

Natasha Wilson - September 29, 2014
Recross-Examination by the Defendant

1 MS. LITTLE: Your Honor, the State calls
2 Officer Jared Taylor.

3 THE COURT: Okay. Speak clearly into the
4 mic.

5 State, you may begin.

6 MS. LITTLE: Thank you, Your Honor.

7 **OFFICER JARED TAYLOR,**
8 having been first duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 BY MS. LITTLE:

11 Q. Officer Taylor, can you please introduce
12 yourself to the jury?

13 A. I'm Officer Jared Taylor. I work for Jersey
14 Village Police Department.

15 Q. And, Officer Taylor, how long have you been
16 with Jersey Village Police Department?

17 A. I've been with Jersey Village for two and a
18 half years. I transferred from another agency.

19 Q. How long have you been a certified peace
20 officer?

21 A. Five years.

22 Q. What kind of background or training do you
23 have?

24 A. Well, I did -- I used to be undercover
25 narcotics out in Liberty County for over a year, so

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1 dealt a lot with narcotics and drugs. And also, since
2 I've been with Jersey Village on night shift, I work
3 quite a few DWI's; and I'm an Intox operator, certified
4 Intox operator.

5 Q. And what does that mean?

6 A. That means I'm certified by the State of Texas
7 to work the Intoxilyzer instrument, which determines the
8 amount of alcohol someone's had.

9 Q. Are you also certified to conduct standard
10 field sobriety tests?

11 A. I am.

12 Q. And what kind of training did you go through to
13 become certified in that?

14 A. I went to -- we were trained to do the
15 standardized field sobriety tests in the police academy
16 and then also, since I've been out, you have to do a
17 recertification course and you do that every couple
18 years.

19 Q. What is your current assignment?

20 A. I'm a patrol officer. I'm on the -- currently
21 on the evening shift from 2:00 p.m. to 10:00 p.m. And I
22 used to -- I was, before, on the night shift, which was
23 from 11:00 -- I'm sorry, from 10:00 to 6:00.

24 Q. Okay. So on December 29th of 2012, were you on
25 the night shift?

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1 A. Yes, I was still on the night shift.

2 Q. And you were working patrol on that date?

3 A. That's correct.

4 Q. What are your duties as a patrol officer?

5 A. Patrol the city of Jersey Village. On night
6 shift, you're looking to deter crime; also, we answer
7 calls for service, whenever we're called out to a scene;
8 run traffic, conduct traffic stops; things of that
9 nature; business checks.

10 Q. And you stated that you have received
11 specialized training when it comes to intoxicated
12 drivers, correct?

13 A. Correct.

14 Q. When you believe that you have an intoxicated
15 driver, what are you trained to do?

16 A. Once we have an intoxicated driver, once we
17 look for any type of signs for intoxication -- which may
18 include smell of alcohol coming from a person, from
19 their person or breath; glossy eyes; red eyes; slurred
20 speech patterns; unstable feet; having trouble
21 controlling their balance; and so forth.

22 Q. And when you come across someone that is
23 exhibiting these signs, what are you trained to do?

24 A. Once we remove them from the vehicle, get them
25 out the car, we'll normally go ahead and conduct -- get

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1 them to a safe place, if we're not in a parking lot, or
2 we can do it back at the PD and we'll conduct the
3 standardized field sobriety tests on them to see the
4 level of intoxication.

5 Q. And is that to confirm or negate whether
6 someone is intoxicated?

7 A. Yes, that's to confirm. Once you've seen the
8 other indicators that I mentioned before, then you'll
9 proceed with the other -- with the standardized field
10 sobriety tests.

11 Q. Okay. On December 29th, 2012, while you were
12 on duty, did you come into contact with someone by the
13 name of Nomathemba Sitawisha?

14 A. Yes.

15 Q. And do you see her in the courtroom today?

16 A. I do.

17 Q. What is she wearing?

18 A. She's wearing a white blouse with a black top,
19 right there.

20 MS. LITTLE: Your Honor, may the record
21 reflect that this witness has identified the defendant.

22 THE COURT: Let the record reflect that
23 the witness identified the defendant.

24 Q. (By Ms. Little) How did you first come into
25 contact with the defendant?

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1 A. I was actually, at the time -- I was on patrol,
2 as I mentioned before. I was conducting a traffic stop
3 on a vehicle, and right in the middle of me writing that
4 person -- or giving that person a citation, there was a
5 lady that pulled up next to me while I was on that
6 traffic stop; and she was pretty frantic. I believe she
7 was in a minivan and said, Hey, there was some lady back
8 here who jumped the curve and hit a pole; and she almost
9 hit us. And she goes, She's parked back here.

