obviously, this was on October 31st, 2012?

9 A. Yes, ma'am.

10 Q. And when you say you came into contact with the
11 defendant, were you driving separately, Officer Glover?

12 A. Yes, I was.

13 Q. Were both of you guys looking in areas?

14 A. Yes, ma'am.

15 Q. And when you came into contact with the
16 defendant, can you identify the defendant today in this
17 courtroom by an article of clothing that he's wearing?

18 A. Yes, ma'am. Like a teal green shirt.

19 THE COURT: He's identified the defendant.

20 Q. (By Ms. Braun) When you came into contact with
21 the defendant, what do you do?

22 A. I asked him for his name, and he told me his
23 name, but Officer Glover had told me a different name
24 before I went to look for him. So, when he gave the false
25 name, I notified Glover, Officer Glover that I had located

1 a possible suspect on Gregg Street. So, I got out of my
2 car, changed my location in the car, and I got out and
3 approached him and had him get up from the Metro bus stop,
4 the bench. And he walked toward me. I told him to put
5 his hands on the car, and that's when Officer Glover
6 pulled up.

7 Q. At this point, you have him detained for
8 further investigation?

9 A. Yes, ma'am.

10 Q. Before that, in terms of what initially drew
11 your attention to this defendant, were you given some sort
12 of description?

13 A. Yes. Glover -- Officer Glover gave me a
14 description, and when I went south on Gregg, I observed
15 him. And there was a lady sitting on the bus stop also.
16 And he fit the description of the possible suspect.

17 Q. And then looking at this picture, what's been
18 marked as State's Exhibit 1, do you recognize this
19 picture?

20 A. Yes, ma'am.

21 Q. And is that how the defendant appeared to you
22 on October 31st, 2012?

23 A. Yes, ma'am.

24 Q. And was it a clothing description, was it a
25 physical description?

1 A. It was both, clothing and the physical
2 description.

3 Q. Okay. And when Officer Glover arrived, what
4 happens?

5 A. As the defendant was walking to the car, he put
6 his hands on the truck. Officer Glover parked behind me
7 and got out and started patting him down because of the
8 knife.

9 Q. Okay.

10 A. I guess the complainant told him he had a
11 knife.

12 Q. When you say that you had him put his hands on
13 the car and you were doing a pat-down, why are you taking
14 these steps? Why is that necessary?

15 A. For safety reasons. Somebody reported to us
16 that he had a weapon on him. So, that's the focus, get
17 the weapon away from him if he has one before he uses it,
18 or does something with it.

19 Q. So, your main concern is to try to locate this
20 weapon that you're told --

21 A. Yes, ma'am.

22 Q. And do you, in fact, locate it, or did someone
23 else locate it?

24 A. Officer Glover located it.

25 Q. And you were standing there?

1 A. Yes. I think I was on the right side of the
2 defendant.

3 Q. So, eventually, when Officer Glover arrives,
4 who takes over, you or Officer Glover?

5 A. Officer Glover.

6 Q. Is that because he's the primary officer, or is
7 there some other --

8 A. That's because he was the primary.

9 Q. Does Officer Glover find anything else?

10 A. Yes. He found some pills in his pocket.

11 Q. And are those the pills that are in front of
12 you, State's Exhibits 5, 10, 11, 12, 13?

13 A. Yes, ma'am.

14 Q. All right. And do you remember where Officer
15 Glover found the knife?

16 A. I want to say in his left pocket because he was
17 on the left of the defendant, and when he came around,
18 that's where he started searching.

19 Q. Is it fair to say you -- I don't need you to
20 tell me the exact pocket, but I really just am meaning was
21 it in a shoes, in a pocket, in his pant pocket?
22 Obviously, you're not the one that retrieved it --

23 A. No.

24 Q. -- to know the exact size, or pocket, or
25 whatever.

1 A. Correct.

2 Q. Were the pills found somewhere else also?

3 A. In the pants pocket.

4 Q. All right. And do you remember if it was the
5 same pocket, opposite pocket?

6 A. Seems like it was the pocket on the right.

7 Q. So, basically, something was found in each
8 pocket?

9 A. Yes, ma'am.

10 Q. But by Officer Glover, not you?

11 A. Yes, ma'am.

12 Q. Then what happens from there?

13 A. Officer Glover placed him in -- handcuffed him
14 and placed him in the backseat of his patrol car. Then we
15 both left and went back to the liquor store.

16 Q. What's the purpose of bringing the defendant
17 over to the liquor store?

18 A. To see if the complainant identify him as the
19 guy that was involved in the incident.

20 Q. And when you get to the liquor store, what are
21 you doing?

22 A. I just stood by Officer Glover's car. Officer
23 Glover went inside and had the lady come out, and I just
24 stood by his car to make sure no one else walked by, open
25 the door to let him out, or did anything to him.

1 Q. So, in other words, the defendant remained in
2 the backseat of the patrol car?

3 A. Yes, ma'am.

4 Q. And did the complainant, in fact, identify the
5 defendant?

6 A. Yes, ma'am.

7 Q. And when you were at the liquor store, were
8 there other people around, as well?

9 A. Yes, ma'am.

10 Q. And were you -- were you trying to -- were you
11 -- did you get information from any of those people?

12 A. No, ma'am.

13 Q. Were those people cooperative with you and
14 Officer Glover?

15 A. No, ma'am.

16 Q. So, those people did not provide any
17 information that could have been beneficial to this
18 incident?

19 A. No, ma'am.

20 Q. What kind of people were they? Were they --

21 A. It's like it was a group of them. They sit
22 behind the liquor store pretty much every day, all day,
23 drinking and playing Dominoes, whatever, playing the
24 radio.