10 And, again, I was in the middle of a
11 traffic stop; so I couldn't leave at that particular
12 time. I told her, Give me a minute, and I'll check it
13 out.

14 Q. And how long was it before you arrived on scene
15 where the defendant was?

16 A. Probably took me another, maybe, minute and a
17 half or two minutes to finish my traffic stop. And at
18 that point I was on the service road, maybe a hundred
19 yards past where she told me the vehicle was; and once I
20 finished my traffic stop, my lights -- emergency lights
21 were still on, I was able to back up safely to the
22 parking lot to where the defendant's car was parked.

23 MS. LITTLE: Your Honor, may I approach
24 the witness?

25 THE COURT: You may.

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1 Q. (By Ms. Little) Officer, I'm showing you what's
2 been marked as State's Exhibit 2. What is this?

3 A. That's the intersection at 290 and the Beltway
4 8 area.

5 Q. And does this fairly and accurately represent
6 the area that you came into contact with the defendant?

7 A. It does.

8 MS. LITTLE: Tendering to the opposing
9 counsel, Your Honor.

10 THE COURT: Any objection?

11 THE DEFENDANT: No, Your Honor. No
12 objection.

13 THE COURT: State's Exhibit 2 will be
14 entered into evidence without objection.

15 You may publish.

16 MS. LITTLE: Thank you, Your Honor.

17 (State's Exhibit No. 2 published)

18 Q. (By Ms. Little) Officer Taylor, if you look to
19 the screen on your right, you can see the map, State's
20 Exhibit 3 [sic], that I'm showing you; and you can mark
21 that up as much as you need to.

22 Where were you when the woman came up to
23 you in the minivan and said -- told you what happened?

24 A. I was directly right here in front of
25 Stonehaven Apartments, on the service road right about

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1 there (indicating).

2 Q. Okay. And where did you have to back up to the
3 defendant's location? Where was the defendant located?

4 A. It was a business parking lot, which was
5 probably about right here (indicating), maybe a little
6 further back there, in that area. So she pulled up on
7 me as I was actually at the person's window, at the
8 traffic stop, and was frantic and was saying that
9 someone was possibly a drunk driver. So I was able
10 to -- after I completed my traffic stop, I was able to
11 back up to the business parking lot.

12 Q. And is this location a public place in Harris
13 County?

14 A. It is.

15 Q. When you -- you said it was about a minute and
16 a half before you finished your traffic stop?

17 A. Uh-huh.

18 Q. And you reversed, and were you able to
19 immediately find the defendant's vehicle?

20 A. I did.

21 Q. What did you observe about the defendant's
22 vehicle?

23 A. Well, it was the only vehicle in the parking
24 lot that was there that time of night. The vehicle had
25 damage to the front windshield. There was some tires on

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1 flat on the vehicle. You could see a little bit of
2 damage there. And as I pulled up to the vehicle, I
3 could see the defendant still sitting in the vehicle
4 behind the driver's seat.

5 Q. She --

6 A. In the driver's seat.

7 Q. She was in the driver's seat?

8 A. Uh-huh.

9 Q. When you arrived, what did you do?

10 A. Well, as I pulled into the parking lot and I
11 located the vehicle they were talking about and I saw
12 the damage to the vehicle, as I was getting out of my
13 car at that time there was a Harris County unit pulling
14 up at the same time, pulling into the parking lot. This
15 area is right outside of the city limits of Jersey
16 Village; so it was going to actually be a Harris County
17 call. They were going to be working it.

18 But as I pulled in, I saw the defendant
19 still -- as I was getting out of my vehicle, she was
20 still sitting behind the driver's seat; and she appeared
21 to be a little lethargic at the time, sitting in the
22 driver's seat.

23 Q. And how did she seem lethargic?

24 A. She was sitting there. Her eyes were halfway
25 opened and closed. And as myself and the Harris County

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1 deputy walked over to the car, at that point I let him
2 go ahead and take primary on it because it was actually
3 going to be their call since it was right outside of our
4 city limits.

5 Q. Did you, yourself, have any contact with the
6 defendant?

7 A. No. As he was getting out -- he went over and
8 made contact with her and was getting her out of the
9 vehicle, I was standing pretty close to him. You know,
10 at that -- those situations, you want to standby just to
11 make sure you don't have someone that's going to be
12 aggressive.

13 So as he was trying to get her out of the
14 car, she was a little belligerent, she was yelling at
15 him, she was very unsteady on her feet, so I was trying
16 to assist him with -- as he was getting her out of the
17 car. That was the only contact that I had with her that
18 night.

19 Q. How was she being belligerent?

20 A. She was using profanity, kind of cursing,
21 yelling at him. You could smell the alcohol coming from
22 her person; and as he was trying to talk to her, she was
23 very unsteady on her feet.

24 At that point, from what I remember, he
25 went ahead and detained her and placed her in the back

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1 of his car so she wouldn't fall or hurt herself or
2 anything like that.

3 Q. Was she asked to perform some field sobriety
4 tests?

5 A. I believe he is asked her to perform the tests,
6 and she didn't cooperate; and I think that's the point
7 where he put his handcuffs on her, detained her, and
8 just put her back into the back of his car until he
9 could get someone out there.

10 Q. Officer Taylor, you have observed intoxicated
11 persons on few or many occasions?

12 A. Many, from working the night shift.

13 Q. And with your training and experience, on
14 December 29th of 2012, did you believe the defendant had
15 lost her mental faculties?

16 A. I did.

17 Q. Did you believe that the defendant had lost her
18 physical faculties?

19 A. I did.

20 Q. Did you believe that the defendant was driving
21 while intoxicated?

22 A. I did.

23 Q. Do you recall what kind of vehicle it was that
24 she was driving?

25 A. It was a Toyota Celica. I think it was a

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1 two-door, it was red -- red in color vehicle.

2 MS. LITTLE: Your Honor, State passes this
3 witness.

4 THE COURT: Defense?

5 You may be seated.

6 THE DEFENDANT: If I may?

7 THE COURT: Yeah.

8 THE DEFENDANT: Onto the screen?

9 THE COURT: No, no, no, no. No, no, no,
10 no. What are you trying to put up there?

11 THE DEFENDANT: It's part of the report
12 that --

13 THE COURT: You can't put -- a report is
14 not evidence. You cannot --

15 **CROSS-EXAMINATION**

16 BY THE DEFENDANT:

17 Q. Okay, Officer. Okay. You did mention that it
18 appeared that I was very tired. That's -- was that the
19 phrase you used? It seemed I was very tired?

20 A. No. I said very lethargic.

21 Q. Lethargic. You sure did. So very lethargic.
22 Was it out of the ordinary for someone to seem lethargic
23 at that hour of the morning, 3:00 o'clock in the
24 morning? Was it odd to be -- was it odd?

25 A. It was odd.

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1 Q. Okay. How so?

2 A. It was odd because, normally, no one is in a
3 vacant parking lot at that time of morning, other than
4 there's -- unless they're suspicious or criminal
5 activity going on to be in a vacant parking lot and in a
6 damaged vehicle and parked there. So that was very odd.

7 Q. Is it at all possible that the flat tire on my
8 vehicle caused me to have to be there in a vacant
9 parking lot for my own safety because the car could not
10 go any further?

11 A. Repeat that question. I'm sorry.

12 Q. Is it at all possible that my car was parked in
13 that vacant lot because I did have a flat tire, there
14 was nowhere else to safely be?

15 A. That's possible.

16 Q. Now, did you have any solid knowledge of how
17 long I had been sitting in that vehicle prior to you
18 approaching?

19 A. About how long you had been in the vehicle?

20 Q. Yes.

21 A. No. Once the person stopped me on the traffic
22 stop, I immediately came back to your vehicle.

23 Q. What make and model were you out looking for
24 when the person stopped you during this other stop?
25 What make and model were you out looking for?