25 Q. Have you found, in your experience in this

1 area, that those people often cooperate with law
2 enforcement?

3 A. No, ma'am.

4 Q. And have you -- are you familiar with the area?

5 A. Yes, ma'am.

6 Q. How would you -- what would you describe the
7 area as?

8 A. It's not that good -- not that good of an area.

9 Q. Let me ask it this way. Have you had a lot of
10 -- in your experience, have you had to report to that
11 neighborhood a lot?

12 A. Yes, ma'am.

13 Q. To deal with calls for service?

14 A. Yes, ma'am, for assaults, disturbances, thefts.
15 It's a lot of criminal activity right around that liquor
16 store and behind the liquor store.

17 Q. Kind of safe to say it's a dangerous
18 neighborhood?

19 A. Yes, ma'am.

20 Q. In terms of the knife that Officer Glover
21 recovered --

22 MS. BRAUN: Judge, may I approach the
23 witness?

24 THE COURT: Yes.

25 Q. (By Ms. Braun) I'm going to show you what's

1 been marked as State's Exhibit 9. You want to go ahead
2 and open that?

3 A. (Witness complies.)

4 Q. Now, that being the knife that was recovered,
5 do you recognize that as an object that can cause serious
6 bodily injury or death?

7 A. Yes, ma'am.

8 Q. In other words, that is a deadly weapon?

9 A. Yes, ma'am.

10 Q. Can be used as a deadly weapon?

11 A. Uh-huh.

12 Q. You can go ahead and close it.

13 A. (Witness complies.)

14 Q. So, when you're at the liquor store and Officer
15 Glover is dealing, as the primary officer, with getting
16 information, what happens next, or what's kind of the rest
17 of your involvement?

18 A. I'm pretty much just standing there next to
19 him, and then he started, I guess, his paperwork. After
20 he talked to the lady, he got back in the patrol car and
21 started his paperwork, and I got in the patrol car and
22 left.

23 Q. So, you don't transport the defendant?

24 A. No, ma'am.

25 Q. Was that Officer Glover's responsibility?

1 A. Yes, ma'am.

2 Q. Same with writing the report, that was Officer
3 Glover's responsibility?

4 A. Yes, ma'am.

5 Q. Do you remember anything significant about the
6 defendant's demeanor when you guys are dealing with him
7 that day?

8 A. He was kind of agitated and possibly
9 intoxicated. He wasn't out of control or nothing. He was
10 just like he was agitated.

11 Q. Fairly cooperative with you guys?

12 A. Yes, ma'am.

13 Q. And when you say "intoxicated," what makes
14 you -- or what led you to believe he might be intoxicated?

15 A. When I first approached him, the way he was
16 talking led me to believe he had possibly been drinking,
17 then, I guess, him lying about his name also.

18 MR. POPE: Objection. He's testifying
19 about extraneous things that we haven't had any
20 notice of whatsoever.

21 THE COURT: That's sustained. The jury
22 will disregard.

23 Q. (By Ms. Braun) Now, talking about the time
24 where you guys first go to the Ralston to when you get the
25 defendant and bring him back to be identified, fairly

1 quick?

2 A. Probably two minutes from when I got to the
3 Ralston to when I went down the street; at the most, two
4 minutes.

5 Q. I'm sorry. Two minutes to where you're able to
6 locate him?

7 A. Yes, ma'am.

8 Q. Okay. And then bring him back, obviously,
9 takes more time?

10 A. Probably another two or three minutes.

11 Q. Okay. And, again, when you're at the Ralston,
12 you're not interacting with the complainant in any way; is
13 that right?

14 A. Correct.

15 Q. That was Officer Glover?

16 A. Yes, ma'am.

17 Q. And your position is to kind of make sure
18 everything remains calm outside?

19 A. Yes, ma'am.

20 MS. BRAUN: Pass the witness.

21 THE COURT: Cross?

22 MR. POPE: No questions, Your Honor.

23 THE COURT: All right. You may step down,
24 sir.

25 Call your next witness, please.

1 MS. BRAUN: The State calls Mona Colca.

2 THE BAILIFF: Your Honor, this witness has
3 not been sworn.

4 THE COURT: Come forward, ma'am. Please
5 raise your right hand.

6 (Whereupon the witness is sworn by the
7 Court.)

8 THE COURT: You may proceed when you're
9 ready.

10 **MONA COLCA,**

11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 BY MS. BRAUN:

14 Q. Ms. Colca, is that how you pronounce your last
15 name?

16 A. Yes.

17 Q. Can you go ahead and state your name and spell
18 it for the record?

19 A. My name is Mona Colca, M-o-n-a, C-o-l-c-a.

20 Q. Mona, where are you currently employed?

21 A. I'm a criminalist with the Houston Police
22 Department Crime Laboratory.

23 Q. And you say criminalist. What does that mean?

24 A. A criminalist, specifically in the control
25 substance section, is someone that receives and analyzes