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1 A. I wasn't looking for a make and model. From
2 where I was stopped here, at Stonegate Apartments [sic],
3 I could actually view the parking lot where your vehicle
4 was; and she said there was a red car there that --
5 that's going to be the person that almost hit us and
6 jumped the curb. And I could actually see the vehicle
7 from where I was, and I was able to just back straight
8 toward your vehicle. So I wasn't looking for a specific
9 make and model. She said a red vehicle; and when she
10 turned around, she actually pointed towards your car. I
11 could see it in the distance.

12 Q. Did you ever at any point see my vehicle in
13 motion?

14 A. I didn't see your vehicle in motion, no.

15 Q. And at any point were you told of the make or
16 model of my vehicle?

17 A. No.

18 Q. But you knew it was a red car that you were
19 looking for?

20 A. I knew it was a -- I knew the car I was looking
21 for because, again, I could see the car. She pointed it
22 out in the parking lot.

23 Q. And she said, There's the red car --

24 A. Correct.

25 Q. -- is that correct? There's the red car?

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1 And you did give a lot of -- you did tell
2 us about a lot of what you observed about my physical
3 condition that evening, but is it not true that a number
4 of factors can cause bloodshot eyes and things of that
5 nature? Is that not true, all sorts of conditions?
6 Would that be a true statement?

7 A. Based on my experience, no.

8 Q. No?

9 A. No. Yeah.

10 Q. Well, let's talk about when you said that you
11 had handed the situation over to another jurisdiction;
12 is that correct?

13 A. Yes.

14 Q. And did you step away? You never actually had
15 contact with me; is that correct?

16 A. Yes, I did have contact -- I stood -- when he
17 pulled on the scene -- you know, Jersey Village is in
18 the city limits of Harris County and this incident
19 occurred right outside of our city limits so we both
20 pretty much -- I arrived on the scene just right before,
21 as he was coming up. So as I got in, I let him take
22 primary, which means I let him do most of the
23 communication with you; but I did stand by the scene
24 until you were taken out of your vehicle, placed in the
25 back of his patrol vehicle. At that point, once he had

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1 you detained in the back of his vehicle and told me, I
2 have another unit en route, I went back in service.

3 Q. Officer, during that -- what was the closest
4 proximity you had with me, in feet? The absolute
5 closest at any time?

6 A. Two or three feet. I was standing next to him
7 when he got you out of the vehicle.

8 Q. So about 2 or 3 feet was the closest proximity;
9 and from that, you say that you could smell a distinct
10 odor of alcohol; is that correct?

11 A. Correct. That's correct.

12 Q. That's correct? Could you tell us what alcohol
13 smells like?

14 A. I can't tell you exactly what particular
15 beverage. You smelled as though it was an alcoholic
16 beverage coming from your person and your breath that
17 night.

18 Q. Okay. So --

19 A. What that beverage was, I couldn't -- I
20 couldn't say.

21 Q. Okay. In your experience, have you ever
22 smelled a beverage that has the scent that gives you
23 that impression, without there being alcohol involved?

24 A. Never.

25 Q. Never. Officer, have you ever smelled, let's

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1 say, near beer before?

2 A. Never.

3 Q. Would it be surprising at all if I were to tell
4 you that it smells just like beer with no alcohol --
5 virtually no alcoholic content? Would that surprise
6 you?

7 A. Probably. I've never smelled it, so I couldn't
8 say, the near beer or whatever.

9 Q. Can you smell, let's say, the distinct smell of
10 vodka on a person? Let's just use an example.

11 A. Can I smell the distinct smell of vodka?

12 Q. Correct.

13 A. Again, I wouldn't be able to tell you what type
14 of beverage it is; but I can smell the odor of alcoholic
15 beverage coming from a person, whether it be beer or
16 some type of alcoholic beverage. It's a distinct smell.

17 Q. Okay. So would you agree that the smell of
18 beer versus wine versus a dark liquor or clear liquor --
19 do you -- in your opinion, do they all have very
20 distinct smells; and you could quite closely link the
21 smell with one of those four categories?

22 A. They all have a distinct smell. I couldn't
23 link them to a category just based off of the smell
24 coming from them, exactly what you were drinking. I
25 wouldn't be able to tell that just based off of just the

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1 odor, no.

2 Q. But you specifically smelled ethyl alcohol? Is
3 that what you smelled?

4 A. Correct.

5 Q. And you smelled a flavoring, possibly? You
6 smelled a flavoring as well?

7 A. What's that?

8 Q. Flavoring that would be in one of those
9 beverages? Flavoring?

10 A. I can't recall from that night if I smelled the
11 flavor or not.

12 Q. But you smelled ethyl alcohol?

13 A. Correct.

14 Q. Now, Officer, would it be surprising for me to
15 say to you that -- to say there's an odor of alcohol is
16 contradictory because alcohol, in and of itself, has no
17 odor, just flavoring agents, would that be surprising to
18 hear?

19 MS. LITTLE: Objection, Your Honor,
20 speculation. Relevance.

21 THE COURT: No. Overruled. I'll let him
22 answer --

23 A. Okay. Go ahead and repeat the question for me
24 then.

25 Q. (By The Defendant) Well, if I had some type of

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1 data that has been done to show that alcohol, in and of
2 itself, has no odor, it is when certain flavoring agents
3 is added into it is what someone might smell and that is
4 also in non-alcoholic beverages, would that surprise
5 you?

6 MS. LITTLE: Objection, Your Honor. The
7 defendant is testifying.

8 THE COURT: Sustained on the full
9 question. But I'll let him answer if he knows that
10 alcohol itself has no smell.

11 THE WITNESS: Is that the question? Does
12 alcohol --

13 THE COURT: Itself.

14 THE WITNESS: Itself.

15 A. Are you asking would that be surprising?

16 Q. (By The Defendant) Well, do you believe that
17 alcohol, in and of itself, has an odor? Would you be
18 surprised if I told you --

19 THE COURT: No. Look, you're asking
20 multiple questions. And so the question of it is: Do
21 you know if alcohol has a smell itself -- or has no
22 smell. Do you know that?

23 Q. (By The Defendant) Do you know that?

24 A. It would be the ethanol in the alcohol that
25 has --

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1 Q. The ethyl, correct?

2 A. Uh-huh.

3 Q. So in your experience, is there anything else
4 on the planet, like -- anything that could substitute or
5 give the -- give you the impression of an
6 alcoholic-based beverage -- could give you the wrong
7 impression of an alcoholic-based beverage?

8 MS. LITTLE: Objection, Your Honor,
9 speculation.

10 THE COURT: I'll let him answer if he
11 knows.

12 A. Based on my experience, no.

13 Q. (By The Defendant) Have you ever known of
14 certain strengths of, let's say, mouthwash to smell the
15 same as certain alcoholic-based beverages?

16 A. Not to my knowledge, no.

17 Q. Have you ever known of any throat sprays that
18 have the same consistency and would possibly smell the
19 same as some alcoholic-based beverages?

20 A. Not to my knowledge, no.

21 Q. Cough syrup or indigestion, have you ever heard
22 of any of these being factors in giving the impression
23 that someone has had an alcoholic beverage?

24 A. Based on my experience, no.

25 Q. So when you approached the vehicle, was the

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1 ignition off?

2 A. When I approached the vehicle, I can't recall
3 if the engine was still running. You were still sitting
4 behind the wheel of the vehicle with the key in -- the
5 key was in the ignition. I don't know if it was running
6 or not.

7 Q. So, Officer, you're stating that you know for
8 sure the key was in the ignition; but you do not recall
9 if the engine was running?

10 A. The other officer was the one -- he got you out
11 of the vehicle. I don't recall if the engine was
12 running or not.

13 Q. Okay. So can you tell us, please, how you know
14 for certain that the keys were in the ignition? Did
15 you -- I just want to go back --

16 THE COURT: Just ask the question: How do
17 you know?

18 Q. (By The Defendant) How do you know for certain?

19 A. Because I viewed the vehicle as he got you out
20 of the vehicle, when he took you out of there. I don't
21 remember if it was still running or not. The dashboard
22 of your vehicle was still lit up, which would indicate
23 that there was keys in there; and I had a clear view of
24 the vehicle once he removed you from the vehicle.

25 Again, once he told me he had someone else

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1 en route and placed you safely into the back of his
2 vehicle, then that's when I went back into service.

3 Q. What was your angle the entire time that -- you
4 say you never made contact with me, you just passed over
5 this situation to the next jurisdiction. Where were
6 you, in relation to my car?

7 A. What do you mean? As far as my vehicle?

8 Q. Where were you positioned, your body? When you
9 were standing --

10 A. I was standing -- I was standing next to him at
11 the driver's side when he got you out of the vehicle.

12 Q. Were you standing in between the opening of the
13 door with the officer and myself, or were you on the
14 outside 2 to 3 feet away, which we talked about earlier?

15 A. I don't recall.

16 Q. Okay. But you were never closer to me than
17 about 3 feet at any point in time?

18 A. I was standing next to him when he escorted you
19 and put you in his vehicle, so I was a little closer
20 than that as he walked you to the car.

21 Q. Okay, Officer, I must have made a mistake.
22 Just backing up a bit, I thought we had determined that
23 you said that at no point in time, were we closer than 2
24 to 3 feet from one another.

25 Do you want to revise that?

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1 A. No, I don't.

2 Q. Okay. But from where you were standing, you
3 had a clear view directly inside of the vehicle at all
4 times?

5 A. I wouldn't say at all times, but I had a clear
6 view inside of the vehicle at part of the -- as he got
7 you out of the vehicle and we walked you back to your
8 car.

9 Q. When you observed -- did you observe the
10 officer actually reach around and take a key out of the
11 ignition?

12 A. I don't recall.

13 Q. Okay. Were the windows rolled up or down?

14 A. I don't recall.

15 Q. What model -- you said you determined that it
16 was a Toyota Celica, earlier, is what you stated; is
17 that correct, Officer?

18 A. Yes.

19 THE DEFENDANT: I pass the witness.

20 THE COURT: State?

21 MS. LITTLE: Just brief redirect, Your
22 Honor.

23 **REDIRECT EXAMINATION**

24 BY MS. LITTLE:

25 Q. Officer, when you described the defendant as

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1 lethargic, why did you use that word and not "tired"?

2 A. I said she was lethargic -- based on most of
3 the people that I've come in contact that's been under
4 the influence of alcohol, it's just the difference from
5 being just tired. When you're able to talk to someone
6 that's tired, a lot of times you can wake them up if
7 they were tired. You talk to them, Officer, I was
8 sleepy, I dozed off. And they're able to -- after a few
9 seconds, they're able to show that it was maybe just
10 them actually being tired.

11 When they're lethargic and maybe under the
12 influence of alcoholic beverage or some other type of
13 drug, they're not able to come from under the influence
14 as fast. You know?

15 And, again, being tired is not going to
16 cause the slurred speech patterns, the unsteady feet.
17 Those things are not associated, normally, with being
18 tired.

19 Q. And when the witness who flagged you down, told
20 you it's the red car in that parking lot, you could see
21 the vehicle, correct?

22 A. Yes. Like I said, I was just about a hundred
23 yards, maybe, or so.

24 Q. And it was the only red car in that parking
25 lot?

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1 A. Correct. It was the only vehicle in the
2 parking lot that night.

3 Q. Was there anyone walking around the vehicle?

4 A. No.

5 Q. And when you approached the vehicle, did this
6 look like a mere flat tire or like an accident?

7 A. It looked like an accident.

8 MS. LITTLE: Your Honor, the State passes
9 this witness.

10 THE DEFENDANT: Redirect [sic].

11 **RECROSS-EXAMINATION**

12 BY THE DEFENDANT:

13 Q. So, Officer, what determinations did you make
14 investigating on the scene that would bring you to the
15 conclusion that this is not only a flat tire and a
16 vehicle that's in dis-repair but this vehicle had
17 actually been in an accident just a few minutes prior?
18 What gave you that assumption?

19 A. I work 2:00 to 10:00 -- 290 right now is under
20 construction -- and I work probably 20 accidents a week.
21 And the vehicle had the flat tires, the damage to the
22 windshield, there was damage almost in a circular
23 motion -- as if it hit maybe a pole -- that was also on
24 the vehicle. Those are indicators that the vehicle just
25 is not a mere flat tire. A mere flat tire -- normally,

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1 you just run across something on the road, you have a
2 flat tire. It's maybe one tire; it wouldn't be both of
3 the tires, wouldn't have windshield damage as bad as the
4 windshield was damaged there. So that showed different
5 indicators that it was involved in an accident fairly
6 close to the time, you know, that we arrived on the
7 scene.

8 Q. Well, Officer, you did mention damage to a
9 windshield. Now, that can be quite broad. Was there a
10 hairline fracture on some area of the vehicle -- of
11 the --

12 A. I wouldn't say a hairline fracture. It was
13 more of a shattered-type motion to the windshield.

14 Q. So you recall there being actual shattering of
15 a portion of the front windshield?

16 A. Yeah. Like a smash, as if something was
17 actually struck or hit the windshield.

18 Q. And you say that you also noticed body damage
19 that looked as if a pole had --

20 A. I said a circular motion. It could've hit a
21 pole or anything, a sign. I'm not quite sure what. But
22 the condition of the vehicle from the damage and the
23 tires are indicators it wasn't -- you didn't run across
24 anything, that it was involved in some type of accident
25 versus -- you know, vehicle versus vehicle, vehicle

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1 versus a fixed object, it was involved in some type of
2 accident.

3 Q. Officer, did you do a full walk-around of the
4 vehicle, noting every, I guess, portion that may have
5 been out of place or wrong, having to do with --

6 A. I didn't do a full walk-around of the vehicle;
7 but, again, this is what I do every day. I work
8 accidents. I'm pretty good at determining what happened
9 when I get on the scene and do a full walk-through of
10 the vehicle. I can determine pretty close where the
11 vehicles were and what happened.

12 Q. Well, Officer, if you did not do a full 360
13 around the vehicle, what length of the vehicle did you
14 see? Did you only see the left side, where I was
15 sitting, and the back?

16 A. Did I see what now? The left side?

17 Q. Did you only view the left side of the vehicle
18 and the rear?

19 A. I saw the flat tires on the right side as I
20 approached the vehicle in the parking lot. As I drove
21 up to the vehicle in the parking lot, I could see those
22 two tires flat. I could see the windshield had damage
23 to the vehicle.

24 Did I get out and visibly do a full
25 walk-through and inspect every single damage on the

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1 vehicle? Negative, I didn't do that. It wasn't an
2 accident call. To me, I was flagged down and told that
3 someone potentially was intoxicated, almost struck my
4 vehicle, and jumped the curb and struck something. I
5 was flagged down; so when I approached the vehicle, I
6 wasn't coming to work an accident report at 2:30 in the
7 morning, at that time.

8 Q. Officer, what gave you the impression that a
9 Toyota Celica was involved in an accident that night
10 around that same time, a red Toyota Celica?

11 THE COURT: I think he never said that.

12 THE DEFENDANT: He did.

13 THE COURT: He didn't.

14 THE DEFENDANT: Earlier.

15 THE COURT: No. He got flagged down and
16 was pointed to -- everybody knows that. We've already
17 gone over it a hundred times. And he went -- and he
18 followed what he was told. So what else do you have to
19 ask about that?

20 THE DEFENDANT: Well, my point there is
21 that he mentioned earlier that it was a Toyota Celica;
22 and I wanted to go forward with a little bit more based
23 on that.

24 THE COURT: Based on what? He didn't have
25 the call. He got flagged down by the woman that said,

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1 That car almost hit me. And so he backed up and went to
2 it. What else do we need to know about that?

3 Q. (By The Defendant) Okay. Officer, you did
4 mention my state of mind, so to speak, during that. Was
5 I completely unable to articulate myself or answer any
6 questions or respond correctly to any of what was asked
7 of me?

8 A. Were you able to completely? No. You were
9 doing a lot of yelling and screaming at the primary
10 officer as he was trying to talk with you and ask you
11 about doing -- performing some tests on you. You were
12 yelling and screaming at him; so from that point after,
13 he placed you in his vehicle. I don't know what your
14 state of mind was.

15 Q. Okay. So it is -- so I was out of control?

16 A. I didn't say you were out of control.

17 Q. Was I --

18 A. I said you --

19 Q. -- out of control?

20 A. -- were yelling and screaming at him when he
21 tried to get you out of the vehicle. And as he got you
22 out of the vehicle, you weren't very steady on your
23 feet; and he, I think, advised you or asked you about
24 performing some tests on you. You were unwilling to do
25 so and you were yelling at him and saying all kind of

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1 things to him and he placed you in handcuffs and
2 detained you.

3 So whether you were out of -- I don't know
4 if that's considered out of control.

5 Q. Officer, was my voice elevated any more than it
6 is right now?

7 A. Yes, at that time it was.

8 Q. Was it maybe here, or was it even louder than
9 that?

10 A. I don't remember. But you were yelling at him
11 and screaming.

12 Q. Okay. What do you recall me saying to him, if
13 I --

14 A. It was 2012 and I hear profanity all day every
15 day so I don't remember your exact words to him, but you
16 were yelling and screaming profanity at him at that
17 time.

18 Q. Can you say the first initial of the words that
19 were streaming from my mouth?

20 A. I can't.

21 Q. You do not --

22 A. I do --

23 Q. -- recall?

24 A. I don't remember --

25 Q. You don't recall.

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1 A. -- exactly.

2 THE COURT: Listen, guys, don't -- let him
3 answer, and then you can ask the next question. Let her
4 complete the question before you answer. If not, you're
5 going to deal with the little one down there.

6 Proceed.

7 Q. (By The Defendant) Officer, you are 100 percent
8 certain that nearly two years ago, you heard me using
9 profanity at this officer; but you haven't any idea what
10 any of those words were? Is that true?

11 A. That's true. Again, I hear profanity yelled at
12 me every day; and I don't always remember what those
13 words were. I just know it's profane and it's never
14 good stuff, but I hear it every day.

15 Q. Is it possible, Officer, that if you have heard
16 profanity every day -- this is nearly two years ago --
17 that you would just assume that you heard it that night
18 as well?

19 A. No.

20 Q. Is there any possibility that you did not?

21 A. Is it a possibility that I did not hear you
22 yelling profanity at him?

23 Q. Profanity, correct.

24 A. From what I recall, you were yelling profanity
25 at him that night.

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1 Q. Is there any possibility that it did not happen
2 that way?

3 MS. LITTLE: Your Honor, asked and
4 answered. Objection.

5 THE COURT: Sustained. He's already
6 answered it.

7 THE DEFENDANT: I pass for now.

8 MS. LITTLE: Your Honor, may this witness
9 be excused?

10 THE COURT: Do you have any more
11 questions?

12 THE DEFENDANT: I'd like the witness held
13 over, but I pass for now.

14 MS. LITTLE: May we place him on call,
15 Your Honor, so he can be --

16 THE COURT: You are -- you are excused.
17 You're just on call.

18 THE WITNESS: Okay. Thank you.

19 THE COURT: This is not going as fast as I
20 thought it was.

21 Well, guys, we're going to call it a day.
22 Sorry. I was going to quit at 4:30 anyway, guys.

23 I know how exciting this has been and
24 you're just dying to go home and share it with somebody,
25 but please don't go and discuss this case with anyone

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1 until all of the evidence is in. And we are going to
2 pick back up tomorrow about 10:30; so if I can have you
3 here at that time, we'll start up just as soon as we can
4 get everybody here. We'll see y'all tomorrow at 10:30.

5 THE BAILIFF: All rise for the jury.

6 (Jury exits courtroom)

7 THE COURT: All right, guys, the Court
8 will be in recess until tomorrow morning.

9 Ms. Sitawisha, you do not have be here --
10 I'd say be here about 10:15.

11 See y'all tomorrow.

12 MS. LITTLE: Thank you, Judge.

13 (Evening recess)

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Trial on Merits
September 29, 2014

1 STATE OF TEXAS
2 COUNTY OF HARRIS

3
4 I, Amanda Barthlome, Official Court Reporter in and
5 for the County Criminal Court at Law No. 4 of Harris
6 County, State of Texas, do hereby certify that the above
7 and foregoing contains a true and correct transcription
8 of all portions of evidence and other proceedings
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10 included in this volume of the Reporter's Record in the
11 above-styled and numbered cause, all of which occurred
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13 I further certify that this Reporter's Record of the
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15 if any, offered by the respective parties.

16
17 /s/Amanda Barthlome

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